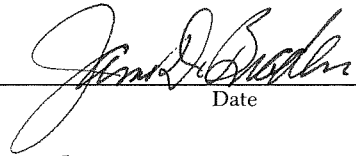


Approved

 5-7-86
Date

MINUTES OF THE Legislative COMMITTEE ON Economic Development

The meeting was called to order by Representative Jim Braden at
Chairperson

7:00 a.m./p.m. on March 28, 1986, 19 in room 527-S of the Capitol.

All members were present except:
Senator Paul Feleciano
Representative D. Mainey

Committee staff present:
Belden Daniels
Paul West
Tom Severn

Visitor's Register - (Attachment "F")

Conferees appearing before the committee:

The Chairman called the meeting to order. He passed out a letter from Evelyn Willis, Douglas County, (See Attachment "A") regarding a proposed Kansas Turnpike Interchange. He also passed out a copy of the State Legislative Report from the National Conference of State Legislatures on State Venture Capital Initiatives. (Attachment "B").

(Attachment "C"). An amendment by Representative Turnquist for House Bill No. 2951. It would transfer the state fair board to the Department of Commerce. Representative Turnquist asked the Chairman to bring this before the Commission for review. Senator Kerr made a motion that this not be considered further at this time. Senator Salisbury seconded the motion. After some discussion the Chair asked that the motion be withdrawn. No further action was taken.

The Chairman announced that Representative Jarchow will propose in the House Assessment and Taxation Committee today amendments to the property tax exemption resolution. (House Concurrent Resolution No. 5047) (Attachment "D").

The Chair asked the Commission if he should take a message to the tax committee about the amendment. The Chairman asked for a show of hands about leaving warehousing in the bill. Five members agreed to leave it in and two did not. The Chairman said he would relay this message to the chairman of the tax committee.

The Chairman asked the Commission to review the bill draft on Initiative No. 1. (Attachment "E"). Daniels stated this initiative creates a 240 million dollar risk capital pool. This bill is tailored precisely to meet the needs for Kansas, and represents the highest current state of the art in legislation of this type.

Daniels stated he met with 30 bankers across the state and found them quite enthusiastic and strongly supportive of all nine initiatives.

Senator Winter made a motion to approve this bill favorably. Senator Kerr seconded. The vote was unanimous to approve.

CONTINUATION SHEET

MINUTES OF THE Legislative COMMITTEE ON Economic Development,
room 527-S, Statehouse, at 7:00 a.m./p.m. on March 28, 1986, 19 .

Meeting adjourned 9:00 A.M.

Approved by Commission

5-1-86
(date)

March 28, 1986
Economic Dev. Comm.

"F"

Name

Representing

Jim Ploger
CHAAR (1) KODOR

Gov ofc
KOD

Marie Parker
CJ Schwarz

Sen Telecano's Office
KDED

Attachment F

EVELYN WILLIS
P. O. BOX 144
LECOMPTON, KS 66050

MAR 27 1986

"A"

The Hon. James D. Braden, Chairman
Legislative Commission on Kansas Economic Development
64 - Clay Center
Room 381-W
State Capitol Building
Topeka, Kansas 66612

March 28, 1986
Economic Dev Comm.

My husband and I would ask you and your committee's attention to some concerns about a proposed bypass in Douglas County.

the project caught our eye mainly because of the proposed Kansas Turnpike interchange involved. Several years ago our Lecompton city officials met with Kansas Turnpike authorities, and felt as a result of the meetings, if another interchange was built, Lecompton would be at the top of the list. The interchange would provide a good access road for both Clinton and Perry Lakes, using existing roads. It would bring money into the area, actually benefitting two counties. We have lots of commercial traffic that cuts thru between Highway 24 and 40, and people in the area that travel to jobs that would benefit from the interchange. Then all of a sudden, we hear of the proposed bypass and different turnpike interchange location. The other interchange site proposed by County Commissioners basically dead-ends and is in the middle of nowhere--connecting nothing. It doesn't seem fair after all the time involved and ground work laid, that Douglas County commissioners should be able to suddenly appear with a "bypass" plan and jeopardize our chances of getting the interchange.

As for the bypass proposal, enclosed is a fact sheet for your information. We have attended two public meetings held by county commissioners. At these meetings, county commissioners refused to comment or respond to citizen questions. Too many things indicate a "snow-job" on county citizens. A large sum has already been spent on a study of the proposed bypass -- good tactics to push it thru -- .

When we read constantly of cuts and/or shortages of funds on every level; Federal, State and County, this project makes no sense. Federal, State and County funds come from taxpayers and we (taxpeyers) will pay three times for something from which we will receive little or no benefits. The project proposed says the purpose is to bypass Lawrence (whiz thru Douglas County) and ease traffic on 23rd street in Lawrence. What does the county gain from this?

It will benefit a few developers with a bill being dumped on a lot of fine, honest, ordinary taxpaying people in Douglas County. Not to mention people's property this bypass would destroy. Using existing roads would make some sense at least.

We ask you to look very seriously at requests for Federal and State funds for this project. All progress is not good. Helping a few at the cost of hurting a lot is not good progress.

Sincerely,

Evelyn M. Willis
Donald H. Willis

Attachment A

DOUGLAS COUNTY CITIZENS FOR RESPONSIBLE DEVELOPMENT

THE BYPASS FACT SHEET

You may not know most of the facts relative to the Douglas County Commissioners' Proposed Bypass. This "Fact Sheet" was developed by concerned citizens of Douglas County who have investigated these facts to bring the proposed Bypass issue to the public and citizens of Douglas County on a full disclosure basis. Our intent is to present to you the most expensive endeavor ever undertaken by County Government in Douglas County, so that you can decide whether we actually need this extremely expensive Bypass.

Here are the facts:

1. Did you know that the Bypass proposal was originated by the Lawrence Chamber of Commerce and not the Douglas County Commissioners? More specifically, the Chamber's Highways and Roads Committee, made up of road contractors and/or suppliers, actually introduced it to the County Commissioners.
2. The Douglas County Commission paid the Kansas Turnpike Authority \$15,000 to study the feasibility of constructing another West Lawrence Interchange as part of the Bypass proposal. The KTA issued their study in September, 1985, and found that any additional interchange in Douglas County would cover annual expenses but would not meet debt service requirements, estimated at approximately \$330,000 per year. In other words, there is not enough traffic in Western Douglas County to justify the expense of another interchange.
3. Did you know there has not been any specific studies directly related to this Bypass to show that it is needed? As a matter of fact, the Douglas County Comprehensive Guide Plan 1976-2000 specifically states, "From this study it can be concluded that no major road improvements will be required in Douglas County for the next twenty years . . ."
4. Did you know that the recent \$4,500,000 Bond Issue Resolution to begin funding the Bypass was enacted by the Douglas County Commission without public vote and that we never will be granted the opportunity to vote on this Bond Issue?
5. Douglas County Commissioners plan to use Federal, State and County tax dollars to pay for this Bypass, even though Federal and State officials have publically stated there are no funds available. Did you know that the Federal Government is \$220,000,000,000 in debt; the Kansas state coffers are \$138,000,000 short, and that because of this current Douglas County Commission, our county government is approximately \$14,000,000 in debt.

(over)

6. Did you know that Douglas County's 1985 Budget expenditures were \$13,053,815 and that the 1986 Budget calls for expenditures of \$17,617,438? This is an increase of \$4,563,623 or a 34.96% increase in one year. Your taxes have already been affected and it is anticipated that these tax increases will continue, depending upon whom we elect to replace this current County Commission.

7. Did you know that in Western Douglas County and in the Clinton Lake area there is planned a Resort Area including a Resort Hotel, Golf Courses, and an Amusement Park? Do you realize that the developers of this Resort Area along with the developers of the University and Corporate Research Park will be the primary beneficiaries of this Bypass?

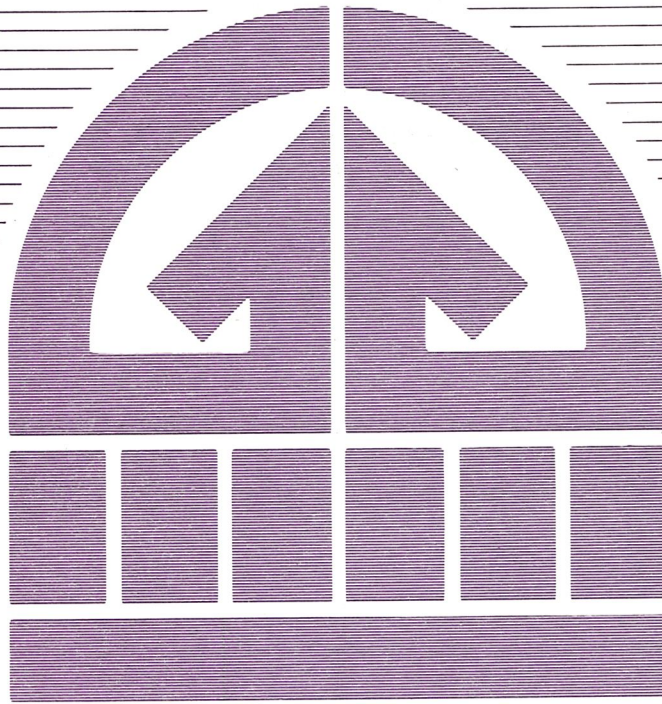
8. Douglas County Officials have publically stated that the 13.5 mile Bypass will cost only \$16,000,000. Did you know that written cost estimates obtained from the Kansas Department of Transportation place construction cost of this Bypass at between \$2,500,000 and \$3,000,000 per mile. This will make the construction cost of the 13.5 mile Bypass \$40,500,000. Such construction cost does not include right-of-way acquisition expense, final engineering costs, environmental impact studies, or compensation to displaced homeowners in the affected areas.

This "Fact Sheet" contains important facts, however, it does not contain all the information concerning this Bypass issue. It would be impossible to list everything here. It is suggested that all Douglas County Citizens become more involved and voice their concerns before we spend our tax dollars unwisely on projects which will only benefit certain developers and/or officials at tremendous taxpayer expense.

