

Approved: March 17, 2000
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 15, 2000 in Room 123-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Charles Ranson, President, Kansas, Inc.
John Fowler, President, Kansas Chamber of Commerce and Industry

Others attending: See attached list

Substitute for HB 2688 - Capital formation company act

Lynne Holt, Legislative Research Department, briefed the Committee on **Substitute for HB 2688** which establishes the Kansas Certified Capital Formation Company Act to enhance the development of seed and venture capital in Kansas and support the modernization and expansion through income tax credits.

The concept contained in **HB 2688** was originally included in **SB 315** heard last year by the Senate Commerce Committee. The Joint Committee on Economic Development reviewed **SB 315** during the interim and recommended a modified version be referred favorably to the Senate Commerce Committee for consideration. (Attachment 1)

During this session, the House Committee on Economic Development initiated action on a bill (**HB 2688**) which is similar to **SB 315**. During House Committee deliberations a substitute bill was recommended adopting most technical changes suggested by the Joint Committee and authorizing businesses engaged in agricultural activity to be eligible for program investments. The House Committee changed the definition of the certified capital companies from Certified Capital Companies (CAPCOs) to Capital Formation Companies (CFCs) after being advised the Kansas CAPCO program differs from other states' CAPCO programs in that the Kansas program allows participation of individual investors whereas CAPCO programs in other states are limited to investments from insurance companies.

Substitute for 2688 provides that investors in CFCs would receive state tax credits for investments. CFCs are privately managed, privately funded investment companies. The CFCs would invest in Kansas companies that are less than five years old and have no more than \$1 million in gross sales in any fiscal year. Eligible companies must have a need for venture capital and be unable to obtain conventional financing. These companies must have a principal business office in Kansas and have at least 50 percent of their employees residing in Kansas; if domiciled outside of Kansas, qualified companies must meet these requirements within six months following the date of initial qualified venture capital investment. Qualified business operations include manufacturing, processing, assembling and distributing products, research and development, and services provided through interstate commerce. The bill excludes businesses engaged in real estate, retail and financial services, passive business activities, and oil and gas exploration. **Substitute for 2688** requires each CFC to have at least \$5 million in certified capital investments, except any Innovation and Commercialization Corporation which is a subsidiary of KTEC for which a minimum certification investment is \$1 million. There is no upper limit for the capitalization of any CFC. Tax credits cannot be issued for investments of more than \$10 million in any one CFC.

CONTINUATION SHEET

Tax credits are to be administered by the Department of Revenue. Investors in a CFC receive a 100% tax credit that can be used against Kansas individual income tax, corporate income tax, premium tax, or privilege tax or fees. A total of no more than \$5 million in credits are allowed in any given fiscal year. The total amount of tax credits allowed for investments in CFCs over the life of the program is limited to \$50 million. Out-of-state investors other than non-Kansas taxpayers are allowed to sell investment credits to Kansas taxpayers.

The state would receive 10% of any profits that are distributed.

The bill further provides for an income tax credit for operators of a food locker plant, equal to the cost of facility improvements not to exceed \$10,000 in any tax year and is non-refundable, but can be carried over to the extent that the amount of the credit exceeds the taxpayer's income tax liability in a given year.

Charles Ranson, President, Kansas, Inc., submitted amendments to clarify the definition of an authorized CFC, to delete authorization of banks and insurance companies for tax credits; to defer until the beginning of Fiscal Year 2004 the effective date for tax credits; to establish a Capital investment limit of \$2 million by any one person; to establish a mechanism by which the Secretary of Commerce and Housing certifies capitalized CFCs; and to raise the profit to the state to 20%. (Attachment 2)

John Fowler, President, Kansas Chamber of Commerce and Industry (KCCI), testified in support of **Substitute for HB 2688**, stating the bill enhances venture capital investment in the state. Kansas presently ranks below many other states in its level of venture capital activity and investment, and the KCCI believes there is an appropriate role for state government in enhancing venture capital. KCCI's Economic Development Committee, and its members who are engaged in the economic development of their communities, have identified the enhancement of venture capital opportunities as a major component in future business expansion. Use of income tax credits to stimulate private investment in new and promising ventures represents a sound approach to resolving the competitive issue of Kansas' risk capital deficit. With passage of this legislation, Kansas will take an important step to encourage private investment, enabling more entrepreneurs to turn their ideas into vital, growing business enterprises, and create jobs for Kansans. (Attachment 3)

Mr. Fowler, in response to a question about how the KCCI can equate its policy of being anti-taxes and the expenditure of \$50 million dollars, stated he believes the fiscal impact would be so great the state would get a greater return on its money.

Upon motion by Senator Donovan, seconded by Senator Brownlee, the Minutes of the March 14 meeting were unanimously approved.

The meeting adjourned at 9:00 a.m.

The next meeting is schedule for March 16, 2000.

JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

KANSAS CERTIFIED CAPITAL COMPANY ACT (SB 315)

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee on Economic Development recommends a proposed substitute version of SB 315 be referred favorably to the Senate Commerce Committee for its consideration.

BACKGROUND

Legislation Which is the Subject of Joint Committee Review. The Joint Committee on Economic Development reviewed a proposed Substitute for SB 315. The substitute bill would enact the Kansas Certified Capital Company Act. The purpose of the Act is to make seed capital more available in Kansas and to promote development of intermediate and later stage venture capital resources. The bill authorizes the establishment in Kansas of certified capital companies (referred to in the bill as CapCos), which are for-profit, privately managed, privately funded investment companies. CapCos would invest in qualified Kansas businesses that meet certain criteria set forth in the bill. Among other conditions, businesses would lack ability to obtain conventional financing for further development and future operations; would have been in existence for five years or less; and would not have realized revenues of more than \$1 million. To encourage investments in CapCos, the bill authorizes tax credits equal to 100 percent to be used against individual income tax, corporate income tax, premium tax, or privilege tax or fees. Based on the criteria of an "accredited investor" developed by the U.S. Securities and Exchange

Commission (SEC), an investor must have a net worth of \$1 million. If lacking sufficient Kansas tax liability, an investor may claim a refund. Kansas taxpayers not subject to Kansas income, privilege, or premium taxes may sell the tax credits to a taxpayer with Kansas tax liability. Total tax credits are capped at \$50 million, but no more than \$5 million of that amount may be claimed each fiscal year. The state also is authorized to receive 10 percent of a CapCo's profits. Finally, the bill includes provisions for regulatory oversight and accountability.

