

HOUSE BILL No. 2417

By Committee on Taxation

2-25

AN ACT concerning income taxation; repealing tax credits; amending K.S.A. 74-50,113, 74-50,114, 74-50,115, 74-50,118, 74-50,131, 74-50,133, 74-50,135, 74-8017, 74-8203, 74-8302, 74-8303, 74-8306, 74-8307, 74-8308, 74-8309, 74-8310, 74-8401, 74-8402, 74-8403, 74-8404 and 74-8405 and K.S.A. 2002 Supp. 40-2240 and repealing the existing sections; also repealing K.S.A. 39-7,132, 40-2246, 74-50,132, 74-8205, 74-8206, 74-8207, 74-8304, 74-8304a, 74-8316, 79-1117, 79-32,111a, 79-32,140, 79-32,152n, 79-32,155, 79-32,156, 79-32,157, 79-32,158, 79-32,159, 79-32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-32,160b, 79-32,160c, 79-32,175, 79-32,176, 79-32,177, 79-32,178, 79-32,179, 79-32,180, 79-32,181, 79-32,182, 79-32,190, 79-32,191, 79-32,192, 79-32,194, 79-32,198, 79-32,199, 79-32,200, 79-32,202 and 79-32,203 and K.S.A. 2002 Supp. 79-1126a, 79-32,153, 79-32,154, 79-32,160a, 79-32,181a, 79-32,182b, 79-32,195, 79-32,196, 79-32,197, 79-32,197a, 79-32,199a, 79-32,199b, 79-32,201, 79-32,204, 79-32,205, 79-32,206, 79-32,207, 79-32,210, 79-32,211, 79-32,212 and 79-32,213.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2002 Supp. 40-2240 is hereby amended to read as follows: 40-2240. (a) Any small employer as defined in subsection (4) of K.S.A. 40-2209d, and amendments thereto, may establish a small employer health benefit plan for the purpose of providing a health benefit plan as described in subsection (u) of K.S.A. 40-2209d, and amendments thereto, covering such employers' eligible employees and such employees' family members. If an association or trust is used for such purposes, the association or trust may not condition eligibility or membership on the health status of members or employees.

(b) Employers desiring to offer a small employer health benefit plan shall notify the commissioner and provide the commissioner with information on the number of employees and family members to be covered by the insurance described in K.S.A. 40-2209d, and amendments thereto. The commissioner shall provide assistance to employers desiring to organize and maintain any such benefit plan and may aid in the acquisition of the health care insurance by the small employer health benefit plan. ~~The commissioner shall issue a certificate to every employer participating~~

1 in any such small employer health benefit plan entitling such employer
2 to claim the tax credit authorized by K.S.A. 40-2246 and amendments
3 thereto subject to the following limitation: No certificate shall be issued
4 to any employer seeking the same after certificates have already been
5 issued under this act to employers offering health benefits described in
6 K.S.A. 40-2209d, and amendments thereto, to employees and family
7 members entitling such employers to claim the credits for taxable years
8 which commence after December 31, 1999.

9 Sec. 2. K.S.A. 74-50,113 is hereby amended to read as follows: 74-
10 50,113. The provisions of K.S.A. 74-50,113 through 74-50,120 and K.S.A.
11 1992 Supp. 79-32,160a through 79-32,160e and amendments thereto shall
12 be known and may be cited as the Kansas enterprise zone act.

13 Sec. 3. K.S.A. 74-50,114 is hereby amended to read as follows: 74-
14 50,114. As used in K.S.A. 74-50,113 through 74-50,117 and amendments
15 thereto:

16 (a) "Ancillary support" means a facility which is operated by a busi-
17 ness and whose function is to provide services in support of the business,
18 but is not directly engaged in the business' primary function.

19 (b) "Business" means any manufacturing business or nonmanufac-
20 turing business.

21 (c) "Business headquarters" means a facility where principal officers
22 of the business are housed and from which direction, management or
23 administrative support for transactions is provided for a business or di-
24 vision of a business or regional division of a business.