MAR 26 1986

"B"
March 28, 1986
Economic
Dev.
Comm.

STATE LEGISLATIVE REPORT



STATE VENTURE CAPITAL INITIATIVES

by

Greg Bettger

Volume 11, No. 2

February, 1986

An Information Service of the National Conference of State Legislatures
1050 17th Street, Suite 2100, Denver, Colorado 80265. Earl S. Mackey, Executive Director

Attachment B

STATE LEGISLATIVE REPORT

- "Garcia v. San Antonio Metropolitan Transit Authority:
What it Means for the States"
(Vol. 10, No. 5) March, 1985
- "State Involuntary Commitment Laws:
Beyond Deinstitutionalization"
(Vol. 10, No. 6) August, 1985
- "How Do You Know If Your State's Job Training
Programs Work?"
(Vol. 10, No. 7) September, 1985
- "Approaches to Legislative Evaluation of
Education Reform and Success"
(Vol. 10, No. 8) September, 1985
- "Issues in Workers' Compensation 1985"
(Vol. 10, No. 9) October, 1985
- "Background Paper on the Price-Anderson Act"
(Vol. 10, No. 10) November, 1985
- "The Status of State Mandatory Retirement Laws"
(Vol. 10, No. 11) (ISBN 1-55516-153-7) November, 1985
- "Tort Liability Litigation"
(Vol. 10, No. 12) (ISBN 1-55516-154-5) December, 1985
- "The Homeless Mentally Ill: No Longer Out of Sight
and Out of Mind"
(Vol. 10, No. 13) (ISBN 1-55516-155-3) December, 1985
- "The Legislative Role in Improving Postsecondary
Education"
(Vol. 10, No. 14) (ISBN 1-55516-156-1) December, 1985
- "Controlling Liability Insurance Costs: State Actions
and Future Initiatives in the Area of Civil Justice Reform"
(Vol. 11, No. 1) (ISBN 1-55516-157-X) January, 1986
- "State Venture Capital Initiatives"
(Vol. 11, No. 2) (ISBN 1-55516-158-8) February, 1986

STATE LEGISLATIVE REPORT is published 12 to 18 times. It is distributed without charge to legislative leaders, council and research directors, legislative librarians, and selected groups for each issue. For further information on STATE LEGISLATIVE REPORT or to obtain copies, contact the NCSL Marketing Department in Denver at 303/623-7800.

STATE VENTURE CAPITAL INITIATIVES

BACKGROUND

To the uninitiated, state economic development might be characterized by the recent madcap rush to land the General Motor's Saturn plant. Although the economic and political importance of obtaining such a plant is great, state economic development initiatives today encompass much more than "plant chasing," which dominated state economic development policies in the 1960s and 1970s.

Three major trends have at once enlarged and shifted the focus of state strategies. The first is a diminishing federal presence in economic development. Over the past two decades, the federal government played a significant role, especially in urban economic redevelopment. Reductions in federal aid over the last few years, however, have forced states to search out alternatives to federally sponsored economic development programs.

The second trend is the movement away from plant chasing, which is usually characterized by offering tax and other incentives, the Saturn plant notwithstanding. From the late 1950s until the end of the 1970s, state economic development usually meant "industrial development," and this translated into luring manufacturing plants from other states or trying to land new facilities of expanding companies. Accumulated evidence suggests that these attempts to promote development have not been very successful.

The third trend has been the increasing acceptance by state policymakers of a "home-grown" economic development strategy. Most economic development experts now agree that state policies that attempt to retain, strengthen and expand existing businesses and nurture the start-up and growth of new firms are the best strategies to create jobs, diversify a state's economy and increase tax revenues. Studies such as the one performed by David Birch of the Massachusetts Institute of Technology in 1979 recognized that 50 to 80 percent of new jobs are created by small businesses.(1) Most states now emphasize an entrepreneurial strategy, although they also have continued industrial recruitment.

Even as the effects of the 1981-82 recession fade, states have intensified efforts to foster economic development because of the uneven nature of the recovery and the lessons of the recession. State initiatives aimed at promoting the growth of new firms include: designing business incubators to nurture small start-up businesses; fostering partnerships among state government, universities and the private sector to speed up the transfer of new ideas to the marketplace; and promoting the export of goods and services.

State-sponsored venture capital programs, adopted in one form or another by a growing number of states, are one of the most innovative and potentially important trends in this new arena of economic development. This State Legislative Report will review the arguments for and against

state involvement in creating sources of venture capital, survey the types of programs adopted by states and results to date, and then discuss the future of such initiatives on state agendas.

THE CASE FOR STATE-SUPPORTED VENTURE CAPITAL

More than 30 states have instituted some type of venture capital program since the mid-1970s, with most having been adopted in the past few years. States have provided financial assistance to businesses for years, but involvement with venture capital, as the term suggests, is riskier than past efforts. State policymakers are attracted to venture capital programs by the potential economic benefits--more jobs, diversification of a state's economic base and more tax revenues--of "seeding" small, high-growth firms that do not have access to other public or private funding.

But why should states become involved in venture capital when the private sector has already provided more than \$16 billion? One reason is that funding gaps exist in the private venture capital market. According to Roubina Khojlian, director of research at Venture Economics, Inc., 70 percent of all venture capital is concentrated in California, Massachusetts, New York and Texas. Even though the absolute amount of venture capital available is growing nationwide, it appears that most funds still gravitate to familiar entrepreneurial hotbeds like California's Silicon Valley and Massachusetts' Route 128. State-sponsored venture capital efforts provide a source of risk capital and, in some instances, may assist in the growth of private venture capital markets in states where there is little venture capital activity.

The Maine Capital Corporation is a good example of how a state-backed venture capital program can help attract private venture capital to a state. As a privately run Small Business Investment Company (SBIC), the corporation was capitalized with \$1 million in state funds. Since 1980 when it was launched, the corporation has made numerous investments in Maine businesses. In addition, by co-investing in over \$16 million worth of private financing and by helping firms find other investors, the corporation is a catalyst in attracting private funds to the state.

Studies have found no consistent correlation between the amount of venture capital managed by a state and the amount of private investment.(2) In Maine's case, however, the state-sponsored venture capital program has provided a significant sum of capital that was previously unavailable to firms within the state's borders.

In addition, there are other reasons why new businesses in need of venture capital have trouble raising the money. In March 1985, the Wall Street Journal pointed out that it has become more difficult for young businesses to obtain venture capital. Although venture capital funds flowed freely in 1983, much of it now is being used to keep struggling firms afloat that were first funded during the boom days. Consequently, many small firms face great difficulties in obtaining venture capital. Or, if the money is available, the businesses have to surrender "a large chunk of their equity, reorganize or even merge their firms."(3)

By providing capital in the early stages of a new firm's life, the states can assist the growth of businesses that venture capitalists might overlook because of their tendency to invest in a latter phase of a new firm's development. The case of Sky Computers offers an example of how a state venture capital program can play an important role. The small Massachusetts-based company which makes plug-in computer boards for scientists and engineers desperately needed capital four years ago.

The Massachusetts Technology Development Corporation (MTDC), an independent public agency created by the state legislature, invested in the company after private venture capitalists refused. Today, due to the efforts of MTDC and other investors attracted to the firm by MTDC's commitment, Sky Computers employs 85 people and ships \$10 million worth of products per year.

WHAT IS STATE-SPONSORED VENTURE CAPITAL?

Definitions of venture capital are generally a function of the particular stage at which the money is injected into a private business, and these stages are difficult to distinguish. One analyst has identified at least six stages of business development, beginning with seed and start-up.(4)

Common definitions of venture capital are limited in nature for the purposes of state policymakers. For example, one definition states that venture capital is defined as "early-stage financing of young, relatively small, rapidly growing companies or companies with rapid growth potential."(5) A different source defines venture capital as "equity financing in a high-risk company with hopes of extraordinary financial return."(6)

These definitions, however, do not account for the breadth of public assistance given to firms in different stages of growth and with various products in different phases of development. Furthermore, to facilitate economic development, states provide a wide range of financial assistance to businesses, including grants and debt financing. This assistance is not usually considered venture capital. Consequently, the following definition of state-sponsored venture capital is proposed for the purposes of state policymakers:

Definition: A state venture capital program, directly or indirectly, increases the amount of equity or risk capital (including "seed" capital and other subordinated long-term capital) available to private firms and helps create an entrepreneurial climate.

While this definition is broad enough to cover the various state initiatives, it is also refined enough to distinguish such initiatives from other definitions of venture capital. State programs differ as to the types of businesses or products in which they become involved.

State-sponsored venture capital initiatives generally target small, high-growth, technology-based businesses. For example, the Massachusetts Technology Development Corporation provides funds for start-up and early stage technology-based companies. But the New York Business Venture

Partnership, which was capitalized with state pension funds, will also consider firms that are not in commonly considered growth industries if they show promise. Furthermore, rather than targeting high growth industries, the Alaska Resources Corporation (then called the Alaska Renewable Resources Corporation) invested in 1980 in fishing and timber industries in an effort to help those sectors through economic hard times (the corporation encountered problems, which are discussed later).

In addition, although state initiatives usually target firms during their early stages, that is not always the case. The Iowa Product Development Corporation prefers seed financing in businesses that are at least at the advanced, prototype stage of a new product. The Indiana Corporation for Innovation Development invests in both technical and nontechnical firms at different stages in the development process. The Michigan Department of Treasury, which is allowed to invest a percentage of the state's public pension funds in venture capital projects, prefers joint ventures with other organized venture capital funds in later-stage investments.

In the role of venture capitalist, states usually expect some form of return for providing the capital. The return, normally long-term in nature and generally not receivable for five to 10 years, may be in the form of royalty payments or dividend and capital appreciation of equity instruments.

