

[As Amended by House Committee of the Whole]

As Amended by House Committee

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 393

By Committee on Commerce

1-29

14 AN ACT establishing the Kansas center for entrepreneurship within the
15 department of commerce; providing for the membership and organi-
16 zation thereof; prescribing powers, duties and functions therefor; pro-
17 viding tax credits for investment in Kansas community entrepreneur-
18 ship fund.

19
20 ~~WHEREAS, The vision is to create a world class center for entrepre-~~
21 ~~neurship to support and grow entrepreneurs in Kansas, and~~

22 ~~—WHEREAS, The Kansas center for entrepreneurship will serve as the~~
23 ~~central portal for entrepreneurs looking for business assistance and fin-~~
24 ~~ancing options in Kansas; and~~

25 ~~—WHEREAS, The Kansas center for entrepreneurship will lead collab-~~
26 ~~orative efforts between education, research and outreach services to serve~~
27 ~~potential entrepreneurs across the state; and~~

28 ~~—WHEREAS, A center for entrepreneurship will serve as a seamless~~
29 ~~resource center, clearinghouse and referral source for starting a business;~~
30 ~~and~~

31 ~~—WHEREAS, A center for entrepreneurship will foster growth in areas~~
32 ~~of traditional, corporate, government, nonprofit and university entrepre-~~
33 ~~neurship; and~~

34 ~~—WHEREAS, A center for entrepreneurship will manage a statewide~~
35 ~~pool of grant funds to be distributed to qualified entrepreneurs; and~~

36 ~~—WHEREAS, A center for entrepreneurship will organize a summit to~~
37 ~~recommend policy that will foster an economic climate conducive to the~~
38 ~~development of an agricultural bioscience industry; and~~

39 ~~—WHEREAS, A center for entrepreneurship will work with the board~~
40 ~~of regents and board of education to create training and course work on~~
41 ~~entrepreneurship for dissemination to elementary, secondary and voca-~~
42 ~~tional technical schools and community colleges and universities. Now,~~
43 ~~therefore;~~

1 *Be it enacted by the Legislature of the State of Kansas:*

2 Section 1. **Sections 1 through 12, inclusive, and amendments**
3 **thereto, shall be known and may be cited as the center for entre-**
4 **preneurship act.**

5 **Sec. 2.** As used in this act, unless the context clearly requires oth-
6 erwise: ~~(a) “Cash investment” means money or its equivalent contributed~~
7 ~~to the Kansas community entrepreneurship fund;~~

8 ~~— (b) “community seed capital fund” or “economic development or~~
9 ~~organization” means a not-for-profit organization properly organized under~~
10 ~~Kansas statute to provide funds to start-up entrepreneurs through loans,~~
11 ~~grants or agreements with financial institutions;~~

12 **(a) “Banking industry” means banks, savings and loan associ-**
13 **ations and credit unions;**

14 **(b) “cash investment” means money or its equivalent contrib-**
15 **uted to the Kansas community entrepreneurship fund;**

16 **(c) “center” means the Kansas center for entrepreneurship;**

17 ~~(c)~~ **(d) “department” means the department of commerce;**

18 ~~(d)~~ **(e) “distressed community” means an area in which 20% or more**
19 **of the population of all ages for each census tract located within the area**
20 **has an income below poverty level as reported in the most recently com-**
21 **pleted decennial census published by the United States bureau of the**
22 **census;**

23 **(f) “fund” means the Kansas community entrepreneurship**
24 **fund;**

25 ~~(e)~~ **(g) “investor” means a person making a cash investment in the**
26 **Kansas community entrepreneurship fund, which person qualifies as an**
27 **“accredited investor,” as the term is defined in 17 CFR 230.501(a) in an**
28 **amount of \$250 or more;**

29 ~~(f)~~ **(h) “Kansas business” means any business owned by an individual,**
30 **any partnership, association or corporation domiciled in Kansas, or any**
31 **corporation, even if a wholly owned subsidiary of a foreign corporation,**
32 **that does business primarily in Kansas or does substantially all of its pro-**
33 **duction in Kansas;**

34 **(i) “member” means a member of the board of directors;**

35 ~~(g)~~ **(j) “qualified entrepreneur” means an entrepreneur who has ex-**
36 **hibited a financial commitment to the business and who has proven busi-**
37 **ness experience or who possesses either a bachelor or master of business**
38 **administration degree or who has completed course work as directed by**
39 **the Kansas center for entrepreneurship that certifies the individual as a**
40 **qualified entrepreneur;**

