

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0710

SENATE BILL NO. 202

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions regarding loans from the
2 revolving economic development and initiative fund and to authorize loans from the
3 revolving economic development and initiative fund to certain capital investment entities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 1-16G-12 be repealed.

6 ~~— 1-16G-12. For purposes of §§ 1-16G-12 to 1-16G-18, inclusive, "seed capital fund" means~~
7 ~~a for-profit investment vehicle or entity which intends to invest as an owner in businesses for~~
8 ~~the purpose of achieving profit through growth.~~

9 Section 2. That § 1-16G-13 be repealed.

10 ~~— 1-16G-13. In addition to the loans authorized in §§ 1-16G-5 and 1-16G-8, the Board of~~
11 ~~Economic Development may award loans from the revolving economic development and~~
12 ~~initiative fund to seed capital funds. The total amount of such loans may not exceed two million~~
13 ~~dollars. Such loans shall be at the same interest rate as for other loans made from the revolving~~
14 ~~economic development and initiative fund pursuant to this chapter, but need not meet the other~~
15 ~~requirements established pursuant to §§ 1-16G-5 and 1-16G-8 for other loans from the revolving~~
16 ~~economic development and initiative fund. Such loans shall be interest-only for the first five~~



1 years:

2 Section 3. That § 1-16G-14 be repealed.

3 ~~1-16G-14. Any entity approved by the Board of Economic Development may submit~~
4 ~~application for a loan pursuant to § 1-16G-13. Each application shall:~~

5 ~~(1) Describe the purposes of the seed capital fund, including the types of businesses to~~
6 ~~receive investments and the types of investments to be made, consistent with~~
7 ~~§§ 1-16G-12 to 1-16G-18, inclusive;~~

8 ~~(2) Explain how the loan may benefit the fund by attracting private investment to the~~
9 ~~seed capital fund; and~~

10 ~~(3) Present a plan for establishing or operating the seed capital fund, including the~~
11 ~~amount of private investment sought, the strategy for obtaining such investments, and~~
12 ~~the persons or organizations who may manage the fund.~~

13 Section 4. That § 1-16G-15 be repealed.

14 ~~1-16G-15. The Board of Economic Development may make loan commitments to eligible~~
15 ~~applicants following receipt of an application consistent with the criteria specified in~~
16 ~~§§ 1-16G-12 to 1-16G-18, inclusive. No loan may be awarded unless the board has assured itself~~
17 ~~that the following conditions hold:~~

18 ~~(1) At least two dollars of private investment have been committed to the seed capital~~
19 ~~fund for every one dollar of the loan awarded;~~

20 ~~(2) Except for reserves, investments from the seed capital fund shall be made in~~
21 ~~businesses located primarily in this state and conducting operations primarily in this~~
22 ~~state. For the purposes of this section, businesses include international export related~~
23 ~~services, international export related mercantile ventures, advanced technology or~~
24 ~~computer related ventures that will increase the state's share of domestic or~~

1 international markets and ventures for the development of new products, the
2 processing of agricultural products, the development of energy sources or the
3 recycling of solid waste and other business operations; and

4 ~~(3) Eligible seed capital funds shall be limited partnerships or corporations, and shall~~
5 ~~invest in such a way as to ensure that the revolving economic development and~~
6 ~~initiative fund shall assume no liability and be subject to no losses in excess of the~~
7 ~~amount of its original loan.~~

8 Section 5. That § 1-16G-16 be repealed.

9 ~~1-16G-16. The loan recipient shall make no distributions in cash or in kind to its equity~~
10 ~~investors until the REDI fund loan is repaid in full, or a waiver is granted by the REDI fund.~~

11 ~~Except as provided elsewhere by law, upon liquidation or bankruptcy, the REDI fund loan~~
12 ~~shall assume absolute precedence over the rights of owners or other creditors of the fund.~~

13 ~~The fund receiving the REDI fund loan may not thereafter make distributions to its owners~~
14 ~~in cash or in kind, in excess of the original cash invested plus six percent per year, not~~
15 ~~compounded, without first paying bonus interest to the REDI fund equal to an aggregate~~
16 ~~additional return of six percent per year, not compounded, for the entire period from the date~~
17 ~~the loan was granted until it was repaid.~~

18 Section 6. That § 1-16G-17 be repealed.

19 ~~1-16G-17. The Board of Economic Development shall promulgate rules pursuant to chapter~~
20 ~~1-26 to establish criteria for loan and investment eligibility, application and award procedures,~~
21 ~~and reporting requirements and procedures for the seed capital loan program established~~
22 ~~pursuant to §§ 1-16G-12 to 1-16G-18, inclusive.~~

23 Section 7. That § 1-16G-18 be repealed.

24 ~~1-16G-18. Recipients of seed capital loans pursuant to §§ 1-16G-12 to 1-16G-18, inclusive,~~

1 ~~shall submit annual reports to the Board of Economic Development. The reports shall include~~
2 ~~the policies and procedures of the seed capital fund, the amount of private investment in the~~
3 ~~fund and the number, types and amounts of investment in firms by the fund. In addition,~~
4 ~~recipients shall provide copies of all reports and correspondence intended for equity investors~~
5 ~~in the fund.~~

6 Section 8. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
7 follows:

8 For the purposes of this Act, the term, capital investment entity, means a for-profit or non-
9 profit investment entity or vehicle that intends to invest as an owner in businesses for the
10 purpose of achieving return on investment through royalties, profit, growth, or otherwise.

11 Section 9. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
12 follows:

13 In addition to the loans authorized in §§ 1-16G-5 and 1-16G-8, the Board of Economic
14 Development may make loans from the revolving economic development and initiative fund to
15 capital investment entities. The loans shall be for the purpose of facilitating investment by
16 capital investment entities in new businesses in this state and to facilitate the expansion or
17 relocation of businesses in this state in order to promote economic development in this state.
18 The total amount of such loans may not exceed twelve million dollars.

19 Section 10. That chapter 1-16G be amended by adding thereto a NEW SECTION to read
20 as follows:

21 The Board of Economic Development may promulgate, pursuant to chapter 1-26, rules to:

- 22 (1) Establish eligibility criteria;
- 23 (2) Set the application procedures for loans to capital investment entities;
- 24 (3) Establish criteria to determine which applicants will receive such loans;

- 1 (4) Govern the use of proceeds of such loans;
- 2 (5) Establish criteria for the terms and conditions upon which such loans shall be made,
- 3 including matching requirements, if any, interest rates, repayment terms, and the
- 4 terms of security given, if any, to secure such loans; and
- 5 (6) Establish reporting requirements for capital investment entities.