CATEGORIES OF STATE INITIATIVES

Most analysts of state venture capital programs study only quasi-public corporations created by legislatures, but this narrow focus clouds a thorough understanding of state initiatives. The sources of state venture capital funding and the way that the dollars are dispersed vary as much as the businesses that receive the funds.

States have used three basic approaches for providing venture capital:

- o Creating state-chartered quasi-public and private venture capital funds;
- o Allowing public pension funds to make venture capital investments;
- o Providing tax incentives to encourage private investment in venture capital funds or to encourage private venture capital investment directly in specified types of companies.

Each of these approaches varies in the degree that the state is involved in the capitalization and operational funding of the programs and in directing the investment decisions. The state-chartered venture capital funds exhibit the greatest amount of state involvement while the tax incentive approach represents the least. In each instance, however, these initiatives are designed to increase the amount of venture capital available to private firms and to improve their access to the funds.

State-Chartered Entities: This approach, which usually directly involves the state, is the most common. By summer 1985, 20 states operated

24 such programs. As a quasi-public or private entity, the agency is permitted to take an equity position that most states cannot assume directly because of state constitutional prohibitions. For example, the New Mexico constitution prohibits the state from lending its credit or making a donation to any person, association or public or private corporation. By establishing the Energy Research and Development Institute, however, the state can provide seed capital to energy-related companies for the research and development phase of a product.

Initiatives in this category differ greatly in the ways in which they are capitalized and administered. Many of the programs were established through direct state appropriations. For example, the Indiana Corporation for Science and Technology received a \$20 million state general fund appropriation to be used for the development of prototype products. An additional \$20 million was appropriated for the current biennium. Some programs have also attracted funds from other sources to enhance their operations. The Massachusetts Technology Development Corporation, for instance, received funds from the Economic Development Administration of the U.S. Department of Commerce as well as the Commonwealth of Massachusetts. Some states have not provided direct appropriations, but instead have allowed a tax incentive to corporate and individual investors who invest in a newly created, properly operated venture capital fund. Such a measure helped Indiana's Corporation for Innovation Development raise initial capitalization of \$10 million.

The administration of state-chartered venture capital programs is equally diverse. The mix of public influence and private expertise on investment boards is of paramount importance. At one extreme, the Massachusetts Community Development Finance Corporation is representative of programs that have boards consisting of government and other public- and private-sector individuals appointed by the governor. At the other extreme, the Iowa Venture Capital Fund, Limited Partnership, while conceived by the state, is capitalized by private investors. Investment decisions are made by a private venture capital firm, InvestAmerica Venture Group, Inc.

Since most state-chartered programs risk significant sums of public money, the debate probably will continue to center on who should make investment decisions. Most boards resemble the Massachusetts model, although in the case of Indiana's Corporation for Innovation Development, all decisions are made by a seven-person board composed solely of business executives.

These boards generally make equity or equity-type investments. However, the Massachusetts Technology Development Corporation provides a combination of equity and debt. Furthermore, the Alaska Resources Corporation has been involved in both equity and debt financing, as well as providing some grants. One of the more innovative financing methods is the royalty agreement, which is used in Connecticut, Iowa, New Mexico and Ohio. The Connecticut Product Development Corporation, created in 1972, does not take an equity position in its clients' operations, nor does the investment appear as an outstanding debt on the company's balance sheet. The corporation's participation is an investment in the product itself--not the company. Under the agreement, the firm pays a royalty of 5 percent of the sales of the product to the Product Development Corporation as the return on

the corporation's investment, although this percentage may drop after a few years of the firm's operation. If the product is a success, the corporation recovers its investment; if the product or company fails, the investment is lost, except for rights to the development, including patents.

In addition to providing much-needed funding, many state venture capitalists offer valuable management assistance as well. New York's Corporation for Innovation Development Program provides a range of technical assistance services to its clients. In Maine, a staff member of the Maine Capital Corporation often works directly with the company management and usually sits in on meetings of the board of directors, at least in the initial stages. The Indiana Corporation for Innovation Development does not seek active involvement in the management of the companies in which it invests, but nonetheless expects an open line of communication with the company's management and, in most cases, requires a seat on the board.

Public Pension Fund Investments: Another approach to promote venture capital is to tap the vast resources of public pension funds. In most states these funds, whose assets run into the billions of dollars, are invested by fund managers who seek to generate an acceptable return to provide retirement income for public employees. Public pension funds, usually subject to state laws that attempt to keep the funds fiduciarily sound, have generally been managed in a conservative manner.

These investments are generally made under the prudent investor rule, which provides broad authority for the investment of public pension funds. A trustee may make investments which would be selected by an investor of prudence, diligence and intelligence in the management of his or her own affairs, giving due consideration to the safety of principal and income.(7)

In recent years, some state policymakers have advocated using part of these funds to promote economic development. Since the funds provide a promising capital pool and their liabilities are long-term in nature, several states have initiated legislation allowing public pension fund investments in venture capital projects. By mid-1985, seven states--Colorado, Illinois, Michigan, New York, Ohio, Oregon and Washington--had made significant investments with such funds. Several other states were studying similar legislation--Iowa, for example, enacted a bill in its 1985 legislative session--or were about ready to make specific investments.

Most of the seven states undertake only passive investments in the form of limited partnerships with other venture capital funds. For instance, the Oregon Investment Council, which consists of the state treasurer and others appointed by the governor, can commit up to 5 percent of the pension funds it manages to venture capital. Other state programs, such as the Colorado Public Employees Retirement Association, are given full discretionary investment authority under a specific state statute. In addition to participating in limited partnerships, Michigan and Ohio also make direct investments in particular businesses. Michigan has been a leader in initiatives in public pension fund usage. In 1982, Public Act 55 created the Venture Capital Division of the state Department of Treasury. The act specifies that the Treasury Department, custodian of five separate retirement systems, may invest up to five percent of the systems' assets in

qualified small businesses or venture capital firms on an equity, debt or warrant basis.

The Michigan Venture Capital Division looks for businesses with above average potential for growth, especially technology-based firms and companies with unique products. To date, the division has invested more than \$126 million, and its portfolio includes 25 high growth firms and 12 venture capital funds. The investments created or retained 2,700 jobs for Michigan residents, according to the division.

Despite the apparent success of the Michigan effort and that of other state pension funds in venture capital finance, questions remain about the appropriateness of investing the retirement funds of public employees to further economic development. Paul Rice, administrator of the Michigan Venture Capital Division, stresses that "our ultimate goal must still remain one of achieving a return for our retirees, and not investing only for the sake of some state social or economic goal."

Others believe that prudent financial standards for pension funds must necessarily be lowered to accomplish economic development objectives. A report by the Southern Growth Policies Board concludes that the expertise to identify and evaluate venture capital opportunities is not ordinarily found within the structure of a state pension fund program. The report states that "the professionally managed venture capital limited partnership is the most reasonable model for public pension involvement in this type of investment."(8)

Although these arguments should certainly not be overlooked, they appear to be offset by evidence to the contrary. The Michigan program provides a successful example of a state pension fund which makes direct venture capital investments, yet adheres to prudent financial standards.

Tax Incentives to Attract Private Funds: Under this approach, a state plays the most passive role of the three categories of state-sponsored venture capital assistance. The state provides tax incentives for private investors to place their money in existing venture capital funds or in qualified businesses.

The legislation normally specifies the general business targets and how a private venture capital fund qualifies for the tax incentive. Private capital firms may apply for investment authority and the subsequent tax break. (This approach should not be confused with the use of a tax incentive granted to private investors to capitalize a venture capital fund, such as the Indiana Corporation for Innovation Development.)

In 1983, the Montana Legislature passed the Montana Capital Companies Act, which grants investors in qualified capital companies a 25 percent tax credit--up to \$25,000--on personal or corporate income tax liability. The available Montana tax credits are limited to \$2 million through 1987 and are allocated to capital companies in the order that they become qualified. The companies must apply to the Montana Economic Development Board to be certified as qualified investors and must comply with the state law that limits their investments to small businesses engaged in specific activities,

including manufacturing, natural resources, agriculture and tourism. By August 1985, five companies had been certified.

Meanwhile, Louisiana, under the Capital Companies Tax Credit Program, expects to induce private venture capitalists to invest \$20 million yearly in Louisiana businesses.

Many see using tax incentives to attract private venture capital to a state as a demonstration of cooperation between the public and private sectors not readily visible in some of the other initiatives. The state plays a catalytic role by giving broad directions to the investment firms, but the investment decisions are left to the firms. Because interest in state-sponsored venture capital has risen only within the past few years and because most states operate under constitutional bans against direct state investment, it appears that this approach may grow in importance.

CAUTIOUS OPTIMISM PERVADES STATE EFFORTS

Although considerable interest in state-sponsored venture capital is apparent, concern over state attempts to use such policies as quick cures for economic woes remains. Venture Capital Journal suggests that "expectations for rapid economic development, for reduced unemployment and for the growth of new industries can only be met by venture capital support to industry over the long term."(9)

In addition, John P. Frazier, Jr., president of Connecticut's Product Development Corporation, which began investing in 1975, cautions that "any state official who plans to construct a venture capital operation should be prepared for a lengthy development and payback period in the operation's existence." To this day, the corporation is still receiving returns to repay initial investments, which created new jobs early in its operation.

At the outset, a policymaker must first closely study the role and scope of private venture capital and the problems and capital needs faced by businesses before deciding what type of program, if any, to propose. Each state must understand its own capital market structure before considering the adoption of another state's methods. Pathbreaking efforts such as Connecticut's Product Development Corporation, Massachusetts' Technology Development Corporation and Michigan's Venture Capital Division should be examined, but not necessarily duplicated.

Finally, it is important to remember the views of those who maintain that public-private sector cooperation may be the most effective method to enhance the venture capital process. As such, some programs have been instituted in which the state's role in venture capital formation rests more on an informational basis. In addition to providing debt financing to businesses, the Pennsylvania Milrite Council, an independent state economic development agency created to address the state's economic problems, has undertaken an extensive venture capital formation survey to determine the needs of businesses in the state. The Georgia Advanced Technology Development Center provides, among other things, detailed information and research reports about statewide resources and technical capabilities to qualified firms.

