

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2292 Session of  
1984

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PRESTON, COY, MURPHY, BATTISTO, JOHNSON, SCHULER, RAPPAPORT,  
OLIVER, SEVENTY, CLARK, DUFFY, MRKONIC, SWEET AND GAMBLE,  
JUNE 13, 1984

REFERRED TO COMMITTEE ON APPROPRIATIONS, JUNE 13, 1984

AN ACT

1 Creating a small business incubator program; providing for loans  
2 and loan guarantees to small business incubators; specifying  
3 the conditions of and requirements for grants and loans;  
4 providing for seed grants; and making appropriations.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Small  
9 Business Incubators Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

1       "Board." The board of the Ben Franklin Partnership Fund as  
2 established by the act of December 6, 1982 (P.L.774, No.223),  
3 entitled "An act amending the act of April 9, 1929 (P.L.177,  
4 No.175), entitled 'An act providing for and reorganizing the  
5 conduct of the executive and administrative work of the  
6 Commonwealth by the Executive Department thereof and the  
7 administrative departments, boards, commissions, and officers  
8 thereof, including the boards of trustees of State Normal  
9 Schools, or Teachers Colleges; abolishing, creating,  
10 reorganizing or authorizing the reorganization of certain  
11 administrative departments, boards, and commissions; defining  
12 the powers and duties of the Governor and other executive and  
13 administrative officers, and of the several administrative  
14 departments, boards, commissions, and officers; fixing the  
15 salaries of the Governor, Lieutenant Governor, and certain other  
16 executive and administrative officers; providing for the  
17 appointment of certain administrative officers, and of all  
18 deputies and other assistants and employees in certain  
19 departments, boards, and commissions; and prescribing the manner  
20 in which the number and compensation of the deputies and all  
21 other assistants and employees of certain departments, boards and  
22 commissions shall be determined,' changing the name of the  
23 Pennsylvania Science and Engineering Foundation and further  
24 providing for membership on and duties of the board."

25       "Incubator." A facility in which small units of space may be  
26 leased by a tenant and in which management maintains or provides  
27 access to business development services for use by tenants.

28       "Local sponsor" or "sponsor." An organization which enters  
29 into a written agreement with the board to establish, operate  
30 and administer a small business incubator facility or to provide

1 funding to an organization which operates such a facility,  
2 including municipalities, local development districts of the  
3 Appalachian Regional Commission, industrial and commercial  
4 development authorities established pursuant to the act of  
5 August 23, 1967 (P.L.251, No.102), known as the Industrial and  
6 Commercial Development Authority Law, redevelopment authorities  
7 established pursuant to the act of May 24, 1945 (P.L.991,  
8 No.385), known as the Urban Redevelopment Law, municipal  
9 authorities organized pursuant to the act of May 2, 1945  
10 (P.L.382, No.164), known as the Municipality Authorities Act of  
11 1945, or any private nonprofit or for-profit organization  
12 approved by the board.

13 "Seed capital fund." A special investment vehicle which  
14 provides equity and other capital to small businesses during the  
15 earliest stages of business growth, including businesses in  
16 incubators.

17 "Tenant." A sole proprietorship, business partnership or  
18 corporation operating a business for profit and leasing or  
19 otherwise occupying space in an incubator.

#### 20 Section 3. Creation of program.

21 There is hereby established under the direction of the board  
22 a Statewide loan and loan guarantee program for the  
23 establishment, operation and administration of small business  
24 incubators, to be known as the Small Business Incubator Program.

#### 25 Section 4. Incubator loans and loan guarantees.

26 (a) Application.--A local sponsor may submit an application  
27 to the board to obtain a loan or loan guarantee to establish an  
28 incubator. Each application shall:

29 (1) Demonstrate that a facility exists that can be  
30 transformed into an incubator at a specified cost.

1           (2) Demonstrate the ability to provide or access  
2 business development services for tenants of the incubator.  
3 These services shall include, but not be limited to,  
4 financial consulting assistance, management and marketing  
5 assistance and physical services.

6           (3) Demonstrate a potential for sustained use of the  
7 incubator facility by eligible tenants, through a market  
8 study or other means.

9           (4) Demonstrate the ability to manage and operate the  
10 incubator facility in accordance with section 5.

11           (5) Include other information as the board may require  
12 through guidelines.