Kansas, Inc.'s Study. SB 315 is largely a work product of Kansas, Inc.—the state's economic development strategic planning organization. The introduced version of the bill had its origin in a best practices study the Board of Kansas Inc. directed its staff to conduct. Work on the study culminated with a report *Best Practices of State Sponsored Seed and Venture Capital Programs and Alternatives to Direct State Funding* (December 1998). This report was prepared by Economic Innovation International, Inc., with guidance from Kansas, Inc. staff and from a 20-member technical advisory committee appointed by Kansas, Inc. This report identifies various alternatives to direct public funding of seed and venture

capital, including the CapCo concept found in laws of Louisiana, Missouri, Wisconsin, Florida, and New York and applied to insurance companies. After considering the funding models outlined in the report, the Kansas, Inc. Board of Directors asked the staff to consider the CapCo concept in developing proposed legislation to be introduced during the 1999 Legislature.

Legislative Action Prior to Interim Study. SB 315 was referred to the Senate Commerce Committee which had hearings on the bill rather late in the 1999 Session. The Chairman of the Senate Commerce Committee requested the Legislative Coordinating Council refer the bill to the Joint Committee for further review and amendments. She attributed the reasons for that request to the complexity of the bill and the lack of remaining time during the 1999 Session to adequately address Committee members' questions and concerns. In the course of the Senate Committee's hearing and deliberations on the introduced version of SB 315, several questions were raised. Overarching policy questions included the need for seed capital and this legislation. Implementation questions focused on: the nature of the tax credits which may be claimed; who may receive the tax credits; who may make investment decisions; the types of companies in which the CapCos may invest; the criteria governing the companies receiving those investments; and the optimal method of assessing program costs and benefits to the state. At the hearing, several conferees and staff presented amendments to the bill. These amendments, coupled with others, were subsequently incorporated by Kansas, Inc. staff into a proposed substitute bill for the Joint Committee's consideration.

COMMITTEE ACTIVITIES

The Joint Committee on Economic Development devoted a large portion of its November meeting to consideration of SB 315. The Committee heard presentations on the market need for seed capital in Kansas, received an explanation by Kansas, Inc. staff of a proposed substitute bill for SB 315, and discussed and made recommendations on the proposed substitute bill.

Market Need for Seed Capital. The Committee heard from the following conferees: Charles Ranson, President, Kansas, Inc.; Harold Stones, the Kansas Special Director for U.S. Senator Pat Roberts; Bob Rosander, President, NANTEK (Manhattan); and Ralph Lagergren, President, Rimfire Corporation and inventor of the Bi-Rotor Combine (Winfield). Mr. Ranson read written testimony submitted by David Frankland, President and Chief Executive Officer, Digital Archeology (Lenexa).

Mr. Ranson explained that the United States is losing its competitive edge with respect to innovation (the United States is projected to slip to sixth place in 2005 from third place in 1999 and first place in 1995 in terms of investments in long-term innovative capacity). On a more local level, Kansas' economic future is at risk. Mr. Ranson cited examples of various corporate headquarters which have left or are planning to move from Kansas and the region, and the impact of past or planned relocation activities on the state's economy and image. He observed that Kansas needed to build on its strengths and shore up its weaknesses, such as the paucity in seed capital. The proposed legislation, together with other proposals, should help reverse the state's image problem. Mr. Ranson had four observations about seed capital in Kansas:

- Seed capital is essential to the develop-

ment of high-growth early stage companies.

- Seed capital needs cannot be met by banks and other traditional institutions.
- Seed capital does not flow far from its source. Therefore, Kansas companies must leave to access essential seed capital.
- Seed capital is virtually nonexistent in Kansas.

The other conferees supported the need for seed capital. Their presentations cited examples of businesses that either face pressure to relocate or have relocated:

- Knowledge Communication produces software that creates simulation-learning models. The company received seed capital moneys from Ad Astra but could only secure follow-on moneys in Dallas and agreed to relocate the company's marketing group to Dallas in exchange for \$1.5 million from a Dallas investment group.
- Digital Archeology develops and markets software that enables companies to identify, maintain, and improve customer relationships across e-commerce and traditional distribution channels for purposes of marketing analyses. The company raised \$8.5 million in the Midwest and currently has 50 employees. The company's president wants to add another 50 employees within the next year but fears that funding presently accessible only from outside the region will impose conditions that could result in relocation.
- NANTEK, Inc., a spin-off of Kansas State University, is an advanced materials

company founded in 1995 to develop and commercialize reactive nanoparticles and other related technologies. Nanoparticles are extremely small particles of matter having extraordinary physical and chemical properties that could be used for military applications, such as the safe and efficient destruction of chemical weapon stockpiles and protective systems against chemical weapon stockpiles. Potential civilian applications include decontamination foggers and kits for industrial and laboratory accidents and acid gas scrubbing for industrial emissions. However, NANTEK lacks the capital to grow rapidly and a competitor in Chicago just raised \$30 million. The President of NANTEK would like to keep the company in Kansas.

- Rimfire Management Corporation helps Kansas inventors and creators develop concepts into products, market those products, and create jobs in Kansas. Rimfire is currently working with three start-up companies: a manufacturer of an automated interior finishing system that will blow acoustic-enhancing material on ceilings and plaster on drywall, a manufacturer of a pivotal finger retainer for pens, and a producer of a video series *Four Fish Fly Free* aimed at teaching musical concepts to children. Rimfire encounters problems with finding money in Kansas to follow initial seed investments.