Meanwhile, Florida offers another example of how a state can provide the informational link needed to bring together private venture capitalists and businesses. As an effort begun in 1983 to improve the climate for new business startups, the Florida Entrepreneurial Network, among other activities, seeks to improve the flow of information to investors and entrepreneurs and to help the formation of local pools of venture capital.

Thus, given the variety of issues surrounding the development of a state venture capital initiative, a state legislator considering such a proposal should ask the following questions about his or her state:

- o What are the state's economic development goals? Does public lending accomplish such public purposes as economic and technological diversification and institutional change?
- o How does a venture capital program fit into this plan, whether it is a "grand strategy" or a collection of separate programs?
- o Are there capital market imperfections? What are they? Can the state effectively intervene and complement or stimulate the workings of the financial markets and institutions?
- o Is there a shortage of private venture capital in the state and, if so, why?
- o What mechanisms exist for generating a pool of venture capital? Should the state compete with the private sector?
- o What would be the costs and benefits of instituting a state-sponsored venture capital initiative?

CONCLUSION

Most of the state venture capital programs have been successful in broadening the state's economy through job creation and product development. As mentioned, the Michigan Venture Capital Division has had considerable success with its operation. The Massachusetts Community Development Finance Corporation has created or retained about 2,000 jobs since 1979 with \$8 million in investments in its Venture Capital Program.

In addition, products backed by the Connecticut Product Development Corporation, either in development or in the market, have been directly responsible for generating more than 800 full-time jobs. For the last five years, its operating expenses have been covered by its investment returns. According to the corporation's president, John P. Frazier, Jr., the use of royalties to cover operating expenses has been a "measure of our success." Frazier noted, however, that the corporation is not yet self-sustaining in terms of funding new projects. Depending on royalty paybacks, the corporation doesn't expect to establish a revolving fund for at least several years to fund projects, Frazier said.

On the other hand, the Alaska Resources Corporation's decision to try to save weak, existing fishing and timber companies cost the corporation \$4.5 million. According to Belden H. Daniels, president of the Counsel for

Community Development and a consultant to many states on economic development policy, "The Alaska Resources Corporation got into trouble by allowing politics to get into the way of sound investment decisions." (10) The Alaska Legislature has voted to phase out the operation by 1988. Most states target firms with the potential for high growth with their venture capital programs, however, instead of attempting to save so-called "sunset" industries.

Since most state venture capital programs are only a few years old, it is apparent that this new state experiment is still in its infancy. It is clear, however, that states are unwilling to remain passive in the ever-changing national and international economic climate. At the very least, state-sponsored venture capital initiatives help portray particular states as pro-business, a tag that many states have actively sought since the 1981-82 recession. In the world of state legislative policy and debate, such a perception is not inconsequential.

Some states have also included venture capital initiatives as part of comprehensive economic development strategies. Ohio's Thomas Alva Edison Program, Pennsylvania's Ben Franklin Partnership, and New York's Science and Technology Foundation are examples of sweeping initiatives that include venture capital programs as well as business incubators, advanced technology centers and other efforts to promote new business development and modernize older industries.

In light of the diminishing federal presence in economic development at the state level, the new state initiatives in such areas as venture capital should not be surprising. Instead of allowing diminished federal aid and hostile, uncertain economic tides to frustrate their economic fortunes, many states have taken the initiative to shape their future.

Gary Bettger, a student in economics and public policy at the University of Denver, worked as an intern for NCSL during the summer of 1985. For further information, contact Dan Pilcher in the NCSL Denver office.

STATE-CHARTERED VENTURE CAPITAL FUNDS

Appendix A

STATE	NAME	YEAR	FUNDING SOURCES	GOVERNING OVERSIGHT
ALASKA	Resources Corporation Wayne Littleton, (907) 279-5602	1978	State appropriation of \$40M from permanent fund.	Three member board appointed by governor.
ARKANSAS	Science & Technology Authority Jim Benham, (501) 371-3554	1985	\$1.8M from investment fund of Authority.	Guidelines not set.
CONNECTICUT	Product Development Corp., Burton Jonap, (203) 566-2920	1972	\$17M in state appro- priations, may become self-sustaining.	Non-profit, directors appointed by governor.
FLORIDA	High Technology In- novation Research & Dev. Fund. House Appropriations, (904) 488-6204	1985	\$1.6M from general revenue.	Board: treasurer, comptroller, and 7 members of private sector appointed by governor.
ILLINOIS	Illinois Venture Fund Frontenac Venture Co. Rodney Goldstein, (312) 368-0047	1984	\$2M state appropriation. \$5M from Frontenac, and \$5M from other institutional investors.	Private firm, Frontenac, responsible for invest- ments.
INDIANA	Corporation for Innovation Development Marion C. Dietrich, (317) 635-7325	1981	No appropriation. State provided 30% tax credit; investors providing \$10M capitalization.	Private, for profit. Board composed of private individuals.

STATE	NAME	YEAR	FUNDING SOURCES	GOVERNING OVERSIGHT
INDIANA	Corporation for Science and Technology John Hague, (317) 635-3058	1982	\$20M state appropriation from general fund every two years.	Private, non-profit. Board composed of individuals from public & private sector.
IOWA	Product Development Corp., Doug Getter, (515) 281-3925	1983	\$1.2M in state funds; also, lottery will provide more capital.	Board selected by governor and confirmed by Senate.
IOWA	Venture Capital Fund, L.P. InvestAmerica Venture Group. David Schroder, (319) 363-8249	1983	State provided leadership to start fund capitalized by private individuals and corporations. Funding nearing \$12M.	Limited partnership. Managed by private firm, InvestAmerica.
KANSAS	Venture Capital, Inc. Development Credit Corp. George Doak, (913) 235-3437	1978	Owned by Kansas Development Credit Corp. & banks. Capitalized at \$1M.	Private, for-profit SBIC. Enables operation to borrow \$3M from SBA.
LOUISIANA	Small Business Equity Corp. Jean Armstrong, (504) 342-5361	1980	\$2M state appropriation in 1982.	Board appointed by governor.
MAINE	Capital Corporation David Coit, (207) 772-1001	1980	State provided 50% tax credit to investors. \$1M original capitalization.	Private, for-profit SBIC. Additional capital available from SBA.
MARYLAND	Equity Participation Investment. Stanley Tucker, (301) 659-4270	1985	Appropriation from existing fund. Additional funding expected in January 1986.	Maryland Small Business Development Financing Authority, no formal guidelines yet.

STATE	NAME	YEAR	FUNDING SOURCES	GOVERNING OVERSIGHT
MASSACHUSETTS	Community Development Finance Corp. Judith Cranna, (617) 742-0366	1980	Investments made from \$10M fund provided by state.	Non-profit, independently operated. Board consists of three government officers and six appointees of governor.
MASSACHUSETTS	Technology Development Corp. John Hodgman, (617) 723-4920	1979	\$4M from state, plus initial funding from U.S. Economic Development Administration.	Board consists of government officials, two academic sector, six from private. All appointed by governor.
NEW MEXICO	Business Development Corp. Keith Dotson, (505) 843-6517	1985	State Appropriation of \$2M as well as \$5M credit capacity with state & financial institutions.	Private, for-profit.
NEW MEXICO	Energy, Research & Development Institute Larry Icerman, (505) 827-5886	1981	\$3.5M per year from state funds. Royalty program to reduce need for further appropriations.	State agency.
NEW YORK	Corporation for Innovation Development Program, Science & Technology Foundation Barbara Murphy, (518) 474-4349	1982	\$4.2M in state and federal funds. Foundation program of over \$20M annually for incubators, advanced tech centers, venture capital, etc.	Decision made by Foundation Board of Directors, composed of commissioners of health, education & commerce and private sector individuals.
OHIO	Thomas Alva Edison Program. Chris Coburn, (614) 466-3086	1983	State appropriation of \$34.8M for Edison program including R&D capital.	Dept. of Development. Advice also provided by Industrial Technology & Enterprise Advisory Board, a bipartisan, independent body.

STATE	NAME	YEAR	FUNDING SOURCES	GOVERNING OVERSIGHT
OREGON	Resource & Technology Development Corp. Joseph Cortright, (503) 378-8811	1985	\$10M state appropriation from state lottery.	Non-profit, public corporation. Board represented by governor and 10 directors chosen by him from various sectors.
PENNSYLVANIA	Ben Franklin Partnership Seed Capital Fund Program. Roger Tellefsen, (717) 787-4147	1983	\$3M set aside from \$190M industrial revenue bond financial program.	Four regional privately-managed funds.
UTAH	Technology Finance Corp. Grant Cannon, (801) 583-8832	1983	\$3.2M program revenue base. Approx. \$1M for venture capital program.	Board appointed by governor. Venture Capital Program operated independently by Utah Technology Venture Fund I.
WISCONSIN	Community Capital, Inc. Wisconsin Community Development Finance Authority. Louis Fortis, (608) 266-0590	1982	\$250,000 in state approp. \$2.6M from private sector (\$2.5M from contributions, \$100,000 attracted through 75% state tax credit.)	Community Capital created by Authority, but independent operation. Work together in assistance programs. Capital's board of directors elected by shareholders.
WYOMING	Industrial Development Corp. Larry McDonald, (307) 234-5351	1979	\$1M initial capital. Also many institutional stockholders.	Investment decisions made by privately-managed board. Created Capital Corporation, a private SBIC (funding available from SBA).

