

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 3:30 p.m. on March 11, 2004, in Room 526-S of the Capitol.

All members were present except:  
Representative Don Hill- excused

Committee staff present:  
Kathie Sparks, Legislative Research Department  
Susan Kannarr, Legislative Research Department  
Renaee Jefferies, Office of Revisor of Statutes  
Helen Pedigo, Office of Revisor of Statutes  
Fulva Seufert, Secretary

Conferees appearing before the committee: Mike Farmer, KTEC

Others attending:  
See Attached List.

Chairman Wilk announced that the committee would be working the following bills:

**SB 520 - Creating the Kansas downtown redevelopment act**

**SB 480 - Kansas investor tax credit act**

**SB 394 - Impact, increased cap on major product investment; authorizes direct investment to educational institutions**

Chairman Wilk explained that he would have a motion to amend the population number in **SB 520** to be consistent with other bills. Chairman Wilk moved that on page 2, line 23, to change the 50,000 threshold to 25,000 so as to be consistent with other legislation. Representative Novascone seconded. Motion passed.

Representative Carlin made a substitute motion that on page 1, line 22, the word "abatement" be changed to "rebate" to be consistent, and Representative Burroughs seconded. Motion passed.

Representative Novascone made a motion to pass out favorably as amended **SB 520**, and Representative Boyer seconded. Motion passed.

Chairman Wilk drew the committee's attention to **SB 480**.

Chairman Wilk asked Mike Farmer to explain the balloon amendment on page 2, line 25 which deletes the following: "except that no tax credit shall be allowed in a year prior to 2006" and in lines 27 and 28 delete the words, "beginning in the year 2006." Mr. Farmer also explained the addition of (3) on page 3, line 42 which adds the following: "a statement of the business' innovative and proprietary technology, product or service." Also, on page 4, line 22, add (4) "the business has an innovative and proprietary technology, product or service." (Attachment 1)

Representative Burroughs made a motion to accept these balloons on **SB 480**, and Representative Boyer seconded. Motion passed.

Representative Burroughs made a conceptual amendment that there is nothing in the bill to reference clawback language and he wanted to see a clawback delegating authority to Commerce Secretary to write the rules and regulations. Representative Carlin seconded. After discussion, with Representative Carlin's approval, Representative Burroughs withdrew his motion.

Representative Burroughs made a motion to add a clawback with a ten year provision, and Representative

CONTINUATION SHEET

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Carlin seconded. Motion passed.

Chairman Wilk said that Ms. Helen Pedigo, Revisor, had penned a definition for "Angel investor" to be included on page 1, Sec. 2, line 30 to read as follows: "Angel investor" means an individual investor of high net worth who seeks high returns through private investments in start-up companies and may see active involvement in the business, such as consulting and mentoring the entrepreneur." (Attachment 2)

Representative Loganbill made a motion to include this definition and Representative Kuether seconded. Motion passed.

Representative Boyer made a motion to pass out marked favorable **SB 480** as amended. Representative O'Malley seconded. Motion passed.

Chairman Wilk said the Committee should direct its attention to **SB 394**.

Representative Krehbiel made a minor change on page 3, line 15, to read make up to 15%, and Representative Loganbill seconded. Motion passed.

Representative Burroughs made a motion to pass out **SB 394** marked favorable for passage as amended. Representative Krehbiel seconded. Motion passed.

Representative Gordon announced the Lights, Camera, Action (LCA) Sub Committee would be taking a trip to QuVis at 12:00 noon on Friday, March 12, 2004.

The meeting adjourned at 4:30 p.m.

HOUSE ECONOMIC DEVELOPMENT COMMITTEE  
GUEST LIST

DATE: Thursday, March 11, 2004

NAME	REPRESENTING
Stephanie Buchanan	DOB
Matt Jordan	Commerce
Tracy Taylor	KTEC
Kerri Holtzman	KTEC
Mike Jann	KTEC
Mike Peck	KTEC
Megan Dunn	Hein Law Firm

1 tion 4, and amendments thereto;

2 (f) “qualified securities” means a cash investment through any one or  
3 more forms of financial assistance as provided in this subsection that have  
4 been approved in form and substance by the Kansas technology enter-  
5 prise corporation. Such forms of financial assistance are: (1) Any form of  
6 equity, such as: (A) A general or limited, partnership interest; (B) com-  
7 mon stock; (C) preferred stock, with or without voting rights, without  
8 regard to seniority position, and whether or not convertible into common  
9 stock; or (D) any form of subordinate or convertible debt, or both, with  
10 warrants or other means of equity conversion attached; or

11 (2) a debt instrument, such as a note or debenture that is secured or  
12 unsecured, subordinated to the general creditors of the debtor and re-  
13 quires no payments of principal, other than principal payments required  
14 to be made out of any future profits of the debtor, for at least a seven-  
15 year period after commencement of such debt instrument’s term; and

16 (g) “secretary” means the secretary of the department of commerce.

