

Approved: February 12, 1998
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 10, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Donovan, Feleciano, Gooch, Jordan, Ranson, Steffes, Steineger and Umbarger.

Committee staff present: Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Rich Bendis, President, Kansas Technology Enterprise Corporation

Others attending: See attached list

Upon motion by Senator Jordan, seconded by Senator Umbarger, the Minutes of the February 5, 1998 Minutes were unanimously adopted.

The Chair announced letters from union members stating their support of **SB 305** are on file in the Committee Office.

SB 554 - Privatize Ad Astra I and II

Bob Nugent, Revisor of Statutes, stated **SB 554** is a companion to the bill privatizing Kansas Venture Capital, Inc. (KVCI), is another effort to get the state out of the direct investment business, and pertains to the Ad Astra I and II venture capital funds. Mr. Nugent stated that in order to understand **SB 554** it is necessary to be familiar with the organic Kansas Technology Enterprise Corporation (KTEC), particularly the provision which allows KTEC to exercise any powers a private corporation can exercise in order to carry forward its general mission.

Section 1, the definition of "Kansas business" and "Kansas venture capital company" is amended to include "*limited liability company*". Page 2, lines 7 and 8 adds an additional definition to the term "cash investment", "(3) *the purchase of an interest in a Kansas venture capital company from the Kansas technology enterprise corporation*". Page 3, sets aside \$6,012,345 in credits to a taxpayer for cash investment in venture capital, which is the other half of the KTEC and KVCI split. Page 4, line 2, following the word "investment", add the following: "in".

SB 554 authorizes tax credits be used to buy out state interest in KTEC companies, but does not set out a more definitive privatization plan as the KVCI legislation proposes, but relies on the KTEC organic act for the privatization process to take place.

In response to a question from the Committee, Mr. Nugent stated **SB 554** addresses primarily the tax credit because current law dealing with KTEC gives them the authority to privatize if they choose without additional legislation. Ad Astra I and II were not set up by statute. KTEC used its corporate powers to set up private seed and venture capital companies.

Rich Bendis, President, KTEC, testified in support of **SB 554**, stating the legislation is in response to the environment within the state during the past year regarding seed and venture capital and the controversy which arose. It is unfortunate because the state continues to have a lack of seed capital. Mr. Bendis stated the KTEC Board is evaluating the privatization of these funds whereby, if the controversy had not occurred privatization would not have been considered. (Attachment 1)

Mr. Bendis stated that as a result of the Joint Committee on Economic Developments review of seed and venture capital, a legislative post audit, the attorney general, KTEC's board, the Ad Astra review committee, FBI, KBI and numerous other investigative sources, KTEC and Campbell & Becker, managers of

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m.
on February 10, 1997.

the Ad Astra fund, have been found not to have done anything inappropriate in the management of venture capital and have meet all the intent of the seed and venture capital legislation. KTEC believes it is in the better interest of the companies who have invested in Ad Astra and are managed by Campbell & Becker to create a private mechanism to get additional venture capital.

Mr. Bendis stated **SB 554** provides that purchasers of KTEC's interest in Ad Astra Fund are qualified buyers and would be eligible for existing tax credits against Kansas income until the set aside is exhausted. Mr. Bendis stated under the Local Seed Capital Pools statute the \$6 million of cash investment in Sunflower Technology Fund, which KTEC has returned the state's investment of \$3.3 million with interest, would be eligible for 25% tax credits (\$1.5 million) which would be transferred to qualified buyers of KTEC's interests in the Ad Astra fund, if they were to be sold.

KTEC is of the belief that in order to keep an arms-length relationship and to eliminate any conflict of interest appearances, an independent third party investment banker should be retained to represent KTEC and act as financial intermediary to evaluate and conduct sale of KTEC's interest in Ad Astra funds. KTEC will conduct a sale through private auction or other bid process to obtain highest competitive price for the value of the state's assets. Mr. Bendis stated it is premature to be selling and liquidating this portfolio because full value is not going to be achieved until 3 to 5 years from now. The final sale will be subject to approval by KTEC Board of Directors, comprised of four legislators, Lieutenant Governor/Secretary Sherrer, Secretary Devine and persons from the private sector.

Mr. Bendis stated that with the state withdrawing from direct venture capital investments and an acknowledged shortage of seed and venture capital, a Best Practices Study should be conducted to identify successful venture capital formation policies in other states. Kansas, Inc., in cooperation with KTEC and Department of Commerce and Housing should conduct a Best Practices Study to identify successful venture capital formation policies in other states, and advise the Legislature and Administration of its recommendations.

In response to a Committee question Mr. Bendis stated the tax credits are available only to acquire the state's interest in the Ad Astra funds and not to make new investment capital. KTEC does not know whether the 25% tax credit is large enough to bring in investors, and there are other states that have more aggressive tax credit incentives. The Best Practice Study will be of assistance in determining what is best for Kansas in the area of tax credits or other legislative programs that can be created to entice seed and venture capital.

The hearing on **SB 554** was concluded.

The meeting was adjourned at 8:55 a.m.

The next meeting is scheduled for February 11, 1998.

Senate Committee on Commerce
SB 554
Rich Bendis, KTEC

What SB 554 Would Do

Kansas Venture Capital Company Act

- ◆ Purchase of KTEC's interests in Ad Astra funds would be eligible for existing tax credits against Kansas income if sold to qualified buyer(s).
- ◆ Clean-up language would be added to include "limited liability company" (a business structure which did not exist when original legislation written) along with current references to "partnership" and "corporation".
- ◆ Tax credits could be claimed until exhausted.

Local Seed Capital Pools Statute

- ◆ \$6.0 million of cash investment into STV currently eligible for 25 percent tax credits (\$1.5 million) would be transferred to qualified buyer(s) of KTEC's interests in Ad Astra fund, if sold.

What KTEC Would Do

- ◆ Retain investment banker to represent KTEC and act as financial intermediary to evaluate and conduct sale of KTEC's interests in Ad Astra funds.
- ◆ Conduct sale through private auction or other bid process to obtain highest competitive price.
- ◆ Final sale would be subject to approval by KTEC Board of Directors.

What State Needs To Do

- ◆ With State withdrawing from direct venture capital investments and an acknowledged shortage of seed and venture capital in Kansas, a Best Practices Study should be conducted to identify successful venture capital formation policies in other states.
- ◆ Kansas, Inc. - in cooperation with KTEC and KDOCH - would conduct the study and advise the Legislature and Administration on best practices and recommendations for Kansas.

Senate Commerce Committee

Date 2-10-98

Attachment # 1