

Approved 03/26/87  
Date

MINUTES OF THE House COMMITTEE ON Economic Development

The meeting was called to order by Phil Kline at  
Chairperson

3:30 a.m./p.m. on Tuesday, March 17, 1987 in room 423S of the Capitol.

All members were present except: Rep. Barkis, Foster and Mainey (All Excused)

Committee staff present:

Jim Wilson, Revisor  
Lynn Holt, Research  
Molly Mulloy, Secretary

Conferees appearing before the committee:

Harold Stones, Kansas Bankers Association (KBA)  
David Barclay, Department of Commerce

Chairman Kline called the meeting to order and introduced Harold Stones, Kansas Bankers Association, who testified in support of S.B. 70.

Mr. Stones distributed copies of the bill with "balloon style" comments of the KBA added. He explained the amendments added by the Senate committee and noted that the amendments on pages 1, 2 and 3 were put on by the summer Task Force. He said that striking the word "new" in line 0065 was important because it meant existing \$1.5 million could count toward reaching the \$10 million goal. He added that the changes on pages 3 and 4 only clarified that all of KVCII's investments would be in Kansas. On page 5, Mr. Stones explained that the two amendments are important to KVCII and were requested by the Kansas Bankers Association.

(Attachment 1)

David Barclay, Department of Commerce, spoke in support of the bill and said the Department of Commerce supports all of the amendments in the Senate bill.

Next, Lynn Holt briefed the committee on the bill. She said S.B. 70 would amend the Kansas Venture Capital Inc. Act to require that investments of the KVCII be made 100% in Kansas businesses, and the capital invested by KVCII in other qualified venture capital companies be invested 100% in Kansas businesses. For purposes of this Act, the definition of "Kansas business" is expanded to allow an individual, who is not necessarily a Kansas resident, to own a small business that operates primarily in Kansas or does substantially all of its production in Kansas. Investments of \$10 million of voting common stock, including funds already invested in KVCII, could be credited toward the matching requirement for the investment of state idle funds. This bill also exempts KVCII and certified Kansas venture capital companies from filing annual reports with the Secretary of State and paying franchise taxes, and excludes KVCII and certified Kansas venture capital companies from the definition and requirements of entities engaged in banking pursuant to KSA 79-1103. This legislation resulted from the following recommendations by the Task Force on Capital Markets and Taxation of the Legislative Commission on Economic Development: that KVCII's investments be made in-state; that all of the \$1.5 million already invested in KVCII be reinvested and credited toward the \$10 million requirement for the investment of state idle funds; and that any firm located within Kansas should qualify as a "Kansas business" under the tax credit bill, regardless of the owner's residence.

Ms. Holt further reported that in regard to the fiscal note, requiring 100% of KVCII investments to be in Kansas businesses would have a positive but immeasurable impact. In addition, exemption from the 5% tax mill levy would have a minimal negative fiscal impact. For KVCII alone, according to KBA testimony, this might result in a savings of \$100,000.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Economic Development,  
room 423S, Statehouse, at 3:30 a.m./p.m. on Tuesday, March 17, 1987.

In response to questions from several committee members, Harold Stones stated that 241 Kansas banks had signed "expressions of support" for a total of \$7 million. In the few weeks since the SEC gave its authority to sell stock, 101 banks have signed formal subscription agreements for a total of \$2 million. He said there is a six-member search committee charged with finding the director for KVICI. The committee has met six times and has drawn up tight corporate objectives. He said they are not interested just in maximum profit but also in job creation and economic development as primary goals. He added that the search committee may hire a national organization for an estimated cost of \$50,000 to find the CEO and president and that they hope to have them in place by this summer.

There were no opponents to S.B. 70. Minutes for 2/26, 3/2, 3/3, 3/4 and 3/5 were approved.

The meeting adjourned at 4:15pm. The next committee meeting is scheduled for Wednesday, March 18, 3:30pm.



SENATE BILL No. 70

By Legislative Commission on Kansas Economic Development

1-23

0017 AN ACT concerning ~~Kansas Venture Capital, Inc.~~; amending  
0018 *Kansas venture capital companies; amending K.S.A. 17-7512*  
0019 *and 79-1103 and K.S.A. 1986 Supp. 74-8202, 74-8203 and*  
0020 *74-8307 and repealing the existing sections.*

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1986 Supp. 74-8202 is hereby amended to  
0023 read as follows: 74-8202. For the purposes of this act, the fol-  
0024 lowing terms shall have the meanings provided herein:

0025 (a) "Department" means the department of commerce.