25 (d) "Full-time employee" means a person who is required to file a
26 Kansas income tax return and who is employed by a business or retail
27 business to perform duties in connection with the operation of the busi-
28 ness or retail business on:

29 (1) A regular, full-time basis;
30 (2) a part-time basis, provided such person is customarily performing
31 such duties at least 20 hours per week throughout the taxable year; or

32 (3) a seasonal basis, provided such person performs such duties for
33 substantially all of the season customary for the position in which such
34 person is employed. The number of full-time employees during any tax-
35 able year shall be determined by dividing by 12 the sum of the number
36 of full-time employees on the last business day of each month of such
37 taxable year. If the business or retail business is in operation for less than
38 the entire taxable year, the number of full-time employees shall be de-
39 termined by dividing the sum of the number of full-time employees on
40 the last business day of each full calendar month during the portion of
41 such taxable year during which the business was in operation by the num-
42 ber of full calendar months during such period.

43 (e) "Manufacturing business" means all commercial enterprises iden-

1 tified under the manufacturing standard industrial classification codes,
2 major groups 20 through 39.

3 (f) "Metropolitan county" means the county of Douglas, Johnson,
4 Leavenworth, Sedgwick, Shawnee or Wyandotte.

5 (g) "Nonmanufacturing business" means any commercial enterprise
6 other than a manufacturing business or a retail business. Nonmanufac-
7 turing business shall also include the business headquarters of an enter-
8 prise, ancillary support of an enterprise, and an enterprise designated
9 under standard industrial classification codes 5961, 7948-0201 or 7372
10 regardless of the firm's classification as a retail business if that facility for
11 which the sales tax exemption certificate is issued facilitates the creation
12 of at least 20 new full-time positions. In addition, with respect to enter-
13 prises in standard industrial classification code 7948-0201, such enter-
14 prises must operate an auto racetrack in the state involving capital im-
15 improvements costing not less than \$100,000,000.

16 For taxable years commencing after December 31, 1997, any ancillary
17 support business which would otherwise be eligible for a sales tax ex-
18 emption ~~or an income, premium or privilege tax credit~~ pursuant to this
19 subsection shall incorporate in its tax filing for the exemption ~~or credit~~ a
20 statement from the secretary of commerce and housing which includes a
21 finding by the secretary that the job expansion incident to the exemption
22 ~~or credit~~ claimed would not have occurred in the absence of the ~~credit~~
23 ~~or~~ exemption.

24 (h) "Nonmetropolitan region" means a region established under
25 K.S.A. 74-50,116 and amendments thereto and is comprised of any county
26 or counties which are not metropolitan counties.

27 (i) "Retail business" means: (1) Any commercial enterprise primarily
28 engaged in the sale at retail of goods or services taxable under the Kansas
29 retailers' sales tax act; (2) any service provider set forth in K.S.A. 17-2707,
30 and amendments thereto; (3) any bank, savings and loan or other lending
31 institution; (4) any commercial enterprise whose primary business activity
32 includes the sale of insurance; and (5) any commercial enterprise deriving
33 its revenues directly from noncommercial customers in exchange for per-
34 sonal services such as, but not limited to, barber shops, beauty shops,
35 photographic studios and funeral services.

36 (j) "Secretary" means the secretary of the Kansas department of com-
37 merce and housing.

38 (k) "Standard industrial classification code" means a standard indus-
39 trial classification code published in the Standard Industrial Classification
40 manual, 1987, as prepared by the statistical policy division of the office
41 of management and budget of the office of the president of the United
42 States of America.

43 Sec. 4. K.S.A. 74-50,115 is hereby amended to read as follows: 74-

1 50,115. (a) A manufacturing business may be eligible for a sales tax ex-
2 emption under the provisions of subsection (cc) of K.S.A. 79-3606, and
3 amendments thereto, if the manufacturing business complies with the
4 following requirements:

5 (1) A manufacturing business shall provide documented evidence of
6 job expansion involving the employment of at least two additional full-
7 time employees; and

8 (2) a manufacturing business located within the state of Kansas that
9 has documented evidence of job expansion as provided in paragraph (1),
10 which relocates in another city or county within the state of Kansas must
11 receive approval from the secretary prior to qualifying for the sales tax
12 exemption in subsection (cc) of K.S.A. 79-3606, and amendments thereto,
13 except that approval by the secretary shall not be required if the manu-
14 facturing business relocates within the same city.

15 (b) A nonmanufacturing business may be eligible for a sales tax ex-
16 emption under the provisions of subsection (cc) of K.S.A. 79-3606, and
17 amendments thereto, if the nonmanufacturing business complies with the
18 following requirements:

19 (1) A nonmanufacturing business shall provide documented evidence
20 of job expansion involving the employment of at least five additional full-
21 time employees; and

22 (2) a nonmanufacturing business located within the state of Kansas
23 that has documented evidence of job expansion as provided in paragraph
24 (1), which relocates in another city or county within the state of Kansas
25 must receive approval from the secretary prior to qualifying for the sales
26 tax exemption in subsection (cc) of K.S.A. 79-3606, and amendments
27 thereto, except that approval by the secretary shall not be required if the
28 nonmanufacturing business relocates within the same city.

