

Approved: March 10, 1999
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 9, 1999 in Room 123-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:
Charles Ranson, President, Kansas, Inc.

Others attending: See attached list

Senator Brownlee moved, seconded by Senator Ranson that the Minutes of March 5, 1999, be corrected by inserting the word "commission" before the word "rules" and by striking the word "guidelines" where it might appear in SB 290.

Senator Steffes moved, seconded by Senator Barone that the Minutes of March 5, 1999 be approved as corrected. The vote was in favor of the motion.

SB 315 - Certified Capital Company Act.

Charles Ranson, President, Kansas, Inc., testified in support of **SB 315**, stating the bill utilizes the concept of tax credits to generate seed capital in the state, while providing a transparent operational environment for administrators, policymakers and the general public.

Kansas Inc. staff, was charged by its Board of Directors, to conduct a best practices study to identify effective alternatives to direct public funding of seed and venture capital in Kansas. A technical advisory committee, comprised of 20 Kansans, provided guidance and oversight of the study. The research focused on successful development funds to determine common factors and alternatives for funding. The researchers and technical advisory committee made certain specific recommendations, the concepts of which are embodied in **SB 315**.

Kansas, Inc., believes **SB 315** is its last chance for a long time to demonstrate that a seed capital program can be put in place in Kansas and one that will inspire public confidence. **SB 315** provides for accountability through oversight by the Kansas Securities Commission, creates a transparent program in which the public can see and understand how the system operates, creates a competitive process for access to funds, privatizes risk to the extent possible, and protects the vital business secrets of Kansas companies who are in need of seed capital. (Attachment 1)

Lynne Holt, Research Analyst, briefed the Committee on provisions of **SB 315**, stating the bill creates the Kansas Certified Capital Company Act (Capco) to enhance the development of seed and venture capital in Kansas and to support the modernization and expansion of the state's rural economy. The bill defines a "certified capital company"; establishes certain criteria that must be met in order for a business to be considered a qualified Kansas business; establishes the type of business; establishes procedures for investment in certified capital companies; delineates guidelines for the Securities Commissioner to use in fulfilling certification duties; establishes minimum capitalization levels of Capco, as well as investment requirements; outlines payment of investment returns to investors; establishes a Capco's reporting requirements; provides for confidentiality of certification documents; and requires the Securities Commissioner to conduct an annual review of all certified capital companies. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on March 9, 1999.

Mr. Ranson submitted proposed amendments to ensure participating companies maintain their investments in Kansas; to broaden the definition of "qualified Kansas business" and provide economic development opportunities for small communities; and clarify that more than 50% of a business involved in interstate commerce their gross revenues are derived from sales outside of the state of Kansas within a three year period. Additional technical amendments were submitted. (Attachment 3)

The meeting adjourned at 9:05 a.m.

The next meeting is scheduled for March 10, 1999.

Kansas, Inc. Testimony

S.B. 315

Presented to the
Senate Commerce Committee
March 9, 1999

Over the past decade, the Kansas Legislature appropriated \$9.8 million for development of seed and venture capital funds in Kansas. These appropriations leveraged nearly 8 and a half million dollars in additional private investment. All of these funds were invested in three newly organized, privately managed investment funds, Ad Astra I and II, and Kansas, Venture Capital, Inc. (KVCII). Investors in these funds received a 25% state income tax credit in consideration of their investment. In addition to the three privately managed risk capital funds in which state funds were invested, slightly more than a dozen privately held seed and venture funds came into being with the encouragement of a similar tax credit. As a result, nearly \$37 million in private venture capital funds have been raised, and over \$9.0 million in state income tax credits have been granted to investors since 1986.

A series of media stories focused public attention on investment decisions and operational management of two of the three privately managed funds in which state funds had been directly invested. A thorough investigation found no evidence of misfeasance or malfeasance. However, with the issue of public ownership in private enterprises once raised, concerns were voiced over how to meet the needs of the start-up business in this state most likely, if successful, to lead the State in job creation and income generation. At the same time, policymakers asked "how do we create a program which will inspire public confidence based on clear transparency of operation and strong accountability. This conflict gave rise to two very basic public policy questions - should state dollars be directly invested in seed and venture capital funds? And, what viable alternatives to direct public funding exist?

In the Summer of 1997, the Kansas, Inc. Board of Directors charged Kansas, Inc. staff to conduct a best practices study which would identify effective alternatives to direct public funding of seed and venture capital in Kansas. The Board further directed that the study evaluate and consider how alternative policies and/or incentives used by other states may be adapted to encourage development of sufficient private seed and venture capital in Kansas.

To assure the best possible study, Kansas, Inc. convened a technical advisory committee comprised of 20 Kansans asked to provide guidance and oversight of the study. Members of the committee included representatives of the seed and venture capital community, entrepreneurs engaged in securing seed and venture capital, and representatives of the public sector. It is important here and now to acknowledge the partnership created among the Kansas Department of Commerce & Housing, KTEC and Kansas, Inc. in the performance of this study. I must publicly express my thanks to

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Secretary Sherrer and to Rich Bendis and the KTEC Board for their cooperation and assistance with this challenging project.

The technical advisory committee met September 2 to review and make suggestions to the draft results of the study brought to it by the research team. The following day, these results were presented to the Kansas, Inc. Board of Directors. The Board voted to accept the preliminary research report and its key finding that we in Kansas suffer a critical shortage of seed capital available to start-up businesses. Further, the Board voted, in principle, to support the concept of the utilization of tax credits to help generate seed capital in the state. On December 7, the Board accepted the final report and recommendations. From this report, the legislation now before you as S.B. 315 was developed. Throughout, our goal has been to meet the critical need for seed capital and to do so in a way that assures accountability, while at the same time protecting the confidentiality of sensitive proprietary company information. All of this must be done in a transparent environment in which administrators, policymakers and the general public can see a program in which everything is clear, fair and above board.

Our research efforts focused upon case studies of 10 successful development funds. Our review of these successful funds found eight factors common to all. These common factors are

- ◆ A market large enough to generate sufficient deal flow.
- ◆ Fund goals focus first on returns and assume that economic benefit will follow.
- ◆ Management matters most and is compensated appropriately.
- ◆ Financial Structure focuses on net internal rate of return.
- ◆ Fund size is optimum for early stage focus and follow on investments.
- ◆ Legal structure preferred by investors is a 10 year limited partnership.
- ◆ Marketing helps generate deal flow.
- ◆ Public Accountability and oversight focuses only on overall economic portfolio returns, while protecting confidentiality and guarding against conflict of interest.