0026 (b) "Kansas business" means any small business owned by a  
0027 ~~Kansas resident~~ an individual, any partnership, association or  
0028 corporation domiciled in Kansas, or any corporation, even if a  
0029 wholly owned subsidiary of a foreign corporation, that does  
0030 business primarily in Kansas or does substantially all of its  
0031 production in Kansas.

0032 (c) "Secretary" means the secretary of the department of  
0033 commerce.

0034 Sec. 2. K.S.A. 1986 Supp. 74-8203 is hereby amended to read  
0035 as follows: 74-8203. The secretary of the department of com-  
0036 merce is authorized to certify investment in nonvoting preferred  
0037 stock of Kansas Venture Capital, Inc. in a total not to exceed  
0038 \$10,000,000 by the pooled money investment board as provided  
0039 in K.S.A. 75-4205, and amendments thereto, under the following  
0040 terms and conditions:

0041 (a) Banks, savings and loan associations, individuals, corpo-  
0042 rations or other entities have invested \$10,000,000 of ~~new~~ pri-  
0043 vate, equity capital in voting common stock in Kansas Venture  
0044 Capital, Inc.

0045 (b) The \$10,000,000 nonvoting preferred stock invested by

TO: HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

FROM: Harold Stones, Kansas Bankers Association

Thank you, Mr. Chairman and members of the committee for this opportunity to appear in behalf of Senate Bill 70. The KBA appeared before the Senate Committee and asked for several amendments, which were added to the bill. Those, and other amendments, with our comments follow adjacent to the relevant amendments.

We appreciate your consideration and support.

(Page 1, Lines 26-27)

Authorizes any small business which will locate in Kansas, and provide jobs for Kansans to qualify as a certified venture capital company, eligible for tax credits, regardless of whether or not it is owned by a Kansas resident.

ATTACHMENT 1  
CS/L/E  
3/1/87

0046 the pooled money investment board will receive the same rate of  
 0047 dividend and the same rate of capital appreciation at the same  
 0048 time on the same terms as the \$10,000,000 voting common stock  
 0049 invested by banks, savings and loan associations, individuals,  
 0050 corporations or other entities.

0051 (c) Every outstanding share representing the \$10,000,000  
 0052 nonvoting preferred stock is assured of being fully repaid to the  
 0053 pooled money investment board before one share of the  
 0054 \$10,000,000 voting common stock is repaid to any bank, savings  
 0055 and loan association, individual, corporation or other entity. In  
 0056 the event that capital impairment compromises the ability of  
 0057 Kansas Venture Capital, Inc. to repay fully the \$10,000,000  
 0058 nonvoting preferred stock, the pooled money investment board  
 0059 shall have the power to convert its shares to voting stock to  
 0060 protect its investment.

0061 (d) Investments in common stock of Kansas Venture Capital,  
 0062 Inc. shall meet the terms and conditions of K.S.A. 1986 Supp.  
 0063 74-8301 to 74-8311, inclusive. *and amendments thereto*, enact-  
 0064 ing the Kansas venture capital company act.

0065 (e) The investments of \$10,000,000 of ~~new~~ voting common  
 0066 stock and the \$10,000,000 of nonvoting, ~~senior~~ preferred stock  
 0067 ~~can be invested in Kansas Venture Capital, Inc. shall be invested~~  
 0068 in ways which do not compromise the integrity of the small  
 0069 business association license approved under the small business  
 0070 investment act on June 17, 1977.

0071 (f) Kansas Venture Capital, Inc. may invest in one or more  
 0072 Kansas venture capital companies located in Kansas which meet  
 0073 the requirements of K.S.A. 1986 Supp. 74-8301 to 74-8311, in-  
 0074 clusive, *and amendments thereto*. Such investment shall not  
 0075 qualify for the tax credit allowed by K.S.A. 1986 Supp. 74-8304,  
 0076 *and amendments thereto*.

0077 (g) A total of 15 board members to oversee the operations of  
 0078 Kansas Venture Capital, Inc. are elected by the voting common  
 0079 stock shareholders in accordance with the following terms and  
 0080 conditions:

0081 (1) Eight are representatives of Kansas financial institutions.  
 0082 The eight shall represent a reasonable balance of relative pro-

(Page 2, Lines 65, 66, 67)

Allows Kansas Venture Capital, Inc., to count the existing \$1.5 million in capital stock toward the total \$10 million "trigger" for state matching preferred stock investment. Changes in Lines 66-67 appear to be only "cleanup".

0083 portion of investment in the common stock of Kansas Venture  
 0084 Capital, Inc. by Kansas commercial banks, savings and loan  
 0085 associations, insurance companies, and other appropriate finan-  
 0086 cial intermediaries, and shall be recognized for outstanding  
 0087 knowledge and leadership in their fields.

