

Approved Feb. 12, 1987
Date

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

11:00 a.m./p.m. on February 10, 1987 room 519-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn, Research
Chris Courtwright, Research
Don Hayward, Revisor's Office
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Brenda Manske, Southeast Kansas Tourism
Dave Barclay, Dept. of Commerce
Mark Burghart, Kansas Dept. of Revenue Legal Services

Chairman Kerr called the meeting to order and introduced Brenda Manske of Southeast Kansas Tourism Region for the purpose of requesting a bill introduction.

Brenda Manske (Attachment 1) requested introduction of a bill that would make the transient quest tax apply to all counties statewide. Under her proposal the 2% maximum would be continued. She stated that this proposal would be most helpful to small communities in Kansas, especially the ones such as Yates Center who have lost several businesses from their community in the past months.

Senator Thiessen moved that the bill be introduced. Senator Montgomery seconded. Motion carried.

SENATE BILL 69

Chairman Kerr called for committee discussion and possible action on S.B. 69 and introduced Dave Barclay, Department of Commerce, who had been requested to report back to the committee with suggested amendments.

Dave Barclay stated that the "seed capital factor" is the most risky type of investment. Only about 12% of total investments made in this area are of this type because of the high risk. Some of the reasons for the high risk in seed capital investments are:

1. Difficult start-up; they are not yet in operation.
2. It often takes at least two years to get in a break even position.
3. The management is likely to be the investor.

Committee discussion was held on amendments suggested by Mr. Barclay. (See Attachment 2) Senator Salisbury made a motion to adopt the \$200,000 minimum as suggested by Mr. Barclay (See Attachment 2). Senator Parrish seconded. Motion carried. Senator Jim Allen asked to be recorded as voting "No".

Mr. Barclay's second recommendation concerned the issue of public funds being in a senior position. Senator Salisbury moved that the proposed amendment (See Attachment 2) on the senior position of public funds be adopted as follows: "Public funds may be invested in a local seed capital pool. Any public cash investment, other than that which may be used to administer and operate a pool, shall have a senior position to any private cash investment, but shall receive a lower rate of return than that allowable for a private cash investment." Senator Parrish seconded. Motion carried.

Mr. Barclay suggested additional amendments which would subject "local seed capital pools" to a certification process administered by the Department of Commerce. (See Attachment 2). Senator Burke made the motion to adopt such

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on February 10, 1987

amendments in S.B. 69. Senator Mulich seconded. Motion carried.
(See Attachments 2 & 3)

Mark Burghart, Department of Revenue, reported back to the committee as requested regarding the carry-back features of S.B. 69 and 68. He stated that the Department's proposed amendment would eliminate the carry-back factor and would allow the taxpayer to credit 25% of the credit against 100% of the liability.

Senator Karr asked if they would not be able to utilize their 100% in a four year period, would they be able to carry it forward. The response was "yes." For instance, if there was no tax liability in the first year they could use 50% in the second year.

Senator Burke moved that we adopt amendments on S.B. 69 striking lines 28 and 29 and adding "plus any applicable carryforward amount," which would in effect eliminate the carry-back features. Senator Mulich seconded. Motion carried.

Don Hayward of the Revisor's office recommended that "certified" be inserted on line 21. Senator Karr moved to adopt the change as recommended by the Revisor. Senator Burke seconded. The motion carried.

SENATE BILL 68

Mark Burghart said that he had prepared proposed amendments for S.B. 68 which would carry out the same carry-back and credit recommendations as suggested for S.B. 69. (Attachment 4)

Senator Karr made the motion that the latter part of line 43 and line 44 of S.B. 68 be stricken and changed to "plus any applicable carryforward amount", which would in effect eliminate the carry-back features as suggested by Mr. Burghart. (See Attachment 4) Senator Burke seconded. Motion carried.

Senator Burke made a motion that S.B. 68 be recommended favorable for passage as amended. Senator Salisbury seconded. The motion carried.