13       (b) Review of application.--The board shall review and  
14 accept applications based on the following criteria:

15           (1) Ability of the local sponsor to carry out the  
16 provisions of section 5.

17           (2) Economic impact of the incubator on the community.

18           (3) Conformance with areawide and local economic  
19 development plans if such exist.

20           (4) Location of the incubator, in order to encourage  
21 geographic distribution of incubators across the State.

22           (5) Such other criteria as may be established by the  
23 board through guidelines.

24       (c) Loan conditions.--

25           (1) Loans awarded or guaranteed shall be used only for  
26 the acquisition and leasing of land and existing buildings,  
27 the rehabilitation of buildings or other facilities and the  
28 purchase of equipment and furnishings, which are necessary  
29 for the creation and operation of the incubator.

30           (2) Loans and loan guarantees may not exceed 50% of

total eligible project costs, or \$650,000, whichever is less.

(3) Funds loaned shall be secured by lien positions on collateral at the highest level of priority which can accommodate the borrower's ability to raise sufficient debt and equity capital. When the obligation of a local sponsor is guaranteed, the financial institution holding the obligation shall be required to adequately secure the obligation.

(4) Loans and loan guarantees for an incubator in which the facility is currently leased shall only be made if the applicant intends to buy the facility. These loans shall be secured by a leasehold mortgage.

(5) Payment of interest and principal on loans may be deferred at the discretion of the board.

(6) Interest on all loans shall be no less than the interest paid on the bonds used to fund this act.

(7) Funds may be lent for a maximum of ten years or the useful life of the property, as established by the United States Department of Treasury, whichever is greater.

#### Section 5. Responsibilities of local sponsors.

A local sponsor, or the organization receiving assistance through the local sponsor, shall have the following responsibilities and duties in establishing and operating an incubator with assistance from this program:

(1) Secure title on the facility or a lease with the intent to secure title to the facility.

(2) Manage the physical development of the incubator facility, including the provision of common conference or meeting space.

(3) Furnish and equip the facility to provide business services to the tenants.

1 (4) Market the facility and secure eligible tenants.

2 (5) Provide financial consulting, marketing and  
3 management assistance services or arrange for the provision  
4 of these services for tenants of the incubator, including  
5 assistance in accessing private financial markets.

6 (6) Set rental and service fees.

7 (7) Encourage the sharing of ideas between tenants and  
8 otherwise aid the tenants in an innovative manner while they  
9 are within the incubator.

10 (8) Establish policies and criteria for the acceptance  
11 of tenants into the incubator and for the termination of  
12 occupancy of tenants so as to maximize the opportunity to  
13 succeed for the greatest number of tenants, consistent with  
14 the other criteria specified in this act. Retail enterprises,  
15 not-for-profit enterprises, wholesale enterprises and  
16 personal service enterprises are not permitted in incubators  
17 funded through this act.

18 (9) Establish a local advisory committee to assist in  
19 the performance of these functions.

20 Section 6. Challenge grants for seed capital funds.

21 (a) Purpose.--The board is authorized to award challenge  
22 grants for the purposes of establishing seed capital funds to  
23 assist young small businesses, including businesses in  
24 incubators, to create new jobs in this Commonwealth.

25 (b) Application.--Advanced technology centers or other  
26 organizations approved by the board may submit applications to  
27 receive challenge grants to assist in establishing seed capital  
28 funds. Each application shall:

29 (1) Describe the purposes of the proposed seed capital  
30 fund, including the types of businesses to receive

1 investments and the types of investments to be made,  
2 consistent with subsection (c).

3 (2) Explain the need for the challenge grant in  
4 attracting private investment to the proposed seed capital  
5 fund.

6 (3) Present a plan for establishing the proposed seed  
7 capital fund, including the amount of private investment  
8 sought, the strategy for obtaining such investments and the  
9 persons or organizations who may manage the fund.

10 (4) List private investment commitments obtained to  
11 date.