29 (c) A retail business may qualify for the sales tax exemption under
30 subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the retail
31 business complies with the following requirements:

32 (1) A retail business shall provide documented evidence of job ex-
33 pansion involving the employment of at least two additional full-time em-
34 ployees; and

35 (2) (A) such retail business locates or expands to a city having a pop-
36 ulation of 2,500 or less, as determined by the latest United States federal
37 census, or (B) such retail business locates or expands prior to July 1, 2004,
38 to a location outside a city in a county having a population of 10,000 or
39 less, as determined by the latest United States federal census.

40 (d) Any person constructing, reconstructing, remodeling or enlarging
41 a facility which will be leased in whole or in part for a period of five years
42 or more to a business that would be eligible for a sales tax exemption
43 hereunder if such business had constructed, reconstructed, enlarged or

1 remodeled such facility or portion thereof itself shall be entitled to the
2 sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-
3 3606, and amendments thereto. When such person leases less than the
4 total facility to an eligible business, a project exemption certificate may
5 be granted on: (1) The total cost of constructing, reconstructing, remodel-
6 ing or enlarging, the facility multiplied by a fraction given by dividing
7 the number of leased square feet eligible for the sales tax exemption by
8 the total square feet being constructed, reconstructed, remodeled or en-
9 larged; or (2) the actual cost of constructing, reconstructing, remodeling
10 or enlarging that portion of the facility to be occupied by the eligible
11 business, as the person may elect.

12 (e) A business may qualify for a sales tax exemption under subsection
13 (cc) of K.S.A. 79-3606, and amendments thereto, without regard to any
14 of the foregoing requirements of this section if it is certified as a qualified
15 firm by the secretary of commerce and housing pursuant to K.S.A. 74-
16 50,131, and amendments thereto, ~~and is entitled to the corporate tax~~
17 ~~credit established in K.S.A. 74-50,132, and amendments thereto;~~ or has
18 received written approval for participation and has participated, during
19 the tax year in which the exemption is claimed, in training assistance by
20 the department of commerce and housing under the Kansas industrial
21 training, Kansas industrial retraining or state of Kansas investments in
22 lifelong learning program.

23 (f) The secretary may adopt rules and regulations to implement and
24 administer the provisions of this section.

25 Sec. 5. K.S.A. 74-50,118 is hereby amended to read as follows: 74-
26 50,118. (a) Each designated nonmetropolitan region approved by the sec-
27 retary shall submit an annual report to the secretary, in such form as the
28 secretary may require, on or before February 15 of each year. Each report
29 shall include:

30 (1) A list of local incentives for economic development available in
31 such region during the prior year;

32 (2) the usage of the local incentives which the governing body com-
33 mitted to provide in such region; and

34 (3) such other information as required by the secretary.

35 (b) The secretary shall submit an annual report, pursuant to K.S.A.
36 74-5049, and amendments thereto, each year detailing the information
37 provided pursuant to subsection (a).

38 (c) The secretary of revenue shall submit an annual report to the
39 governor and the legislature by April 1 of each year detailing by county
40 ~~the state fiscal note on the income tax credits claimed and used, including~~
41 ~~the amount of carry-forward credits, and sales tax exemptions allowed~~
42 pursuant to this act.

43 Sec. 6. K.S.A. 74-50,131 is hereby amended to read as follows: 74-

1 50,131. Commencing after December 31, 1999: (a) As used in this act:
2 “Qualified firm” means a for-profit business establishment, subject to
3 state income, sales or property taxes, identified under the standard in-
4 dustrial classification (SIC) codes as in effect July 1, 1993, major groups
5 20 through 39, major groups 40 through 51, and major groups 60 through
6 89; identified under the North American industry classification system
7 (NAICS) as in effect on October 1, 2000, or is identified as a corporate
8 or regional headquarters or back-office operation of a national or multi-
9 national corporation regardless of SIC code or NAICS designation. The
10 secretary of commerce and housing shall determine eligibility when a
11 difference exists between a firm’s SIC code and NAICS designation. A
12 business establishment may be assigned a standard industrial classification
13 code or NAICS designation according to the primary business activity at
14 a single physical location in the state.