0088 (2) Two shall be venture capitalists or investment counselors  
 0089 familiar with the types of investments in which Kansas Venture  
 0090 Capital, Inc. will invest its funds, and shall be recognized for  
 0091 outstanding knowledge and leadership in their fields.

0092 (3) Five shall represent the business sectors of special im-  
 0093 portance to the Kansas economy in which Kansas Venture Capi-  
 0094 tal, Inc. shall be expected to invest its funds, and shall be  
 0095 recognized for outstanding knowledge and leadership in their  
 0096 fields.

0097 (h) The board has conducted a national search and has se-  
 0098 lected a president for Kansas Venture Capital, Inc. who meets a  
 0099 national standard of experience, ability and initiative for similar  
 0100 chief executive positions for venture capital corporations invest-  
 0101 ing high risk equity in firms which meet the purpose of this act.

0102 (i) *Funds invested by Kansas Venture Capital, Inc. shall be*  
 0103 *invested at 100% in Kansas businesses or in Kansas venture*  
 0104 *capital companies which invest 100% of the funds invested in*  
 0105 *such companies by Kansas Venture Capital, Inc., in Kansas*  
 0106 *businesses in which the funds so invested were to be used solely*  
 0107 *for the purpose of enhancing their productive capacity within*  
 0108 *the state, or to add value to goods or services produced or*  
 0109 *processed within the state.*

0110 Sec. 3. K.S.A. 1986 Supp. 74-8307 is hereby amended to read  
 0111 as follows: 74-8307. (a) To continue in certification, a Kansas  
 0112 venture capital company must:

0113 (1) Invest at least 30% of its original capitalization at the end  
 0114 of the initial five years in such a manner as to acquire equity in  
 0115 the ventures in which the investments are made;

0116 (2) have invested at least 50% in the same manner at the end  
 0117 of seven years; and

0118 (3) have invested at least 75% in the same manner at the end  
 0119 of nine years.

(Page 3, Lines 102-109)

Clarifies that investments made by Kansas Venture Capital, Inc. will be for businesses and enterprises **located within the state only**. The leadership of KVCI have had this intention all the time, but language in 1986 SB 757, intended for other Kansas venture capital companies, did "tie in" to KVCI to require only 60% in Kansas. This amendment clarifies that **KVCI will deal only in ventures located within the state**. Same purpose as amendments on Page 4, Lines 122, 127-134.

0120 (b) ~~At the end of the fifth year, seventh year and ninth year~~  
 0121 ~~investment levels, Invest~~ at least 60% of the total investment of  
 0122 the Kansas venture capital company, *except for Kansas Venture*  
 0123 *Capital, Inc.*, must be in Kansas businesses in which the funds so  
 0124 invested were to be used solely for the purpose of enhancing  
 0125 their productive capacity within the state, or to add value to  
 0126 goods or services produced or processed within the state.

0127 (c) *Funds invested by Kansas Venture Capital, Inc. shall be*  
 0128 *invested at 100% in Kansas businesses or in Kansas venture*  
 0129 *capital companies which invest 100% of the funds invested in*  
 0130 *such companies by Kansas Venture Capital, Inc., in Kansas*  
 0131 *businesses in which the funds so invested were to be used solely*  
 0132 *for the purpose of enhancing their productive capacity within*  
 0133 *the state, or to add value to goods or services produced or*  
 0134 *processed within the state.*

0135 (e) (d) No more than 20% of the assets of a Kansas venture  
 0136 capital company may be invested in the equity of a single  
 0137 business at any one time, unless the Kansas venture capital  
 0138 company can reasonably demonstrate that a greater percentage  
 0139 in a single company at any one time is the result of losses  
 0140 suffered by the Kansas venture capital company in other invest-  
 0141 ments.

0142 (d) (e) The use of invested funds by a Kansas business for oil  
 0143 and gas exploration and development, for real estate develop-  
 0144 ment or appreciation, for banking or lending operations, or  
 0145 service or retail are not acceptable investments to qualify for the  
 0146 tax credit provided in this act. Any investments by Kansas ven-  
 0147 ture capital companies in any of these sectors shall not be  
 0148 counted as equity investments for the purpose of continuing  
 0149 certification under this section.

0150 (e) (f) Documents and other materials submitted by Kansas  
 0151 venture capital companies or by Kansas businesses for purposes  
 0152 of the continuance and certification shall not be public records if  
 0153 such records are determined by the secretary to be trade or  
 0154 business secrets under the uniform trade secrets act (K.S.A.  
 0155 60-3320 to 60-3330), *inclusive, and amendments thereto*, and  
 0156 shall be maintained in a secured environment by the secretary.