Federal, State, and Contractual Oversight of CapCos. The Committee invited P. Mitchell Woolery, Attorney, Polsinelli, White, Vardeman and Shalton, to explain and respond to questions about government and contractual oversight of CapCos. Mr. Woolery noted that he has spent 12 years practicing in the area of corporate finance and security laws. His law firm represents a

wide variety of companies that are seeking capital, as well as companies, such as Kansas Venture Capital, Inc., that are seeking to make investments. Mr. Woolery noted that he was representing himself and not a client in appearing before the Committee in support of the proposed bill. He stressed that seed capital investments are hard to secure. If companies do not get investors, they tend to leave the state. He cited as an example a client who wanted to create 30-40 jobs in Kansas but was unable to raise seed capital in Kansas and raised it immediately in Colorado. A summary of Mr. Woolery's main points follows:

- **Federal Oversight.** Both federal and state securities laws set the outside limit as to what can and cannot be done and who can and cannot make particular investments. Federal oversight of CapCos comes from the Securities Act of 1933, which establishes the types of investors who can invest in a CapCo, as well as other federal securities laws. Any CapCo investment contemplated in SB 315 would generally be exempt from registering with the SEC because the dollars and participants involved are sufficiently small that such an investment would not be a public offering. Instead, it would be a private placement, generally to high net worth sophisticated investors. If an investment is exempt, the CapCo making the investment is not required to file anything about that investment with the SEC (other than possibly a one-page notice of investment.) With respect to federal tax law, the application with the proposed bill is that most of the investments will be made for people who are seeking to pass through tax treatment so that taxation is not imposed at the fund level but rather at the individual investor's level. By definition, the Internal Revenue Service has a "safe harbor" that there be less than 100 inves-

tors in a particular fund. As a practical matter, that number may be, and probably will be, significantly less because fund managers prefer to deal with smaller numbers. Finally, federal securities laws and, by extension, so-called "anti-fraud" rules, require disclosure of the nature of the investment and the risks of the investment as a means of protecting the investor.

- **State Oversight.** Kansas invented securities regulation in 1911. Like federal oversight, state oversight concerns limiting the number of investors in a fund and requiring disclosure. Kansas has Merit Regulation which allows the state to impose restrictions on securities investments that extend beyond federal regulations.
- **Private Contract.** In addition to minimum standards set forth in statutes, a fund also will be governed by the contract setting up the fund. That contract will determine, among other provisions, who the investors are, how much they invest, and the rights and authority of the fund manager. Contractual terms may vary from industry to industry and investor to investor. In general, these contracts will authorize high net worth individuals to invest in a CapCo. In general, these investors will be passive investors who will not be involved in ongoing day-to-day management but will negotiate a fund manager's fee.

Testimony on Certain Provisions of Proposed Substitute for SB 315. The Committee received testimony from the Kansas Securities Commissioner who took a neutral position on the bill but recommended that either the Kansas Department of Commerce and Housing or the Kansas Development Finance Authority but not the Securities

Commissioner administer the CapCo program. The Securities Commissioner cited that most of the administrative requirements assigned the Commission in the bill would conflict with its primary regulatory responsibility of protecting and informing Kansas investors. The Securities Commissioner observed that the proposed program would "cross the line" into economic development and promotion of venture capital. However, the Securities Commissioner indicated the Commission could handle the responsibilities concerning background checks of specified CapCo personnel. In response to a question, staff of the Kansas Development Finance Authority indicated the proposed bill is a good piece of legislation; however, the Finance Authority is not a regulatory agency, nor is it eager to become one. In response to questions, staff of the Kansas Department of Commerce and Housing explained that the administrative oversight responsibilities outlined in the bill did not conflict with the Department's mission. However, the agency has concerns about the staff expertise and funding necessary to administer the program effectively so that investors and taxpayers are protected and companies funded by CapCo investments can be assured of good program implementation.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee on Economic Development recommends, by a majority vote, a proposed substitute version of SB 315, including certain amendments discussed below, be referred favorably to the Senate Commerce Committee for its consideration. (The Joint Committee used as the basis for its discussion a proposed substitute bill submitted by Kansas, Inc. Committee deliberations resulted in recommendations for additional amendatory language.)

The Committee recommends the follow-

ing amendments be considered by the Senate Commerce Committee:

- The Secretary of Commerce and Housing would certify and decertify Kansas capital companies (CapCos), monitor CapCos to ensure they comply with statutory requirements, and review documentation regarding the qualifications of prospective CapCo managers. The introduced version of the bill provides for the Kansas Securities Commissioner to assume those responsibilities. The suggested amendment to switch these responsibilities to the Secretary of Commerce and Housing acknowledges the Securities Commissioner's concern that the duties proposed in SB 315 depart from the Commission's primary regulatory mission to protect and inform Kansas investors. The Kansas Department of Commerce and Housing already administers other tax credit programs, including the Kansas Venture Capital Company Act. Moreover, three of five states with CapCo programs (Missouri, New York, and Wisconsin) assign certification responsibility in whole or in part to their respective economic development agencies. The Committee recommends retaining the provision in the bill that the Securities Commissioner be responsible for conducting background checks on specified personnel who have decision-making responsibilities for a CapCo's operations and investments because the Securities Commission has expertise in that type of activity.
- A CapCo would be required to register with the Kansas Securities Commission all offers or sales of any security issued by the CapCo. The introduced version of the bill would exempt such transactions from registration.
- The definition of "qualified Kansas busi-

ness" in which a CapCo could invest would be further amended to require the business to have no more than \$1 million in revenues in any fiscal year prior to making the investment. The substitute version of the bill considered by the Joint Committee reflected several amendments to the definition of "qualified Kansas business," including a requirement that the business have gross sales during its most recent complete year of not more than \$1 million. The Committee's recommendation would apply the \$1 million threshold to each fiscal year of the business' operations. The intro-

duced version of the bill does not include any revenue threshold.

- The definition of "qualified Kansas business" would not include traditional agricultural endeavors, such as farming and ranching, livestock and hog production. However, it would include agriculture value-added companies. The introduced version of the bill would allow CapCos to invest in businesses engaged in traditional agricultural endeavors, assuming those businesses meet other specified conditions.

