

Approved 2-5-87
Date

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

12:40 ~~a.m.~~/p.m. on February 4, 1987 in room 123-S of the Capitol.

All members were present except: Senator Fred Kerr - Excused

Committee staff present:

Arden Ensley, Revisor of Statutes
Lynne Holt, Legislative Research Department
Tom Severn, Legislative Research Department
Mary Allen, Secretary to the Committee

Conferees appearing before the committee:

Harold Stones, Kansas Bankers' Association

The meeting was called to order at 12:40 p.m. by the Chairman, Senator Wint Winter, Jr..

Senator Hayden moved that the minutes of the January 21, 1987, January 22, 1987, and January 29, 1987, meetings of the Committee be approved. Senator D. Kerr seconded the motion. The motion carried.

Senate Bill 70 - An Act concerning Kansas Venture Capital, Inc..

The Chairman called on staff to brief the Committee on Senate Bill 70. Staff said that Senate Bill 70 results from the work of the Task Force on Capital Markets and Taxation and contains three of the recommendations of that Task Force as follows:
(1.) Requires Kansas Venture Capital, Inc., to invest one hundred percent of its funds in Kansas companies. There was no recommendation from the Task Force that private venture capital companies be included in the one hundred percent provision for it is important that these companies have the opportunity to network with other venture capital companies;
(2.) Removes the restriction that a Kansas business be owned by a Kansas resident; and
(3.) The ten million dollars which the bankers must raise for Kansas Venture Capital, Inc. may include the existing capitalization of Kansas Venture Capital, Inc..

Harold Stones, representing the Kansas Bankers' Association and the Kansas Venture Capital, Inc., appeared in support of Senate Bill 70. He presented the Committee with a balloon version of the bill which contains some proposed amendments. (Attachment I) The first proposed amendment is on page 2, line 63, and is a technical amendment which would delete the word "new" and would make that section conform to other sections of the bill. The second proposed amendment concerns K.S.A. 79-1103. Mr. Stones stated that this amendment would exempt Kansas Venture Capital, Inc. from the payment of a five mill ad valorem tax to Shawnee County. He said that it is estimated that this five mill tax could amount to \$100,000.00. The third amendment would amend K.S.A. 17-7512 and would exempt Kansas Venture Capital, Inc. from filing annual reports with the Secretary of State.

Senator Burke moved that the amendments to Senate Bill 70 proposed by Mr. Stones, as contained in Attachment I, be adopted. Senator Salisbury seconded the motion. The motion carried.

Senator Burke offered a conceptual motion that an amendment be prepared to Senate Bill 70 which would deal with the issue of tax exemptions to private venture capital companies from the tax imposed under K.S.A. 79-1103 on finance companies. Senator D. Kerr seconded the motion. The motion carried.

The meeting was adjourned by Senator Winter at 1:40 p.m..

GUEST LIST

<u>NAME</u>		<u>REPRESENTING</u>
Hauld Stover		KBR
Morman Harper		AAM
Mary Harper	Healy K	aam
Deanne Vieux	Topeka	Ks Dept. of Commerce
HAROLD PITTS	Topeka	
Marshall Crowther	LAWRENCE	KPERS
John K. Blythe	Manhattan	Ks Farm Bureau
Eleanor Kerr	Coate	personal
Bill Riley	Manhattan	personal

SENATE BILL No. 70

By Legislative Commission on Kansas Economic Development

1-23

17-7512

0016 AN ACT concerning Kansas Venture Capital, Inc.; amending
0017 K.S.A. 1986 Supp. 74-8202, 74-8203 and 74-8307 and repealing
0018 the existing sections.

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

0020 Section 1. K.S.A. 1986 Supp. 74-8202 is hereby amended to
0021 read as follows: 74-8202. For the purposes of this act, the fol-
0022 lowing terms shall have the meanings provided herein:

0023 (a) "Department" means the department of commerce.