The report discussed alternatives for funding, and found that

- ◆ The most common alternative to public investment in technology development is the investment of retained earnings by large multinational corporations resident in the state.
- ◆ For a variety of reasons, relying on multinational corporations is not a viable alternative for Kansas.

Having specifically determined presence of a need for seed stage capital, the researchers and technical advisory committee made the findings & recommendations for developing sufficient seed stage venture capital in Kansas. Specifically, it is recommended

- ◆ that Kansas promote the growth of its new business by creating one or more \$10 million seed capital fund(s) based on Kansas Tax Credits which would be accessed through a competitive process.
- ◆ The report found that tax credits are necessary, based on the fact that only in Silicon Valley and in the Route 128 corridor has seed capital has been created in sufficient amounts without direct public investment or tax credits. Even there, the underlying infrastructure -- national laboratories, defense research facilities and universities with a fundamental commitment to basic research, were beneficiaries of enormous investment of federal dollars. In this context, that is why the success of Senator Pat Roberts' Science, Technology and the Future Committee is an important corollary to what we talk about today.
- ◆ The report recommends that a system be established which separates the source of funds from the use of funds. S.B. 315 accomplishes this by developing a process in which qualified venture capital partnerships, from in-state or out-of-state, access funds generated by Kansas tax credits through a competitive process in which the investors have no control over how the funds are invested.

The report did discuss a model in use in Oklahoma which relies on stand-by tax credits. This approach, though having considerable appeal as a magnet to major investors, was rejected in development of S.B. 315 because it is a more complex model which introduces additional intermediaries into the process. Complexity reduces transparency - and transparency is quality which Kansas, Inc. believes essential to creation of a model which will inspire public confidence and help heal the divisions of the past.

The second alternative proposed is the one embodied in S.B. 315. It is the alternative by which Kansas adopts a modified capital company model to import capital of institutional investors from out of state to complement Kansas capital that may become available through offer of the tax credit.

In simplest form, the concept originally developed in Louisiana and set forth in S.B. 315, offers tax credits to out-of-state corporations such as insurance companies in exchange for their investment in a certified capital company which then would invest seed capital in Kansas' entrepreneurial businesses. In developing S.B. 315, we have recommended that qualifying CAPCO investment be broadened to offer Kansas corporations and qualified individual investors (who have sufficient net worth to withstand the risk associated with these investments) the opportunity to become partners in the process of growing a new and stronger Kansas economy.

Madam Chair and members of the Committee, in taking on the challenge of producing this best practices study and in developing the legislation that is before you today, all of us — the Kansas, Inc. staff, the technical advisory committee and the research consultant, are very much aware of the painful past associated with the issue of venture capital in Kansas. The fact that we have been through this experience makes it all the

more important that we look at S.B. 315 in a rational and non-emotional way. We believe, as does the Board of Directors of Kansas, Inc., that we have given this Legislature a strong foundation upon which to close the door on the past while taking a realistic and constructive look at our present and future needs for the risk capital essential to growing a more diverse and resilient Kansas economy in the century ahead.

We know that many members have given a clear voice to their opposition to direct state investment in companies, and to the implication that the state is picking winners and losers. We know that this may be our last chance for a long time to demonstrate that a seed capital program can be put in place here that will inspire public confidence. S.B. 315 meets this challenge by assuring strong accountability through oversight by the Kansas Securities Commission, and S.B. 315 meets the additional challenge of creating a transparent program in which the public can clearly see and understand how this system operates.

Having things in the open, making this a competitive process for access to funds, separating the source and use of funds, privatizing risk to the maximum extent possible, and protecting the vital business secrets of the Kansas companies who are in critical need of seed capital, as I suggest, the best antidote for curing the plague which has infected this vital public policy area in Kansas.

Tomorrow you will hear from the entrepreneurs themselves. They are among our brightest and best. In an era where many express deep concern about the loss of so many young Kansans to other parts of the country when they complete their schooling, these risk-takers have made a commitment to building the fortunes and their futures in Kansas. Unless, however, they find partners willing and able to provide the capital resources to enable their growth and success, theirs may be among the next trucks leaving our state and taking with them the best hope for our brightest future. This Committee must provide the leadership to launch that partnership.

Thank you.

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March 5, 1999

To: Senate Commerce Committee

From: Lynne Holt, Principal Analyst

Re: S.B. 315

The following overview of the bill used, as a departure point, a summary of the bill in the Division of the Budget's fiscal note. This summary is, in my opinion, very readable and I have made certain adaptations to it.

New Section 1. S.B. 315 would create the Kansas Certified Capital Company Act. The stated purpose of this Act would be to enhance the development of seed and venture capital in Kansas and to support the modernization and expansion of the state's rural economy. (**Staff Note:** there is no reference to investments in rural areas in the remainder of the bill. However, this issue might be addressed in one of Kansas Inc.'s proposed amendments.)

New Section 1 (a). A certified capital company is defined as any partnership, corporation, or limited liability corporation that is domiciled in Kansas and whose primary business activity is the investment of cash in qualified Kansas businesses as certified by the Securities Commissioner of Kansas. A certified capital company (hereafter, referred to as a capco in (b)) may be organized on a profit or not-for-profit basis.

New Section 1 (o). The bill would require the following criteria be met in order for a business to be considered a qualified Kansas business:

- The business must be independently owned and operated and have its principal place of business in Kansas, or be an out-of-state company that will locate its offices in Kansas within six months of the date of initial investment.
- The business must have no more than 50 FTE employees, half of whom will live in Kansas, (**Staff Note:** Kansas Inc. will be presenting an amendment on this provision and two other amendments defining a "qualified Kansas business.")
- The business must need venture capital and be unable to receive conventional financing.
- The business must engage in one of the following activities: manufacture, process, or distribute products; conduct research and development; or provide services in interstate commerce while certifying that the company derives at least half of its business outside of Kansas or will do so within three years if it is an "early stage business." (**Staff Note:** This is not defined (p. 3, l. 8). Presumably, the business lacks a history of revenue.)

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Attachment # 2-1 thru 2-3

New Section 1 (o) (3). This subsection excludes from the definition of "qualified Kansas business" retail, professional services (reference to K.S.A. 17-2707), banking, real estate, insurance, passive business operations, oil and gas exploration and development enterprises, and any affiliate, subsidiary, or investor of the certified capital company investing in the qualified Kansas business. An affiliate of a certified venture capital company and of an investor is defined further in (p) and (q), p. 4.