Session of 2000

Substitute for HOUSE BILL No. 2688

By Committee on Economic Development

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10 AN ACT [relating to income taxation;] ~~concerning~~ venture capital;
11 enacting the Kansas certified capital formation company act[; provid-
12 ing a credit therefrom for certain food locker plant expenses].
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14 Be it enacted by the Legislature of the State of Kansas:

15 Section 1. This act shall be known and may be cited as the Kansas
16 certified capital formation company act. The purpose of this act is to
17 enhance the development of seed and venture capital in Kansas and to
18 support the modernization and expansion of the state's economy. As used
19 in this act, unless the context clearly requires otherwise, the following
20 terms mean:

21 (a) "Affiliate of a certified capital formation company" means:

22 (1) Any person that directly or indirectly, owns, controls or possesses
23 the power or ability to vote ten percent or more of the outstanding voting
24 securities or other beneficial ownership interests of the Kansas certified
25 capital formation company;

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

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

32 (4) any partnership in which the Kansas certified capital formation
33 company is a general partner;

34 (5) any person who is an officer, director, general partner, managing
35 member, managing director or agent of the Kansas certified capital for-
36 mation company or an immediate family member of such person.

37 (b) "Affiliate of an investor" means:

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

41 (2) any person ten percent or more of whose outstanding voting se-
42 curities or other beneficial ownership interests are directly or indirectly
43 owned, controlled or possessed with the power to be voted by the

- 1 investor;
- 2 (3) any person directly or indirectly controlling, controlled by or un-
- 3 der common control with the investor;
- 4 (4) a partnership in which the investor is a general partner;
- 5 (5) any person who is an officer, director or agent of the investor or
- 6 an immediate family member of such officer, director or agent.

(c) "Authorized capital formation company and Authorized CFC" mean a capital formation company that has been designated by the secretary as having met the requirements of this act necessary to raise capital investments but that has not yet received the designation as a certified capital formation company.

(Renumber paragraphs appropriately)

- 7 (c) "Applicable percentage" means one hundred percent.
- 8 (d) "CFC" means any ~~certified~~ capital formation company.
- 9 (e) "Capital in a qualified Kansas business" means any note, stock,
- 10 partnership or membership interest or other form of equity investment
- 11 or hybrid security, of any nature and description whatsoever, including a
- 12 debt instrument or security which has the characteristics of indebtedness
- 13 but which provides for conversion into equity or equity participation in-
- 14 struments such as options or warrants which are acquired by a certified CFC as a
- 15 result of a transfer of cash to a business. Capital in a qualified Kansas
- 16 business shall not include secured debt instruments.
- 17 (f) "Certified capital" means cash, marketable securities and other
- 18 assets held by a certified capital formation company equal to the amount
- 19 of certified capital investment made by investors in the certified capital
- 20 formation company.
- 21 (g) "Certified capital formation company" means any partnership,
- 22 corporation, trust or limited liability company, whether organized on a
- 23 profit or not for profit basis, that is domiciled in and qualified to conduct
- 24 business in Kansas and that has as its primary business activity, the in-
- 25 vestment of cash in qualified Kansas businesses, and which is certified by
- 26 the secretary as satisfying the criteria of this act.
- 27 (h) "Certified capital investment" means an investment of cash by an
- 28 investor which is certified by the secretary made in such manner as to
- 29 acquire a beneficial ownership interest in a Kansas certified capital for-
- 30 mation company.
- 31 (i) "Commissioner" means the securities commissioner of Kansas or
- 32 persons acting under the supervision of the commissioner.
- 33 (j) "In existence" means the date of the first sale of goods or services
- 34 by a qualified Kansas business or a business seeking to be so qualified.
- 35 (k) "Investor" means any person that invests cash. If the investor is
- 36 a natural person, the investor shall have a net worth of at least \$1,000,000
- 37 and such net worth shall be not less than 10 times the amount of the
- 38 investor's certified investment in a CFC. The investor's net worth shall
- 39 not include the value of any equity in the investor's primary residence.

40 (l) "Liquidating distribution" means any distribution other than a
41 qualified distribution.

42 (m) "Person" means any natural person or any business association,
43 including but not limited to, a corporation, limited liability company, gen-

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1 eral or limited partnership or trust **but shall not include entities subject to
privilege tax imposed pursuant to chapter 79 article 11 of the Kansas
statutes annotated or entities subject to premium tax or privilege fee
imposed pursuant to K.S.A. 40-252, and amendments thereto.**

2 (n) "Qualified distribution" means any distribution or payment made
3 by a certified capital formation company for costs and expenses of form-
4 ing, syndicating, managing or operating the certified capital formation
5 company, including an annual management fee and reasonable and nec-
6 essary fees in accordance with industry custom for professional fees in-
7 cluding, but not limited to, legal and accounting fees, relating to operating
8 the certified capital formation company.

9 (o) "Qualified Kansas business" means:

10 (1) A business that satisfies the requirements of subparagraphs (A)
11 through (F) of this subsection.

12 (A) Such business is independently owned and operated and has its
13 principal business office located in Kansas or, in the case of a company
14 domiciled outside the state of Kansas, which certifies that the company's
15 principal business office will be located in Kansas within six months fol-
16 lowing the date of the initial investment.

17 (B) At least fifty percent of the employees of the business shall be
18 resident in Kansas or, in the case of a company domiciled outside the
19 state of Kansas, certifies that at least fifty percent of its employees will
20 be resident in Kansas within six months following the date of the initial
21 qualified venture capital investment.

22 (C) Such business is in need of venture capital and cannot obtain
23 conventional financing to fund its further development and future
24 operations.

25 (D) Such business shall be engaged in commerce for the purpose of
26 manufacturing, processing or assembling or distributing products, con-
27 ducting research and development or providing services in interstate
28 commerce.

29 (E) For businesses involved in commerce for the purpose of provid-
30 ing services in interstate commerce, that business must demonstrate that
31 more than fifty percent of its gross revenues are derived from sales out-
32 side the state of Kansas or provide reasonable documentation that the
33 company will derive at least fifty percent of its gross sales outside the
34 state within a three-year period.

