

1 S.204

2 Introduced by Senators Pollina, Ayer, French, McCormack, White, and

3 Zuckerman

4 Referred to Committee on

5 Date:

6 Subject: Commerce and trade; banking; State bank; government operations

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) create statutorily the 10 Percent for Vermont Program within the
9 Vermont Economic Development Authority for the purpose of establishing a
10 banking system owned, controlled, and operated by the State of Vermont;

11 (2) amend the statutory authority of the Vermont Economic Development
12 Authority to permit it to engage in the business of banking; and

13 (3) direct the State Treasurer to transfer 10 percent of the State
14 government's cash reserves to the 10 Percent for Vermont Program for initial
15 funding.

16 An act relating to the establishment of the 10 Percent for Vermont Program

17 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 10 V.S.A. § 211 is amended to read:

2 § 211. LEGISLATIVE FINDINGS

3 (a) The ~~legislature~~ General Assembly finds that it is necessary to alleviate
4 and prevent unemployment and underemployment and to raise the per capita
5 income within the ~~state~~ State, that the development and increase of industry,
6 including the further processing of agricultural products, within the ~~state~~ State
7 will promote the prosperity and general welfare of all citizens, and that this
8 chapter is necessary and desirable in order to accomplish these purposes. The
9 ~~legislature~~ General Assembly also finds that it is necessary and desirable to
10 encourage the development, production, and distribution of renewable energy
11 resources within the ~~state~~ State.

12 (b) The ~~legislature~~ General Assembly further finds that:

13 (1) small businesses are responsible for generating the majority of new
14 jobs; and substantial economic development opportunity exists encouraging
15 entrepreneurial development and innovation in Vermont;

16 (2) ~~The legislature~~ the General Assembly further finds that business
17 incubator facilities have proved to be effective tools to help small and start-up
18 businesses through the difficult early years with low-cost, flexible space,
19 necessary support services at an affordable cost, and with managerial and
20 technical assistance on such items as bookkeeping, inventory control,

1 marketing, and personnel. Vermont's experience with business incubators
2 confirms their value in nurturing jobs and entrepreneurship;

3 (3) The legislature the General Assembly further finds that business
4 incubator facilities related to institutions of higher education nationwide have
5 been an excellent source for successful business enterprises; and

6 (4) the General Assembly also finds that a system of banking owned,
7 controlled, and operated by the State can provide an effective tool to support
8 community and economic development projects by increasing access to capital
9 for businesses in the State, creating jobs, and providing stability to the local
10 financial sector.

11 (c) Therefore, the general public advantage requires:

12 (1) ~~An~~ an increased inventory of industrial sites and modern buildings
13 suitable to house new or existing business enterprises;

14 (2) ~~The~~ the expansion, reclamation, or renovation of existing buildings
15 to house new or existing business enterprises;

16 (3) ~~Low-cost~~ low-cost capital available to local development
17 corporations for the purchase of land for industrial sites, for planning and
18 development of industrial parks, and for the construction of speculative
19 industrial buildings and small business incubator facilities;

20 (4) ~~Low-cost~~ low-cost capital available to industrial enterprises to
21 provide land, buildings, and equipment for industrial expansion;

1 (5) ~~Aid~~ aid to existing business enterprises in the ~~state~~ State when such
2 aid will prevent serious reduction in employment, or will enhance or increase
3 the existing level of employment;

4 (6) ~~Low-cost~~ low-cost capital for the abatement of industrial air and
5 water pollution and general improvement of the disposal of industrial waste;

6 (7) ~~Low-cost~~ low-cost capital to assist Vermont family farmers to farm
7 as provided in subdivision 272(a)(3) of this title;

8 (8) ~~Low-cost~~ low-cost capital available for the purchase of land,
9 buildings, and equipment to process Vermont milk, including the processing of
10 milk into cheese, yogurt, or other value-added milk products; ~~and~~

11 (9) ~~Low-cost~~ low-cost capital to assist the wood products enterprises to
12 provide an adequate supply of mill quality chips for Vermont public and
13 private schools and other entities that rely upon wood as a primary source of
14 heating;

15 (10) increased and sustained business lending to improve job creation
16 and retention;

17 (11) lending for State capital financing to reduce the cost of interest
18 payments; and

19 (12) a reduction in the cost paid by the State government for banking
20 services.