New Section 1 (o) (4). This subsection requires a qualified Kansas business, at the time it makes its initial investment, to certify the business will remain located in Kansas for the next ten years. Any new manufacturing facility financed directly by the investment must be located in and remain in Kansas for an additional ten years. (**Staff Note:** Why is the operation only restricted to manufacturing as other types of businesses may be authorized for the qualified Kansas business?)

New Section 2 addresses the tax credits allocated investors. Any investor making a certified capital investment would earn a "vested" income, premium, or privilege tax credit, as authorized in New Section 1 (c), against state tax liability of 100.0 percent of the amount of the investment. (**Staff Note:** I am uncertain what "vested" in this context means (p. 4, l. 31 and 34) because investors might not be able to claim tax credits if a capco is decertified.) The investor could use up to 10.0 percent of that tax credit each year, beginning in calendar year 2001. If an investor is an individual, he or she would be required to have a net worth of at least \$1 million. That net worth must be at least ten times his or her investment in a certified capital company. (**Staff Note:** New Section 2(c) might need a technical amendment to clarify intent.) The minimum capital investment for an individual, corporation, company, or partnership would be \$50,000. The total amount of tax credit allowed under this Act would be \$50.0 million, not more than \$5.0 million of which could be claimed each year. All of the tax credit provisions contained in this bill would be administered by the Kansas Securities Commissioner.

New Section 3 relates to the certification of capcos. This section delineates the guidelines for the Securities Commissioner to use in fulfilling certification duties. Subsection 3 (b) requires a capco to have at least \$500,000 to be certified and continue to maintain at least that amount in assets throughout its participation in the program. Other requirements pertain to the managers, officers, general partners, and beneficial owners of capcos.

New Section 4 relates to capitalization of a capco. Capcos would have a maximum of 365 days in which to reach their minimum capitalization level. For new capcos developed through this act, that minimum would be \$5.0 million; for investment in the Kansas Technology Enterprise Corporation's innovation and commercialization corporations and affiliates, that minimum would be \$1.0 million.

New Section 5 concerns the continued certification, distributions, and reporting requirements of capcos. In order to remain certified, a capco would have to invest specified percentages of its funds in qualified companies following a predetermined time line. A company's funds would have to be invested as follows: 25.0 percent by year three; 40.0 percent by year four; 50.0 percent by year five; and 70.0 percent by year seven.

The capco is prohibited from making an investment in an affiliate of the capco or an affiliate of an investor. (See definitions in New Section 1 (p) and (q).)

Sections 5 (c) and (d) outline measures for the payment of investment returns to investors. Any liquidating distributions by capcos in excess of the total amount of initial investment would be subject to an audit, approved by the Securities Commissioner, and financed by the individual company. The purpose of the audit would be to determine whether the investors gained an annual internal rate of return of 15.0 percent or more. If the audit determined that they did, the company would be required to pay the State of Kansas 25.0 percent of the portion of the distribution that exceeds total initial investment in the company, after expenses. **(Staff Note:** Should language be included to credit the 25 percent paid to the state to a specific fund?)

New Section 5 (e). To protect confidentiality of capcos and businesses with respect to initial and continuing certification, the Securities Commissioner could not treat submitted documentation as public information.

New Section 5 (f) pertains to a capco's reporting requirements. Those requirements include annual audited financial statements and an attestation that the capco, at the end of each quarter, has invested no more than 20 percent of its assets in a qualified Kansas business at any one time unless the capco can demonstrate that a greater investment in the business is caused by losses experienced by the capco in other portfolio investments.

New Section 6. In order to ensure that all investments comply with this Act, the Securities Commissioner would be required to conduct an annual review of all certified capital companies. The bill provides guidelines for the revocation or decertification of a capco, including the recapture of tax credits by the state. **(Staff Note:** The Committee might want to clarify that grounds for decertification of a capco if there is a violation of the Act (p. 10, l. 6-7) will not apply to Section 1 (o)(4) if a qualified Kansas business moves out of state prior to meeting its ten-year commitment. The reason for this clarification is that a capco will not have any controlling interest over a qualified Kansas business.)

New Section 7. The Securities Commissioner would be responsible for preparing an annual report to the Governor and the Legislature on the status of certified capital companies.

New Section 8 pertains to grounds for decertification of capcos if there are violations in connection with applications filed or the application process.

New Section 9 outlines the disposition of the sale and transfer of tax credits, including the recapture of tax credits. This section requires the Commission to promulgate rules and regulations to execute the provisions of the Act. **(Staff Note:** Should New Section 9 (d) be in a separate section?)

Section 10. This section amends existing law which exempts certain companies from business registration requirements. Capcos would be included in the list of companies that are exempt from certain registration requirements.

Kansas Inc. plans to offer several technical amendments.

9 AN ACT concerning venture capital; enacting the Kansas certified capital
10 company act; amending K.S.A. 1998 Supp. 17-1262 and repealing the
11 existing section.
12

13 Be it enacted by the Legislature of the State of Kansas:

14 New Section 1. This act shall be known and may be cited as the
15 "Kansas Certified Capital Company Act". The purpose of this act is to
16 enhance the development of seed and venture capital in Kansas and to
17 support the modernization and expansion of the state's rural economy.
18 As used in this act, the following terms mean:

19 (a) "Certified capital company" means any partnership, corporation,
20 trust or limited liability company, whether organized on a profit or not
21 for profit basis, that is domiciled in and qualified to conduct business in
22 Kansas and that has as its primary business activity, the investment of cash
23 in qualified Kansas businesses, and which is certified by the securities
24 commissioner of Kansas as satisfying the criteria of this act.

25 (b) "Capco" means any certified capital company.

26 (c) "Tax credit" means a transferable, non-refundable credit against
27 the tax imposed by the Kansas income tax act, the premium tax or priv-
28 ilege fee imposed pursuant to K.S.A. 40-252, and amendments thereto,
29 or the privilege tax as measured by net income of financial institutions
30 imposed pursuant to chapter 79, article 11 of the Kansas Statutes
31 Annotated.

32 (d) "Applicable percentage" means one hundred percent.

