

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:00 a.m. on March 21, 2001 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research Department
Bob Nugent, Revisor of Statutes
Lea Gerard, Secretary

Conferees appearing before the committee: Rich Bendis, President and CEO, KTEC

Others attending: See attached sheet.

The committee chairperson sent a memo to all committee members that work on **SB 306** will be completed at the Senate Commerce Committee meeting Thursday, March 22, 2001. If committee members have language changes, they are to submit to Bob Nugent, Revisor of Statutes before Thursday's meeting (Attachment 1).

HB 2301

Senator Brungardt moved, seconded by Senator Steineger to adopt the balloon amendments for HB 2301 as presented in open discussion. Motion carried.

Senator Steineger moved, Senator Emler seconded that HB 2301 be recommended favorable for passage. Motion carried.

HB 2303

Bob Nugent, Revisor of Statutes, gave a brief overview of the balloon amendment for **HB 2303** that changes the way Indian Tribes are treated under existing law. The existing law for Indian Tribe coverage of unemployment for and on behalf of a Indian Tribes is optional. The Federal Government has changed the requirement so it is a conformity issue that Indian tribes must be covered under the state act now and given the option to act as a reimbursing employer. They would not be liable for FUTA taxes but any unemployment claims they incur would be paid back on a reimbursement basis. If they failed to make those payments, they would lose their ability to act on a reimbursing basis and would be liable for FUTA taxes. The impact is potentially about \$420 million dollars.

Senator Kerr moved, seconded by Senator Jordan to adopt the balloon amendments for HB 2303 and be recommended favorable for passage. Motion carried.

HB 2505

Senator Brownlee sent information regarding Venture Capital to Committee members on March 20, 2001. (Attachment 2)

Rich Bendis, President and CEO, KTEC, gave an overview of the balloon amendments for **HB 2505** (Attachment 3). The balloon amendment, Page 9, Line 29 is made up of three components. The first issue involves the management of excess funds and marketable securities. Funds will want to distribute the net proceeds once an investment is liquidated. This has a positive effect on the rate of return and gives the program more credibility. The second issue of the balloon is the Capital Formation Company (CFC) should be free to distribute marketable securities so the fund managers may not be vulnerable to claims of investors if the stock being held goes down or if they sale the stock and it increases. The third issue of the balloon relates to the funds will be a "pass through entity" in which income earned or incurred during a year is passed through to the investors.

The explanation for the balloon on Page 10, Line 12, Section 2 is that it is designed to limit the CFC from investing too heavily, more than 20% of CFC assets in any one deal. The limitation should be tied to either 20% of the original capital or 20% of the original capital adjusted for gains and losses.

CONTINUATION SHEET

Rich Bendis explained there is a new phenomenon that has occurred in the last five years in the Venture Capital industry called "Fund-to-Funds". What happens is creditor institutional investors are spreading their risk by investing in multiple venture capital funds rather than putting all their eggs in one basket. This diversifies geographical and industry distribution as well as management for their investments.

Chairperson Brownlee declared the hearing closed on **HB 2505**.

Senator Brungardt made a motion to amend **HB 2505** by reducing the tax credits allowed not to exceed \$12,500,000. and not to exceed \$1,250,000 per fiscal year, Page 5, subsection (c), Line 17 thru 19. Senator Emler seconded only to open for discussion purposes.

The Committee discussed that if the bill is amended, it may not be enough money to give the program a chance. If the Venture Capital program is to be a success, there needs to be enough money available to attract investors. The net lost per year is not the stated amount of the bill because there are offsets such as hiring of personnel and payroll taxes being paid back to the state. There is no doubt that numerous deals in the last several years, quality deals from people outside of the state to make significant investments and part of their qualifications for putting the money in is that they want to have it close enough to keep an eye on it. Venture Capital does not travel well in spite of the comments about technology and so forth, investors want to be able to go see their investments and be in the shop several times a year. There is a demand for this type of money that far exceeds even the higher amount and would not be wise to cut it down.

The motion was denied to amend **HB 2505**, Page 5, subsection (c), Line 17 thru 19.

Senator Jenkins moved, seconded by Senator Kerr to adopt the balloon amendments for **HB 2505**. Motion carried.

Senator Jenkins moved, seconded by Senator Wagle that **HB 2505** be recommended favorable for passage. Motion carried.

Meeting adjourned at 9:30 a.m.

Next meeting scheduled March 22, 2001 at 8:30 a.m.