1 Sec. 2. 10 V.S.A. § 212 is amended to read:

2 § 212. DEFINITIONS

3 As used in this chapter:

4 (1) "Authority" means the Vermont Economic Development Authority
5 established under section 213 of this title;

6 * * *

7 (29) "Bank" shall have the same meaning as in Section 2 of the Bank
8 Holding Company Act of 1956, as codified, 12 U.S.C. § 1841(c) as may be
9 amended.

10 (30) "Bank holding company" shall have the same meaning as in
11 Section 2 of the Bank Holding Company Act of 1956, as codified, 12 U.S.C.
12 § 1841(a)(1) as may be amended.

13 Sec. 3. 10 V.S.A. § 216 is amended to read:

14 § 216. AUTHORITY; GENERAL POWERS

15 The Authority is hereby authorized:

16 (1) To sue and be sued in its own name and plead and be impleaded;
17 service of process upon it in any action shall be made by service upon the
18 Secretary of State either in hand or by leaving a copy of the process at his or
19 her office;

20 * * *

1 (17) To engage in the business of banking through the 10 Percent for
2 Vermont Program, established pursuant to subchapter 14 of this chapter. In
3 addition to the powers specified in subchapter 14 under the 10 Percent for
4 Vermont Program, the business and financial transactions of the Authority may
5 include anything that any bank or bank holding company lawfully may do,
6 except as it is restricted by the provisions of this chapter.

7 Sec. 4. 10 V.S.A. chapter 12, subchapter 14 is added to read:

8 Subchapter 14. 10 Percent for Vermont Program

9 § 280ff. CREATION; PURPOSES

10 (a) There is established within the Authority the 10 Percent for Vermont
11 Program (Program).

12 (b) The purposes of the Program are the following:

13 (1) to enable the Authority to engage in the business of banking by
14 receiving deposits of State funds and making loans;

15 (2) to increase access to capital and provide other forms of financing to
16 community and economic development projects in the State of Vermont,
17 including thermal efficiency and renewable energy creation, local
18 infrastructure, and education;

19 (3) to provide stability to the local financial sector;

20 (4) to reduce the cost paid by the State government for banking services;

1 (5) to weatherize 80,000 homes by 2020 and use 90 percent of energy
2 from renewable sources by 2050;

3 (6) to reduce student loan debt; and

4 (7) to return profits, beyond those necessary to accomplish the mission
5 and sound operations of the Program, to the General Fund.

6 § 280gg. MANAGEMENT; POWERS AND DUTIES

7 (a) Management. The 15 voting members of the Authority appointed
8 pursuant to subsection 213(b) of this chapter shall operate, manage, and control
9 the Program.

10 (b) Powers and duties. The members shall:

11 (1) establish policies requiring the holding of regular meetings;

12 (2) appoint a president of the Program with extensive demonstrated
13 knowledge and experience in banking;

14 (3) appoint and employ any subordinate officers, employees, and agents
15 as the members consider necessary and define the duties, designate the titles,
16 and fix the compensation of all those persons;

17 (4) remove and discharge any and all persons under subdivisions (2) and
18 (3) of this subsection or section 280hh of this subchapter; and

19 (5) adopt rules and regulations that are necessary to carry out the
20 purposes of this subchapter.

1 § 280hh. ADVISORY COMMITTEE

2 (a) Creation of committee. The 10 Percent for Vermont Program Advisory
3 Committee (Advisory Committee) is established within the Authority to enlist
4 the help of private enterprise and encourage the use and growth of the
5 Program.

6 (b) Membership.

7 (1) The Advisory Committee shall be composed of seven members as
8 follows:

9 (A) one representative from a State-chartered bank;

10 (B) two residents of the State of Vermont with demonstrated
11 knowledge and experience in banking who shall be appointed by the Chief
12 Executive Officer of the Authority;

13 (C) one current member of the Senate;

14 (D) one current member of the House of Representatives;

15 (E) the State Treasurer; and

16 (F) the Chief Executive Officer of the Authority.

17 (2) The Chief Executive Officer of the Authority shall be the Chair of
18 the Advisory Committee and shall appoint a vice chair and secretary. The
19 appointed members of the Advisory Committee shall be appointed for terms of
20 six years and shall serve until their successors are appointed and qualified.

1 (c) Powers and duties. The Advisory Committee shall:

2 (1) meet regularly with the Authority's members to review and make
3 recommendations concerning the Program's operations, finances, and loan
4 practices;

5 (2) oversee the development of the Program's initial bank lending
6 priorities;

7 (3) make recommendations to the members of the Authority relating to
8 the establishment of additional objectives for the operation of the Program;

9 (4) make recommendations to the members of the Authority concerning
10 the appointment of officers of the Program; and

11 (5) participate on loan committees.

