Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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H.736 draft 3.1 – AN ACT RELATED TO CREATING TARGETED ECONOMIC DEVELOPMENT INITIATIVES

(This is a draft fiscal note)

Bill Summary: The bill proposes to expand opportunities for economic development in Vermont.

Summary of Fiscal Impacts:

Sec. 1 – One-Stop Shop Web Portal
FY15 Cost: The ACCD estimates that it has adequate staff and resources to undertake the provisions of this section without additional cost to the State.

The bill proposes to require the Agency of Commerce and Community Development (ACCD) to work with other State agencies and partners to provide comprehensive business services including a "first stop" business development website, regional coaching teams, and other services. The ACCD would be required to complete outreach and collaboration to create an inventory of items to organize and include on its current website by the end of FY15. By the end of FY16, ACCD must have designed and mapped a new website and must present a funding proposal to the Legislature for future communications and outreach.

Sec. 2-3 – Vermont Entrepreneurial Lending Program
FY15 Cost: $1,000,000 appropriation from the GF to match the $1,000,000 from VEDA funds to establish a loan-loss reserve fund.

The bill proposes to establish an entrepreneurial lending program to be administered by the Vermont Economic Development Authority (VEDA). The program will be aimed at securing capital for start-up, early stage, and growth-stage businesses with innovative products, whose capital needs exceed current financing capacity, or whose primary assets are nontangible and difficult to collateralize. VEDA would establish a loan loss reserve using a combination of its own funds and an appropriation of State funds in order to secure reasonable interest rates for borrowers.

Sec. 4 – Vermont Entrepreneurial Investment Tax Credits
FY15 Cost: Approximately $390,000 GF (July 1, 2014 effective date and an initial subscription of 20 taxpayers in the final half of calendar year 2014).
FY16 Cost: Approximately $977,000 GF (increase of subscriptions to 50 taxpayers).
FY17-19 Cost: Approximately $1,368,000 GF per year (final subscription of 70 taxpayers).

The bill proposes to create a tax credit against income tax for the direct investment in Vermont-domiciled businesses with revenues less than $3,000,000. The credit would be equal to 60% of the total investment but only 25% of the credit would be allowed to be taken in a single tax year and it could not reduce the tax due by more than 50%. The credit could be carried forward up to 5 years and the total value of credits would not exceed $6,000,000 over the life of the program.

Sec. 5 – Networking Initiatives

FY15 Cost: $10,000 appropriation from the GF.

The bill proposes for the State to appropriate money to the Agency of Commerce and Community Development (ACCD), which will in turn make the funds available to regional economic development providers who would then be empowered to provide grants of up to $2,000 per event to applicants who sponsor networking events designed to connect capital providers with Vermont entrepreneurs.

Sec. 6 – Vermont Downtown and Village Center Tax Credit Program
FY15 Cost: $250,000 would be allocated from the GF for qualified projects as per the Governor's proposed FY15 Budget and increase to $500,000 per year starting in FY16.

The bill proposes to expand code improvement tax credits falling within the Downtown and Village Center Tax Credit program to include technology improvements. Installations and improvements of data or network wiring, or heating, cooling, or ventilation systems would qualify for tax credits of up to $30,000. All other qualified technology improvements would be eligible for up to $25,000.

Sec. 8 – Energy Rates for Manufacturers
FY15 Cost: Staff time of the Public Service Board and Public Service Department.

The bill proposes to require the Public Service Board to open a docket or convene a working group to explore ways to reduce electrical rates for manufacturers by 10% and report back to the General Assembly its findings and suggestions. The PSB would also be required to submit a legislative proposal that would give more choice to commercial and industrial customers in how they contract for electricity.

Sec. 9 – Domestic Export Program
FY15 Cost: $75,000 appropriation from the GF to the Agency of Agriculture, Food and Markets.

The bill proposes that a Domestic Export Program Pilot Project be created to market Vermont products within the region and the country. One feature of the proposed program would be to provide matching grants of up to $2,000 per business, per year for businesses to attend annual trade shows and other events in order to expand their market presence.

Sec. 10 & 10a – Minimum Business Tax
FY15 Cost: Approximately $500,000-850,000 loss of GF revenue. This range does not include the potential loss of revenue from exempting S-Corporations from the minimum tax, which has yet to be determined.

The bill proposes to exempt new or re-domesticated partnerships or limited liability companies who are taxed as partnerships under the Internal Revenue Code, as well as S corporations, from paying the $250 minimum tax for the first year that the tax would be otherwise due (i.e. the initial filing of the business entity).

Sec. 10b – Tax on Income of Corporations
FY15 Cost: Approximately $1,200,000 loss of revenue from the GF. There could be substantial further revenue risks involved with this language if changes to corporate form, creations of subsidiaries or other tactics are undertaken by corporations in order to continue meeting the initial filing exemption and avoid the corporate income tax.

The bill proposes to exempt new or re-domesticated corporations from the corporate income tax for the first year that the tax would otherwise be due (i.e. the initial filing of the business entity).

Sec. 11-14 – Business Franchise Fees

FY15 Cost: Approximately $620,000 loss of revenue from the Secretary of State (SOS), as well as an estimated $100,000 for the SOS to update its current IT infrastructure to reflect the new law, both of which would impact GF receipts.

