

Approved: February 13, 1998  
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:15 a.m. on February 11, 1998 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:  
Tom Blackburn, Executive Vice President, Kansas Venture Capital, Inc.  
Rich Bendis, President, Kansas Technology Enterprise Corporation

Others attending: See attached list

Fiscal Note on **SB 554** was distributed to the Committee. (Attachment 1)

**SB 487 - Privatize Kansas Venture Capital, Inc.**

The Subcommittee composed of Senators Steffes, Ranson and Barone, reported to the full committee on **SB 487**.

Senator Steffes moved, seconded by Senator Ranson, that the Committee accept the Subcommittee Report which provides that the state be paid \$1 million on or before July 31, 1998, and \$1 million be paid on July 31 of each of the 4 succeeding years with the financial covenant that if capital falls below \$10 million, or any condition should arise that would jeopardize certification with SBIC, such repayment would be delayed until the financial capital is reestablished at the required level. The voice vote was in favor of the motion.

The subcommittee discussed and considered options dealing with the advisability of obtaining an outside evaluation (sometimes referred to as a fairness opinion) of the value of the preferred stock which would be represented by this action. When considering the original intent of the state in making this investment, timeliness, cost and the limited liquidity of the preferred stock, it was determined that it was not necessary to seek an outside opinion and to accept KVC's offer.

The Committee discussed tax credits provided for in **SB 487**; clarified that KVC must meet the requirements of a Kansas certified venture capital company until such time as the state has received its investment of \$5 million; determined that the provision in **SB 487** providing for the transfer of the repayment money be paid into the Public Water Supply Loan Fund is subject to appropriations.

The Chair advised that the Committee will consider **SB 487** when a copy of the amended bill is available.

**SB 554 - Privatize Ad Astra I and II**

Rich Bendis, President, KTEC, responded to a question from the Committee regarding what power the managing partner, Campbell and Becker, has in a decision to bring in a new limited partner to buy out the state's interest. According to KTEC counsel, Campbell and Becker has the right to approve a buyer as a substitute limited partner, but that does not equate to veto power. If Campbell and Becker does not like the person KTEC brings in, there is no prohibition against KTEC selling its interest under contract to that new buyer and remaining the limited partner in the fund, acting on behalf of the contracted partner's interest. Campbell and Becker do not have the power to veto KTEC's decision to contract with a potential partner and sell the state's interest to them, get the money and KTEC still act on behalf of the new limited partner. These are the legal rights KTEC has, it is not necessarily a desirable situation because it is preferable to have a new limited partner who has worked in conjunction with the managing partner to try to enhance the value of the whole portfolio on everyone's behalf.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m.  
on February , 1998.

The Chair stated **SB 554** recreates tax credits that did sunset January 1, 1998 and allows the board of KTEC to evaluate the sale of the state's interest to a private investor. The tax credit in **SB 554** is to be used only by a new purchaser of the existing state interest in the Ad Astra funds.

Mr. Nugent, Revisor of Statutes, stated **SB 554**, as written needs to be amended on: Page 3, Line 7, 8 and 9, by striking all the old language; line 43, following "\$6,012,345, by inserting "in cash investment for which" and strike the words "of the". page 4, line 3 strike the words "venture capital".

Mr. Bendis stated KTEC's motivation for selling the state's interest is basically, that state and private funds might not mix. The KTEC manager, Campbell and Becker, has been damaged, the portfolio companies in the Ad Astra funds has lost ground rather than going forward. If it is the decision for the state not to stay involved in direct investment for venture capital, KTEC has come to the conclusion that it would be feasible to evaluate taking the state out and bringing a private investor in to run the fund as a private fund. Even though KTEC has the potential ability to do a staggered payment over 4 or 5 years or 10 years with a potential buyer, one of the important criteria is to identify a buyer who has the the capability to come up with the capital acceptable to KTEC, because KTEC believes that if privatization is the desire, it should be done now at one time. State regulations continue to apply. KTEC still will have reporting requirements to the state and accountability as long as it is making payments. KTEC's objectives are different from KVCI, which is why there is a companion bill and not a similar bill. KTEC's position is that it would like to evaluate the ability to privatize the Ad Astra funds, seek a qualified buyer who would like to continue to make investments in this type of businesses in the state, and try to come up with a lump sum payment so that Ad Astra is a private fund as soon as it is economically feasible and justifiable to the tax payers.

Senator Kerr, a visitor to the Committee, asked to clarify what it is KTEC has to sell. It is a limited partnership and by definition a limited partner cannot be involved in management of that partnership or they risk losing limited liability status. The Committee should understand that what KTEC has to sell is a small piece of the general partnership as well. Campbell and Becker has a 16% interest of the total 20% which makes up the general partnership and KTEC has 4%.

The Chair stated the Committee would take no action on **SB 554** until the amendments are completed and submitted to the Committee. The amendments will include reconciliation of statutes amended by both **SB 487 and SB 554**.

The Committee was adjourned at 8:50 a.m.

The next meeting is scheduled for February 12, 1998.

The next meeting is scheduled for

# SENATE COMMERCE COMMITTEE COMMITTEE GUEST LIST

DATE: February 11, 1998

NAME	REPRESENTING
John D. Pingan	SITA
BOB GRANT	KCCY
Robert Froude	Ks Gov. Consulting
Cindy Diehl	KTEC
Steve Jay	KTEC
Andis Dittenbach	KTEC
Michael Miller	K5 Inc
Mark Barcellona	KDOGAH
Auan Foster	Legislative Post Audit
MIKE WOSCIUK	KTEC
Rick Bondis	KTEC
Jane Willis	self
Bill Sneed	KVC
Tom Blackburn	KVCI
John Dalto	KVCI