Senator Thiessen made a motion to accept the minutes of meetings of February 5th and February 9th. Senator Montgomery seconded. Motion carried.

Meeting adjourned.

RECOMMENDED CHANGES IN K.S.A. 12-1697

12-1697. An act relating to a transient guest tax levied by counties; basis of tax; payment and collection.

(a) In order to provide revenue to promote tourism and conventions, each county shall levy a transient guest tax not less than the rate of two percent (2%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations in any hotel, motel or tourist court. The percentage of such tax shall be determined by the Board of County Commissioners of each county levying the same.

(b) Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business.

(c) The taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the State Department of Revenue in the manner prescribed by K.S.A. 12-1698, and the State Department of Revenue shall administer and enforce the collection of such tax.

NEW K.S.A. 12-1698 (e)

(e) All such monies received by the county from the disbursements from the county transient guest tax fund shall be credited to the tourism and convention promotion fund of said county and shall only be expended for convention and tourism promotion. Twenty-five percent (25%) of all such funds collected in each county shall be paid to the respective tourism region pursuant to K.S.A. 12-1699.

NEW K.S.A. 12-1699

(It is recommended that the present K.S.A. 12-1699 be repealed and the following statute adopted to replace it.)

12-1699. There are hereby established five Kansas tourism regions, the boundaries of which have heretofore been designated by the Department of Commerce. The Secretary of the Department of Commerce is hereby empowered to promulgate regulations concerning the withdrawal and addition of counties to the presently established Kansas tourism regions.

It is further recommended that all other statutes concerning the transient guest tax be amended to reflect the appropriate language changes which will be necessary by reason of the creation of a mandatory state-wide transient guest tax, statutory establishment of tourism regions, and the establishment of dedicated funding for tourism regions.

SENATE BILL No. 69

By Legislative Commission on Kansas Economic Development

1-23

0016 AN ACT relating to income taxation; concerning credits there-
0017 from for investment in local seed capital pools.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. (a) There shall be allowed as a credit against the
0020 tax imposed by the Kansas income tax act on the Kansas taxable
0021 income of a taxpayer for cash investment in a local seed capital
0022 pool in an amount equal to 25% of such taxpayer's cash invest-
0023 ment in any such pool in the taxable year in which such invest-
0024 ment is made and the taxable years following such taxable year
0025 until the total amount of the credit is used. In any one taxable
0026 year, the amount of such credit allowable for deduction from the
0027 taxpayer's tax liability shall not exceed 25% of the total amount of
0028 such credit ^{plus any applicable carryforward amounts.} ~~and, in no case, may such amount exceed 25% of the~~
0029 ~~taxpayer's tax liability in such year.~~ The amount by which that
0030 portion of the credit allowed by the preceding sentence to be
0031 claimed in any one taxable year exceeds ~~25%~~ of the taxpayer's
0032 liability in such year may be ~~carried back for not more than three~~
0033 ~~taxable years or~~ carried forward until the total amount of the
0034 credit is used.

0035 (b) The total amount of credits allowable pursuant to this
0036 section and credits allowable pursuant to K.S.A. 1986 Supp.
0037 74-8205, 74-8206 and 74-8304 shall be attributable to not more
0038 than \$24,000,000 of cash investments in Kansas venture capital
0039 companies, Kansas Venture Capital, Inc. and local seed capital
0040 pools.

0041 (c) As used in this section, "local seed capital pool" means
0042 money invested in a fund established to provide funding for use
0043 by small businesses for any one or more of the following pur-
0044 poses: (1) Development of a prototype product or process; (2) a

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Att. 2

0045 marketing study to determine the feasibility of a new product or
0046 process; or (3) a business plan for the development and produc-
0047 tion of a new product or process.