35 (F) Such business, at the time of the initial qualified venture capital
36 investment, shall have been in existence less than five years and shall not
37 have had gross sales in excess of \$1,000,000 in any single fiscal year.

38 (2) Any business which, subject to paragraph (a)(6) of section 5, is
39 approved as a qualified Kansas business at the time of the first qualified
40 venture capital investment in such business by a Kansas certified capital
41 formation company, for a period of seven years following the date of such
42 first investment, shall continue to be classified as a qualified Kansas busi-
43 ness and may receive follow-on investments from any Kansas certified

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1 CFC, and such follow-on investments shall consti-
2 tute qualified venture capital investments even though such business may
3 not meet other qualifications of this subsection at the time of such follow-
4 on investments.

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

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

13 (B) a business engaged primarily as a passive business, in irregular or
14 noncontinuous operations, or which derives substantially all of its income
15 from passive investments that generate interest, dividends, royalties or
16 capital gains;

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

18 (D) a subsidiary of a certified capital formation company;

19 (E) another certified capital formation company;

20 (F) an affiliate of the certified capital formation company;

21 (G) an investor of the certified capital formation company or an af-
22 filiate or subsidiary of an investor of the certified capital formation com-
23 pany unless approved in writing by the secretary.

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

27 (q) "Secretary" means the secretary of commerce and housing or per-
28 sons under the secretary's direction.

29 (r) "Tax credit" means a credit against the tax imposed by the Kansas
30 income tax act. ~~or the premium tax or privilege fee imposed pursuant to~~
31 ~~K.S.A. 40-252, and amendments thereto, or the privilege tax as measured~~
32 ~~by net income of financial institutions imposed pursuant to chapter 79,~~
33 ~~article 11 of the Kansas Statutes Annotated.~~

34 Sec. 2. (a) Any investor that makes a certified capital investment shall
35 earn a tax credit against state tax liability equal to 100% of the amount of
36 such investor's certified capital investment. The investor, or a person to
37 whom the credits were duly transferred, shall be entitled to claim not
38 more than 10% of the credit per taxable year for taxable years ~~com-~~
39 ~~mencing after taxable year 2001 ending after June 30, 2003.~~ If the amount of

40 the tax credit allowed under subsection (a) exceeds the tax liability of the
41 taxpayer for any taxable year, such excess amount shall be refunded to the taxpayer.

42 (b) No certified capital investment in a **single** CFC by any one person shall
43 be less than \$25,000 or **more than \$2,000,000; nor shall any one person's combined**
investment for the purpose of earning tax credits exceed \$10,000,000.

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1 (c) The total amount of tax credits which may be allowed shall not
2 exceed \$50,000,000. The total amount of tax credits which may be allowed
3 under this act shall not exceed \$5,000,000 per fiscal year.

4 Sec. 3. (a) The secretary may **authorize and subsequently** certify profit
5 or not-for-profit entities which ~~submit an application to be designated as a CFC~~
meet the requirements of this act. The secretary
6 shall compile a list of every **certified** CFC, including the address and telephone
7 number of the **certified** CFC's principal place of business. The secretary shall
8 publicize the list in order to inform Kansas companies of the availability
9 of potential investment capital.

10 (b) The secretary shall review the organizational documents for each
11 applicant for **certification authorization as a CFC** and the business history
12 of the applicant to determine:

13 (1) That at the time of application **for authorization as a CFC**, the applicant
14 owns cash, marketable securities and other liquid assets valued at no less than \$500,000; ~~or~~
15 that prior to January 1, 2000, the applicant was designated as an inno-
16 vation and commercialization corporation or an affiliate ~~of an~~ innovation
17 and commercialization corporation created under the Kansas technology
18 enterprise corporation innovation and commercialization corporation
19 program;

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

24 (c) To continue to be certified, the CFC must own and shall peri-
25 odically demonstrate to the secretary, as the secretary may require, that
26 the liquid asset base for the certified capital formation company is at least
27 \$500,000 at all times during the CFC's participation in the program au-
28 thorized by this act. ~~and that such moneys have been used for making~~
29 ~~qualified venture capital investments.~~

30 (d) With respect to any person who submits or has submitted an
31 application **for authorization as to become** a CFC, the commissioner shall investigate to de-
32 termine and report to the secretary whether any of the directors, trustees,
33 managers, officers, general partners, beneficial owners of 10% or more
34 of any class of equity securities or any promoters employed or otherwise
35 associated with that person at the time of such application:

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

39 (2) has been convicted of any felony or misdemeanor in connection

40 with the purchase or sale of any security or any felony involving fraud or
41 deceit including, but not limited to, forgery, embezzlement of money
42 under false pretenses, larceny or conspiracy to defraud;
43 (3) is currently subject to any state administrative order or judgment

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1 entered by a state securities administrator or is subject to any state ad-
2 ministrative order or judgment in which fraud or deceit was found and
3 an order or judgment was entered;

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

7 (5) is subject to any order, judgment or decree of any court of com-
8 petent jurisdiction temporarily or preliminarily restraining or enjoining,
9 or is subject to any order, judgment or decree of any court of competent
10 jurisdiction permanently restraining or enjoining that person from engag-
11 ing in or continuing any conduct or practice in connection with the pur-
12 chase or sale of any security, rendering investment advice or involving the
13 making or any false filing with any state;

14 (6) has been convicted of or pleaded nolo contendere to any criminal
15 offense other than a misdemeanor involving motor vehicle violations.

16 (e) The secretary shall not ~~authorize~~ **certify** any CFC if the commissioner's
17 report includes any affirmative findings pursuant to subsection (d).

18 (f) The secretary shall review documentation regarding the qualifi-
19 cations of the persons who will actively manage the CFC and make a
20 determination as to whether such persons possessed sufficient knowledge
21 and professional experience in the areas of investment, venture capital,
22 business management and evaluation, portfolio management, and such
23 other area of expertise to the degree that a reasonable person would be
24 confident in such manager's ability to manage the CFC. No ~~certification~~ **authorization**
25 shall be issued when it is the opinion of the secretary that such persons
26 do not possess this requisite degree of knowledge and expertise.