17 Sec. 3. (a) A credit against the tax imposed by article 32 of chapter  
18 79 of the Kansas Statutes Annotated on the Kansas taxable income of an  
19 investor and against the tax imposed by K.S.A. 40-252, and amendments  
20 thereto, shall be allowed for a cash investment in the qualified securities  
21 of a qualified Kansas business. The credit shall be in a total amount equal  
22 to 50% of an investors’ cash investment in any qualified Kansas business,  
23 subject to the limitations set forth in subsection (b). This tax credit may  
24 be used in its entirety in the taxable year in which the cash investment is  
25 made ~~except that no tax credit shall be allowed in a year prior to 2006.~~ If  
26 the amount by which that portion of the credit allowed by this section  
27 exceeds the investors’ liability in any one taxable year, ~~beginning in the~~  
28 ~~year 2006,~~ the remaining portion of the credit may be carried forward  
29 until the total amount of the credit is used. If the investor is a corporation  
30 having an election in effect under subchapter S or limited liability cor-  
31 poration of the federal internal revenue code or a partnership, the credit  
32 provided by this section shall be claimed by the shareholders of corpo-  
33 rations or the partners of a partnership in the same manner as share-  
34 holders or partners account for such shareholder’s or partner’s propor-  
35 tionate shares of the income or loss of these corporations or partnership.  
36 (b) The secretary of revenue shall not allow tax credits that are at-  
37 tributable to an individual investor of more than \$50,000 of cash invest-  
38 ments in the qualified securities of a single Kansas business or for cash  
39 investments in the qualified securities of more than five Kansas businesses  
40 each year. No tax credits authorized by this act shall be allowed for any  
41 cash investments in qualified securities for any year after the year 2016.  
42 The cumulative aggregate amount of the tax credits allowed by the sec-  
43 retary of revenue, pursuant to this act, shall not exceed \$20,000,000.

House Economic Development  
3-11-04  
Attachment 1

1 (c) A cash investment in a qualified security shall be deemed to have  
 2 been made on the date of acquisition of the qualified security, as such  
 3 date is determined in accordance with the provisions of the internal revenue  
 4 code.

5 (d) No investor shall claim a credit under this section for cash investments  
 6 in Kansas venture capital, inc. No Kansas venture capital company shall qualify  
 7 for the tax credit for an investment in a fund created by articles 81, 82, 83 or 84  
 8 of chapter 74 of the Kansas Statutes Annotated.

9 (e) Any investor that is not subject to taxation under the provisions  
 10 of article 32, chapter 79 of the Kansas Statutes Annotated and that makes  
 11 a cash investment in a qualified security of a qualified Kansas business  
 12 shall be deemed to acquire an interest in the nature of a transferable  
 13 credit limited to an amount equal to 50% of this cash investment. This  
 14 interest may be transferred to an investor and be claimed by this investor  
 15 as a credit against the investor's Kansas income tax liability beginning in  
 16 the year provided in subsection (a). No person shall be entitled to a refund  
 17 for the interest created under this section. Only the full credit for any  
 18 one investment may be transferred and this interest may only be transferred  
 19 one time. A credit acquired by transfer shall be subject to the limitations  
 20 prescribed in this section. Documentation of any credit acquired by transfer  
 21 shall be provided by the investor in the manner required by the director of  
 22 taxation.

23 (f) The reasonable costs of the administration of this act, the review  
 24 of applications for certification as qualified Kansas businesses and the  
 25 issuance of tax credits authorized by this act shall be reimbursed through  
 26 fees paid by the qualified Kansas businesses and the investors or the transferees  
 27 of investors, according to a reasonable fee schedule adopted by the corporation.  
 28

29 Sec. 4. (a) Before an investor may be entitled to receive tax credits,  
 30 as authorized by this act, the investor must have made a cash investment  
 31 in a qualified security of a qualified Kansas business. This business must  
 32 have been approved by the corporation as a qualified Kansas business  
 33 prior to the date on which the cash investment was made. To be designated  
 34 as a qualified Kansas business, a business must make application to the  
 35 corporation in accordance with the provisions of this section.

36 (b) Such application to the corporation shall be in form and substance  
 37 as required by the corporation, but shall include at least the following:

38 (1) The name of the business and certified copies of the organizational  
 39 documents of the business;

40 (2) a business plan, including a description of the business and the  
 41 management, product, market and financial plan of business;

42 (3) a statement of the potential economic impact of the enterprise,  
 43 including the number, location and types of jobs expected to be created;

(3) a statement of the business' innovative and proprietary technology, product or service.