0048 (d) No credit from income tax liability shall be allowed for
0049 cash investment in a local seed capital pool unless: (1) The
0050 amount of private cash investment therein is ~~\$250,000~~ or more
0051 ~~which amount is matched by federal community development~~
0052 ~~grants or other local government sources at a ratio of one to two;~~
0053 and (2) the moneys necessary to administer and operate the pool
0054 are funded from sources other than the ~~private and public cash~~
0055 ~~investments.~~

0056 Sec. 2. The provisions of this act shall be applicable to all
0057 taxable years commencing after December 31, 1986.

0058 Sec. 3. This act shall take effect and be in force from and
0059 after its publication in the statute book.

*Grants
are not paid
back, or will not
be*

\$200,000

\$200,000 of private investment in the pool.

Public funds may be invested in the local seed capital pool provided the public funds ~~will~~ have a senior position to the private funds and receive a correspondingly lower rate of return. Every dollar of public funds must be assured of being fully repaid to the investing public entity before one dollar of ~~the~~ private funds are repaid.

~~74-8306. Certification of Kansas venture capital companies; application; requirements; rules and regulations. (a) The secretary shall promulgate rules and regulations for making an application for certification of a Kansas venture capital company and shall specify the information that must be submitted at the time of application. No Kansas venture capital company shall be certified until the secretary has adopted rules and regulations as required in K.S.A. 1986 Supp. 74-8305. A company seeking to be certified as a Kansas venture capital company must specify the level of capitalization that the company expects to qualify for the tax credits provided for in this act. The application must show that the applicant's purpose is to encourage and assist in the creation, development and expansion of Kansas businesses and to provide maximum opportunities for the employment of Kansans by making venture capital available to Kansas businesses, as described and defined in K.S.A. 1986 Supp. 74-8303.~~

Local Seed Capital pools

local seed capital pool

An applicant

local seed capital pool

seed

(b) The department, through the secretary, shall review the articles of incorporation or the articles of partnership of each applicant for certification and the business history of the applicant and determine that the capitalization is at least \$1,500,000.

\$200,000.

(c) Within 60 days of application, the secretary shall issue the certification and notify the department of revenue of such certification, or shall refuse the certification and issue an order so providing.

History: L. 1986, ch. 285, § 6; May 22.

74-8308. Same; annual reports; annual compliance review of each company by secretary, costs; notice of noncompliance; decertification; notice of forfeited tax credits. (a) Each qualified ~~Kansas venture capital company~~ shall report to the secretary on an annual basis such information as the secretary requires to be submitted to maintain certification. As a part of such information, each ~~Kansas venture capital company~~ shall report the name, address and taxpayer identification number of each taxpayer who has invested in such ~~company~~ and amounts invested by each such taxpayer.

local seed capital pool

local seed capital pool

pool

(b) The secretary shall provide this information contained in subsection (a) to the department of revenue on an annual basis.

local seed capital pool

(c) The secretary shall conduct an annual review of each ~~Kansas venture capital company~~ certified under the program to determine if the ~~Kansas venture capital company~~ is in compliance with the requirements of certification, to advise the ~~Kansas venture capital company~~ as to the certification status of its investments, and to ensure that no investment has been made in violation of the provisions of this act or rules and regulations promulgated by the department. The reasonable costs of the annual review shall be paid by each ~~Kansas venture capital company~~ according to a reasonable fee schedule adopted by the secretary. Any violation shall be grounds for decertification under this section.

local seed capital pool

local seed capital pool

local seed capital pool

~~(d) If the Kansas venture capital company has met the fifth year, seventh year and ninth year investment levels and has subsequently sold any of the companies in which those equity investments were made, the temporary liquidity of the Kansas venture capital company prior to reinvestment in the equity of new ventures will not be cause for decertification.~~

(d) In undertaking the annual review the secretary shall use reasonable and generally accepted national standards of ~~ven~~

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ture capital company practice. If the secretary determines that a company is not in substantial compliance with the requirements for continuing certification, the secretary shall, by written notice, inform the officers of the company and the board of directors or partners that they will be decertified in 120 days from the date of mailing of the notice unless they correct the deficiencies and are once again in compliance with the requirements for certification.

seed capital investment

local seed capital pool

pool

local seed capital pool

pool

local seed capital pool

by the pool

local seed capital pools

(e)(A) At the end of the one hundred twenty day period, if the Kansas venture capital company is still not in substantial compliance, the secretary shall send a notice of decertification to the company and to the secretary of the department of revenue. Decertification of a Kansas venture capital company shall cause the forfeiture of any right or interest to the tax credit under the provisions of this act and shall cause the total amount of tax credit previously claimed by persons under the program to be due and payable with that year's income tax liability.