27 (g) No investor shall individually, or collectively with or through one
28 or more affiliates, by means of ownership, agreement or otherwise, own,
29 control or possess the power or ability to cause or direct the making of
30 any qualified venture capital investments by a **certified** CFC.

31 (h) Within a **period of time established by the secretary, after receipt of**
application for authorization as a CFC, 75 days of application, the secretary
shall either issue the **authorization certification** and notify the secretary
of the department of revenue of such certification or shall **refuse the certification**
deny authorization and communicate in detail to the applicant the grounds
for the ~~refusal~~ **denial**, including any suggestions for the removal of those grounds.

36 ~~Sec. 4. (a) A CFC shall have a period of 365 days from the date of~~
37 ~~receiving certification from the secretary in which to procure the amount~~
38 ~~of certified capital investment required by subsection (b). All certified~~

39 capital investments in the CFC shall be received within such 365-day
40 funding period, notwithstanding the provisions of subsection (c).
41 (b) Before closing its fund of certified capital investment, and pur-
42 suant to subsection (b) of section 3, and amendments thereto, a CFC
43 shall raise a minimum aggregate certified capital investment of no less

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1 than \$5,000,000. In the case of a CFC designated prior to January 1,
2 2000, as an innovation and commercialization corporation or an affiliate
3 of an innovation and commercialization corporation created under the
4 KTEC innovation and commercialization corporation program, such min-
5 imum certified capital investment shall be no less than \$1,000,000. Total
6 capital investment deemed certified for the purpose of earning tax credits
7 shall not exceed \$10,000,000 in a single CFC. No capital investments shall
8 be certified by the secretary until such time when the minimum cumu-
9 lative investments are met. Failure of a CFC to raise the minimum cu-
10 mulative investments may result in the revocation of the certification by
11 the secretary.

12 (c) Once fully capitalized pursuant to the provisions of subsection (b),
13 a CFC may make application to the secretary for authorization to seek
14 additional certified capital investment.

Sec. 4. (a) An authorized capital formation company having been authorized by the secretary pursuant to Section 3 shall have a period of not more than 365 days from the date of receiving authorization in which to procure certified capital investment.

(b) In order to receive certification by the secretary, an authorized capital formation company shall raise a minimum aggregate certified capital investment of no less than \$5,000,000. In the case of an authorized capital formation company formed by an innovation and commercialization corporation or an affiliate innovation and commercialization corporation created under the KTEC innovation and commercialization corporation program, such minimum certified capital investment shall be no less than \$1,000,000.

(c) Total capital investment deemed certified for the purpose of earning tax credits shall not exceed \$10,000,000 in a single capital formation company. In the case of a capital formation company formed by an innovation and commercialization corporation or an affiliate innovation and commercialization corporation created under the KTEC innovation and commercialization corporation program, such maximum certified capital investment shall not exceed \$1,500,000.

(d) If during the fund raising period, an authorized capital formation company demonstrates to the secretary that the maximum cumulative certified capital investment has been met pursuant to this act, the

secretary shall either designate the capital formation company as a certified capital formation company and notify the secretary or revenue of such certification; or shall deny the certification and notify the capital formation company of the basis for denial.

(e) All capital investment deemed certified for the purpose of earning tax credits must be certified by the investor to be new monies in that such monies were not being used for seed or venture capital prior to making the investment in a CFC. Any attempt to transfer funds from an existing venture capital fund to a CFC for the purposes of earning a tax credit shall constitute a violation of this act and may lead to decertification.

(f) No capital investments shall be certified by the secretary until such time when the minimum cumulative certified capital investments are met.

(g) Upon the end of the fund raising period as established by the secretary, capital formation companies that have reached the minimum cumulative certified capital investment requirement but have failed to reach the maximum cumulative certified capital investment requirements shall be certified by the secretary in rank order based on the amount of certified capital investment raised by the capital formation company and the amount of tax credits available for allocation upon the secretary's satisfaction that all such investment was made pursuant to this act.

(h) The secretary will notify the department of revenue upon certification of a capital formation company.

(i) Designation as an innovation and commercialization corporation or an affiliate innovation and commercialization corporation created under the Kansas technology enterprise corporation shall not relieve such entity from compliance with any provisions of this act except where stated otherwise.

15 Sec. 5. (a) To continue to be certified, a CFC shall make qualified
16 venture capital investments according to the following schedule:

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

20 (2) within four years after the date on which a CFC is certified ~~as a~~
21 ~~CFC~~ at least 40% of its certified capital shall be, or have been, used for
22 making qualified venture capital investments;

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

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

29 (5) a CFC shall not make an investment in an affiliate of the CFC or
30 an affiliate of an investor. For the purposes of this subsection, if a com-
31 pany is not an affiliate before a CFC initially invests in the company, it
32 shall not be deemed to be an affiliate if such CFC provides additional
33 qualified venture capital investment to such company subsequent to its
34 initial investment. No corporate officer, employee or shareholder, no lim-
35 ited or general partner or other person personally affiliated with any CFC
36 shall personally invest in any portfolio company regardless of whether the
37 portfolio company is affiliated with the CFC.

38 (6) a CFC, at least ~~15~~ 30 working days prior to making what it deter-
39 mines to be any initial qualified venture capital investment, shall first
40 certify to the secretary that the company in which it proposes to invest
41 meets the definition of a qualified Kansas business pursuant to section 1,
42 and amendments thereto. The CFC shall state the amount of capital it
43 intends to invest and identify the business in which it intends to make

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1 the investment. The CFC shall also provide to the secretary a written
2 explanation of the basis for its determination that the business meets the
3 definition of a qualified Kansas business, if the secretary determines that
4 the business does not meet the definition of a qualified Kansas business,
5 the secretary, within the ~~15~~ 30 working-day period prior to the making of
6 the proposed investment, shall notify the CFC of the determination and
7 provide the CFC an explanation thereof. If the secretary fails to notify
8 the CFC of the determination within the ~~15~~ 30 working-day period pre-
9 scribed herein, the business in which the CFC proposes to invest shall
10 be deemed to be a qualified Kansas business. If a CFC fails to notify the
11 secretary prior to making an initial investment in a business, the business
12 in which the CFC invested shall be deemed not to be a qualified Kansas
13 business even though the business, at the time of the investment, met
14 the requirements of section 1, and amendments thereto;

15 (7) all certified capital which is not then required to be invested in
16 qualified venture capital investments or which has been previously in-
17 vested in qualified venture capital investments and returned by the com-
18 pany, may be held or invested in such manner as the CFC, in its discre-
19 tion, deems appropriate. The proceeds of all certified capital which is
20 returned by to a CFC after it was originally invested in qualified venture
21 capital investments, may be invested in other qualified venture capital
22 investments and shall be credited toward any requirement in this act with
23 respect to placing certified capital in qualified venture capital
24 investments.