12 (c) Use of funds.--The board may award challenge grants to  
13 eligible applicants following receipt of an application  
14 consistent with the criteria specified in this act. Recipients  
15 of grants shall not expend any of the funds awarded unless and  
16 until the board has given approval for the expenditure, based on  
17 evidence that the following conditions hold:

18 (1) Either:

19 (i) at least \$3 of private investment has been  
20 committed to the proposed seed capital fund for every \$1  
21 of the challenge grant awarded and at least \$3,000,000 of  
22 total investment, including the challenge grant, has been  
23 committed to the proposed fund; or

24 (ii) at least \$1 of private investment has been  
25 committed to the proposed seed capital fund for every \$1  
26 of the challenge grant awarded; at least \$1.5 million of  
27 total investment, including the challenge grant, has been  
28 committed to the seed capital fund; and no investment is  
29 to be made from the fund in a small business project  
30 without an equal or greater investment from private

1 sources other than the fund in the same small business  
2 project, such that, in total, at least \$3 of private  
3 investment has been committed to an individual small  
4 business project for every \$1 of challenge grant funds  
5 invested.

6 (2) Investments from the seed capital fund will be made  
7 exclusively in small businesses located in this Commonwealth,  
8 including, but not limited to, tenants of incubators. For the  
9 purposes of this section, small businesses shall not include  
10 businesses of a mercantile or services related nature, but  
11 shall include international export related services,  
12 international export related mercantile ventures and advanced  
13 technology or computer related ventures which will increase  
14 the Commonwealth's share of domestic or international  
15 markets.

16 (3) Total investments in a small business using seed  
17 capital funds should ordinarily be less than \$250,000 during  
18 any round of financing for a small business.

19 (4) The grant recipient shall serve as a limited partner  
20 or co-investor with limited liability in the proposed fund  
21 and returns on investment of challenge grant funds shall be  
22 reinvested in the seed capital fund.

23 In the event that recipients of funds cannot demonstrate these  
24 conditions by June 30, 1986, the grants, or the portions thereof  
25 for which the conditions are not satisfied, shall be rescinded  
26 by the board and shall be available to the board to use for  
27 loans to incubators consistent with section 4.

28 Section 7. General powers and duties of the board.

29 The board shall:

30 (1) Adopt such rules, statements of policy, procedures,



1 forms and guidelines as may be necessary for the  
2 implementation of this act.

3 (2) Make loans and loan guarantees to local sponsors for  
4 incubators and award seed capital challenge grants.

5 (3) Ensure that local sponsors receiving loans or loan  
6 guarantees and recipients of challenge grants meet the  
7 conditions of this act.

8 (4) Receive and evaluate annual reports from local  
9 sponsors. The annual reports shall include, but not be  
10 limited to, a financial statement for the incubator, evidence  
11 that all tenants in the facility are eligible under the terms  
12 of the legislation and a list of companies in the incubator.

13 (5) Receive and evaluate annual reports from recipients  
14 of seed capital challenge grants. The reports shall include,  
15 but not be limited to, the policies and procedures of the  
16 seed capital fund, the amount of private investment in the  
17 fund and the number, types and amounts of investment in small  
18 firms by the fund.

19 Section 8. Indicators of program impact.

20 On or before March 1 of each year, the board shall provide a  
21 report to both the Chief Clerk of the House of Representatives  
22 and the Secretary of the Senate which shall include, but not be  
23 limited to:

24 (1) The number of applications for incubators submitted  
25 to the board.

26 (2) The number of applications for incubators approved  
27 by the board.

28 (3) The number of incubators created through this  
29 program.

30 (4) The number of tenants occupying each incubator.

(5) The number of jobs provided by each incubator and tenants of each incubator.

(6) The occupancy rate of each incubator.

(7) The number of firms still operating in the Commonwealth after leaving incubators and the number of jobs they have provided. The board shall attempt to identify the reasons why any companies have left the Commonwealth after starting in an incubator.

(8) The number of seed capital funds established with challenge grants, the amount of private investment in the funds and the number, types and amounts of investments in small firms by the funds.

#### Section 9. Appropriation.

(1) The sum of \$5,000,000, or as much thereof as may be necessary, is hereby appropriated from the Pennsylvania Economic Revitalization Fund for the fiscal year July 1, 1984 to June 30, 1985, for loans and guarantees to local sponsors.

(2) The sum of \$3,000,000 is appropriated from the Pennsylvania Economic Revitalization Fund for the fiscal year beginning July 1, 1984, for the Seed Capital Challenge Grant Program. These funds shall not lapse at the end of the fiscal year but shall be available for expenditure pursuant to section 6(c) until June 30, 1986.

#### Section 10. Time limit on approvals.

No assistance under section 4 shall be approved by the board after June 30, 1987.

#### Section 11. Effective date.

This act shall take effect immediately.