(F)(g) Following each annual examination, the secretary shall notify the department of revenue of any Kansas venture capital companies that are not in compliance with this section.

~~(h) The department of revenue shall send written notice to the address of each person whose tax credit has been forfeited, using the address last shown on the person's last income tax filing.
History: L. 1986, ch. 285, § 8; May 22.~~

74-8309. Same; voluntary decertification; liability for tax credits claimed. At any time after the end of the seventh year, a ~~Kansas venture capital company~~ which is in compliance with this act may voluntarily decertify itself by sending written notice of decertification to the secretary and, in such case, the investors shall not be liable for repayment to the state of credit amounts claimed under this act. ~~In any case where a Kansas venture capital company~~ which is not in compliance with the provisions of this act, * may voluntarily decertify itself by sending written notice of decertification to the secretary and by remitting to the secretary of the department of revenue full payment of all tax credits claimed by investors under its participation in the certification program.

History: L. 1986, ch. 285, § 9; May 22.

74-8310. Annual report by secretary; contents. (a) The secretary shall report annually to the governor, the legislature, and to Kansas, Inc., and to each certified ~~Kansas venture capital company~~ detailing:

- (1) The number of ~~Kansas venture capital companies~~;
- (2) the total tax credit generated;
- (3) the total investments made in ~~Kansas venture capital companies~~;
- (4) the total investments in Kansas businesses by ~~Kansas venture capital companies~~;
- (5) an estimate of jobs created or preserved under the program; and
- (6) an estimate of the multiplier effect on the Kansas economy of the program.

(b) Additionally, the secretary shall evaluate the success of the program in collaboration with Kansas, Inc. and the standing and joint legislative committees on economic development, and may include specific recommendations for legislation.

History: L. 1986, ch. 285, § 10; May 22.

74-8311. State not liable to investors in ~~Kansas venture capital companies~~. The state of Kansas shall not be held liable for any damages to an investor in a ~~Kansas venture capital company~~.

History: L. 1986, ch. 285, § 11; May 22.

of certification

local seed capital fund

A local seed capital pool,

The cost of the remittance shall be borne by pool's partners.

local seed capital pool

local seed capital pools

local seed capital pools

local seed capital pools

local seed capital pool

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SENATE BILL No. 69

By Legislative Commission on Kansas Economic Development

1-23

0016 AN ACT relating to income taxation; concerning credits there-
0017 from for investment in local seed capital pools.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. (a) There shall be allowed as a credit against the
0020 tax imposed by the Kansas income tax act on the Kansas taxable
0021 income of a taxpayer for cash investment in a local seed capital
0022 pool in an amount equal to 25% of such taxpayer's cash invest-
0023 ment in any such pool in the taxable year in which such invest-
0024 ment is made and the taxable years following such taxable year
0025 until the total amount of the credit is used. In any one taxable
0026 year, the amount of such credit allowable for deduction from the
0027 taxpayer's tax liability shall not exceed 25% of the total amount of

plus any applicable carryforward amount.

0028 ~~such credit and, in no case, may such amount exceed 25% of the~~
0029 ~~taxpayer's tax liability in such year.~~ The amount by which that
0030 portion of the credit allowed by the preceding sentence to be
0031 claimed in any one taxable year exceeds ~~25%~~ of the taxpayer's
0032 liability in such year may be carried ~~back for not more than three~~
0033 ~~taxable years or~~ carried forward until the total amount of the
0034 credit is used.