15 (b) In the case of firms in major groups 40 through 51, and major
16 groups 60 through 89 or the appropriate NAICS designation the business
17 establishment must also demonstrate the following:

18 (1) More than $\frac{1}{2}$ of its gross revenues are a result of sales to com-
19 mercial or governmental customers outside the state of Kansas; or

20 (2) more than $\frac{1}{2}$ of its gross revenues are a result of sales to Kansas
21 manufacturing firms within major groups 20 through 39 or the appropri-
22 ate NAICS designation; or

23 (3) more than $\frac{1}{2}$ of its gross revenues are a result of a combination
24 of sales described in (1) and (2).

25 (c) For purposes of determining whether one of the average wage
26 options described in subsection (d) below is satisfied, business establish-
27 ments located within a metropolitan county, as defined in K.S.A. 74-
28 50,114, and amendments thereto, will be compared only to other busi-
29 nesses within that metropolitan county, and business establishments
30 located outside of a metropolitan county will be compared to businesses
31 within an aggregation of counties representing the business establish-
32 ment’s region of the state, which regional aggregation will exclude met-
33 ropolitan counties. Such aggregation shall be determined by the depart-
34 ment of commerce and housing.

35 (d) Additionally, a business establishment having met the criteria as
36 established in subsection (a) or (b), and using the comparison method
37 described in subsection (c), must meet one of the following criteria:

38 (1) The establishment with 500 or fewer full-time equivalent em-
39 ployees will provide an average wage that is above the average wage paid
40 by all firms with 500 or fewer full-time equivalent employees which share
41 the same two-digit standard industrial classification code or appropriate
42 NAICS designation.

43 (2) The establishment with 500 or fewer full-time equivalent em-

1 ployees is the sole firm within its two-digit standard industrial classifica-
2 tion code or appropriate NAICS designation which has 500 or fewer full-
3 time equivalent employees.

4 (3) The establishment with more than 500 full-time equivalent em-
5 ployees will provide an average wage that is above the average wage paid
6 by firms with more than 500 full-time equivalent employees which share
7 the same two-digit standard industrial classification code or appropriate
8 NAICS designation.

9 (4) The establishment with more than 500 full-time equivalent em-
10 ployees is the sole firm within its two-digit standard industrial classifica-
11 tion code or appropriate NAICS designation which has 500 or more full-
12 time equivalent employees, in which event it shall either provide an
13 average wage that is above the average wage paid by all firms with 500
14 or fewer full-time equivalent employees which share the same two-digit
15 standard industrial classification code or appropriate NAICS designation,
16 or be the sole firm within its two-digit standard industrial classification
17 code or appropriate NAICS designation.

18 (e) As an alternative to the requirements of subsections (c) and (d),
19 a firm having met the requirements of subsections (a) or (b), may qualify,
20 if excluding taxable disbursements to company owners, the business es-
21 tablishment's annual average wage must be greater than or equal to 1.5
22 times the aggregate average wage paid by industries covered by the em-
23 ployment security law based on data maintained by the secretary of hu-
24 man resources.

25 (f) For the purposes of this section, the number of full-time equiva-
26 lent employees shall be determined by dividing the number of hours
27 worked by part-time employees during the pertinent measurement in-
28 terval by an amount equal to the corresponding multiple of a 40-hour
29 work week and adding the quotient to the number of full-time employees.

30 (g) The secretary of commerce and housing shall certify annually to
31 the secretary of revenue that a firm meets the criteria for a qualified firm
32 and that the firm is eligible for the benefits and assistance provided under
33 this act, *except that such requirement to certify by the secretary shall not*
34 *apply to taxable years commencing after December 31, 2002.* The secre-
35 tary of commerce and housing is hereby authorized to obtain any and all
36 information necessary to determine such eligibility. Information obtained
37 under this section shall not be subject to disclosure pursuant to K.S.A.
38 45-215 *et seq.*, and amendments thereto, but shall upon request be made
39 available to the legislative post audit division. The secretary of commerce
40 and housing shall publish rules and regulations for the implementation
41 of this act. Such rules and regulations shall include, but not be limited
42 to:

43 (1) ~~A definition of "training and education" for purposes of K.S.A.~~

1 ~~74-50,132, and amendments thereto.~~

2 —~~(2)~~ Establishment of eligibility requirements and application proce-
3 dures for expenditures from the high performance incentive fund created
4 in K.S.A. 74-50,133, and amendments thereto.