1 fabricate, produce or compound an article of trade, or, any service having  
2 commercial value, which gives the user an opportunity to obtain a busi-  
3 ness advantage over competitors who do not know or use such service.

4 (f) A qualified Kansas business shall have the burden of proof to dem-  
5 onstrate to the corporation the qualifications of the business under this  
6 section and shall have the obligation to notify the corporation in a timely  
7 manner of any changes in the qualifications of the business or in the  
8 eligibility of investors to claim a tax credit for cash investment in a qual-  
9 ified security.

10 Sec. 5. The designation of a business as a qualified Kansas business  
11 shall be made by the corporation. A business shall be so designated if the  
12 corporation determines, based upon the application submitted by the  
13 business and any additional investigation the staff of the corporation shall  
14 make, that the following criteria have been or shall be satisfied: (1) The  
15 business has a reasonable chance of success;

16 (2) the ability of investors in the business to receive tax credits for  
17 cash investments in qualified securities of the business is necessary, be-  
18 cause funding otherwise available for the business is not available on com-  
19 mercially reasonable terms;

20 (3) the business has the reasonable potential to create measurable  
21 employment within the state;

22 (4) the existing owners of the business and other founders have made  
23 or are committed to make a substantial financial and time commitment  
24 to the business;

25 (5) the securities to be issued and purchased are qualified securities;  
26 and

27 (6) binding commitments have been made by the business to the  
28 corporation for adequate reporting of financial data, including a require-  
29 ment for an annual report, or, if required by the board of directors of the  
30 corporation, an annual audit of the financial and operational records of  
31 the business, the right of access to the financial records of the business  
32 and the right of the corporation to record and publish normal and cus-  
33 tomary data and information related to the issuance of tax credits that are  
34 not otherwise determined to be trade or business secrets.

35 Sec. 6. (a) Each qualified Kansas business for which tax credits have  
36 been issued pursuant to this act shall report to the corporation on an  
37 annual basis, the following: (1) The name, address and taxpayer identifi-  
38 cation number of each investor who has made cash investment in the  
39 qualified securities of a qualified Kansas business and has received tax  
40 credits for this investment during the preceding year and all other pre-  
41 ceding years; (2) the amounts of these cash investments by each investor  
42 and a description of the qualified securities issued in consideration of  
43 such cash investments; (3) the name, address and taxpayer identification

(4) the business has an innovative and  
proprietary technology, product or  
service.

SENATE BILL No. 480

By Committee on Commerce

PROPOSED AMENDMENT  
Revisor  
March 11, 2004

House Economic Development  
3-11-04  
Attachment 2

10 AN ACT concerning income taxation; relating to tax credits for invest-  
11 ment in qualifying businesses; powers and duties of the Kansas technol-  
12 ogy enterprise corporation; repealing K.S.A. 74-8224, 74-8227, 74-  
13 8228 and 74-8229 and K.S.A. 2003 Supp. 74-8221, 74-8222, 74-8223,  
14 74-8225 and 74-8226.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section. 1. (a) The purpose of the Kansas angel investor tax credit  
18 act is to facilitate the availability of equity investment in businesses in the  
19 early stages of commercial development and to assist in the creation and  
20 expansion of Kansas businesses, which are job and wealth creating enter-  
21 prises, by granting tax credits against the Kansas income tax liability of  
22 investors investing in these businesses. The Kansas angel investor tax  
23 credit act shall be administered by the Kansas technology enterprise cor-  
24 poration with the primary goal of encouraging individuals to provide seed-  
25 capital financing for emerging, Kansas businesses engaged in the devel-  
26 opment, implementation and commercialization of innovative  
27 technologies, products and services.

28 (b) This act shall be known and may be cited as the Kansas angel  
29 investor tax credit act.

30 Sec. 2. As used in this act: (a) ~~["Cash"]~~ "investment" means money or  
31 money equivalent in consideration for qualified securities;

32 (b) "corporation" means the Kansas technology enterprise corpora-  
33 tion, a public instrumentality created pursuant to K.S.A.74-8101, and  
34 amendments thereto;

35 (c) "investor" means an accredited investor, as that term is defined  
36 in 17 CFR 230.501(a) as in effect on the effective date of this act;

37 (d) "Kansas business" means any business owned by an individual,  
38 any partnership, association or corporation domiciled in Kansas, or any  
39 corporation, even if a wholly owned subsidiary of a foreign corporation,  
40 that does business primarily in Kansas or does substantially all of such  
41 businesses' production in Kansas;

42 (e) "qualified Kansas business" means the Kansas businesses that are  
43 approved and certified as qualified Kansas businesses as provided in sec-

"Angel investor" means an individual investor of high net worth who seeks high returns through private investments in start-up companies and may seek active involvement in the business, such as consulting and mentoring the entrepreneur;  
(b)"cash