STATE-CHARTERED VENTURE CAPITAL FUNDS

STATE	TARGETS	INVESTMENT TYPES	ACTIVITY
AK	Rehabilitation & enhancement of renewable resources & tourism industry.	49% equity in firm, also some debt and grants.	Most of appropriation committed, operation phase-out by 1988.
AR	Technology-based companies in idea or early stages.	Seed capital.	Not yet in operation.
CT	Innovative products, defense companies wishing to diversify.	Product investment with royalty agreement.	Over 60 products, \$14.2 M.
FL	R&D activities of new and existing small, high-tech firms.	Equity agreements.	Not yet in operation.
IL	Prefers technology-based startups.	Equity in form of common stock or convertible securities.	No projects completed.
IN	Technically-oriented, growth firms at various stages.	Equity or equity-type Investments with CID taking significant management role.	12 projects, \$4.5M.

STATE	TARGETS	INVESTMENT TYPES	ACTIVITY
IN	Technology-based research leading to products that will enhance Indiana economy.	R&D contract capital, some grants.	46 projects, \$24M.
IA	New innovative product development that will enhance Iowa job creation.	Product investment with royalty agreement; prudent investor deals only.	7 projects, \$995,000.
IA	Start-ups, later stage. First 18 mos. all investments in Iowa. After that, up to 1/3 capital can be invested out of state.	Equity agreements, significant management role sought.	Formally announced in August 1985.
KS	Start-ups and a variety of Kansas firms.	Debt, debt with equity options, and straight equity.	Limited equity activity.
LA	Small growth firms and minority-owned businesses.	Lend via intermediaries (SBICs, MESBICs, & CDCs) on matching basis, which then finance firms through equity and debt.	2 projects, \$275,000, only limited equity activity.
ME	Developing, new companies, or mature, leveraged buyouts. No specific industry target.	Equity and equity-type financing; role sought on firms' board of directors.	9 projects, \$950,000.
MD	Minority (race and sex) franchise businesses.	Temporary equity & start-up capital.	Operational in Oct. 1985.

STATE	TARGETS	INVESTMENT TYPES	ACTIVITY
MA	Viable small businesses sponsored by community development corporations.	Equity, usually shared with CDCs, as well as some debt.	32 projects, \$8.5M.
MA	Early-stage, technology-based firms.	Combination of equity & debt. All investments on co-venture basis.	2 projects, \$6.1M.
NM	Early-stage firms, start-ups on limited basis.	Collateralized debt; equity also available.	No projects completed.
NM	Innovators in energy-related services and products.	R&D seed capital on 2% royalty basis.	16 projects, \$2.7M.
NY	Foster innovative, technology-based, new ventures that will stimulate state economy.	Debt, equity, or both. 3:1 private match. Technical assistance also given.	23 projects, \$2.25M.
OH	Cooperative R&D projects directed at innovative products/processes.	R&D capital with royalty agreement as well as some grants.	39 deals, \$4.2M.

STATE	TARGETS	INVESTMENT TYPES	ACTIVITY
OR	Innovation in existing industry & development of new industries.	Seed capital, as well as some grants; legislation broad in this manner. R&D grants, technical information clearinghouse.	Not yet in operation.
PA	New businesses during earliest stages including firms in small business incubators.	Equity financing, look for private match.	1 project, \$400,000.
UT	New & emerging technology-based companies.	Equity position; some management role sought.	No projects completed.
WI	Firms connected with community development corporations. Create jobs for chronically unemployed.	Equity and debt.	2 projects, \$125,000.
WY	Diversified manufacturing firms with growth potential and viable management team.	Equity and debt.	About 25% of over \$12.7M committed to venture capital.

TAX INCENTIVES AND PUBLIC PENSION FUND INVESTMENTS TO
PROMOTE VENTURE CAPITAL IN THE STATES

Appendix B

STATE	PROGRAM NAME	YEAR	TI	PP
CO	Public Employees Retirement Assoc. Norman Jaskol (303) 832-9550	1973		0
IA	Iowa Public Employees Retirement System, Dennis Jacobs (515) 281-5800	1985		0
IL	Illinois State Investment Board and other funds, Bob Harmon (312) 793-5710	1982		0
LA	Capital Companies Tax Credit State Development Office Neil Meyers (504) 342-5364	1984	0	
MI	Michigan Venture Capital Division Department of Treasury, Paul Rice (517) 373-4330	1982		0
MS	Chapter 459, House Bill No. 640 Department of Economic Development Greg Hinkebein (601) 359-3437	1985	0	
MT	Capital Companies Act Economic Development Board Dale Harris (406) 444-2090	1983	0	
NY	State Business Venture Partnership Rothschild, Douglas Luke (212) 757-6000	1984		0
ND	Senate Bill No. 2281 Economic Development Commission Marvin Dutt (701) 224-2810	1985	0	
OH	PERS, State Teachers Retirement System and other funds, PERS-- Marina Milenkovski (614) 466-2085 TRS--Dan Szente (614) 227-4090	1981		0

STATE	PROGRAM NAME	YEAR	TI	PP
OR	Oregon Investment Division Department of Treasury Jim George (503) 378-4111	1983		0
WA	State Investment Board David Weig (206) 753-6810	1981		0

DESCRIPTION OF ACTIVITY

- CO Approximately \$10M invested in past six years. PERA has invested \$5.4M as a limited partner under prudent man rule. Board of public and private individuals given discretionary investment authority under state statute.
- IA Statute amended for "prudent person" investments; will allow 2%-3% of system's assets to be committed to venture capital and leveraged-buyout funds.
- IL State Investment Board manages three funds. Has committed \$11M in limited partnerships. Other funds include state teachers and Chicago Municipal Employees Funds.
- LA Act allows certified capital companies to receive up to 35% tax credit. Company must have at least 60% of its investments in Louisiana. Certain small and medium-sized businesses targeted. Expected to attract \$20M per year.
- MI Legislation creating the division allows it to invest up to 5% of the "State Retirement Systems" assets in small businesses or venture capital firms. Makes direct and passive investments. Emphasis on high growth, high tech firms. Over \$126M committed.
- MS Act allows designation of qualified Mississippi capital companies to provide capital for creation or expansion of certain businesses. Private investors granted 25% tax credit up to \$20,000 per year.
- MT Act allows designation of qualified Montana capital companies to provide capital to certain types of small businesses. Private investors granted 25% tax credit up to \$25,000.
- NY State law allows 5% of public pension funds to be invested in venture capital. Partnership capitalized at \$60M with state employees retirement fund and teacher's retirement system as limited partners. Investment decisions made by private firm. Approximately \$10M committed.
- ND Act authorizes incentives for private venture capital companies to provide capital to state businesses. Provides 25% tax credit for investors.
- OH Two funds provide direct and passive investments. Direct investments are permitted under Ohio Revised Code provided that firm has one-half of its assets or employees in state. Teachers system has committed \$20M to both types. PERS has committed \$64M in direct investments.

OR Investment Council, which includes state treasurer and appointees of governor, can invest 5% of the Oregon pension funds for which it is responsible in equity and other venture capital. Approximately \$70M committed in limited partnerships under prudent man rule.

WA Composed of government officials and appointees of governor. Investments in limited partnerships under prudent man rule. Also participates in leveraged buy-outs. Approximately \$115M committed to venture capital.

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6. Peterson, op. cit.
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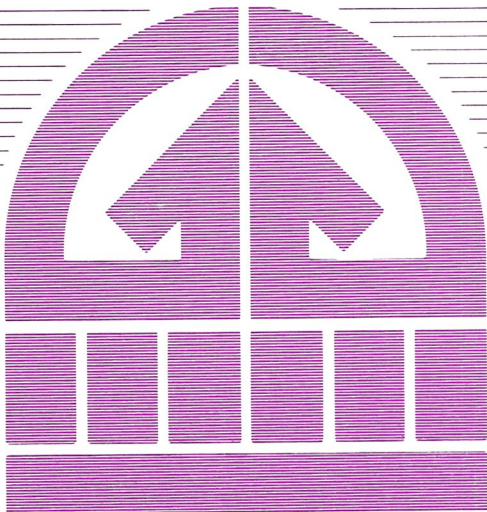
NOTE: Charts were constructed with information from Hollis and Ioannou sources as well as from a comprehensive NCSL survey of state programs (effective October 1985).

Honorable James D. Braden
House Majority Floor Leader
381-W State House
Topeka, KS 66612 -

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STATE LEGISLATIVE REPORT



PROPOSED AMENDMENTS TO HOUSE BILL NO. 2951

On page 15, preceding line 537, by inserting the following material to read as follows:

"New Sec. 22. (a) There is hereby created the state fair board. The board shall consist of 13 members, of which one member shall be the secretary of the state board of agriculture or the secretary's designee, one member shall be the secretary of commerce or the secretary's designee and 11 members shall be appointed by the governor as provided in this subsection (a). Within 30 days after the effective date of this act, the governor shall appoint six members of the state fair board as representatives of Kansas agriculture. Members appointed as representatives of Kansas agriculture to be members of the state fair board shall serve for terms of two years and until their successors are appointed and qualified, except that the six members first appointed shall be appointed for terms as follows: Three members for a term ending on the second Wednesday in January, 1987, and three members for a term ending on the second Wednesday in January, 1988. Within 30 days after the effective date of this act, the governor shall appoint three members of the state fair board from a list of at least nine names submitted by the Kansas chamber of commerce and industry, which members shall serve for terms of two years and until their successors are appointed and qualified, except that the three members first appointed shall be appointed for terms as follows: One member for a term ending the second Wednesday in January, 1987, and two members for a term ending the second Wednesday in January, 1988. Within 30 days after the effective date of this act, the governor shall appoint two members of the state fair board from a list of at least six names submitted by the travel industry association of Kansas, which members shall serve for terms of two years and until their successors are appointed and qualified, except that the two members first appointed shall be appointed for terms as

Attachment C

follows: One member for a term ending the second Wednesday in January, 1987, and one member for a term ending the second Wednesday in January, 1988. The appointive members of the board shall serve until a successor is appointed and qualified. Whenever a vacancy shall occur on the board, the governor shall appoint a successor of like qualifications for the remainder of the term. The governor may remove any member of the board for cause. The members of the state fair board shall elect their own chairperson, who shall serve for a term of one year or until the expiration of such member's term, whichever is sooner. The board shall meet at least once in each quarter. Special meetings may be called by the chairperson or a majority of the members of the board. Members of the state fair board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto. Amounts paid under this section shall be paid from appropriations to the state fair board upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the state fair or a person designated by the director.