25 (b) A CFC may make qualified distributions at any time. In order to
26 lawfully make liquidating distributions, a CFC must have invested an
27 aggregate amount equal to 100% of its certified capital in qualified ven-
28 ture capital investments.

29 (c) Liquidating distributions in excess of the certified capital forma-
30 tion company's original certified capital and any additional capital contri-

31 butions to the certified capital formation company shall be subject to audit
32 by a certified public accounting firm acceptable to the secretary, at the
33 expense of the certified capital formation company.

34 (d) If at the time any liquidating distribution is made by a CFC, the
35 aggregate sum of all liquidating distributions of the CFC exceeds the
36 aggregate sum of the CFC's original certified capital and any subsequent
37 qualified venture capital contributions to the CFC, as determined by au-
38 dit, the CFC, prior to any additional distributions, shall pay to the state
39 treasurer's office ~~10%~~ **20%** of the proportion of the distribution in excess of
40 such amount.

41 (e) Documents and other materials submitted by CFC's or by busi-
42 nesses for purposes of **authorization or** original certification or the continuance of certi-
43 fication as a CFC shall not be public records if it is determined by the

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1 secretary that disclosure of such information would compromise trade
2 secrets of qualified Kansas businesses unless otherwise specified in this
3 act.

4 (f) Each CFC shall report the following to the secretary:

5 (1) ~~As soon as practicable, but in any case no later than 15 days after~~
6 ~~the receipt of a certified capital investment, the name of each investor,~~
7 ~~the amount of each investor's certified capital investment and the date~~
8 ~~when the certified capital investment was received;~~

9 (2) within 90 days of the close of the CFC's fiscal year, annual audited
10 financial statements. The audit shall address the methods of operation
11 and conduct of business of the CFC to determine if the CFC is complying
12 with the statutes and program rules and that the funds received by the
13 CFC have been invested in accordance with the time limits provided by
14 this act.

15 (3) at the end of each quarter, that no more than 20% of the assets
16 of a CFC shall be invested in a single qualified Kansas business at any
17 one time unless the CFC can demonstrate that a greater percentage in a
18 single qualified Kansas business at any one time is the result of losses
19 suffered by the CFC in other qualified venture capital investments.

20 (g) Any material related to the sale of ownership in a CFC or soliciting
21 investment in a CFC shall include the following statement: ``By ~~author-~~
22 **izing authorizing or certifying the formation** of a certified capital formation company, the State of
23 Kansas does not endorse the quality of management or the potential for
24 earnings of a particular company. The use of the word "certified" or "**authorized**" in an
25 offering does not constitute a recommendation or endorsement of an
26 investment by the Kansas Securities Commission or any other State
27 Official."

28 (h) The secretary may establish reasonable initial filing fees for ap-
29 plications for **authorization and** certification pursuant to this act and may also establish an
30 annual nonrefundable fee for CFC's seeking continued certification.

31 Sec. 6. (a) To ensure that no qualified venture capital investment or
32 investor's certified capital investment has been made in violation of this

33 act, the secretary shall conduct an annual review of each CFC to deter-
34 mine if the CFC is complying with the requirements of certification. The
35 costs of the annual review shall be paid by each CFC according to a
36 reasonable fee schedule adopted by the secretary.

37 (b) Any material violation of this act by a CFC shall be grounds for
38 decertification under this section. If the secretary determines that a CFC
39 is not in compliance with the requirements for continuing certification,
40 the secretary, by written notice, shall inform the officers of the CFC and
41 the board of directors, managers, trustees or general partners that they
42 shall be decertified within 120 days from the date of mailing of the notice,
43 unless they correct the deficiencies detailed in the notice and demon-

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1 strate to the secretary's satisfaction that the CFC is again in compliance
2 with the requirements for certification as determined by the secretary.

3 (c) At the end of the 120 day grace period, if the CFC is still not in
4 compliance, the secretary may send a notice of decertification to the CFC
5 and to the secretary of revenue including a list of the decertified ~~capital~~ capital
6 investments by investor and transferee.

7 (d) Decertification of a CFC prior to the CFC meeting all require-
8 ments of paragraphs (1) through (4) of subsection (a) of section 5, and
9 amendments thereto, shall cause the recapture of all tax credits previously
10 allowed to an investor or transferee and the forfeiture of all future tax
11 credits to otherwise be claimed by an investor or transferee with respect
12 to any certified capital investment in the decertified CFC.

13 (e) Decertification of a CFC after it has met all requirements of par-
14 agraphs (1) through (4) of subsection (a) of section 5, and amendments
15 thereto, shall cause the forfeiture of tax credits commencing with the
16 taxable year of the investor or transferee in which the decertification arose
17 and for all future taxable years with no recapture of tax credits allowed
18 to an investor or transferee with respect to the taxable years which ended
19 before the decertification occurred. Once a CFC has invested 100% of
20 its certified capital in qualified Kansas businesses, all future tax credits to
21 be claimed pursuant to this act by investors or transferees with respect
22 to such CFC shall not be subject to recapture.