12 (d) Meetings. The Advisory Committee shall meet six times per calendar
13 year. The meetings shall be convened by the chief executive officer of the
14 Authority.

15 (e) Reimbursement.

16 (1) For attendance at meetings during adjournment of the General
17 Assembly, legislative members of the Advisory Committee shall be entitled to
18 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.
19 § 406 for no more than six meetings.

20 (2) Other members of the Advisory Committee who are not employees
21 of the State of Vermont and who are not otherwise compensated or reimbursed

1 for their attendance shall be entitled to reimbursement of expenses pursuant to
2 32 V.S.A. § 1010 for no more than six meetings.

3 § 280ii. 10 PERCENT FOR VERMONT PROGRAM; POWERS; DUTIES

4 The Program shall have the following powers and duties:

5 (1) make, purchase, guarantee, or hold loans:

6 (A) to State-chartered or federally chartered lending agencies or
7 institutions or any other financial institutions;

8 (B) that are insured or guaranteed in whole or in part by the United
9 States or its agencies or instrumentalities;

10 (C) obtained as security pledged for, or originated in the restructuring
11 of, any other loan properly originated or participated in by the Program;

12 (D) to instrumentalities of the State; and

13 (E) directly to any private individual or legal entity.

14 (2) purchase, guarantee, modify, or hold loans originated by financial
15 institutions authorized to do business in the State;

16 (3) purchase participation interests in loans made or held by banks, bank
17 holding companies, State-chartered or federally chartered financial institutions,
18 any other financial institutions, or any other entity that provides financial
19 services and that meets underwriting standards that are generally accepted by
20 the State or federal financial regulatory agencies;

1 (4) make loans in the form of participation loans to qualified persons
2 residing in or doing business in the State of Vermont when the originator of the
3 loan is a private financial institution;

4 (5) invest its funds in conformity with policies of the Advisory
5 Committee;

6 (6) buy and sell federal bonds;

7 (7) lease, assign, sell, exchange, transfer, convey, grant, pledge, or
8 mortgage all real and personal property, title to which has been acquired in any
9 manner;

10 (8) receive deposits from any source and deposit funds in any bank or
11 other financial institution;

12 (9) issue bank stock loans to financial institutions authorized to do
13 business in this State; and

14 (10) perform all acts and do all things necessary, convenient, advisable,
15 or desirable to carry out the powers expressly granted or necessarily implied in
16 this subchapter through or by means of its president, officers, agents, or
17 employees or by contracts with any person, firm, or corporation.

18 § 280jj. PUBLIC FUNDS

19 (a) The Program may accept deposits of public funds. The Program may
20 not accept deposits of private funds.

1 (b) All income earned by the Program on public funds shall be credited to
2 and shall become part of the revenues and income of the Program.

3 (c) The Program shall pay interest on public deposits at a rate comparable
4 to rates paid by private depositories of public funds and may offer other
5 financial products to the State Treasurer on a competitive basis.

6 § 280kk. EXAMINATIONS AND AUDIT REPORTS

7 (a) The State Auditor shall contract with an independent certified public
8 accounting firm for an annual audit of the Program in accordance with
9 generally accepted government auditing standards.

10 (b) The State Auditor shall audit annually or contract for an annual audit of
11 the separate programs and funds administered by the Program. On request of
12 the State Auditor, the members of the Authority shall assist the State Auditor
13 in the auditing firm selection process, but the selection of the auditing firm is
14 the State Auditor's responsibility. The auditor selected shall prepare an audit
15 report that includes financial statements presented in accordance with the audit
16 and accounting guide for banks and savings institutions issued by the
17 American Institute for Certified Public Accountants. The auditor also shall
18 prepare audited financial statements for inclusion in the comprehensive annual
19 financial report for the Authority prepared pursuant to subsection 217(b) of this
20 chapter. The auditor shall report the results of the audit to the members of the
21 Authority and to the General Assembly.

1 (c) The State Auditor may conduct performance audits of the Program.

2 (d) The Program shall pay the costs of the audit, which shall be expended
3 from the Program.

4 (e) The Department of Financial Regulation shall examine the Program at
5 least once every 24 months and conduct any investigation of the Program that
6 may be necessary.