(Page 4, Lines 122, 127-134)

Clarifies that investments made by Kansas Venture Capital, Inc. will be for businesses and enterprises located within the state only. The leadership of KVCI have had this intention all the time, but language in 1986 SB 757, intended for other Kansas venture capital companies, did "tie in" to KVCI to require only 60% in Kansas. This amendment clarifies that KVCI will deal only in deals within the state. Same purpose as amendments on Page 3, Lines 102-109

0157 *Sec. 4. K.S.A. 17-7512 is hereby amended to read as follows:*  
 0158 *17-7512. The provisions of this act relating to the filing of*  
 0159 *annual reports and the payment of franchise taxes shall not*  
 0160 *apply to banking, insurance or savings and loan corporations or*  
 0161 *associations or to credit unions or any firemen's relief associa-*  
 0162 *tion under the jurisdiction and supervision of the insurance*  
 0163 *commissioner or to Kansas Venture Capital, Inc. or to venture*  
 0164 *capital companies certified by the secretary of commerce pur-*  
 0165 *suant to article 83 of chapter 74 of the Kansas Statutes Anno-*  
 0166 *tated and amendments thereto.*

0167 *Sec. 5. K.S.A. 79-1103 is hereby amended to read as follows:*  
 0168 *79-1103. (a) Every individual, association, group of unincorpo-*  
 0169 *rated persons or domestic corporations, other than national*  
 0170 *banking associations, banks, trust companies, savings and loan*  
 0171 *associations and those taxed under K.S.A. 79-310a and 40-2801*  
 0172 *and Kansas Venture Capital, Inc. and venture capital companies*  
 0173 *certified by the secretary of commerce pursuant to article 83 of*  
 0174 *chapter 74 of the Kansas Statutes Annotated and amendments*  
 0175 *thereto, who shall engage in the business of lending money,*  
 0176 *buying and selling bills of exchange, notes, bonds, stocks or other*  
 0177 *evidences of indebtedness with a view to profit, shall be, for the*  
 0178 *purpose of taxation, deemed to be engaged in banking within the*  
 0179 *meaning of this act. Each such individual, association or unin-*  
 0180 *corporated group of persons shall annually during the month of*  
 0181 *January, as of January 1, furnish to the assessing officer a*  
 0182 *statement showing the average amount of capital employed in*  
 0183 *its business of banking as defined in this section, and the net*  
 0184 *earnings or income of such business for the year preceding such*  
 0185 *date. Aided by such statement, the assessing officer shall deter-*  
 0186 *mine the average capital employed in such business as herein*  
 0187 *defined, and the true value of the proportional interest or share*  
 0188 *of each person therein shall be taxed annually at the rate of five*  
 0189 *mills on the dollar of the value thereof. In determining the*  
 0190 *average capital employed in such business for assessment and*  
 0191 *taxation upon a share basis as herein provided, the amount of*  
 0192 *money borrowed by the business as an entity and employed in*  
 0193 *the business and the amount of capital invested in real estate*

(Page 5 Lines 157-166)

Exempts Kansas Venture Capital, Inc., and all other certified venture capital companies **from filing annual reports** and paying annual franchise taxes with the Secretary of State's office. The language which has exempted banks, S&L's, Credit Unions and insurance companies from such requirements is extended to KVCI and the other venture capital companies.

The justification is that other voluminous reports are required to the Secretary of Commerce, Kansas Inc., the Legislature and the Governor, so this would avoid onerous reporting requirements. KBA asked for this amendment only for KVCI. The Senate committee decided to add all other venture capital companies.

(Page 5-7, Lines 167-265)

Exempts Kansas Venture Capital, Inc., and other certified venture capital companies from paying *ad valorem* taxes on capital stock, as is required of some other corporations, such as finance companies, by KSA 79-1103.

KSA 79-1103 would require a 5 mill tax on capital stock to be paid to Shawnee County. Counting KVCI's private-sector \$10 million, and the State of Kansas' \$10 million, this would be a \$100,000 annual tax, taking money which otherwise would be used for economic development purposes.

We believe it will be a deterrent to Kansas banks and others asked to invest in KVCI to find out that 5 mills of every dollar invested will annually go County tax coffers of the county where the home office is located; also that the State of Kansas would not be anxious to see this tax applied to their capital investment. Since this money is prospective in nature, we do not believe we are hurting any county because the money has not yet been raised.

KBA asked for this amendment for KVCI; the Senate Committee decided to add all other venture capital companies.



