

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on February 18, 2003 in Room 423-S of the Capitol.

All members were present except: Senator Jordan, excused

Committee staff present: April Holman, Legislative Research
Norman Furse, Revisor of Statutes
Mitch Rice, Revisor of Statutes
Jodie Anspaugh, Secretary

Conferees appearing before the committee: April Holman, Legislative Research
Norman Furse, Revisor of Statutes

Others attending: See attached list.

Chairperson Brownlee reviewed this week's schedule and announced that the Commerce Committee will meet at 8:00 a.m. tomorrow.

Chairperson Brownlee asked Norm Furse, Revisor of Statutes, to give an explanation of the proposed amendment to **SB 65** regarding Venture Capital. Mr. Furse distributed copies of the proposed amendment to the committee. (Attachment 1) The amendment would strike the word "schedule" on page 1, line 39, and insert "requirements." Changes were also made to page 3. Members of the committee thought the bill should have a more thorough explanation of what constitutes "financial dealings" in order to eliminate confusion. Mr. Furse will change this and the committee will try to vote tomorrow.

Chairperson Brownlee asked April Holman from Legislative Research to give a briefing on **SB 223** regarding Reverse Auction. Ms. Holman read the changes to the bill and answered a few questions. There were no conferees on this bill. Chris Howe, acting Director of Purchasing, was in attendance and said that his division has no problems with this bill. Senator Barone made a motion to move the bill out favorable for passage. Senator Steineger seconded. The motion carried.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for February 19, 2003 at 8:00 a.m. in room 123-S.

SENATE COMMERCE COMMITTEE

GUEST LIST

DATE: Tuesday, Feb. 18, 2003

NAME	REPRESENTING
NICOLE Romine	GBBA
Kevin Barone	Hern Law Firm
Megan Chalfant	Burgess and Associates
John Robinson	Lt. Governor's Ofc.
Scarlett Higgins	KLW
Daniel Schmidt	KLA
Mike Beam	Ks LUSTK Assn.
Michael Peck	KTEC
Helen Swayer	KLA
Ken Duernann	KLA
Tom Swearingin	KLA
CHRIS HOWE	ADMINISTRATION/PURCHASES
Kenneth Z Combes	KLA
Libby Long	KLA
Bob Larson	KLA
Larry Johnson	KLA
John P. [unclear]	DOPA
Amber Kibbler	Sen. Brungardt
Chad Heath	Sen. Eiler

Proposed Amendment to SB 65

Be amended:

On page 1, in line 39, by striking "schedule" and inserting "requirements";

On page 4, following line 30, by inserting:

"Sec. 4. K.S.A. 74-8223 is hereby amended to read as follows: 74-8223. (a) The secretary may authorize and subsequently certify profit or not-for-profit entities which meet the requirements of this act. The secretary shall compile a list of every certified CFC, including the address and telephone number of the certified CFC's principal place of business. The secretary shall publicize the list in order to inform Kansas companies of the availability of potential investment capital.

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

(1) That at the time of application, the applicant owns cash, marketable securities and other liquid assets valued at no less than \$500,000; or that prior to January 1, 2000, the applicant was designated as an innovation and commercialization corporation or an affiliate innovation and commercialization corporation created under the Kansas technology enterprise corporation innovation and commercialization corporation program; and

(2) that the officers and the board of directors, general partners, trustees, managing members or managers, as the case may

be, are thoroughly acquainted with the requirements of this act and acknowledge such by a signed certification.

(c) To continue to be certified, the CFC must own and shall periodically demonstrate to the secretary, as the secretary may require, that the liquid asset base for the certified capital formation company is at least \$500,000 at all times during the CFC's participation in the program authorized by this act.

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

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

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

(3) is currently subject to any state administrative order or judgment entered by a state securities administrator or is subject to any state administrative order or judgment in which fraud or deceit was found and an order or judgment was entered;

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

(5) is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction permanently restraining or enjoining that person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, rendering investment advice or involving the making or any false filing with any state; and

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

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

(f) The secretary shall review documentation regarding the qualifications of the persons who will actively manage the CFC and make a determination as to whether such persons possessed sufficient knowledge and professional experience in the areas of investment, venture capital, business management and evaluation, portfolio management, and such other area of expertise to the degree that a reasonable person would be confident in such manager's ability to manage the CFC. No authorization shall be

issued when it is the opinion of the secretary that such persons do not possess this requisite degree of knowledge and expertise.

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

(h) Within a period of time established by the secretary after receiving an application for authorization as a CFC, the secretary shall either issue or deny the authorization and communicate in detail to the applicant the grounds for the denial, including any suggestions for the removal of those grounds.";

And by renumbering sections and adjusting the repealer and title accordingly.