

Approved: March 23, 1998
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman Bill Mason at 3:30 p.m. on March 19, 1998 in Room 423-S of the Capitol.

All members were present except: Barbara Allen (A)
Lisa Benlon (E)
Ethel Peterson (E)
Bob Tomlinson (E)

Committee staff present: Bob Nugent, Legislative Research Department
Renaee Jefferies, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairman Mason advised the committee of the poor health conditions of a House doorman, Harvey English. He is in critical care in the hospital and asked that the committee members keep him in their prayers.

Representative Beggs moved that the minutes from the March 18 meeting be approved. Representative Vickrey seconded the motion and the motion carried.

Chairman Mason directed the committee's attention to **SB 554**. He reviewed last week's meeting, when Rich Bendis asked for an amendment that would allow any unused funds or tax credits, that are not used in the purchase of the Ad Astra I and Ad Astra II, to be able to be used for additional investment in the fund. The two previous amendments were not sufficient and Bob Nugent was there to explain the latest amendment that would accomplish that intent.

Bob Nugent, Legislative Research Department. The proposed amendment to **SB 554** would add language that would clarify the intent of the bill (Attachment 1).

Representative Beggs moved that **SB 554** be moved out favorably with the balloon amendment. Representative Showalter seconded the amendment.

General discussion followed regarding the effective date. There are two different dates: one on the publication in the register and the other in the statute book.

Representative Kuether moved that Section 5 be amended to publication rule of Kansas statute. Representative Long seconded the motion.

Representative Beggs suggested that the original motion (see above) be modified to include the change of date to the publication in the statute book. The motion was carried.

The consensus of the committee is that the two bills **SB 554** and **SB 487**, if passed, are to be reconciled. This would be done by amending three sections in one of the bills so there is no conflict in language.

An information sheet on transferability of the tax credits that was discussed in yesterday's meeting was given to the committee members (Attachment 2).

A conference committee on **SB 416** will be sometime next week.

The next meeting is Monday, March 23 on Tiff financing for a Topeka project.

The meeting was adjourned at 3:45 p.m.

A taxpayer that has made such a cash investment pursuant to paragraph (f)(3) of K.S.A. 74-8303, and amendments thereto shall also be allowed a credit for additional cash investment pursuant to paragraphs (f)(1) and (f)(2) of K.S.A. 74-8303, and amendments thereto.

1 However, ~~any such \$6,012,345 of the allowed cash investment for~~
2 ~~which~~ credits which were not claimed for investments made prior to
3 January 1, 1991, may be allowed to a taxpayer for cash investment made
4 in taxable years prior to January 1, 2000, in the technology-based venture-
5 capital company authorized pursuant to K.S.A. 74-8316, and amendments
6 thereto, not to exceed the \$10,000,000 reserved under this subsection
7 pursuant to subsection (f)(3) of K.S.A. 74-8303 and amendments thereto.

8 (c) As used in this section:

9 (1) "local seed capital pool" means money invested in a fund estab-
10 lished to provide funding for use by small businesses for any one or more
11 of the following purposes: (A) Development of a prototype product or
12 process; (B) a marketing study to determine the feasibility of a new prod-
13 uct or process; or (C) a business plan for the development and production
14 of a new product or process;

15 (2) "Kansas business" means any small business owned by an individ-
16 ual, any partnership, association or corporation domiciled in Kansas, or
17 any corporation, even if a wholly owned subsidiary of a foreign corpora-
18 tion, that does business primarily in Kansas or does substantially all of its
19 production in Kansas.

20 (d) No credit from income tax liability shall be allowed for cash in-
21 vestment in a local seed capital pool unless: (1) The amount of private
22 cash investment therein is \$200,000 or more; (2) the moneys necessary
23 to administer and operate the pool are funded from sources other than
24 the private and public cash investments; and (3) funds invested by the
25 local seed capital pool shall be invested at 100% in Kansas businesses.

26 (e) Public funds may be invested in a local seed capital pool except
27 that each dollar of public funds, other than that which may be used to
28 administer and operate a pool, shall be matched by not less than \$2 of
29 private cash investment. Public funds shall have a senior position to any
30 private cash investment and may receive a lower rate of return than that
31 allowable for a private cash investment.

32 (f) The provisions of this section, and amendments thereto, shall be
33 applicable to all taxable years commencing after December 31, 1986.

34 Sec. 4. K.S.A. 74-8303 and K.S.A. 1997 Supp. 74-8304 and 74-8401
35 are hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its
37 publication in the Kansas register.

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ATTACHMENT 1

SESSION OF 1987

SUPPLEMENTAL NOTE ON SENATE BILL NO. 243

As Amended by Senate Committee on
Economic Development

Brief of Bill*

S.B. 243 amends the Kansas Venture Capital Company Act as follows:

1. defines cash investment to include equity and debt investments in venture capital companies;
2. eliminates the carryback provision for tax credits;
3. allows the authorized credit to be offset against total tax liability for a given year;
4. enables insurance companies to receive tax credits for investments in Kansas venture capital companies;
5. allows investors in Kansas venture capital companies to reserve tax credits if they enter binding investment contracts after the statutorily mandated \$1.5 million capitalization threshold has been reached.

S.B. 243 would allow investors who enter into such contracts to have upfront in cash one-half of the

* Bill briefs are prepared by the Legislative Research Department and do not express legislative intent.

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Attachment 2

pledged total investment in the current year. The second half of the pledged total amount must be remitted to the venture capital company within one year of that company's certification. Upon proper notification, the Secretary of Commerce is required to reserve a portion of the remaining venture capital tax credit for the investor, equal to the tax credit attributable to the remaining half of the committed investment specified in the binding investment contract.

Background

S.B. 243 was introduced at the request of the Kansas Funds Management Group, Inc., Hutchinson, a venture capital company. Under current law, the term "cash investment" is not defined statutorily. The definition of "cash investment" in this bill results from the Hutchinson company's belief that the term "investment" is often legally construed to include debt obligations but that investments involving normal debtor-creditor relationships should be excluded and only those investments imposing some risk on the investor business enterprise should be included. Another reason cited for the inclusion of debt instruments in the definition of "cash investment" is to enable special funds such as pension profit-sharing funds to invest in venture capital companies and receive tax credits for such investments. Under existing law, investors could not receive tax credits for debenture investments in venture capital companies. This bill, as amended, would allow insurance companies a credit against the domestic insurance company privilege tax for investments in certified venture capital companies; under existing law, the credit is available to them only for investments in Kansas Venture Capital Inc., (KVCII). This bill also provides for tax credits, pending availability, to be reserved for a portion of an investment for which there is a binding commitment. Under existing law, no such provision is statutorily set forth and such a policy, while not expressly prohibited by statute, would be subject to the interpretation of the Secretary of Commerce.