0035 (b) The total amount of credits allowable pursuant to this
0036 section and credits allowable pursuant to K.S.A. 1986 Supp.
0037 74-8205, 74-8206 and 74-8304 shall be attributable to not more
0038 than \$24,000,000 of cash investments in Kansas venture capital
0039 companies, Kansas Venture Capital, Inc. and local seed capital
0040 pools.

0041 (c) As used in this section, "local seed capital pool" means
0042 money invested in a fund established to provide funding for use
0043 by small businesses for any one or more of the following pur-
0044 poses: (1) Development of a prototype product or process; (2) a

0045 marketing study to determine the feasibility of a new product or
0046 process; or (3) a business plan for the development and produc-
0047 tion of a new product or process.

0048 (d) No credit from income tax liability shall be allowed for
0049 cash investment in a local seed capital pool unless: (1) The
0050 amount of private cash investment therein is \$250,000 or more
0051 which amount is matched by federal community development
0052 grants or other local government sources at a ratio of one to two;
0053 and (2) the moneys necessary to administer and operate the pool
0054 are funded from sources other than the private and public cash
0055 investments.

0056 Sec. 2. The provisions of this act shall be applicable to all
0057 taxable years commencing after December 31, 1986.

0058 Sec. 3. This act shall take effect and be in force from and
0059 after its publication in the statute book.

tal, Inc. are elected by the voting common stock shareholders in accordance with the following terms and conditions:

(1) Eight are representatives of Kansas financial institutions. The eight shall represent a reasonable balance of relative proportion of investment in the common stock of Kansas Venture Capital, Inc. by Kansas commercial banks, savings and loan associations, insurance companies, and other appropriate financial intermediaries, and shall be recognized for outstanding knowledge and leadership in their fields.

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

(3) Five shall represent the business sectors of special importance to the Kansas economy in which Kansas Venture Capital, Inc. shall be expected to invest its funds, and shall be recognized for outstanding knowledge and leadership in their fields.

(h) 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 venture capital corporations investing high risk equity in firms which meet the purpose of this act.

History: L. 1986, ch. 332, § 3; May 22.

74-8204. Same; annual report, contents. Kansas Venture Capital, Inc. shall prepare and publish an annual report 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 be made widely available and shall specifically account for:

(a) The manner in which the purpose as described in this act has been carried out by Kansas Venture Capital, Inc.

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

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

(d) An estimate of the multiplier effect on the Kansas economy of investments by

Kansas Venture Capital, Inc. in Kansas businesses.

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

History: L. 1986, ch. 332, § 4; May 22.

74-8205. Tax credits for investment in stock of Kansas Venture Capital, Inc. by banks, savings and loan associations and insurance companies; taxable years applicable. (a) Except as otherwise provided in K.S.A. 1986 Supp. 74-8207, every national banking association, state bank, savings and loan association or insurance company investing in stock issued by Kansas Venture Capital, Inc. shall be entitled to a credit in an amount equal to 25% of the total amount invested in such stock against the tax liability imposed against such taxpayer pursuant to K.S.A. 79-1106 to 79-1116, inclusive, and amendments thereto or 40-2801, and amendments thereto, as the case requires. In any one taxable year, the amount of such credit allowable for deduction from the taxpayer's tax liability shall not exceed 25% of the total amount of such credit; ~~and in no case may such amount exceed 25% of the taxpayer's tax liability in such year. The amount of any remaining unused credit may be carried forward until the total amount of the credit is used.~~ The amount by which that portion of the credit allowed by this section to be claimed in any one taxable year exceeds 25% of the taxpayer's tax liability in such year may be carried back for ~~not more than three taxable years or~~ carried forward until the total amount of the credit is used.

(b) The provisions of this section shall be applicable to investments made in all taxable years commencing after December 31, 1985, and prior to January 1, 1993.

History: L. 1986, ch. 332, § 10; May 22.