0194 used in such business separately listed and taxed in this state  
0195 shall be deducted therefrom. Personal property, other than  
0196 motor vehicles subject to taxation under K.S.A. 79-5101 et seq.,  
0197 and amendments thereto used in the business of banking shall  
0198 not be separately listed nor shall it be taxed separately other  
0199 than upon a share basis as herein provided.

0200 (b) Shares of stock of domestic corporations engaged in the  
0201 banking business, as defined in subsection (a), shall be assessed to  
0202 the individual shareholders at their true value at the place  
0203 where the particular domestic corporation is located. The man-  
0204 aging officer of each domestic corporation shall furnish to the  
0205 assessor on forms prescribed therefor during the month of Jan-  
0206 uary each year, a list of all the shareholders and the number of  
0207 shares owned by each shareholder and the assessor shall fix and  
0208 determine the true assessable value of such shares. To aid and  
0209 assist in determining the true value of such shares the director of  
0210 property valuation shall prescribe such forms for use by the  
0211 assessor as deemed necessary, and the president, cashier or other  
0212 managing officer of each domestic corporation shall furnish and  
0213 make full disclosure of all information required therein. If any  
0214 portion of the capital stock of any domestic corporation shall be  
0215 invested in real estate and the domestic corporation holds title  
0216 thereto in fee simple, the assessed value of the real estate shall be  
0217 deducted from the gross valuation of all shares of stock and such  
0218 real estate shall be assessed as other real estate. The net assess-  
0219 ment of all shares shall be divided among the shareholders  
0220 proportionately, according to the number of shares owned by  
0221 each, and the domestic corporation shall pay the tax assessed  
0222 upon the shares and shall have a lien thereon until the same is  
0223 satisfied and such shares shall be taxed annually at the rate of  
0224 five mills on the dollar of the value thereof, or as otherwise  
0225 provided by law. Should the domestic corporation fail to pay  
0226 taxes levied upon shares, the property of the individual share-  
0227 holder shall be liable therefor.

0228 (c) As soon as practicable after all tax levies for the current  
0229 tax year are determined and reported, it shall be the duty of the  
0230 county clerk to notify each domestic corporation, whose share-

0231 holders are assessed and taxed under the terms of subsection (b)  
0232 hereof in writing, of the valuation, rate of levy and amount of  
0233 tax assessed against each and all shares and to be paid by each  
0234 domestic corporation. Such notice to the domestic corporation  
0235 shall be deemed and held notice to each shareholder. If the  
0236 domestic corporation or any shareholder so notified shall for any  
0237 cause be aggrieved by such assessment, appeal may be taken to  
0238 the board of tax appeals at any time within 30 days after the  
0239 receipt of such notice, by filing with the county clerk a notice of  
0240 intention to appeal. An appeal by the domestic corporation shall  
0241 be deemed an appeal for all shareholders thereof. When notice  
0242 of intention to appeal is filed with the county clerk by any  
0243 domestic corporation or shareholder, it shall be the duty of the  
0244 county clerk to transmit to the board of tax appeals forthwith, a  
0245 copy of all notices, a statement showing the valuation of the  
0246 shares, the levies, the amount of the tax assessed and all papers  
0247 relating to such assessment. Thereupon the board of tax appeals,  
0248 as soon as practicable, shall fix a time and place for hearing such  
0249 appeal and shall give notice thereof to the county clerk and  
0250 appellant at least 10 days prior to such hearing. At such hearing  
0251 the board of tax appeals shall receive and consider such testi-  
0252 mony as may be offered by such corporation or shareholder, or  
0253 any party in interest, and upon due consideration thereof, shall  
0254 fix and by order determine and equalize the amount of assess-  
0255 ment and the tax to be paid. Such order shall be certified  
0256 forthwith to the county clerk who shall enter upon the tax rolls  
0257 of the county the amount of tax so determined and the tax shall  
0258 be paid as hereinbefore provided by this act. No action shall be  
0259 instituted or maintained in any court by any domestic corpora-  
0260 tion or shareholder to set aside or to declare void any tax levied  
0261 under the terms of this act or to recover any such tax paid under  
0262 protest unless prior to bringing of the action, an appeal shall  
0263 have been taken as herein provided and such appeal shall have  
0264 been determined by the board of tax appeals adverse to the  
0265 claim of the appellant.

0266 See 4. Sec. 6. K.S.A. 17-7512 and 79-1103 and K.S.A.  
0267 1986 Supp. 74-8202, 74-8203 and 74-8307 are hereby repealed.

0268 Sec. 5 7. This act shall take effect and be in force from and  
0269 after its publication in the Kansas register.