(b) The state fair board shall appoint a director of the state fair, who shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the state fair board. The director of the state fair shall appoint, within available appropriations, such assistants and employees as may be necessary to carry out the provisions of law and this order. All of such assistants and employees shall be in the classified service under the Kansas civil service act.

New Sec. 23. The state fair board created by this act is hereby attached to the department of commerce. All budgeting, purchasing and related management functions of the state fair shall be administered under the direction and supervision of the state fair board. All vouchers for expenditures and all payrolls of the state fair board shall be approved by the director of the

state fair or a person designated by the director.

New Sec. 24. (a) On the effective date of this act, the board of state fair managers created by K.S.A. 74-520 and amendments thereto, and the office of secretary-treasurer of the board of state fair managers created by K.S.A. 74-521 and amendments thereto, are hereby abolished.

(b) All the powers, duties and functions of the existing board of state fair managers and the existing secretary-treasurer of the board of state fair managers are hereby transferred to and conferred and imposed upon, respectively, the state fair board and the director of the state fair established by this act.

(c) The state fair board and the director of the state fair established by this act shall be the successor in every way, respectively, to the powers, duties and functions of the board of state fair managers and the secretary-treasurer of the board of state fair managers in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the state fair board or the director of the state fair established by this act, respectively, shall be deemed to have the same force and effect as if performed by the board of state fair managers or the secretary-treasurer of the board of state fair managers, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided in this act, whenever the board of state fair managers, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the state fair board established by this act.

(e) Except as otherwise provided in this act, whenever the secretary-treasurer of the board of state fair managers, or words or like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the director of the state fair established by this act.

(f) All rules and regulations of the board of state fair managers or the secretary-treasurer of the board of state fair managers in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the director of the state fair established by this act until revised, amended, revoked or nullified pursuant to law.

(g) All orders and directives of the board of state fair managers or the secretary-treasurer of the board of state fair managers in existence on the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the state fair board and the director of the state fair established by this act, respectively, until revised, amended or nullified pursuant to law.

(h) On the effective date of this act, the director of the state fair shall succeed to whatever right, title or interest the board of state fair managers has acquired in any real property in this state, and the director shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the board of state fair managers or the secretary-treasurer of the board of state fair managers to acquire, hold or dispose of real property or any interest therein, the director of the state fair shall succeed to such power or authority.

(i) The state fair board and the director of the state fair established by this act, respectively, shall be continuations of the board of state fair managers and the secretary-treasurer of the board of state fair managers.";

And by renumbering sections accordingly;

0047 ~~Commencing~~ operations after the date on which this amend-
 0048 ment is approved by the electors of this state; or (2) all
 0049 buildings, or added improvements to buildings constructed
 0050 after the date on which this amendment is approved by the
 0051 electors of this state, together with the land upon which such
 0052 buildings or added improvements are located, and all tangible
 0053 personal property purchased after such date and associated
 0054 therewith, necessary to facilitate the expansion of an existing
 0055 business.

which commences

manufacturing or RESEARCH AND DEVELOPMENT

if, as a result of such expansion, new jobs are created

0056 (b) Any ad valorem tax exemption granted pursuant to
 0057 subsection (b) shall be in effect for not more than 10 calendar
 0058 years after the calendar year in which the business com-
 0059 mences its operations or the calendar year in which expansion
 0060 of an existing business is completed, as the case requires.

0061 (c) The legislature may limit or prohibit the application of
 0062 this section by enactment uniformly applicable to all cities or
 0063 counties.

0064 (d) The provisions of this section shall not be construed to
 0065 affect exemptions of property from ad valorem taxation
 0066 granted by this constitution or by enactment of the legislature,
 0067 or to affect the authority of the legislature to enact additional
 0068 exemptions of property from ad valorem taxation found to
 0069 have a public purpose and promote the general welfare."

0070 Sec. 2. The following statement shall be printed on the bal-
 0071 lot with the amendment as a whole:

0072 "Explanatory statement. This proposed amendment would
 0073 authorize cities and counties to grant property tax exemptions
 0074 for economic development purposes.

0075 "A vote for the proposed amendment would allow the gov-
 0076 erning body of a city or county to exempt property of a new
 0077 business or property necessary to facilitate the expansion of an
 0078 existing business from property taxation for a period not to
 0079 exceed 10 years.

0080 A vote against the proposed amendment will continue the
 0081 existing law that the legislature is the only authority to grant
 0082 property tax exemptions."

0083 Sec. 3. This resolution, if approved by two-thirds of the

0084 members elected (or appointed) and qualified to the house of
0085 representatives and two-thirds of the members elected (or ap-
0086 pointed) and qualified to the senate, shall be entered on the
0087 journals, together with the yeas and nays. The secretary of state
0088 shall cause this resolution to be published as provided by law
0089 and shall cause the proposed amendment to be submitted to the
0090 electors of the state at the general election in the year 1986
0091 unless a special election is called at a sooner date by concurrent
0092 resolution of the legislature, in which case it shall be submitted
0093 to the electors of the state at the special election.

House Concurrent Resolution No. 5047

By Representatives Hayden, Braden, Acheson, Apt, Aylward, Baker, Barr, Bideau, Brown, Bryant, Buehler, Bunten, C. Campbell, K. Campbell, Cloud, Crowell, Crumbaker, Dyck, Erne, Foster, Fox, Freeman, Friedeman, Fuller, Goossen, Graeber, Harper, Hassler, Hoy, Jenkins, King, Kline, Knopp, Littlejohn, Long, Louis, Lowther, R. D. Miller, Mollenkamp, Nichols, O'Neal, B. Ott, K. Ott, Patrick, Polson, Pottorff, Ramirez, Reardon, Roe, Rolfs, Runnels, Sand, Sifers, Smith, Snowbarger, Solbach, Sughrue, Vancrum, Wagnon, Walker, Whiteman, Williams and Wunsch

3-4

0026 A PROPOSITION to amend article 11 of the constitution of the
0027 state of Kansas by adding a new section thereto, relating to the
0028 exemption of property for economic development purposes.

0029 *Be it resolved by the Legislature of the State of Kansas, two-*
0030 *thirds of the members elected (or appointed) and qualified to*
0031 *the House of Representatives and two-thirds of the members*
0032 *elected (or appointed) and qualified to the Senate concurring*
0033 *therein:*

0034 Section 1. The following proposition to amend the constitu-
0035 tion of the state of Kansas shall be submitted to the qualified
0036 electors of the state for their approval or rejection: Article 11 of
0037 the constitution of the state of Kansas is amended by adding a
0038 new section thereto to read as follows:

0039 "§ 13. Exemption of property for economic development
0040 purposes; procedure; limitations. (a) The board of county
0041 commissioners of any county or the governing body of any city
0042 may, by resolution or ordinance, as the case requires, exempt
0043 from ad valorem taxation all or any portion of the appraised
0044 valuation of: (1) All buildings, together with the land upon
0045 which such buildings are located, and all tangible personal
0046 property associated therewith used exclusively by a business

for the purpose of: (A) Manufacturing, fabri-
cating, assembling, processing or finishing
articles of commerce; or (B) research and
development; or (C) warehousing goods which
are sold or traded in interstate commerce,
and which

0047 ~~commencing~~ operations after the date on which this amend-
 0048 ment is approved by the electors of this state; or (2) all
 0049 buildings, or added improvements to buildings constructed
 0050 after the date on which this amendment is approved by the
 0051 electors of this state, together with the land upon which such
 0052 buildings or added improvements are located, and all tangible
 0053 personal property purchased after such date ~~and associated~~
 0054 ~~therewith,~~ necessary to facilitate the expansion of an existing
 0055 business.

0056 (b) Any ad valorem tax exemption granted pursuant to
 0057 subsection (b) shall be in effect for ~~not more~~ than 10 calendar
 0058 years after the calendar year in which the business com-
 0059 mences its operations or the calendar year in which expansion
 0060 of an existing business is completed, as the case requires.

0061 (c) The legislature ~~may limit or prohibit~~ the application of
 0062 this section by enactment ~~uniformly~~ applicable to all cities or
 0063 counties.

0064 (d) The provisions of this section shall not be construed to
 0065 affect exemptions of property from ad valorem taxation
 0066 granted by this constitution or by enactment of the legislature,
 0067 or to affect the authority of the legislature to enact additional
 0068 exemptions of property from ad valorem taxation found to
 0069 have a public purpose and promote the general welfare."

0070 Sec. 2. The following statement shall be printed on the bal-
 0071 lot with the amendment as a whole:

0072 "Explanatory statement. This proposed amendment would
 0073 authorize cities and counties to grant property tax exemptions
 0074 for economic development purposes.

0075 "A vote for the proposed amendment would allow the gov-
 0076 erning body of a city or county to exempt property of a new
 0077 business or property necessary to facilitate the expansion of an
 0078 existing business from property taxation for a period not to
 0079 exceed 10 years.

0080 A vote against the proposed amendment will continue the
 0081 existing law that the legislature is the only authority to grant
 0082 property tax exemptions."

0083 Sec. 3. This resolution, if approved by two-thirds of the

commences

and which is a primary, job creating industry or business

for the purpose of: (A) Manufacturing, fabricating, assembling, processing or finishing articles of commerce; or (B) research and development; or (C) warehousing goods which are sold or traded in interstate commerce which is

primary, job creating industry or

34 members elected (or appointed) and qualified to the house of
0085 representatives and two-thirds of the members elected (or ap-
0086 pointed) and qualified to the senate, shall be entered on the
0087 journals, together with the yeas and nays. The secretary of state
0088 shall cause this resolution to be published as provided by law
0089 and shall cause the proposed amendment to be submitted to the
0090 electors of the state at ~~the general election in the year 1986~~
0091 ~~unless a special election is called at a sooner date by concurrent~~
0092 ~~resolution of the legislature, in which case it shall be submitted~~
0093 ~~to the electors of the state at the special election.~~

a special election, which is hereby called,
to be held on August 5, 1986, pursuant to
section 1 of article 14
of the constitution of the state of Kansas,
for the purpose of submitting such
proposition

"E"

March 28, 1986

Economic Dev. Comm.