74-8206. Income tax credits for investment in stock of Kansas Venture Capital, Inc.; tax years applicable. (a) Except as otherwise provided in K.S.A. 1986 Supp. 74-8207, every taxpayer investing in stock issued by Kansas Venture Capital, Inc. shall be entitled to credit in an amount equal to 25% of the total amount invested in such stock against the income tax liability im-

plus any applicable carryforward amount.

plus any applicable carryforward amount.

posed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated. In any one taxable year, the amount of such credit allowable for deduction from the taxpayer's tax liability shall not exceed 25% of the total amount of such credit, and in no case may such amount exceed 25% of the taxpayer's tax liability in such year. The amount of any remaining unused credit may be carried forward until the total amount of the credit is used. The amount by which that portion of the credit allowed by this section to be claimed in any one taxable year exceeds 25% of the taxpayer's tax liability in such year may be carried back for not more than three taxable years or carried forward until the total amount of the credit is used.

(b) No taxpayer claiming a credit under this section for investing in stock issued by Kansas Venture Capital, Inc. shall be eligible to claim a credit for the same investment under the provisions of K.S.A. 1986 Supp. 74-8301 to 74-8311, inclusive.

(c) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1985, and prior to January 1, 1993.

History: L. 1986, ch. 332, § 11; May 22.

74-8207. Limitation on tax credits. The secretary of revenue may allow credits pursuant to K.S.A. 1986 Supp. 74-8205 and 74-8206 that are attributable to not more than \$10,000,000 of investment in Kansas Venture Capital, Inc.

History: L. 1986, ch. 332, § 12; May 22.

74-8208. State not liable to investors in Kansas Venture Capital, Inc. The state of Kansas may not be held liable for any damages to an investor in Kansas Venture Capital, Inc.

History: L. 1986, ch. 332, § 14; May 22.

74-8209. Audit by legislative division of post audit. Kansas Venture Capital, Inc. shall be subject to an audit by the legislative division of post audit.

History: L. 1986, ch. 332, § 15; May 22.

74-8210. Severability of act. 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 in-

valid provision or application, and to this end the provisions of this act are severable.

History: L. 1986, ch. 332, § 17; May 22.

Revisor's Note:

For list of sections in this act, see Table of Sections in Constitutions Volume.

Article 83.—KANSAS VENTURE CAPITAL COMPANY ACT

74-8301. Citation of act. The provisions of this act shall be cited as the "Kansas venture capital company act."

History: L. 1986, ch. 285, § 1; May 22.

74-8302. Purpose of act. The purpose of the Kansas venture capital company act is to facilitate the formation of private venture capital companies that meet generally accepted national standards for private venture capital companies, and that make equity investments in the creation and expansion of Kansas businesses which are job and wealth creating enterprises by granting tax credits against the Kansas income tax liability of taxpayers investing in such Kansas venture capital companies.

History: L. 1986, ch. 285, § 2; May 22.

74-8303. 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) "Equity" means all forms of equity such as common stock, preferred stock with or without voting rights and without regard to seniority of equity position, forms of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached, or any other means of financing which meet generally accepted national standards for venture capital investment in the United States.

(c) "Kansas business" means any small business owned 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.

(d) "Kansas venture capital company" means any for-profit partnership or corporation that has as its primary business activity

SENATE BILL No. 68

By Legislative Commission on Kansas Economic Development

1-23

0016 AN ACT relating to income taxation; concerning research and
0017 development activity expenditure credits; amending K.S.A.
0018 1986 Supp. 79-32,182 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 1986 Supp. 79-32,182 is hereby amended to
0021 read as follows: 79-32,182. (a) For any taxable year commencing
0022 after December 31, 1986, and before January 1, 1988, a credit
0023 shall be allowed against the tax imposed by the Kansas income
0024 tax act on the Kansas taxable income of a taxpayer for expendi-
0025 tures in research and development activities conducted within
0026 this state in an amount equal to 6 1/2% of the amount by which the
0027 amount ~~invested in~~ expended for such activities in the taxable
0028 year of the taxpayer exceeds the taxpayer's average of the actual
0029 expenditures for such purposes made in such taxable year and
0030 the next preceding taxable year.