23 Sec. 7. The secretary shall prepare and submit an annual report to
24 the governor and the legislature no later than October 1 of each year.
25 Such report shall be presented to the standing committee on commerce
26 in the senate, standing committee on economic development in the house
27 of representatives and the joint committee on economic development.
28 Such report shall include but not be limited to:

29 (a) The total dollar amount each CFC received from all investors
30 allowed tax credits and any other investors and the identity of all investors
31 allowed tax credits;

32 (b) the total amount invested by each CFC in qualified Kansas busi-
33 nesses, the identity and location of those businesses, the amount invested
34 in each qualified Kansas business and the total number of permanent full-
35 time jobs created or retained by each qualified Kansas business as a result

36 of the investment; and
37 (c) the cumulative amount of any liquidating disbursements received
38 by the state from the CFC's.
39 Sec. 8. The secretary may revoke the certification of a CFC if any
40 material representation to the secretary in connection with the application
41 process proves to have been falsely made or if the application materially
42 violates any requirement established by the secretary.
43 Sec. 9. (a) Any investor that is not subject to taxation under the pro-

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1 visions of the Kansas income tax act, ~~privilege or premium tax~~ that makes a cer-
2 tified capital investment shall be deemed to acquire an interest in the
3 nature of a transferable tax credit limited to 100% of such investment.
4 The credit established pursuant to this act may be sold or transferred
5 subject to approval by the secretary. An investor as described in this sec-
6 tion shall not be allowed a refund for the interest herein created. Only
7 the full amount of the credit for any one investment may be transferred,
8 and the credit may be transferred only one time. Documentation of any
9 credit transfer shall be provided to the secretary. The secretary shall trans-
10 mit a copy of such documentation to the secretary of revenue.

11 (b) The secretary, after consulting with the secretary of revenue, shall
12 develop such rules and regulations as are necessary to facilitate the op-
13 eration of the transfer program consistent with the interest of the state
14 in tracking the transfer of ownership and the use of tax credits earned by
15 the transferee.

16 (c) Any such sale or transfer shall not affect the time schedule for
17 taking the tax credit, as provided in this act. Any tax credits recaptured
18 pursuant to section 6 shall be the liability of the taxpayer which actually
19 claimed the tax credit. In approving the sale or transfer of the tax credit
20 pursuant to this section, the secretary may require the transferor or the
21 transferee or both to execute guarantees or post bonds with respect to
22 any potential tax credit recapture.

23 (d) Any payment received for tax credits pursuant to this section is
24 taxable income of the transferor of the credit and the amount equal to
25 the difference the dollar value of the tax credit transferred minus the
26 sales price of the tax credit shall be taxable income of the transferee.

27 (e) The secretary shall make and promulgate rules and regulations
28 consistent with the provisions of this act as are necessary or useful to carry
29 out the provisions of this act.

30 (f) Every final order, decision, license or other official act of the sec-
31 retary pursuant to this act is subject to review in accordance with the act
32 for judicial review and civil enforcement of agency actions, K.S.A. 77-601
33 et seq. and amendments thereto.

34 (g) In view of the objectives of these requirements and the underlying
35 policies of the act, the act is not available with respect to any transaction
36 or series of transactions that, although in technical compliance with these
37 rules, is part of a plan or scheme to evade the requirements of this act or
38 to distort the benefits entitled to be realized under the act. In such cases,

39 no investor in any CFC shall be entitled to the benefit of any tax credits
40 provided for hereunder.

41 (h) The offer or sale of a security by a CFC pursuant to this act shall
42 be subject to the registration requirements of K.S.A. 17-1254, 17-1255,
43 17-1257, 17-1258, 17-1259 and 17-1260, and amendments thereto.

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1 [Sec. 10. (a) For all taxable years commencing after December
2 31, 1999, there shall be allowed as a credit against the tax liability
3 of a taxpayer who operates a food locker plant imposed under the
4 Kansas income tax act, an amount equal to any expenses paid for
5 improvements in the facilities of such food locker plant. The credit
6 allowed by this section in any taxable year to the taxpayer shall not
7 exceed \$10,000. If the amount of such tax credit exceeds the tax-
8 payer's income tax liability for any such taxable year, such excess
9 amount may be carried over for deduction from the taxpayer's tax
10 liability in the next succeeding taxable year or years until the total
11 amount of the tax credit has been deducted from tax liability.

12 [(b) As used in this section "food locker plant" means a plant
13 which: (1) Is inspected by the Kansas department of agriculture as
14 provided under the Kansas meat and poultry inspection act; and

15 [(2) prepares meat, meat food products, poultry or poultry
16 products which have been inspected and passed and which are
17 being prepared and sold in normal retail quantities; or

18 [(3) prepares such meat, meat products, poultry or poultry
19 products for the owner of such food locker plant.]

20 Sec. 10. [11.] This act shall take effect and be in force from and after
21 its publication in the statute book.

LEGISLATIVE TESTIMONY



The Unified Voice of Business

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Sub. for HB 2688

March 15, 2000

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Commerce

by

John Fowler
President & CEO

Madam Chair and members of the Committee:

I am John Fowler, President of the Kansas Chamber of Commerce and Industry. Thank you for allowing me to speak on behalf of Substitute for HB 2688, enacting the Kansas Certified Capital Formation Company Act.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

KCCI supports the concept embodied in this bill of enhancing venture capital investment in the state. The role played by venture capital in the formation and success of so-called new economy enterprises, as well as more traditional industries, has been well documented.

Senate Commerce Committee

Date: 3-15-00

Attachment # 3-1 thru 3-2

unding is fueling the entrepreneurial explosion that is leading our national economy today, and will help maintain America's economic leadership tomorrow. Yet Kansas ranks far below many other states in its level of venture capital activity and investment. We believe there is an appropriate role for state government in enhancing venture capital in Kansas.

KCCI's Economic Development Committee, and our members who are engaged in the economic development of their communities, have identified the enhancement of venture capital opportunities as a major component in our future business expansion. This goal was subsequently adopted by the KCCI Business Congress as a priority for the economic development of the state.

The use of income tax credits to stimulate private investment in new and promising ventures represents a sound approach to resolving the competitive issue of Kansas' risk capital deficit. With the adoption of this act, the Kansas Legislature can take an important step to encourage private investment, enable more entrepreneurs to turn their ideas into vital, growing business enterprises, and create jobs for Kansas residents.

Thank you for your consideration. I would be happy to respond to questions.