The bill proposes to exempt partnerships, limited liability partnerships, limited liability companies and mutual benefit enterprises from paying franchise fees to the Secretary of State for the first year that the fees would otherwise be due (i.e. the initial filing of the business entity).

Sec. 15 – Cloud Tax
FY15 Cost: Approximately $3.1 million loss of revenue to the State, of which, 65% of the loss would be from the GF and the remaining 35% would be from the Ed. Fund.

The bill proposes to exclude charges for "remotely-accessed" software from the imposition of sales and use tax. Charges for remotely-accessed software would stem from the access and use of prewritten software run on underlying infrastructure that is not managed or controlled by the consumer.

Sec. 19-20 – Vermont Economic Progress Council
FY15 Cost: Current VEGI grants are capped at $10 million per year, however, easing eligibility requirements for grants could increase pressure to increase the cap and result in significant additional public expense.

The bill proposes to exempt software development companies from the "but for" test used to determine the need for Vermont Economic Growth Incentives (VEGI), which are granted by the Economic Progress Council. Additionally, the bill proposes to adjust VEGI calculation standards for software development companies by increasing the "incentive ratios" to 90% from 80% and by setting the "payroll threshold" at 20%.

The Legislature's Economist Thomas Kavet states that "*The theoretical fiscal neutrality upon which the entire VEGI program is based is a function of its strict adherence to the "but for" test and calibration of a series of cost-benefit calculations that attempt to insure a positive return on investment (ROI) to the State for these business subsidies. By eliminating this test for selected companies, the language in the proposed statute unhinges the program from any premise of fiscal neutrality and could result in unnecessary public expenditure for every investment made in the broad and ambiguously-defined "knowledge-based business" sector. In the past, VEPC has had a limited "out-of-cap" allocation of funds for making awards that do not meet "normal" program criteria (although the awards programs were flexible enough that this was rarely used). If this is still available, it could be utilized for out-of-program payments such as those proposed. The incentive ratios and payroll thresholds now in the program are carefully designed hurdles to insure theoretically positive state ROI from the VEGI awards and are an integral part of the reforms that ended the abuses and public costs associated with the original VEPC EATI program. To jettison these and eliminate the "but for" test fundamentally changes the purpose of the program and could result in significant additional public expense."*

Sec. 21-23 – Computer Crimes and Trade Secrets
FY15 Cost: There could be some additional State costs if the number of prosecutions of computer crimes increases.

The bill proposes to increase the fines for computer crimes, increase the statute of limitations for prosecuting a misappropriation of trade secrets, and to amend the language of 9 VSA Ch. 143 regarding the protection of trade secrets to allow courts to award successful complainants the costs and fees arising from misappropriation of the complainant's trade secret.

Sec. 24 – State Contracting
FY15 Cost: No fiscal analysis has been performed to date. Potential costs include staff time of Buildings and General Services (BGS) and the Agency of Administration, as well as the potential software costs for developing an E-RFP program.

The bill proposes to add provisions for State procurement contracts that would allow contractors to use intellectual property that they have developed for the State for additional commercial purposes provided that the contractor has paid any necessary royalties, license fee or other payments. The bill also proposes that Secretary of Administration to adopt an "E-RFP" process through which certified knowledge-based businesses shall have early access to relevant State requests for proposals (RFPs).

Sec. 25-26 – Securities Exemption for Small Businesses and Lender Requirements Study
FY15 Cost: Potential loss of revenue to the Department of Financial Regulation due to decreased revenue from registration fees for securities, which could impact GF receipts.

The bill proposes to exempt a sale or an offer to sell securities by or on behalf of a Vermont-domiciled business from § 5301-5306 and 5504 of 9 VSA. The securities sales would be limited to (a) up to $10,000 per individual investor, and (b) up to a $1,000,000 total if the issuer has not undergone and made available the documentation resulting from a financial audit or up to a $2,000,000 total if the issuer has undergone and made available the results of a financial audit. The bill also proposes to require the Department of Financial Regulation (DFR) to report to the Legislature on statutory and regulatory changes to the State's licensed lender requirements that could be made to open private capital markets in Vermont and remove unnecessary barriers to business investment.

Sec. 27 – Investment of State Monies
FY15 Cost: No impact to the State, only to VEDA.

The bill proposes to make a language change to 2013 Session Laws (Act 87, Sec. 8) as follows:
The Treasurer is hereby authorized to establish a ~~short-term~~ credit facility for the benefit of the Vermont Economic Development Authority in an amount up to $10,000,000. Removing "short-term" would serve to clarify the intent of the original bill as VEDA makes 5-7 year loans and "short-term" implies a loan life of 1 year or less.

Sec. 28 – Vermont Agricultural Credit Program
FY15 Cost: No impact to the State, only to VEDA.

The bill proposes to adjust the language concerning aggregate borrowing by farm operations from VEDA so that borrowers would be limited in their borrowing by the *greater* of either current maximum Farm Service Agency loan guarantee limits *or $2,000,000*. The bill also proposes to include forest products and forestry to certain statutory definitions regarding the Agricultural Credit program.