41 **(k) “regional and community organization” means a not-for-**
42 **profit organization properly organized under Kansas statutes to**
43 **provide funds to start-up entrepreneurs through loans, grants or**

1 **agreements with financial institutions;**

2 ~~(h)~~ (l) “rural community” means any city having a population of fewer
3 than 50,000 or except as otherwise provided, any unincorporated area.
4 Unincorporated areas within any county having a population of more than
5 100,000 are not eligible; ~~and~~

6 ~~(i)~~ (m) “secretary” means the secretary of the department of com-
7 merce; and

8 ~~(j)~~ (n) “seed capital” means financing that is provided for the devel-
9 opment, refinement and commercialization of a product, process or in-
10 novation whether for the startup of a new firm, the expansion or the
11 restructuring of a small firm.

12 Sec. ~~2~~ 3. (a) There is hereby created a body politic ~~within the de-~~
13 ~~partment of commerce~~ **and corporate** to be known as the Kansas center
14 for entrepreneurship. The secretary of commerce, **after consulting with**
15 **the board of directors**, shall enter into a contractual agreement for the
16 operation of the center. **The center’s exercise of all the rights, powers**
17 **and privileges conferred by this act and shall be deemed and held**
18 **to be the performance of an essential government function.**

19 (b) The center shall be governed by a board of 11 directors. The
20 board of directors shall be appointed by the secretary of commerce and
21 shall be comprised of individuals who have demonstrated entrepreneurial
22 success, including one member from each of the following organizations:

- 23 (1) Three at-large entrepreneurs,
- 24 (2) An agricultural entrepreneur knowledgeable in biosciences,
- 25 (3) banking industry,
- 26 (4) travel/tourism industry,
- 27 (5) enterprise facilitation,
- 28 (6) Kansas chamber of commerce and industry,
- 29 (7) Kansas small business development centers,
- 30 (8) Kansas technology enterprise corporation and
- 31 (9) national federation of independent businesses.

32 (c) (1) ~~Directors~~ **Members** shall serve for a term of four years **and**
33 **until such members’ successors are appointed**, except that, of the
34 members first appointed, three shall serve for a term of two years, three
35 shall serve for a term of three years and two shall serve for a term of four
36 years.

37 ~~(2) Members shall be appointed for terms of four years and until their~~
38 ~~successors are appointed.~~

39 ~~(3)~~ (2) In case of a vacancy ~~in the appointive membership of the~~
40 ~~Kansas center for entrepreneurship~~ **by a member**, a successor shall be
41 appointed in like manner and subject to the same qualifications and con-
42 ditions as the original appointment of the member creating the vacancy
43 **and shall serve the remainder of the unexpired portion of the term.**

1 (d) The secretary of commerce shall organize and schedule the first
2 meeting of the board, at which time the board shall choose a chairperson
3 ~~and an executive committee. The board of directors shall annually elect~~
4 ~~an executive committee which may establish subcommittees of the board~~
5 ~~as necessary~~ **and may appoint committees from its members as**
6 **necessary.**

7 (e) **The board of directors shall meet at least four times a year**
8 **and at such other times as it deems appropriate or upon call of the**
9 **chairperson or upon the written request of a majority of the mem-**
10 **bers of the board.**

11 ~~(e)~~ (f) Members of the board of directors attending ~~meetings or sub-~~
12 ~~committee~~ **board meetings or committee** meetings thereof authorized
13 by the ~~Kansas center for entrepreneurship~~ **center**, shall be paid amounts
14 provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

15 ~~(f)~~ (g) Members of the board of directors, in their dealings with en-
16 terprises that may receive financing through the corporation, shall declare
17 any potential conflict of interest and abstain from voting prior to taking
18 any actions relating to that transaction.

19 ~~(g)~~ (h) The board of directors shall hold all board meetings within
20 the state of Kansas.

21 ~~(h)~~ (i) Members of the board of directors may serve multiple terms.

22 ~~(i)~~ (j) A member appointed to the board of directors may be removed
23 by the secretary for cause, stated in writing, after a hearing thereon.