33 (e) "Capital in a qualified Kansas business" means any note, stock,
34 partnership or membership interest or other form of equity investment
35 or hybrid security, of any nature and description whatsoever, including a
36 debt instrument or security which has the characteristics of indebtedness
37 but which provides for conversion into equity or equity participation in-
38 struments such as options or warrants which are acquired by a Kansas
39 certified capital company as a result of a transfer of cash to a business.
40 Capital in a qualified Kansas business shall not include secured debt
41 instruments.

42 (f) "Certified capital investment" means an investment of cash by an
43 investor made in such manner as to acquire a beneficial ownership inter-

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Attachment # 3-1 thru 3-14

1 est in a Kansas certified capital company.

2 (g) "Certified capital" means cash, marketable securities and other
3 liquid assets held by a certified capital company equal to the amount of
4 certified capital investment made by investors in the certified capital
5 company.

6 (h) "Commission" means the Kansas securities commission.

7 (i) "Commissioner" means the securities commissioner of Kansas or
8 a person acting under the supervision of the commissioner.

9 (j) "Investor" means any natural person or entity, including a cor-
10 poration, limited liability company, general or limited partnership, trust
11 or limited liability company that invests cash.

12 (k) "Liquidating distribution" means payments remitted to investors
13 or to the certified capital company derived from earnings.

14 (l) "Person" means any natural person or entity, including a corpo-
15 ration, limited liability company, general or limited partnership, trust or
16 limited liability company.

17 (m) "Qualified distribution" means any distribution or payment re-
18 mitted to equity holders of a certified capital company in connection with
19 the following:

20 (1) Reasonable costs and expenses of forming, syndicating, managing
21 or operating the certified capital company;

22 (2) Fees paid to qualified managers for managing or operating the
23 certified capital company.

24 (n) "Qualified venture capital investment" means the investment of
25 cash by a Kansas certified capital company in such a manner as to acquire
26 capital in a qualified Kansas business.

27 (o) "Qualified Kansas business" means:

28 (1) A business that satisfies the requirements of paragraphs (A)
29 through ~~(B)~~ (G) of this subsection.

30 (A) Such business is independently owned and operated and has its
31 principal business office located in Kansas or, in the case of a company
32 domiciled outside the state of Kansas, which certifies that the company's
33 principal business office will be located in Kansas within six months fol-
34 lowing the date of the initial investment;

35 ~~(B) such business shall, at the time of the initial qualified venture~~
36 ~~capital investment, have no more than 50 full time equivalent employees,~~
37 ~~at least fifty percent of whom are resident in Kansas or, in the case of a~~
38 ~~company domiciled outside the state of Kansas, certifies that at least fifty~~
39 ~~percent of its employees will be resident in Kansas within six months~~
40 ~~following the date of the initial qualified venture capital investment.~~ *At least 50 percent of the employees of such*
business shall be resident within the state of Kansas or certify that at least fifty percent of its employees shall be
resident within the state of Kansas within six months following the date of the initial investment.

(C) Such business shall, at the time of the initial qualified venture capital investment have been in existence for five
years or less, and have gross sales during its most recent complete fiscal year of not more than three million dollars,
or;

(D) in lieu of the requirements of 2(c), such business shall be located in a county with a population of 75,000 or less,
and at the time of the initial qualified venture capital investment, have no more than 100 full time equivalent
employees.

41 (E) such business is in need of venture capital and cannot obtain
42 conventional financing to fund its further development and future
43 operations;

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1 (F) such business shall be engaged in commerce for the purpose of
2 manufacturing, processing or assembling or distributing products, con-
3 ducting research and development or providing services in interstate
4 commerce.

5 (G) For businesses involved in commerce for the purpose of provid-
6 ing services in interstate commerce, that business must demonstrate that
7 more than fifty percent of its gross revenues are derived from sales out-
8 side the state of Kansas, or ~~in the case of an early stage business~~, provide
9 reasonable documentation that the company will derive at least fifty per-
10 cent of its gross sales outside the state within a three-year period.

11 (2) Any business which, subject to audit, is properly classified as a
12 qualified Kansas business at the time of the first qualified venture capital
13 investment in such business by a Kansas certified capital company shall,
14 for a period of seven years following the date of such first investment,
15 continue to be classified as a qualified Kansas business and may receive
16 follow-on investments from any Kansas certified capital company, and
17 such follow-on investments shall constitute qualified venture capital in-
18 vestments even though such business may not meet other qualifications
19 of this subsection at the time of such follow-on investments.

20 (3) A qualified Kansas business shall not include:

21 (A) Any commercial enterprise primarily engaged in the sale at retail
22 of goods or services taxable under the Kansas retailer's sales tax act; any
23 service provider set forth in K.S.A. 17-2707, and amendments thereto;
24 any bank, savings and loan or lending institution; any real estate, real
25 estate development or insurance company; or any commercial enterprise
26 deriving its revenues directly from noncommercial customers in exchange
27 for personal services;

28 (B) a business engaged primarily as a passive business, irregular or
29 noncontinuous operations, or which derives substantially all of its income
30 from passive investments that generate interest, dividends, royalties or
31 capital gains;

32 (C) a business engaged in oil and gas exploration and development;

33 (D) a subsidiary of a certified capital company;

34 (E) another certified capital company;

35 (F) an affiliate of the certified capital company;

36 (G) an investor of the certified capital company or an affiliate or sub-
37 sidiary of an investor of the certified capital company unless approved in
38 writing by the commissioner.

39 (4) At the time of the initial qualified venture capital investment, the
40 qualified Kansas business shall certify that the business shall remain dom-
41 iciled in Kansas for the next 10 years and any new manufacturing facility
42 financed directly by a qualified investment shall be located in and shall
43 remain in Kansas for the 10 years following.

1 (p) "Affiliate of a certified capital company" means:

2 (1) any person that directly or indirectly, owns, controls or possesses
3 the power or ability to vote ten percent or more of the outstanding voting
4 securities or other beneficial ownership interests of the Kansas certified
5 capital company;

6 (2) any person ten percent or more of whose outstanding voting se-
7 curities or other beneficial ownership interests are directly or indirectly
8 owned, controlled or possessed with the power to be voted by the Kansas
9 certified capital company;

10 (3) any person directly or indirectly controlling, controlled by, or un-
11 der common control with the Kansas certified capital company;

12 (4) any partnership in which the Kansas certified capital company is
13 a general partner;

14 (5) any person who is an officer, director, general partner, managing
15 member, manager director or agent of the Kansas certified capital com-
16 pany or an immediate family member of such person.