5 ~~(3)~~ (2) Establishment of approval guidelines for private consultants
6 authorized pursuant to K.S.A. 74-50,133, and amendments thereto.

7 ~~(4)~~ (3) Establishment of guidelines for prioritizing business assistance
8 programs pursuant to K.S.A. 74-50,133, and amendments thereto.

9 ~~(5)~~ (4) A definition of “commercial customer” for the purpose of
10 K.S.A. 74-50,133, and amendments thereto.

11 ~~(6)~~ (5) A definition of “headquarters” for the purpose of K.S.A. 74-
12 50,133, and amendments thereto.

13 ~~(7)~~ (6) Establishment of guidelines concerning the use and disclosure
14 of any information obtained to determine the eligibility of a firm for the
15 assistance and benefits provided for by this act.

16 Sec. 7. K.S.A. 74-50,133 is hereby amended to read as follows: 74-
17 50,133. There is hereby created within the department of commerce and
18 housing the “high performance incentive fund” to provide matching funds
19 for business assistance and consulting services to qualified firms under
20 the provisions of K.S.A. 74-50,131 ~~that are entitled to a workforce training~~
21 ~~tax credit under the provisions of K.S.A. 74-50,132, and amendments~~
22 ~~thereto~~, or have received written approval for and are participating, at the
23 time the funds are sought, in the Kansas industrial training, Kansas in-
24 dustrial retraining or state of Kansas investments in lifelong learning pro-
25 gram, subject to appropriation of funds and program criteria, as herein-
26 after provided. The department of commerce and housing may provide
27 funds to qualified firms, on a matching basis, to pay up to 50% of such
28 firm’s costs of acquiring consulting services provided by the mid-America
29 manufacturing technology center, or approved private consultants to as-
30 sist in improving the firm’s management, production processes or product
31 or service quality. Qualified firms also shall receive priority consideration
32 for any other business assistance programs administered by the depart-
33 ment of commerce and housing, the Kansas technology enterprise cor-
34 poration and the mid-America manufacturing technology center.

35 Sec. 8. K.S.A. 74-50,135 is hereby amended to read as follows: 74-
36 50-135. The provisions of K.S.A. 74-50,115 ~~and K.S.A. 74-50,132 and 79-~~
37 ~~32,160a, and amendments thereto~~, shall be effective for taxable years com-
38 mencing after December 31, 1992.

39 Sec. 9. K.S.A. 74-8017 is hereby amended to read as follows: 74-
40 8017. On and after January 1, 2003, it shall be the duty of Kansas, Inc.
41 to prepare an annual report evaluating the cost effectiveness of the various
42 ~~income tax credits and~~ sales tax exemptions enacted to encourage eco-
43 nomic development within this state and submit the same to the standing

1 committees on taxation and economic development of the house and as-
2 sessment and taxation and commerce of the senate at the beginning of
3 each regular session of the legislature. The secretary of revenue, in con-
4 sultation with the president of Kansas, Inc., shall develop a questionnaire
5 on the utilization of ~~state income tax credits and~~ sales tax exemptions that
6 shall be completed by all corporate taxpayers subject to state income tax
7 that shall be submitted to the department of revenue concurrently with
8 the filing of an annual corporate income tax return. The secretary shall
9 provide the completed questionnaires to Kansas, Inc. for use in the prep-
10 aration of such annual report. The questionnaire shall require respon-
11 dents to indicate utilization of the following ~~credits and~~ exemptions:

12 (a) ~~Income tax credits authorized under the provisions of the job ex-~~
13 ~~ansion and investment credit act of 1976 and acts amendatory thereof~~
14 ~~and supplemental thereto;~~

15 ~~—(b) income tax credits for expenditures in research and development~~
16 ~~activities authorized by K.S.A. 79-32,182, and amendments thereto;~~

17 ~~—(c) income and financial institutions privilege tax credits for cash in-~~
18 ~~vestment in stock of Kansas Venture Capital, Inc. authorized by K.S.A.~~
19 ~~74-8205 and 74-8206, and amendments thereto;~~

20 ~~—(d) income tax credits for cash investment in certified Kansas venture~~
21 ~~capital companies authorized by K.S.A. 74-8304, and amendments~~
22 ~~thereto;~~