24 (k) **A majority of the total voting membership of the board shall**
25 **constitute a quorum for meetings. The board may act by a majority**
26 **of those at any meeting where a quorum of the board is present.**

27 (l) **Before assuming office, each person appointed as a member**
28 **of the board of directors shall complete and file with the office of**
29 **the secretary of state a statement containing the information re-**
30 **quired in a statement of substantial interest pursuant to K.S.A. 46-**
31 **247, and amendments thereto;**

32 (m) **The board of directors shall:**

33 (1) **Consult with and make a recommendation to the secretary**
34 **concerning the awarding of the contract for the Kansas center for**
35 **entrepreneurship;**

36 (2) **make recommendations to the Kansas center for entrepre-**
37 **neurship regarding its policies and procedures;**

38 (3) **review and evaluate the Kansas center for entrepreneur-**
39 **ships' annual report in light of this act's purpose, policy and pro-**
40 **cedures and current economic conditions, and, report its conclu-**
41 **sions and recommendations to the secretary and the center;**

42 (4) **advise the secretary regarding any matter of impropriety**
43 **involving the Kansas center for entrepreneurship of which it be-**

1 **comes aware; and**

2 **(5) carry out any other advisory or oversight function the sec-**
3 **retary deems necessary to fulfill and further the purpose and in-**
4 **tent of this act.**

5 Sec. ~~3~~ **4.** (a) The purpose of the Kansas ~~community center for~~
6 ~~entrepreneurship fund~~ is to enhance the quality of life for citizens of this
7 state ~~through~~ **by providing** increased availability of an accessibility to
8 capital, particularly at the seed capital investment stage, encouraging
9 wealth creation through new jobs that increase the wage base ~~and pro-~~
10 ~~mote, promoting~~ **new business development. The specific purpose of**
11 ~~this act is to encourage~~ **and encouraging** individuals to invest in the
12 Kansas community entrepreneurship fund and to assist regional and com-
13 munity organizations in providing seed funding for entrepreneurs. The
14 Kansas center for entrepreneurship shall:

15 (1) Create and review policies that ~~foster~~ **support and grow** tradi-
16 tional corporate, government, nonprofit and university ~~entrepreneurship~~
17 **entrepreneurs in Kansas;**

18 (2) ~~provide~~ **serve as the central portal for entrepreneurs seeking**
19 **business assistance and financing options in Kansas by providing** a
20 seamless resource center clearinghouse and referral source, to include
21 establishment of a website and a toll free telephone number;

22 (3) ~~oversee collaboration among all stakeholder organizations;~~ **lead**
23 **collaborative efforts between education, research and outreach**
24 **services to serve potential entrepreneurs across the state;**

25 (4) manage the Kansas community entrepreneurship fund and de-
26 velop policies and procedures to assure that funds are distributed to qual-
27 ified entrepreneurs;

28 (5) organize a summit to recommend policy to foster an economic
29 climate conducive to the development of an agricultural bioscience
30 industry;

31 (6) work with the board of regents and Kansas board of education to
32 create training and coursework in entrepreneurship for dissemination to
33 elementary, secondary and vocational-technical schools, community col-
34 leges and universities; and

35 (7) prepare an annual report to the governor and the legislature de-
36 tailing the operational and fund activity of the center and recommending
37 a legislative agenda that will encourage growth in entrepreneurship.

38 (b) The Kansas center for entrepreneurship shall have all the powers
39 necessary to achieve its purposes including the power to make contracts
40 and execute all instruments necessary or convenient for carrying out its
41 business.

42 Sec. **4 5.** (a) ~~The Kansas center for entrepreneurship is a public-~~
43 ~~private partnership.~~ The state shall provide an annual appropriation to

1 fund the salaries and operating expenses of the center, as well as research
2 and evaluation activities conducted at the request of the executive or
3 legislative branches. Private funds shall be raised to support the economic
4 development research and education programs and related activities.

5 (b) The center may use the Kansas community entrepreneur fund,
6 ~~as defined in section 8~~ **created in section 9, and amendments thereto**,
7 to carry out the purposes of this act by awarding funds to regional and
8 community organizations that provide seed capital to qualified entrepre-
9 neurs with an emphasis on those located in distressed and rural com-
10 munities, as defined in section ~~±~~ **2, and amendments thereto**. Up to
11 10% of the fund balance on July 1 of the year may be used for operations
12 of the center. Awards of the remainder of the funds shall be made on a
13 competitive basis.