17 (q) "Affiliate of an investor" means:

18 (1) Any person that directly or indirectly, owns, controls or possesses
19 the power or ability to vote ten percent or more of the outstanding voting
20 securities or other beneficial ownership interests of the investor;

21 (2) any person ten percent or more of whose outstanding voting se-
22 curities or other beneficial ownership interests are directly or indirectly
23 owned, controlled, or possessed with the power to be voted by the
24 investor;

25 (3) any person directly or indirectly controlling, controlled by or un-
26 der common control with the investor;

27 (4) a partnership in which the investor is a general partner;

28 (5) any person who is an officer, director or agent of the investor or
29 an immediate family member of such officer, director or agent.

30 (r) "*in existence*" means: *the date of the first sale.*

31 New Sec. 2. (a) Any investor that makes a certified capital investment
32 shall earn a ~~vested~~ tax credit against state tax liability equal to 100% of
33 the amount of such investor's certified capital investment. An investor, or
34 person to whom the credits were duly transferred, shall be entitled to use
35 not more than 10% of the vested credit per year beginning with tax filings
36 for calendar year 2001. Any tax credit not used by an investor, or a person
37 to whom the credits were duly transferred, in any single year may be
38 carried forward and applied against tax liabilities of such investor or trans-
39 feree for subsequent calendar years.

40 (b) A tax credit claimed against state tax liability as described in sub-
41 section (a) may not exceed the state tax liability of the investor, or person
42 to whom the credits were duly transferred, for any taxable year. All such
43 credits against state tax liability may be carried forward indefinitely until
the credits are utilized.

1 (c) If the investor is an individual, the investor's ~~shall have a~~ personal
2 net worth ~~of shall be~~ at least \$1,000,000 and *it shall be* at least ten times the amount of such
3 investor's certified capital investment in a capco. The investor's net worth
4 shall not include the value of any equity in such investor's primary
5 residence.

6 (d) No certified capital investment in a capco by any one person shall
7 be less than \$50,000.

8 (e) The commission shall be responsible for the administration of the
9 tax credits authorized by this act.

10 (f) The total amount of tax credits which may be allocated by the
11 commissioner shall not exceed \$50,000,000. The total amount of tax cred-
12 its which may be claimed under this act shall not exceed \$5,000,000 per
13 year.

14 New Sec. 3. (a) The commissioner may certify profit or not-for-profit
15 entities which submit an application to be designated as a capco. The
16 commissioner shall compile a list of every capco, including the address
17 and telephone number of the capco's principal place of business. The
18 commissioner shall forward the list to the secretary of commerce and
19 housing. The secretary of commerce and housing shall publicize the list
20 in order to inform Kansas companies of the availability of potential in-
21 vestment capital. The commission shall review the organizational docu-
22 ments for each applicant for certification and the business history of the
23 applicant to determine:

24 (1) that at the time of application, the applicant owns cash, market-
25 able securities and other liquid assets valued at no less than \$500,000, or
26 that the applicant is designated as an innovation and commercialization
27 corporation or an affiliate of an innovation and commercialization cor-
28 poration created under the Kansas technology enterprise corporation in-
29 novation and commercialization corporation program;

30 (2) that the officers and the board of directors, general partners, trus-
31 tees, managing members, or managers, as the case may be, are thoroughly
32 acquainted with the requirements of this act and acknowledge such by a
33 signed certification.

34 (b) To continue to be certified, the capco must own and shall peri-
35 odically provide information to the commissioner as the commissioner
36 may require in order for the commissioner to determine that the liquid
37 asset base for the certified capital company is at least \$500,000 at all times
38 during the capco's participation in the program authorized by this act or
39 that such moneys have been used for making qualified venture capital
40 investments.

41 (c) No entity which submits an application to be designated as a capco
42 shall be certified by the commissioner if any of its directors, trustees,
43 managers, officers, general partners, beneficial owners of 10% or more

1 of any class of its equity securities, or any promoters employed or oth-
2 erwise associated with it at the time of such application:

3 (1) Has been affiliated with any company that has filed a registration
4 statement which is subject to a currently effective stop order entered
5 pursuant to any state law;

6 (2) has been convicted of any felony or misdemeanor in connection
7 with the purchase or sale of any security or any felony involving fraud or
8 deceit including, but not limited to, forgery, embezzlement, obtaining
9 money under false pretenses, larceny or conspiracy to defraud;

10 (3) is currently subject to any state administrative order or judgment
11 entered by a state securities administrator or is subject to any state ad-
12 ministrative order or judgment in which fraud or deceit was found and
13 an order or judgment was entered;

14 (4) is currently subject to any state administrative order or judgment
15 which prohibits the use of any exemption from registration in connection
16 with the purchase or sale of securities;

17 (5) is subject to any order, judgment or decree of any court of com-
18 petent jurisdiction temporarily or preliminarily restraining or enjoining,
19 or is subject to any order, judgment or decree of any court of competent
20 jurisdiction permanently restraining or enjoining that person from engag-
21 ing in or continuing any conduct or practice in connection with the pur-
22 chase or sale of any security, rendering investment advice, or involving
23 the making or any false filing with any state;

24 (6) has been convicted of or plead nolo contendere to any criminal
25 offense other than a misdemeanor involving motor vehicle violations.

26 (d) The commissioner shall further review documentation regarding
27 the qualifications of the persons who will actively manage the capco and
28 make a determination as to whether such persons possessed sufficient
29 knowledge and professional experience in the areas of investment, ven-
30 ture capital, business management and evaluation, portfolio management,
31 and such other area of expertise to the degree that a reasonable person
32 would be confident in such manager's ability to manage the capco. No
33 certification shall be issued when it is the opinion of the commissioner
34 that such persons do not possess this requisite degree of knowledge and
35 expertise.

36 (e) No investor shall individually, or collectively with or through one
37 or more affiliates, by means of ownership, agreement or otherwise, own,
38 control, or possess the power or ability to cause or direct the making of
39 any qualified venture capital investments by a capco.

40 (f) Within 75 days of application, the commission shall either issue
41 the certification and notify the secretary of the department of revenue of
42 such certification or shall refuse the certification and communicate in
43 detail to the applicant the grounds for the refusal, including any sugges-

1 tions for the removal of those grounds.

2 New Sec. 4. (a) A capco shall have a period of 365 days from the
3 date of receiving certification from the commissioner in which to procure
4 the amount of certified capital investment required by subsection (b). All
5 certified capital investments in the capco shall be received within such
6 three-hundred-sixty-five-day funding period, notwithstanding the provi-
7 sions of subsection (c).