23 ~~—(e) income tax credits for cash investment in certified local seed cap-~~
24 ~~ital pools authorized by K.S.A. 74-8401, and amendments thereto;~~

25 ~~—(f) income tax credits for investment in the training and education of~~
26 ~~qualified firms' employees authorized by K.S.A. 74-50,132, and amend-~~
27 ~~ments thereto;~~

28 ~~—(g) Sales tax exemptions for property or services purchased for the~~
29 ~~purpose of and in conjunction with constructing, reconstructing, enlarg-~~
30 ~~ing or remodeling a business, or retail business meeting the requirements~~
31 ~~of K.S.A. 74-50,115, and amendments thereto, and machinery and equip-~~
32 ~~ment for installation at such business or retail business authorized by~~
33 ~~subsection (cc) of K.S.A. 79-3606, and amendments thereto; and~~

34 ~~(h) (b) sales tax exemptions for machinery and equipment used di-~~
35 ~~rectly and primarily for the purposes of manufacturing, assembling, proc-~~
36 ~~essing, finishing, storing, warehousing or distributing articles of tangible~~
37 ~~personal property in this state intended for resale by a manufacturing or~~
38 ~~processing plant or facility or a storage, warehousing or distribution fa-~~
39 ~~ility. The secretary of revenue shall provide the completed question-~~
40 ~~naires and copies of sales tax exemption certificates to Kansas, Inc. for~~
41 ~~the preparation of such report.~~

42 Sec. 10. K.S.A. 74-8203 is hereby amended to read as follows: 74-
43 8203. The secretary of the department of commerce is authorized to

1 certify investment in nonvoting preferred stock of Kansas Venture Cap-
2 ital, Inc. in a total not to exceed \$5,000,000 by the pooled money invest-
3 ment board as provided in K.S.A. 75-4205, and amendments thereto,
4 under the following terms and conditions:

5 (a) When banks, savings and loan associations, individuals, corpora-
6 tions or other entities have invested \$3,500,000 of private, equity capital
7 in voting common stock in Kansas Venture Capital, Inc., the pooled
8 money investment board shall match that amount in nonvoting preferred
9 stock. Subsequent investments by the pooled money investment board
10 shall occur quarterly and shall equal the amount of additional common
11 stock subscribed and called by Kansas Venture Capital, Inc. At no time
12 shall the investment in preferred stock exceed the amount of investment
13 in common stock, at no time shall the investment in preferred stock ex-
14 ceed \$5,000,000.

15 (b) The nonvoting preferred stock invested in by the pooled money
16 investment board will receive the same rate of dividend and the same
17 rate of capital appreciation at the same time on the same terms as the
18 voting common stock invested in by banks, savings and loan associations,
19 individuals, corporations or other entities.

20 (c) Every outstanding share representing the nonvoting preferred
21 stock is assured of being fully repaid to the pooled money investment
22 board before one share of the voting common stock is repaid to any bank,
23 savings and loan association, individual, corporation or other entity. In
24 the event that capital impairment compromises the ability of Kansas Ven-
25 ture Capital, Inc. to repay fully the nonvoting preferred stock, the pooled
26 money investment board shall have the power to convert its shares to
27 voting stock to protect its investment.

28 (d) Investments in common stock of Kansas Venture Capital, Inc.
29 shall meet the terms and conditions of K.S.A. 74-8301 to 74-8311, inclu-
30 sive, and amendments thereto, enacting the Kansas venture capital com-
31 pany act.

32 (e) The investments of voting common stock and nonvoting preferred
33 stock shall be invested in ways which do not compromise the integrity of
34 the small business association license approved under the small business
35 investment act on June 17, 1977.

36 (f) Kansas Venture Capital, Inc. may invest in one or more Kansas
37 venture capital companies located in Kansas which meet the require-
38 ments of K.S.A. 74-8301 to 74-8311, inclusive, and amendments thereto.
39 ~~Such investment shall not qualify for the tax credit allowed by K.S.A. 74-~~
40 ~~8304, and amendments thereto.~~

41 (g) A total of 15 board members to oversee the operations of Kansas
42 Venture Capital, Inc. are elected by the voting common stock sharehold-
43 ers in accordance with the following terms and conditions:

1 (1) Eight are representatives of Kansas financial institutions. The
2 eight shall represent a reasonable balance of relative proportion of in-
3 vestment in the common stock of Kansas Venture Capital, Inc. by Kansas
4 commercial banks, savings and loan associations, insurance companies,
5 and other appropriate financial intermediaries, and shall be recognized
6 for outstanding knowledge and leadership in their fields.