14 (c) The Kansas center for entrepreneurship is authorized to enter into
15 contracts with, and to receive donations, contributions and grants from
16 individuals, corporations, private foundations and other governmental and
17 non-governmental entities for the purpose of fulfilling its mission and
18 duties. It may also receive in-kind contributions in the form of personnel,
19 services, equipment or other items of value.

20 (d) An annual financial report shall be made to the board of directors
21 which itemizes and accounts for the receipt and expenditure of all state
22 and non-state funds and contributions received.

23 Sec. ~~5~~ **6**. (a) All state appropriations to or grants of state appropria-
24 tions to the Kansas center for entrepreneurship shall remain in the state
25 treasury until expended or transferred to other state agencies pursuant
26 to the Kansas center for entrepreneurship act.

27 (b) Except as provided in subsection (a), all moneys received by the
28 Kansas center for entrepreneurship from gifts, donations, grants or any
29 other source outside the state treasury ~~may be placed in the state treasury~~
30 ~~or may be maintained in interest-bearing accounts in Kansas banks or,~~
31 ~~Kansas savings and loan associations or Kansas chartered credit unions~~
32 **[shall be remitted to the state treasurer and deposited in the state**
33 **treasury and credited to the Kansas community entrepreneurship**
34 **fund]** until expended or otherwise disposed of pursuant to the Kansas
35 center for entrepreneurship act.

36 Sec. ~~6~~ **7**. (a) The Kansas center for entrepreneurship shall transmit
37 annually to the governor, the secretary, the standing committee on com-
38 merce in the senate, the standing committee on economic development
39 in the house of representatives, the joint committee on economic devel-
40 opment, and Kansas Inc. a report, ~~in respect to stating~~ what tax credits
41 have been issued during the preceding year and, based on information
42 provided by the regional or local community seed capital fund or eco-
43 nomic development agency ~~describe~~, **describing** the following: (1)the

1 manner in which the purpose, as described in this act, has been carried
2 out, (2) the total grants given to community seed capital funds or eco-
3 nomic development agencies during the preceding year and cumulatively
4 since the inception of this act, (3) the number of companies and jobs
5 created or preserved by the grants given under this act and their location,
6 and (4) an estimate of the multiplier effect on the Kansas economy of the
7 grants made pursuant to this act.

8 (b) The center shall be subject to an audit by the legislative division
9 of post audit.

10 Sec. ~~7 8.~~ (a) ~~Except as provided in subsection (c) of section 1, and~~
11 ~~amendments thereto, for members of the Kansas center for entrepre-~~
12 ~~neurship, the provisions of article 32 of chapter 75 of the Kansas Statutes~~
13 ~~Annotated, any acts amendatory thereof or supplemental thereto, and any~~
14 ~~rules and regulations adopted thereunder, shall not apply to officers or~~
15 ~~employees of the Kansas center for entrepreneurship.~~ **Officers and em-**
16 **ployees of the Kansas center for entrepreneurship shall not be**
17 **considered state employees, as such term is defined in any other**
18 **statute or regulation, and shall be paid from appropriations to the**
19 **center and moneys allocated in sections 5 and 6, and amendments**
20 **thereto, for salaries and operating expenses.** Subject to policies es-
21 tablished by the Kansas center for entrepreneurship, the president of the
22 Kansas center for entrepreneurship or the president's designee shall be
23 authorized to approve all travel and travel expenses of such officers and
24 employees.

25 (b) Nothing in this act or the act of which it is amendatory shall be
26 construed as placing any officer of the Kansas center for entrepreneurship
27 in the classified service under the Kansas civil service act.

28 Sec. ~~8 9.~~ (a) The Kansas community entrepreneurship fund is hereby
29 created **in the state treasury** to which shall be credited any state [**or**
30 **other**] funds specifically so designated. The secretary may budget moneys
31 to the Kansas community entrepreneurship fund from the economic de-
32 velopment initiatives fund subject to appropriations. The secretary also
33 ~~may~~ [**shall**] credit the fund with gifts, donations, investments or grants
34 received from any source [**for the center**], some of which shall qualify
35 for the income tax credit allowed pursuant to this section and amend-
36 ments thereto.