8 (b) Before closing its fund of certified capital investment, and pur-
9 suant to subsection (a) of section 3, and amendments thereto, a capco
10 shall raise a minimum aggregate certified capital investment of no less
11 than \$5,000,000. In the case of a capco designated as an innovation and
12 commercialization corporation or an affiliate of an innovation and com-
13 mercialization corporation created under the KTEC innovation and com-
14 mercialization corporation program, such minimum certified capital in-
15 vestment shall be no less than \$1,000,000. No tax credits shall be issued
16 by the commissioner until such time when these minimum cumulative
17 investments are met. Failure of a capco to raise the minimum cumulative
18 investments may result in the revocation of the certification by the
19 commissioner.

20 (c) Once fully capitalized pursuant to the provisions of subsection (b),
21 a capco may make application to the commissioner for authorization to
22 seek additional certified capital investment.

23 New Sec. 5. (a) To continue to be certified, a capco shall make qual-
24 ified venture capital investments according to the following schedule:

25 (1) Within three years after the date on which a capco is certified as
26 a capco at least 25% of its certified capital shall be, or have been, used
27 for making qualified venture capital investments;

28 (2) within four years after the date on which a capco is certified as a
29 capco at least 40% of its certified capital shall be, or have been, used for
30 making qualified venture capital investments;

31 (3) within five years after the date on which a capco is certified as a
32 capco at least 50% of its total certified capital shall be, or have been, used
33 for making qualified venture capital investments;

34 (4) within seven years after the date on which a capco is certified as
35 a capco at least 70% of its total certified capital shall be, or have been,
36 used for making qualified venture capital investments.

37 (5) A capco shall not make an investment in an affiliate of the capco
38 or an affiliate of an investor. For the purposes of this subsection, if a legal
39 entity is not an affiliate before a capco initially invests in the entity, it
40 shall not be deemed to be an affiliate if such capco provides additional
41 qualified venture capital investment to such entity subsequent to its initial
42 investment. No corporate officer, employee or shareholder, no limited or
43 general partner or other person personally affiliated with any capco shall

1 personally invest in any portfolio company regardless of whether the port-
2 folio company is affiliated with the capco.

3 (6) A capco, at least 15 working days prior to making what it deter-
4 mines to be any initial qualified venture capital investment, shall first
5 certify to the commissioner that the company in which it proposes to
6 invest meets the definition of a qualified Kansas business pursuant to
7 ~~paragraph (15) subsection (o) of subsection (a) of section 1, and amendments thereto.~~

8 The capco shall state the amount of capital it intends to invest and identify
9 the business in which it intends to make the investment. The capco shall
10 also provide to the commissioner a written explanation of the basis for its
11 determination that the business meets the definition of a qualified Kansas
12 business, if the commissioner determines that the business does not meet
13 the definition of a qualified Kansas business, the commissioner shall,
14 within the fifteen-working-day period prior to the making of the proposed
15 investment, notify the capco of the determination and provide the capco
16 an explanation thereof. If the commissioner fails to notify the capco of
17 his or her determination within the 15 working day period prescribed
18 herein, the business in which the capco proposes to invest shall be
19 deemed to be a qualified Kansas business. If a capco fails to notify the
20 commissioner prior to making an initial investment in a business, the
21 business in which the capco invested shall be deemed not to be a qualified
22 Kansas business even though the business, at the time of the investment,
23 met the requirements of ~~paragraph subsection (o) subsection (a) of section 1, and~~
24 amendments thereto;

25 (7) All certified capital which is not then required to be invested in
26 qualified venture capital investments or which has been previously in-
27 vested in qualified venture capital investments and returned by the com-
28 pany, may be held or invested in such manner as the capco, in its discre-
29 tion, deems appropriate. The proceeds of all certified capital which is
30 returned by a capco after it was originally invested in qualified venture
31 capital investments, may be invested in other qualified venture capital
32 investments and shall be credited toward any requirement in this act with
33 respect to placing certified capital in qualified venture capital
34 investments.

35 (b) A capco may make qualified distributions at any time. In order to
36 lawfully make liquidating distributions, a capco must have invested an
37 aggregate amount equal to 100% of its certified capital in qualified ven-
38 ture capital investments.

39 (c) Cumulative liquidating distributions to equity holders in excess of
40 the certified capital company's original certified capital and any additional
41 capital contributions to the certified capital company shall be subject to
42 audit by a nationally recognized, certified public accounting firm accept-
43 able to the commissioner, at the expense of the certified capital company.

1 The audit shall determine whether aggregate cumulative liquidating dis-
2 tributions to all investors and equity holders, when combined with all tax
3 credits utilized by investors pursuant to this act, have resulted in an annual
4 internal rate of return of 15% computed on the sum of total original
5 certified capital of the certified capital company and any additional capital
6 contributions to the certified capital company.

7 (d) If at any time of any such distribution made by the capco which
8 has achieved the annual internal rate of return specified under subsection
9 (c) such distribution taken together with all other such distributions made
10 by the certified capital company, other than qualified distributions, ex-
11 ceeds in the aggregate the sum of the certified capital company's original
12 certified capital and any additional capital contributions to the certified
13 capital company, as determined by the audit, the certified capital com-
14 pany shall, prior to any additional distributions, pay to the Kansas state
15 treasurer's office 25% of the proportion of such distribution in excess of
16 such amount.

17 (e) Documents and other materials submitted by Kansas certified
18 capital companies or by businesses for purposes of original certification
19 or the continuance of certification shall not be public records if it is de-
20 termined by the commissioner that disclosure of such information would
21 compromise trade secrets of qualified Kansas businesses or the privacy
22 rights of any investor and shall be maintained in a secured environment
23 by the commissioner.

24 (f) Each capco shall report the following to the commission:

25 (1) As soon as practicable, but in any case no later than 15 days, after
26 the receipt of a certified capital investment, the name of each investor
27 from whom the certified capital investment was received, the amount of
28 each investor's certified capital investment, and the date when the cer-
29 tified capital investment was received;

30 (2) Each capco shall provide to the commissioner, annual audited
31 financial statements to the commission within 90 days of the close of the
32 fiscal year. The audit shall address the methods of operation and conduct
33 of business of the capco to determine if the capco is complying with the
34 statutes and program rules and that the funds received by the capco have
35 been invested in accordance with the time limits provided by this act.