0031 (b) For any taxable year commencing after December 31,
0032 1987, and before January 1, 1994, a credit shall be allowed
0033 against the tax imposed by the Kansas income tax act on the
0034 Kansas taxable income of a taxpayer for expenditures in research
0035 and development activities conducted within this state in an
0036 amount equal to 6 1/2% of the amount by which the amount
0037 ~~invested in~~ expended for such activities in the taxable year of the
0038 taxpayer exceeds the taxpayer's average of the actual expendi-
0039 tures for such purposes made in such taxable year and the next
0040 preceding two taxable years.

0041 (c) In any one taxable year, the amount of such credit allow-
0042 able for deduction from the taxpayer's tax liability shall not
0043 exceed 25% of the total amount of such credit ~~and, in no case~~
0044 ~~may such amount exceed 25% of the taxpayer's tax liability in~~

plus any applicable carryforward amount.

0045 ~~such year. The amount of any remaining unused credit may be~~
0046 ~~carried forward until the total amount of the credit is used. The~~
0047 amount by which that portion of the credit allowed by subsec-
0048 tions (a) and (b) to be claimed in any one taxable year exceeds
0049 ~~25% of the taxpayer's tax liability in such year may be carried~~
0050 ~~back for not more than three years or~~ carried forward until the
0051 total amount of the credit is used.

0052 (d) As used in this section, the term "expenditures in re-
0053 search and development activities" means expenditures made
0054 for such purposes, other than expenditures of moneys made
0055 available to the taxpayer pursuant to federal or state law, which
0056 are treated as expenses allowable for deduction under the pro-
0057 visions of the federal internal revenue code of ~~1954~~ 1986, and
0058 amendments thereto.

0059 Sec. 2. K.S.A. 1986 Supp. 79-32,182 is hereby repealed.

0060 Sec. 3. This act shall take effect and be in force from and
0061 after its publication in the statute book.

tal, Inc. are elected by the voting common stock shareholders in accordance with the following terms and conditions:

(1) Eight are representatives of Kansas financial institutions. The eight shall represent a reasonable balance of relative proportion of investment in the common stock of Kansas Venture Capital, Inc. by Kansas commercial banks, savings and loan associations, insurance companies, and other appropriate financial intermediaries, and shall be recognized for outstanding knowledge and leadership in their fields.

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

(3) Five shall represent the business sectors of special importance to the Kansas economy in which Kansas Venture Capital, Inc. shall be expected to invest its funds, and shall be recognized for outstanding knowledge and leadership in their fields.

(h) 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 venture capital corporations investing high risk equity in firms which meet the purpose of this act.

History: L. 1986, ch. 332, § 3; May 22.

74-8204. Same; annual report, contents. Kansas Venture Capital, Inc. shall prepare and publish an annual report 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 be made widely available and shall specifically account for:

(a) The manner in which the purpose as described in this act has been carried out by Kansas Venture Capital, Inc.

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

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

(d) An estimate of the multiplier effect on the Kansas economy of investments by

Kansas Venture Capital, Inc. in Kansas businesses.

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

History: L. 1986, ch. 332, § 4; May 22.

74-8205. Tax credits for investment in stock of Kansas Venture Capital, Inc. by banks, savings and loan associations and insurance companies; taxable years applicable. (a) Except as otherwise provided in K.S.A. 1986 Supp. 74-8207, every national banking association, state bank, savings and loan association or insurance company investing in stock issued by Kansas Venture Capital, Inc. shall be entitled to a credit in an amount equal to 25% of the total amount invested in such stock against the tax liability imposed against such taxpayer pursuant to K.S.A. 79-1106 to 79-1116, inclusive, and amendments thereto or 40-2801, and amendments thereto, as the case requires. In any one taxable year, the amount of such credit allowable for deduction from the taxpayer's tax liability shall not exceed 25% of the total amount of such credit; ~~and in no case may such amount exceed 25% of the taxpayer's tax liability in such year. The amount of any remaining unused credit may be carried forward until the total amount of the credit is used.~~ The amount by which that portion of the credit allowed by this section to be claimed in any one taxable year exceeds 25% of the taxpayer's tax liability in such year may be ~~carried back for not more than three taxable years or~~ carried forward until the total amount of the credit is used.

