

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.

Tax credits are to be administered by the Department of Revenue. Investors in a CFC receive a

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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.