0024 (b) "Kansas business" means any small business owned by a
0025 ~~Kansas resident~~ *an individual*, any partnership, association or
0026 corporation domiciled in Kansas, or any corporation, even if a
0027 wholly owned subsidiary of a foreign corporation, that does
0028 business primarily in Kansas or does substantially all of its
0029 production in Kansas.

0030 (c) "Secretary" means the secretary of the department of
0031 commerce.

0032 Sec. 2. K.S.A. 1986 Supp. 74-8203 is hereby amended to read
0033 as follows: 74-8203. The secretary of the department of com-
0034 merce is authorized to certify investment in nonvoting preferred
0035 stock of Kansas Venture Capital, Inc. in a total not to exceed
0036 \$10,000,000 by the pooled money investment board as provided
0037 in K.S.A. 75-4205, and amendments thereto, under the following
0038 terms and conditions:

0039 (a) Banks, savings and loan associations, individuals, corpo-
0040 rations or other entities have invested \$10,000,000 of ~~new~~ pri-
0041 vate, equity capital in voting common stock in Kansas Venture
0042 Capital, Inc.

0043 (b) The \$10,000,000 nonvoting preferred stock invested by
0044 the pooled money investment board will receive the same rate of

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0045 dividend and the same rate of capital appreciation at the same
0046 time on the same terms as the \$10,000,000 voting common stock
0047 invested by banks, savings and loan associations, individuals,
0048 corporations or other entities.

0049 (c) Every outstanding share representing the \$10,000,000
0050 nonvoting preferred stock is assured of being fully repaid to the
0051 pooled money investment board before one share of the
0052 \$10,000,000 voting common stock is repaid to any bank, savings
0053 and loan association, individual, corporation or other entity. In
0054 the event that capital impairment compromises the ability of
0055 Kansas Venture Capital, Inc. to repay fully the \$10,000,000
0056 nonvoting preferred stock, the pooled money investment board
0057 shall have the power to convert its shares to voting stock to
0058 protect its investment.

0059 (d) Investments in common stock of Kansas Venture Capital,
0060 Inc. shall meet the terms and conditions of K.S.A. 1986 Supp.
0061 74-8301 to 74-8311, inclusive, *and amendments thereto*, enact-
0062 ing the Kansas venture capital company act.

0063 (e) The investments of \$10,000,000 of ~~new~~ voting common
0064 stock and the \$10,000,000 of nonvoting, ~~senior~~ preferred stock
0065 ~~can be invested in Kansas Venture Capital, Inc. shall be invested~~
0066 in ways which do not compromise the integrity of the small
0067 business association license approved under the small business
0068 investment act on June 17, 1977.

0069 (f) Kansas Venture Capital, Inc. may invest in one or more
0070 Kansas venture capital companies located in Kansas which meet
0071 the requirements of K.S.A. 1986 Supp. 74-8301 to 74-8311, in-
0072 clusive, *and amendments thereto*. Such investment shall not
0073 qualify for the tax credit allowed by K.S.A. 1986 Supp. 74-8304,
0074 *and amendments thereto*.

0075 (g) A total of 15 board members to oversee the operations of
0076 Kansas Venture Capital, Inc. are elected by the voting common
0077 stock shareholders in accordance with the following terms and
0078 conditions:

0079 (1) Eight are representatives of Kansas financial institutions.
0080 The eight shall represent a reasonable balance of relative pro-
0081 portion of investment in the common stock of Kansas Venture

Technical amendment to conform to
the change on Page 1, Line 40.

0082 Capital, Inc. by Kansas commercial banks, savings and loan
0083 associations, insurance companies, and other appropriate finan-
0084 cial intermediaries, and shall be recognized for outstanding
0085 knowledge and leadership in their fields.

0086 (2) Two shall be venture capitalists or investment counselors
0087 familiar with the types of investments in which Kansas Venture
0088 Capital, Inc. will invest its funds, and shall be recognized for
0089 outstanding knowledge and leadership in their fields.

0090 (3) Five shall represent the business sectors of special im-
0091 portance to the Kansas economy in which Kansas Venture Capi-
0092 tal, Inc. shall be expected to invest its funds, and shall be
0093 recognized for outstanding knowledge and leadership in their
0094 fields.