37 **[(b) The state treasurer shall credit all revenue collected or**
38 **received by the center to the fund. On or before the 10th day of**
39 **each month, the director of accounts and reports shall transfer**
40 **from the state general fund to the Kansas community entrepre-**
41 **neurship fund interest earnings based on:**

42 **[(1) The average daily balance of moneys in the Kansas com-**
43 **munity entrepreneurship fund for the preceding month; and**

1 **[(2) the net earnings rate of the pooled money investment port-**
2 **folio for the preceding month.]**

3 ~~(b)~~ [(c)] Oversight and management of the fund shall be provided by
4 the Kansas center for entrepreneurship under guidelines developed and
5 implemented with the approval of the secretary.

6 ~~(c)~~ [(d)] A credit against the tax imposed by the Article 32, Chapter
7 79 of the Kansas Statutes Annotated on the Kansas taxable income of an
8 investor and against the tax imposed by K.S.A. 40-252, and amendments
9 thereto, shall be allowed for a cash investment in the Kansas community
10 entrepreneurship fund. The credit shall be a total maximum amount equal
11 to 50% of an investor's cash investment in the Kansas community entre-
12 preneurship fund, subject to the limitation set forth. This tax credit may
13 be used in its entirety in the taxable year in which the cash investment is
14 made, except that, no tax credit shall be allowed in a year prior to 2006.
15 If the amount by which that portion of the credit allowed by this section
16 exceeds the investor's liability in any one taxable year, beginning in the
17 year 2006, the remaining portion of the credit may be carried forward
18 until the total amount of the credit is used. If the investor is a corporation
19 having an election in effect under subchapter S of the federal internal
20 revenue code or a partnership, the credit provided by this section shall
21 be claimed by the shareholders of these corporations or the partners of
22 a partnership in the same manner as these shareholders or partners ac-
23 count for their proportionate shares of the income or loss of these cor-
24 porations or partnerships.

25 ~~(d)~~ [(e)] The secretary of revenue shall not allow tax credits of more
26 than \$50,000 that are attributable to an individual investor of cash in-
27 vestments in the Kansas community entrepreneurship fund each year. In
28 no event shall the total amount of tax credits allowed under this section
29 exceed \$2,000,000 for any one fiscal year.

30 ~~(e)~~ [(f)] ~~The reasonable costs of the administration of this act and of~~
31 ~~the issuance of tax credits authorized hereby shall be reimbursed through~~
32 ~~fees paid by the Kansas community entrepreneurship fund.~~

33 **The Kansas center for entrepreneurship shall be reimbursed for**
34 **the reasonable costs of the administration of this act and for the**
35 **processing, issuance and costs incurred in authorizing tax credits**
36 **from the Kansas community entrepreneurship fund.**

37 ~~(f)~~ [(g)] The Kansas center for entrepreneurship, along with the de-
38 partment, shall develop a system for application for registration of an
39 authorization of tax credits authorized pursuant to this act and shall con-
40 trol distribution of all tax credits to investors pursuant to this act. The
41 Kansas center for entrepreneurship, along with the department, shall also
42 develop rules for the administration of and disbursements from the Kan-
43 sas community entrepreneurship fund.

1 ~~(g)~~ [(h)] The Kansas community entrepreneurship fund shall be dis-
2 tributed to regional or local community seed capital funds or economic
3 development agencies based on the following criteria: (1) The organiza-
4 tion can provide a 40% match; (2) the organization provides a plan that
5 assures grant funds will be used as seed capital for qualified entrepre-
6 neurs; (3) the grant will be used in a distressed or rural community and
7 (4) other criteria as deemed necessary by the Kansas center for
8 entrepreneurship.

9 **Sec. 10. Three years from the effective date of this act, Kansas,**
10 **Inc. shall conduct a review of the center for entrepreneurship and**
11 **the community entrepreneurship fund to determine program and**
12 **cost effectiveness. A report, including findings and recommenda-**
13 **tions, shall be submitted to the legislature by January 1, 2008.**

14 Sec. 9 11. If any provision of this act or the application thereof to
15 any person or circumstances is held invalid, the invalidity shall not affect
16 other provisions or applications of the act which can be given effect with-
17 out the invalid provision or application, and to this end the provisions of
18 this act are severable.

19 Sec. ~~10~~ 12. This act shall take effect and be in force from and after
20 its publication in the statute book.