36 (3) At the end of each quarter, that no more than 20% of the assets
37 of a capco shall be invested in a single qualified Kansas business at any
38 one time unless the capco can demonstrate that a greater percentage in
39 a single qualified Kansas business at any one time is the result of losses
40 suffered by the capco in other qualified venture capital investments.

41 New Sec. 6. To ensure that no qualified venture capital investment
42 or investor's certified capital investment has been made in violation of
43 this act, the commissioner shall conduct an annual review of each capco

1 to determine if the capco is complying with the requirements of certifi-
2 cation, and shall advise the capco as to the status of its investments as
3 qualified venture capital investments. The costs of the annual review shall
4 be paid by each capco according to a reasonable fee schedule adopted by
5 the commission.

6 (b) Any material violation of this act *by a capco* shall be grounds for decertifi-
7 cation under this section. If the commission determines that a company
8 is not in compliance with any requirements for continuing in certification,
9 it shall, by written notice, inform the officers of the company and the
10 board of directors, managers, trustees or general partners that they may
11 be decertified within 120 days from the date of mailing of the notice,
12 unless they correct the deficiencies detailed in the notice and demon-
13 strate to the commissioner's satisfaction that the capco is again in com-
14 pliance with the requirements for certification as determined by the
15 commissioner.

16 (c) At the end of the one-hundred-twenty-day grace period, if the
17 capco is still not in compliance, the commission may then send a notice
18 of decertification to the capco and to the secretary of department of
19 revenue. Decertification of a capco prior to the capco meeting all require-
20 ments of paragraph (1) through ~~(3)~~ (4) of subsection (a) of section 5, and
21 amendments thereto, shall cause the recapture of all tax credits previously
22 claimed by an investor and the forfeiture of all future tax credits to oth-
23 erwise be claimed by an investor with respect to his or her certified capital
24 investment in the capco. Decertification of a capco after it has met all
25 requirements of paragraphs (1) to ~~(3)~~ (4) of subsection (a) of section 5, and
26 amendments thereto, shall cause the forfeiture of tax credits commencing
27 with the taxable year of the investor in which the decertification arose
28 and for all future taxable years with no recapture of tax credits obtained
29 by an investor with respect to the investor's tax years which ended before
30 the decertification occurred. Once a capco has invested 100% of its cer-
31 tified capital in qualified Kansas businesses, all future tax credits to be
32 claimed by investors with respect to said capco pursuant to this act shall
33 be nonforfeitable.

34 New Sec. 7. The commissioner shall prepare and submit an annual
35 report to the governor and the legislature no later than October 1 of each
36 year. Such report shall be presented to the standing committee on com-
37 merce in the senate, standing committee on economic development in
38 the house of representatives, and the joint committee on economic de-
39 velopment. Such report shall include but not be limited to:

40 (1) The total dollar amount each capco received from all investors
41 receiving tax credits and any other investors and the identity of all inves-
42 tors receiving tax credits;

43 (2) the total amount invested by each capco in qualified Kansas busi-

1 nesses, the identity and location of those businesses, the amount invested
2 in each qualified Kansas business, and the total number of permanent
3 full-time jobs created or retained by each qualified Kansas business as a
4 result of the investment.

5 (3) The cumulative amount of any liquidating disbursements received
6 by the state from the Kansas certified capital companies.

7 New Sec. 8. The commission may revoke the certification of a capco
8 if any material representation to the commission in connection with the
9 application process proves to have been falsely made or if the application
10 materially violates any requirement established by the commission pur-
11 suant to this act.

12 New Sec. 9. (a) The tax credit established pursuant to this act may
13 be sold or transferred in accordance with rules and regulations adopted
14 by the commission. The commission, in cooperation with the secretary of
15 the department of revenue, shall develop such rules and regulations to
16 facilitate the operation of the program consistent with the interest of the
17 state in tracking the transfer of ownership and the use of tax credits
18 earned by the holder in due course.

19 (b) Any such sale or transfer shall not affect the time schedule for
20 taking the tax credit, as provided in this act. Any tax credits recaptured
21 pursuant to section 6 shall be the liability of the taxpayer which actually
22 claimed the tax credit. In approving the sale or transfer of the tax credit
23 pursuant to this section, the commission may require the transferor or
24 the transferee or both the transferor and the transferee to execute guar-
25 antees or post bonds with respect to any potential tax credit recapture.

26 (c) Any payment received for tax credits is taxable income of the
27 transferor of the credit and any difference between the transfer price and
28 the sale price of the tax credit shall be taxable income of the transferee.

29 (d) The commission shall make and promulgate rules and regulations
30 consistent with the provisions of this act as are necessary or useful to
31 carryout the provisions of this act which are necessary to implement the
32 act.

33 (e) Every final order, decision, license or other official act of the com-
34 missioner pursuant to this act is subject to administrative review in ac-
35 cordance with the Kansas administrative procedure act.

36 (f) In view of the objectives of these requirements and the underlying
37 policies of the act, the act is not available with respect to any transaction
38 or series of transactions that, although in technical compliance with these
39 rules, is part of a plan or scheme to evade the requirements of this act or
40 to distort the benefits entitled to be realized under the act. In such cases,
41 no investor in any capco shall be entitled to the benefit of any tax credits
42 provided for hereunder.

43 Sec. 10. K.S.A. 1998 Supp. 17-1262 is hereby amended to read as

1 follows: 17-1262. Except as expressly provided in this section, the follow-
2 ing transactions shall be exempt from the registration requirements of
3 K.S.A. 17-1254, 17-1255, 17-1257, 17-1258, 17-1259 and 17-1260, and
4 amendments thereto:

5 (a) Any isolated transaction, whether effected through a broker-
6 dealer or not.

7 (b) Any nonissuer distribution by or through a registered broker-
8 dealer of outstanding securities at a price reasonably related to the current
9 market price of such securities, if Moody's manual, Standard & Poor's
10 manual, or any recognized securities manual approved by the commis-
11 sioner, contains the names of the issuer's officers and directors, a balance
12 sheet of the issuer as of a date within 18 months, and a profit and loss
13 statement for either the fiscal year preceding that date or the most recent
14 year of operations. If the commissioner finds that the sale of certain se-
15 curities in this state under this exemption would work or tend to work a
16 fraud on purchasers thereof, the commissioner may revoke the exemption
17 provided by this subsection with respect to such securities by issuing an
18 order to that effect and sending copies of such order to all registered
19 broker-dealers.