0095 (h) The board has conducted a national search and has se-
0096 lected a president for Kansas Venture Capital, Inc. who meets a
0097 national standard of experience, ability and initiative for similar
0098 chief executive positions for venture capital corporations invest-
0099 ing high risk equity in firms which meet the purpose of this act.

0100 Sec. 3. K.S.A. 1986 Supp. 74-8307 is hereby amended to read
0101 as follows: 74-8307. (a) To continue in certification, a Kansas
0102 venture capital company must:

0103 (1) Invest at least 30% of its original capitalization at the end
0104 of the initial five years in such a manner as to acquire equity in
0105 the ventures in which the investments are made;

0106 (2) have invested at least 50% in the same manner at the end
0107 of seven years; and

0108 (3) have invested at least 75% in the same manner at the end
0109 of nine years.

0110 (b) At the end of the fifth year, seventh year and ninth year
0111 investment levels, at least 60% of the total investment of the
0112 Kansas venture capital company, *except for Kansas Venture*
0113 *Capital, Inc.*, must be in Kansas businesses in which the funds so
0114 invested were to be used solely for the purpose of enhancing
0115 their productive capacity within the state, or to add value to
0116 goods or services produced or processed within the state.

0117 (c) *Funds invested by Kansas Venture Capital, Inc. shall be*
0118 *invested at 100% in Kansas businesses or in Kansas venture*

0119 capital companies which invest 100% of the funds invested in
 0120 such companies by Kansas Venture Capital, Inc., in Kansas
 0121 businesses in which the funds so invested were to be used solely
 0122 for the purpose of enhancing their productive capacity within
 0123 the state, or to add value to goods or services produced or
 0124 processed within the state.

0125 ~~(e)~~ (d) No more than 20% of the assets of a Kansas venture
 0126 capital company may be invested in the equity of a single
 0127 business at any one time, unless the Kansas venture capital
 0128 company can reasonably demonstrate that a greater percentage
 0129 in a single company at any one time is the result of losses
 0130 suffered by the Kansas venture capital company in other invest-
 0131 ments.

0132 ~~(d)~~ (e) The use of invested funds by a Kansas business for oil
 0133 and gas exploration and development, for real estate develop-
 0134 ment or appreciation, for banking or lending operations, or
 0135 service or retail are not acceptable investments to qualify for the
 0136 tax credit provided in this act. Any investments by Kansas ven-
 0137 ture capital companies in any of these sectors shall not be
 0138 counted as equity investments for the purpose of continuing
 0139 certification under this section.

0140 ~~(e)~~ (f) Documents and other materials submitted by Kansas
 0141 venture capital companies or by Kansas businesses for purposes
 0142 of the continuance and certification shall not be public records if
 0143 such records are determined by the secretary to be trade or
 0144 business secrets under the uniform trade secrets act (K.S.A.
 0145 60-3320 to 60-3330), *inclusive, and amendments thereto*, and
 0146 shall be maintained in a secured environment by the secretary.

0147 Sec. ~~4.6~~ K.S.A. 1986 Supp. 74-8202, 74-8203 and 74-8307 are
 0148 hereby repealed. 17-7512

0149 Sec. ~~3.7~~ This act shall take effect and be in force from and
 0150 after its publication in the Kansas register.

Sec. 4. K.S.A. 1986 Supp
 74-8203 is hereby amended to
 read as follows: 74-8203.
Kansas Venture Capital, Inc.
shall not be deemed to be engaged
in banking within the meaning of
K.S.A. 79-1103.

Sec. 5. K.S.A. 17-7512 is
 hereby amended to read as
 follows: 17-7512. The
 provisions of the act [*]
 relating to the filing of annual
 reports and the payment of
 franchise taxes shall not apply
 to banking, insurance or
 savings and loan corporations
 or associations or to credit
 unions or any firemen's relief
 association under the
 jurisdiction and supervision of
 the insurance commissioner or
to Kansas Venture Capital, Inc.