7 (f) The Treasurer shall report the examination results, and the results of any
8 necessary investigation, to the members of the Authority and to the General
9 Assembly as soon as practicable.

10 (g) The Department of Financial Regulation may charge a fee for any
11 examination or investigation at an hourly rate to be set by the Treasurer
12 sufficient to cover all reasonable expenses of the Department associated with
13 the examinations and investigation provided for by this section, which shall be
14 expended from the Program.

15 § 280ll. CREDIT OF THE STATE PLEDGED

16 The full faith and credit of the State is pledged to the support of the
17 Program's activities under this subchapter pursuant to the terms set forth in
18 section 223 of this chapter.

19 § 280mm. REPORT

20 Beginning July 1, 2015, and annually thereafter, the Program shall report to
21 the General Assembly on its financial condition and performance, including

1 the amount of revenue deposited or transferred to the credit of the Program
2 during the year and the amount of withdrawals, and provide an analysis of the
3 Program's impact on the State consistent with the Program's purpose set forth
4 in section 280ff of this subchapter, with particular attention to the Program's
5 impact on job creation and economic development.

6 § 280nn. TITLE

7 (a) All business of the Program shall be conducted under the name of the
8 10 Percent for Vermont Program. Title to property pertaining to the operation
9 of the Program shall be obtained and conveyed in the name of the 10 Percent
10 for Vermont Program.

11 (b) Instruments shall be executed in the name of the State of Vermont.
12 Within the scope of authority granted by the members of the Authority, the
13 president of the Program may execute instruments on behalf of the Program,
14 including any instrument granting, conveying, or otherwise affecting any
15 interest in or lien upon real or personal property.

16 (c) Officers or employees of and legal counsel to the Program may execute
17 instruments on behalf of the Program when authorized by the members of the
18 Authority.

1 § 2800o. RULES AND REGULATIONS

2 The Program shall adopt rules and regulations to do the following:

3 (1) ensure the safety and soundness of the Program by adhering to sound
4 underwriting practices, avoiding excessive risk and, to the extent possible,
5 reflecting applicable standards for safety and soundness set forth in Part 364 of
6 Title 12 of the Code of Federal Regulations;

7 (2) specify the Program's powers and permissible investments and
8 activities;

9 (3) authorize specific services that the Program may provide;

10 (4) specify limits for loans and other obligations the trust makes or
11 undertakes; and

12 (5) specify reserve requirements consistent with federal law.

13 Sec. 5. 10 PERCENT FOR VERMONT PROGRAM; INITIAL FUNDING
14 AND LOANS

15 (a) The 10 Percent for Vermont Program shall be initially funded by the
16 following:

17 (1) a one-time transfer of 10 percent of the State's average daily cash
18 balance in FY 2014; and

19 (2) any other monies that are appropriated to the Program from public or
20 private sources.

1 (b) In FY 2015, the 10 Percent for Vermont Program shall use the funding
2 set forth in subsection (a) of this section to provide lending for:

3 (1) residential and commercial renewable energy and thermal efficiency;

4 (2) loans to Vermont students attending Vermont State colleges; and

5 (3) local infrastructure projects.

6 (c) For each year following FY 2015, the Fund will provide lending based
7 on the recommendations for long-term lending strategies developed by the
8 10 Percent for Vermont Advisory Committee.

9 Sec. 6. 10 PERCENT FOR VERMONT ADVISORY

10 COMMITTEE; REPORT

11 On or before February 1, 2015, the Advisory Committee shall submit a
12 report to the Senate Committees on Finance and on Government Operations
13 and the House Committees on Ways and Means and on Government
14 Operations with recommendations for implementing the 10 Percent for
15 Vermont Program. The report shall include:

16 (1) recommendations for long-term lending strategies, including
17 implementation of a State credit card;

18 (2) a recommendation for the amount and source of funds needed to
19 adequately capitalize the Program;

20 (3) recommendations for the potential consolidation of the Vermont
21 Finance Housing Agency and the Vermont Student Assistance Corporation

1 with the Vermont Economic Development Authority, including
2 recommendations for any statutory changes needed to use fully the banking
3 resources and powers of the Vermont Economic Development Authority and
4 eliminate any duplication of efforts or conflicts with any other State agencies;

5 (4) recommendations pertaining to the liability of the State and the
6 Program in civil actions; and

7 (5) recommendations regarding the confidentiality of certain records
8 held by the Program.

9 Sec. 7. EFFECTIVE DATE

10 This act shall take effect on July 1, 2014.