20 (c) Any nonissuer transaction by a registered broker-dealer pursuant
21 to an unsolicited order or offer to buy. The commissioner may require,
22 by rules and regulations, that: (1) The customer acknowledge upon a
23 specified form that the sale was unsolicited; and (2) a signed copy of each
24 such form be preserved by the broker-dealer for a specified period.

25 (d) Any transactions in a bond or other evidence of indebtedness
26 secured by a real or chattel mortgage or deed of trust, or by an agreement
27 for the sale of real estate or chattels, if the entire mortgage, deed of trust
28 or agreement, together with all the bonds or other evidences of indebt-
29 edness secured thereby, is offered and sold as a unit.

30 (e) Any transaction by an executor, administrator, sheriff, marshal,
31 receiver, trustee in bankruptcy, guardian or conservator; any transaction
32 executed by a bona fide pledgee without any purpose of evading this act
33 or any transaction incident to a judicially approved reorganization in
34 which a security is issued in exchange for one or more outstanding se-
35 curities, claims or property interests.

36 (f) Any offer or sale to a bank, savings institution, trust company,
37 insurance company, investment company as defined in the investment
38 company act of 1940, pension or profit-sharing trust or other financial
39 institution or institutional buyer or to a broker-dealer or underwriter.

40 (g) Any offer or sale of a preorganization certificate or subscription
41 if: (1) No commission or other remuneration is paid or given directly or
42 indirectly for soliciting any prospective subscriber and no advertising has
43 been published in connection with any such sale; (2) no payment is made

1 by any subscriber; and (3) such certificate or subscription is expressly
2 voidable by the subscriber until such subscriber has been notified of final
3 acceptance or completion of the organization and until the securities sub-
4 scribed for have been registered. The commissioner may require, by rules
5 and regulations or by order, reports of sales under this exemption.

6 (h) Any transaction pursuant to an offer to existing security holders
7 of the issuer, including persons who at the time of the transaction are
8 holders of convertible securities, nontransferable warrants or transferable
9 warrants exercisable within 90 days of their issuance, if: (1) No commis-
10 sion or other remuneration (other than a standby commission) is paid or
11 given directly or indirectly for soliciting any security holder in this state;
12 or (2) the issuer first files a notice specifying the terms of the offer and
13 the commissioner does not by order disallow the exemption within the
14 next five full business days.

15 (i) Any offer (but not a sale) of a security if: (1) Registration state-
16 ments for such security have been filed under both this act and the se-
17 curities act of 1933 if no stop order or refusal order is in effect and no
18 public proceeding or examination looking toward such an order is pending
19 under either act; or (2) a registration statement for such security has been
20 filed under K.S.A. 17-1256 or 17-1258, and amendments thereto, no stop
21 order or emergency order issued pursuant to K.S.A. 17-1260, and amend-
22 ments thereto, is in effect and the offer is made on behalf of the issuer
23 by a registered broker-dealer.

24 (j) The issuance of any stock dividend, whether the corporation dis-
25 tributing the dividend is the issuer of the stock or not, if nothing of value
26 is given by stockholders for the distribution other than the surrender of
27 a right to a cash dividend where the stockholder can elect to take a div-
28 idend in cash or stock.

29 (k) A transaction involving the distribution of the securities of an is-
30 suer to the security holders of another person in connection with a
31 merger, consolidation, exchange of securities, sale of assets or other re-
32 organizations to which the issuer, or its parent or subsidiary, and the other
33 person, or its parent or subsidiary, are parties, if:

34 (1) The securities to be distributed are registered under the securities
35 act of 1933 before the consummation of the transaction; or

36 (2) the securities to be distributed are not required to be registered
37 under the securities act of 1933, written notice of the transaction and a
38 copy of the materials, if any, by which approval of the transaction will be
39 solicited is given to the commissioner at least 10 days before the consum-
40 mation of the transaction and the commissioner does not disallow, by
41 order, the exemption within the next 10 days.

42 (l) The offer or sale of securities by an issuer that is a corporation,
43 limited partnership or limited liability company formed under the laws

1 of the state of Kansas, if: (1) The aggregate number of sales by the issuer
2 in the twelve-month period ending on the date of the sale does not exceed
3 20 sales; (2) the seller believes that the purchaser is purchasing for in-
4 vestment; (3) no commission nor other remuneration is paid or given,
5 directly or indirectly, for soliciting the purchaser; and (4) neither the
6 issuer nor any person acting on its behalf shall offer or sell the securities
7 by any form of general solicitation or general advertising, including, but
8 not limited to, the following: (A) Any advertisement, article, notice or
9 other communication published in any newspaper, magazine or similar
10 media or broadcast over television or radio or (B) any seminar or meeting
11 whose attendees have been invited by any general solicitation or general
12 advertising.

13 In calculating the number of sales in a twelve-month period, sales made
14 in violation of K.S.A. 17-1255, and amendments thereto, and sales exempt
15 from registration under subsection (a) or (l) shall be taken into account.
16 For purposes of the exemption in this subsection, a husband and wife
17 shall be considered as one purchaser. A corporation, partnership, asso-
18 ciation, joint-stock company, trust or other unincorporated organization
19 shall be considered as one purchaser unless it was organized for the pur-
20 pose of acquiring the purchased securities. In such case each beneficial
21 owner of equity interest or equity securities in the entity shall be consid-
22 ered a separate purchaser. The commissioner may withdraw this exemp-
23 tion or impose conditions upon its use.

24 (m) Any transaction pursuant to rules and regulations adopted by the
25 commissioner for limited offerings which was adopted for the purpose of
26 furthering the objectives of compatibility with federal exemptions and
27 uniformity among the states.

28 (n) Any transaction pursuant to rules and regulations adopted by the
29 commissioner concerning the offer or sale of an oil, gas or mining lease,
30 fee or title if the commissioner finds that registration is not necessary or
31 appropriate for the protection of investors.

32 (o) Any offer or sale by an investment company, as defined by K.S.A.
33 16-630, and amendments thereto, of its investment certificates.

34 (p) The offer or sale of a security, issued by Kansas Venture Capital,
35 Inc., or its successors.

36 (q) The offer or sale of a security issued by capco as defined in section
37 1, and amendments thereto.

38 Sec. 11. K.S.A. 1998 Supp. 17-1262 is hereby repealed.

39 Sec. 12. This act shall take effect and be in force from and after its
40 publication in the statute book.