(b) The provisions of this section shall be applicable to investments made in all taxable years commencing after December 31, 1985, and prior to January 1, 1993.

History: L. 1986, ch. 332, § 10; May 22.

74-8206. Income tax credits for investment in stock of Kansas Venture Capital, Inc.; tax years applicable. (a) Except as otherwise provided in K.S.A. 1986 Supp. 74-8207, every taxpayer investing in stock issued by Kansas Venture Capital, Inc. shall be entitled to credit in an amount equal to 25% of the total amount invested in such stock against the income tax liability im-

plus any applicable carryforward amount.

plus any applicable carryforward amount.

posed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated. In any one taxable year, the amount of such credit allowable for deduction from the taxpayer's tax liability shall not exceed 25% of the total amount of such credit, and in no case may such amount exceed 25% of the taxpayer's tax liability in such year. The amount of any remaining unused credit may be carried forward until the total amount of the credit is used. The amount by which that portion of the credit allowed by this section to be claimed in any one taxable year exceeds 25% of the taxpayer's tax liability in such year may be carried back for not more than three taxable years or carried forward until the total amount of the credit is used.

(b) No taxpayer claiming a credit under this section for investing in stock issued by Kansas Venture Capital, Inc. shall be eligible to claim a credit for the same investment under the provisions of K.S.A. 1986 Supp. 74-8301 to 74-8311, inclusive.

(c) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1985, and prior to January 1, 1993.

History: L. 1986, ch. 332, § 11; May 22.

74-8207. Limitation on tax credits. The secretary of revenue may allow credits pursuant to K.S.A. 1986 Supp. 74-8205 and 74-8206 that are attributable to not more than \$10,000,000 of investment in Kansas Venture Capital, Inc.

History: L. 1986, ch. 332, § 12; May 22.

74-8208. State not liable to investors in Kansas Venture Capital, Inc. The state of Kansas may not be held liable for any damages to an investor in Kansas Venture Capital, Inc.

History: L. 1986, ch. 332, § 14; May 22.

74-8209. Audit by legislative division of post audit. Kansas Venture Capital, Inc. shall be subject to an audit by the legislative division of post audit.

History: L. 1986, ch. 332, § 15; May 22.

74-8210. Severability of act. 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 in-

valid provision or application, and to this end the provisions of this act are severable.

History: L. 1986, ch. 332, § 17; May 22.

Revisor's Note:

For list of sections in this act, see Table of Sections in Constitutions Volume.

**Article 83.—KANSAS VENTURE
CAPITAL COMPANY ACT**

74-8301. Citation of act. The provisions of this act shall be cited as the "Kansas venture capital company act."

History: L. 1986, ch. 285, § 1; May 22.

74-8302. Purpose of act. The purpose of the Kansas venture capital company act is to facilitate the formation of private venture capital companies that meet generally accepted national standards for private venture capital companies, and that make equity investments in the creation and expansion of Kansas businesses which are job and wealth creating enterprises by granting tax credits against the Kansas income tax liability of taxpayers investing in such Kansas venture capital companies.

History: L. 1986, ch. 285, § 2; May 22.

74-8303. 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) "Equity" means all forms of equity such as common stock, preferred stock with or without voting rights and without regard to seniority of equity position, forms of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached, or any other means of financing which meet generally accepted national standards for venture capital investment in the United States.

(c) "Kansas business" means any small business owned 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.

(d) "Kansas venture capital company" means any for-profit partnership or corporation that has as its primary business activity