BILL NO. _____

By

AN ACT enacting the Kansas statewide risk capital system act; prescribing the purposes of such act; authorizing investment by the pooled money investment board in Kansas Venture Capital, Inc.; concerning the investment by banks in small business investment companies; granting certain tax credits and exemptions and providing for the administration of the provisions of the act; amending K.S.A. 75-4205 and 79-32,117 and K.S.A. 1985 Supp. 9-1101 and repealing the existing sections.

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

New Section 1. Need statement. The legislature of the state of Kansas finds that the state of Kansas is an extremely risk capital shy state. This becomes more true the smaller the enterprise, the more traditional the enterprise, the more mature the sector of the economic activity, and the farther removed from major population centers the firm is located.

There exists within Kansas therefore a substantial need to create a truly statewide rural/urban system of management support and risk capital, especially for smaller existing mature enterprises, as well as new and innovative enterprises, and especially those that are not located in major metropolitan centers.

The legislature of the state of Kansas further finds that a Kansas statewide risk capital system can be designed to fit the special needs of the various regions of Kansas based on the best current national models in other states which will lead to the further growth, diversification and improvement of all geographic areas of the Kansas economy.

New Sec. 2. Mission statement. The purpose of this act is

Attachment E

to create a Kansas statewide risk capital system which is tailored to meet the special needs of the various regions of Kansas based on the best current national models in other states which will invest \$10,000,000 of state idle funds in order to create a substantially larger amount of private risk capital for investment in primarily profitable, growing, smaller Kansas enterprises

which will lead to further growth, diversification and improvement of all geographic regions of the Kansas economy in a diversified range of primary sectors which export value added products, processes and services that in turn import quality jobs, wealth and income into the state for the benefit of Kansas and Kansans.

Specifically, the purpose of this act is to create a Kansas statewide risk capital system which will:

(a) Meet the management and risk capital needs of potentially profitable existing small enterprise, especially in smaller, more remote, nonmetropolitan areas of the state;

(b) facilitate the growth, diversification and expansion of existing enterprises and the creation by Kansans of new wealth-generating enterprises;

(c) promote economic diversification and innovation within the basic industries and sectors of the state;

(d) promote increased productivity and value added products, processes and services among wealth-generating enterprises, and the export of those goods and services created by smaller Kansas enterprises to the nation and world;

(e) maintain and revitalize economically distressed rural resources by size, sector and location to enterprises of particular need and opportunity, and working in close collaboration with local financial institutions;

(f) provide small, local banks throughout Kansas with a risk taking vehicle which can assist member banks to provide their customers with risk capital which the bank cannot afford to

provide itself;

(g) create a greatly expanded Kansas venture capital, Inc. in which Kansas banks and industries will invest \$10,000,000 of new private equity capital, matched by \$10,000,000 of state idle funds, through a restructuring and a reorganization of the existing Kansas development credit corporation and leveraged by small business investment corporation debentures. The \$10,000,000 of private capital and the \$10,000,000 of state idle funds will be subject to the same rate of return, although the state funds will stand in a more senior position;

(h) expand the capabilities of existing small business development centers to provide managerial counseling to firms supported through this statewide risk capital system;

(i) expand the capacity of existing certified development companies for intake and referral and risk capital financial packaging as a key part of this statewide system;

(j) create a three-tiered secondary market for the sale of credit from the statewide risk capital system to KPERS at an appropriate rate of risk and return to KPERS with no legislative change to the existing KPERS statute;

(k) contribute to a Kansas economy which provides increased revenue for state government, local governments, and other political subdivisions of the state, and eases overtime the tax burden faced by all businesses and taxpayers of the state.

New Sec. 3. Definitions. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise:

(a) "Department" means the department of commerce.

(b) "Kansas business" means any small business owned solely by a Kansas resident, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of its production in Kansas.

(c) "Secretary" means the secretary of the department of commerce.

New Sec. 4. Certification of investment by the pooled money investment board in Kansas Venture Capital, Inc. The secretary of the department of commerce, with the advice and consent of the legislative commission on economic development or, in the alternative, the standing or joint legislative committees on economic development, is authorized to certify investment in preferred stock of Kansas Venture Capital, Inc., with an assured senior position over the nonvoting common stock in the aggregate not to exceed a total amount of \$10,000,000 by the pooled money investment board under the following terms and conditions:

(a) Kansas banks, savings and loan associations, individuals and corporations have invested a total amount of not less than \$10,000,000 of new private, equity capital in voting common stock in Kansas Venture Capital, Inc.

(b) For purposes of subsection (a), the conversion of loans by members of Kansas development credit corporation as defined in K.S.A. 17-2332, and amendments thereto, are authorized by this act to be converted to voting common stock shares in Kansas Venture Capital, Inc.

(c) For purposes of subsection (a), investments in common stock of Kansas Venture Capital, Inc. shall meet the terms and conditions of 1986 Senate Bill No. _____ enacting the Kansas venture capital company act.

(d) The \$10,000,000 of new voting common stock and the \$10,000,000 of nonvoting, senior preferred stock can be invested in Kansas Venture Capital, Inc. in ways which do not compromise the integrity of the small business association license approved under the small business investment act on _____ date.

(e) The shareholders of the voting common stock nominate board members not to exceed _____ number, all of whom are recognized leaders in their fields with reputations as innovative future oriented individuals. These nominated board members shall include a reasonable balance between representatives of financial institutions and nonfinancial institutions. All of the nonfinancial institution board members shall be recognized by

their peers for outstanding knowledge and leadership in their fields of finance and a reasonable number of these board members representing financial institutions shall be recognized by their peers for outstanding knowledge and leadership in those high risk venture investments of particular importance to the Kansas economy. The reasonable balance of nonfinancial nominated board members shall be recognized by their peers for outstanding knowledge and leadership in industries which represent primary, job creating, value added business sectors of special importance to the Kansas economy.

(f) The board has conducted a national search and has selected a president for Kansas Venture Capital, Inc. who meets a national standard of experience, ability and initiative for similar chief executive positions for corporations investing high risk equity and near equity in firms which meet the definition of need and mission defined in this act. The board demonstrates that it has been particularly sensitive to the search and selection of a president who is experienced in investing risk capital, matches the risk and reward needs necessary to make Kansas Venture Capital, Inc. successful within the terms of need and mission as defined within this act.

New Sec. 5. Accountability. (a) Kansas Venture Capital, Inc. shall prepare and publish an annual report written in easily understandable language of its activities for the information of the governor, the joint and standing legislative committees on economic development, Kansas, Inc., and the public which shall specifically account for:

(1) The manner in which the need and mission as described in this act has been carried out by Kansas Venture Capital, Inc.

(2) The total investments made annually by Kansas Venture Capital, Inc. in Kansas businesses.

(3) An estimate of jobs created and, specifically, jobs preserved by investments by Kansas Venture Capital, Inc. in Kansas businesses.

(4) An estimate of the multiplier effect on the Kansas

economy of investments by Kansas Venture Capital, Inc. in Kansas businesses.

(5) An analysis of the targeting of scarce Kansas Venture Capital, Inc. by size, sector and location to enterprises of particular need and opportunity.

(b) Kansas Venture Capital, Inc. shall have six months to review the Kansas statewide risk capital system and the \$10,000,000 investment in Kansas Venture Capital, Inc., and shall make recommendations regarding the continuation of the Kansas statewide risk capital system and statutory provisions relating to Kansas Venture Capital, Inc.

Sec. 6. K.S.A. 75-4205 is hereby amended to read as follows: 75-4205. (a) The board shall designate one or more banks to receive active accounts. The capital and surplus of any bank having an active account shall be not less than \$2,000,000. In determining the amount of the award of an active account to any bank designated under this subsection therefor, the board shall give consideration to the amount of service to be required of it. Active accounts shall bear no interest.

(b) The aggregate moneys in all active accounts shall not exceed \$40,000,000 at any time, except that in periods of anticipated peak disbursements, the board, in its discretion, may cause the aggregate moneys in the active accounts to exceed such amount for the duration of such periods of peak disbursements, not to exceed 10 days. At any time moneys in active accounts exceed 50% of the award of such accounts, additional moneys may be deposited in time deposit, open accounts.

(c) If the aggregate of all active accounts exceeds the limit prescribed in subsection (b), the board shall direct the treasurer to make withdrawals within 60 days of sufficient moneys to reduce the amount in the active accounts below such limit, and such withdrawals shall be made in accordance with the formula prescribed for the initial award of such moneys. The moneys so withdrawn shall be transferred to and deposited in inactive accounts in accordance with the formula prescribed in K.S.A.

75-4207 and 75-4209, and amendments thereto, for initial deposits in inactive accounts except that any bank which was entitled to an inactive account award of \$100,000 or more under the provisions of K.S.A. 75-4209, and amendments thereto, but which contracted for a lesser amount shall not be entitled to receive such additional deposits.

(d) When moneys are available for deposit for not to exceed 60 days in time deposit, open accounts, the board shall deposit such moneys in time deposit, open accounts in the banks and in the proportion prescribed by K.S.A. 75-4206, and amendments thereto, for the making of such deposits of moneys or if the board determines that it is impossible to deposit such moneys in time deposit, open accounts, it shall invest the same in repurchase agreements of less than 30 days' duration with a Kansas bank for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.

(e) At any time moneys are available for deposits or investment for a period of time which is insufficient to permit deposit in time deposit, open accounts the board may invest the same in repurchase agreements of less than 30 days' duration with Kansas banks for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.

(f) When moneys are available for deposits or investments under the provisions of subsections (d) and (e), the board, in lieu of such deposits or investments, may invest in preferred stock of Kansas Venture Capital, Inc. under terms and conditions prescribed by K.S.A. 17-2328 et seq., and amendments thereto, but such investments shall not in the aggregate exceed a total amount of \$10,000,000.

Sec. 7. K.S.A. 1985 Supp. 9-1101 is hereby amended to read as follows: 9-1101. Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers, including incidental powers, as

shall be necessary to carry on the business of banking, and:

(1) To receive deposits and to pay interest thereon at rates which need not be uniform. The state bank commissioner, with approval of the state banking board, may by regulations of general application fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;

(2) to buy and sell exchange, gold, silver, foreign coin, bullion, commercial paper, bills of exchange, notes and bonds;

(3) to buy and sell bonds, securities, or other evidences of indebtedness of the United States of America or those fully guaranteed, directly or indirectly, by it, and general obligation bonds of the state of Kansas or any municipality or quasi-municipality thereof, and of other states, and of municipalities or quasi-municipalities in other states of the United States of America. No bank shall invest an amount in excess of 15% of its capital stock paid in and unimpaired and the unimpaired surplus fund of such bank in bonds, securities or other evidences of indebtedness of any municipality or quasi-municipality of any other state or states of the United States of America: (a) If and when the direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; (b) or if any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;

(4) to make all types of loans, including loans on real estate, subject to the loan limitations contained in this act. Every real estate loan shall be secured by a mortgage or other instrument constituting a lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. The mortgage may secure future advances. The lien of

such mortgage shall attach upon its execution and have priority from time of recording as to all advances made thereunder until such mortgage is released of record. The lien of such mortgage shall not exceed at any one time the maximum amount stated in the mortgage;

(5) to discount and negotiate bills of exchange, negotiable notes and notes not negotiable;

(6) to own a suitable building, furniture and fixtures, stock in a single trust company organized under the laws of the state of Kansas, and stock in a safe deposit company organized under the laws of the state of Kansas, and stock in a corporation organized under the laws of this state, owning only real estate all or a part of which is occupied or to be occupied by the bank. The trust company shall not at the time of the purchase of such stock be engaged in the business of receiving deposits of banks, and in the event such trust company shall thereafter receive deposits from banks such stock shall be sold within six months or removed as an asset of the bank, but with a limit of 1/2 of the capital stock and surplus of such bank upon the total of all amounts carried on its books as investments in all assets described in this subsection (6) and advances to a corporation organized under the laws of this state owning only real estate all or a part of which is occupied or to be occupied by the bank. This limitation shall not apply to amounts carried on the books of such bank as investments made prior to July 1, 1973. The state bank commissioner may grant the bank authority to exceed such limitation. The trust company and the safe deposit company in which a bank may own stock must be located at all times in the same city or unincorporated village where the bank owning such stock is located, otherwise, the bank shall dispose of such stock immediately;

(7) to buy and sell investment securities which are evidences of indebtedness. The buying and selling of investment securities shall be limited to buying and selling without recourse marketable obligations evidencing indebtedness of any

person, copartnership, association, corporation, or state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both, commonly known as investment securities, under such further definition of the term "investment securities" as prescribed by the board, but the total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 15% of the capital stock paid in and unimpaired and the unimpaired surplus fund of such bank except that this limit shall not apply to obligations of the United States government or any agency thereof. If the obligor is a state agency including any agency issuing revenue bonds pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board, the total amount of such investment securities shall at no time exceed 25% of the capital stock paid in and unimpaired and the unimpaired surplus fund of such bank;

(8) to subscribe to, buy and own such stock of the federal national mortgage association as required by title 3, section 303 of the federal act known as the national housing act as amended by section 201 of public law No. 560, of the United States (68 Stat. 613-615), known as the housing act of 1954, or amendments thereto;

(9) to subscribe to, buy and own stock in one or more small business investment companies in Kansas as otherwise authorized by federal law, except that in no event shall any bank hold ~~shares in any one company in an amount aggregating more than 3%~~ acquire shares in any small investment company if, upon the making of that acquisition the aggregate amount of shares in small business investment companies then held by the bank would exceed 5% of its capital and surplus. Nothing in this act contained shall prohibit any bank from holding and disposing of such real estate and other property as it may acquire in the collection of its assets;

(10) to subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company, or its affiliate,

organized pursuant to the provisions of the laws of the United States providing for the information and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or 10% of the capital stock and surplus and undivided profits from such bank, whichever is greater;

(11) to become the owner or lessor of personal property acquired upon the specific request and for the use of a customer, and may incur such additional obligations as may be incident to becoming an owner or lessor of such property. Any bank which claims a credit against its privilege tax of any amount of ad valorem taxes on property acquired pursuant to this subsection shall not be designated as a depository for any state funds by the pooled money investment board. Lease transactions shall not result in obligations for the purpose of determining limitations or restrictions on the amount of loans. Lease payments on such transactions shall be considered rents and not interest;

(12) to subscribe to, buy and own stock in minbanc capital corporation, a company formed for the purpose of providing capital to minority-owned banks. No bank's investment in such stock shall exceed 2% of its capital and surplus;

(13) to buy, hold, and sell any type of investment securities not enumerated in this section with approval of the commissioner and upon such conditions and under such regulations as are prescribed by the state banking board;

(14) to act as escrow agent;

(15) to subscribe to, acquire, hold and dispose of stock of any class of the KBA mortgage corporation, a corporation having as its purpose the acquisition, holding and disposition of loans secured by real estate mortgages, and to acquire, hold and dispose of the debentures and capital notes of such corporation. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits and such investment shall be carried on the books of the bank as directed by the commissioner;

(16) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

(17) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation having as its purpose the acquisition, holding and disposition of agricultural loans originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits. Such investment shall be carried on the books of the bank as directed by the commissioner;

(18) to buy, hold and sell mortgages, stock, obligations and other securities which are issued or guaranteed by the federal home loan mortgage corporation under sections 305 and 306 of the federal act known as the federal home loan mortgage corporation act (P.L. 91-351);

(19) to buy, hold and sell obligations or other instruments or securities, including stock, issued or guaranteed by the student loan marketing association created by (P.L. 92-318) of the United States;

(20) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as the state bank commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

(21) to subscribe to, buy and own stock in a federally chartered bankers' bank chartered pursuant to subsection (b) of 12 U.S.C. 27, except no bank's investment in such stock shall exceed 10% of its capital stock, surplus and undivided profits;

(22) subject to such rules and regulations as the state bank commissioner may adopt pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, upon recorded prior approval by the board of directors of the initial investment in a specific company and pursuant to an

investment policy approved by the board of directors which specifically provides for such investments to buy, hold and sell shares of an open-end investment company registered with the federal securities and exchange commission under the federal investment company act of 1940 and the federal securities act of 1933 and of a privately offered company sponsored by an affiliated commercial bank, the shares of which are purchased and sold at par and the assets of which consist solely of securities which may be purchased by the bank for its own account. Such shares may be purchased without limit if the assets of the company consist solely of and are limited to obligations that are eligible for purchase by the bank without limit. If the assets of the company include securities which may be purchased by the bank subject to limitation, such shares may be purchased subject to the limitation applicable to purchase by the bank of such securities.

New Sec. 8. Every national banking association, state bank and savings and loan association investing in stock issued by Kansas Venture Capital Inc. shall be entitled to claim a credit in an amount equal to 25% of the total amount invested in such stock in the tax year for which such credit is claimed against the tax liability imposed against such taxpayer pursuant to K.S.A. 79-1106 to 79-1116, inclusive, and amendments thereto. An amount equal to 1/4 of the credit allowable under this section shall be allowed for the tax year in which entitlement to the credit occurs and an amount equal to 1/4 of such credit shall be carried over for deduction from the taxpayer's tax liability in each of the next three succeeding taxable years.

New Sec. 9. Net income derived from the following shall be exempt from taxes levied pursuant to K.S.A. 79-1106 to 79-1116, inclusive, and amendments thereto:

(a) Income received as dividends from stock issued by Kansas Venture Capital Inc.

New Sec. 10. Every corporation investing in stock issued by Kansas Venture Capital Inc. shall be entitled to claim a credit

in an amount equal to 25% of the total amount invested in such stock in the tax year for which such credit is claimed against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated. An amount equal to 1/4 of the credit allowable under this section shall be allowed for the tax year in which entitlement to the credit occurs and an amount equal to 1/4 of such credit shall be carried over for deduction from the taxpayer's income tax liability in each of the next three succeeding taxable years.

Sec. 11. K.S.A. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during the prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by

the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of

federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income. For Kansas income tax purposes the basis in carryover basis property, as defined by 26 U.S.C. 1023 (b)(1), shall be determined in accordance with the provisions of 26 U.S.C. 1014 existing on December 31, 1976.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system, from the civil service retirement and disability fund.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) Amounts up to 50% or \$500, whichever is less, of the costs of labor and materials incurred by the taxpayer, per building, in the insulation of each building owned by said taxpayer, which building was in existence on July 1, 1977, is intended for single family or multi-family occupation and is located in this state. For the purposes of this subsection, the term "insulation" shall mean the act of installing materials in the walls, floors or ceilings of buildings, which materials are specifically designed to reduce the loss or gain of heat within such buildings and which materials meet the minimum criteria and standards for energy conservation for new buildings prescribed by the federal housing administration in existence on the effective date of this act and as such criteria and standards are further modified by rules and regulations of the state secretary of revenue.

(xi) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xii) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital Inc.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

New Sec. 12. Invalidity of part. If any provision of this act or the application thereof to any person or circumstances is

held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 13. K.S.A. 75-4205 and 79-32,117 and K.S.A. 1985 Supp. 9-1101 are hereby repealed.

Sec. 14. Effective date. This act shall take effect and be in force from and after its publication in the Kansas register.