7 (2) Two shall be venture capitalists or investment counselors familiar
8 with the types of investments in which Kansas Venture Capital, Inc. will
9 invest its funds, and shall be recognized for outstanding knowledge and
10 leadership in their fields.

11 (3) Five shall represent the business sectors of special importance to
12 the Kansas economy in which Kansas Venture Capital, Inc. shall be ex-
13 pected to invest its funds, and shall be recognized for outstanding knowl-
14 edge and leadership in their fields.

15 (h) The board has conducted a national search and has selected a
16 president for Kansas Venture Capital, Inc. who meets a national standard
17 of experience, ability and initiative for similar chief executive positions
18 for venture capital corporations investing high risk equity in firms which
19 meet the purpose of this act.

20 (i) Funds invested by Kansas Venture Capital, Inc. shall be invested
21 at 100% in Kansas businesses or in Kansas venture capital companies
22 which invest 100% of the funds invested in such companies by Kansas
23 Venture Capital, Inc., in Kansas businesses in which the funds so invested
24 were to be used solely for the purpose of enhancing their productive
25 capacity within the state, or to add value to goods or services produced
26 or processed within the state.

27 (j) The pooled money investment board shall enter into an agreement
28 with Kansas venture capital, inc., by which the board of Kansas venture
29 capital, inc. will redeem and the pooled money investment board will sell
30 the nonvoting preferred stock representing the board's investment in
31 Kansas venture capital, inc. pursuant to this section. The agreement shall
32 provide that the preferred stock shall be redeemed in exchange for total
33 consideration of \$5,000,000. Such payment may be made in such install-
34 ments as the board of Kansas venture capital, inc. deems appropriate.
35 Kansas venture capital, inc. shall make an initial minimum payment of
36 \$1,000,000 payable on or before July 31, 1998. Kansas venture capital,
37 inc. shall continue to make minimum payments of \$1,000,000, or with
38 respect to the final payment, such lesser amount as will permit full re-
39 demption of the stock on or before July 31st of each successive year until
40 the entire amount of the stock is redeemed. The agreement shall further
41 provide that the payment obligation of Kansas venture capital, inc. shall
42 be deferred as to any scheduled payment or portion thereof in the event
43 that the making of such payment would result in the corporation having

1 a book value of less than \$10,000,000 or cause the corporation to be in
2 violation of the minimum capital requirements or other provisions of the
3 small business investment act of 1958, and amendments thereto, or the
4 rules and regulations thereunder. Any deferred payment, subject to the
5 deferral conditions contained herein, shall be payable on the next sched-
6 uled payment date, when such amount plus any scheduled payment shall
7 either be paid in full, further deferred to the next payment date or paid
8 in part to the extent that such deferred payment would not result in
9 further deferral of the combined payment. After each installment pay-
10 ment is received, a percentage of the nonvoting preferred stock shall be
11 redeemed proportionally to the percentage of the \$5,000,000 payment to
12 be made by the corporation. All such redemption payments shall be made
13 to the pooled money investment board. The pooled money investment
14 board shall remit all moneys received by or for it from Kansas venture
15 capital, inc. for the redemption of the nonvoting preferred stock to the
16 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
17 amendments thereto. Upon receipt of each such remittance, the state
18 treasurer shall deposit the entire amount in the state treasury to the credit
19 of the public water supply loan fund.

20 Sec. 11. K.S.A. 74-8302 is hereby amended to read as follows: 74-
21 8302. The purpose of the Kansas venture capital company act is to facil-
22 itate the formation of private venture capital companies that meet gen-
23 erally accepted national standards for private venture capital companies,
24 and that make equity investments in the creation and expansion of Kansas
25 businesses which are job and wealth creating enterprises ~~by granting tax~~
26 ~~credits against the Kansas income tax liability of taxpayers investing in~~
27 ~~such Kansas venture capital companies and taxpayers acquiring credits~~
28 ~~pursuant to transfers as provided in K.S.A. 74-8304a.~~

29 Sec. 12. K.S.A. 74-8303 is hereby amended to read as follows: 74-
30 8303. For the purposes of this act, the following terms shall have the
31 meanings provided herein, unless the context clearly indicates otherwise:

32 (a) "Department" means the department of commerce;

33 (b) "equity" means all forms of equity such as common stock, pre-
34 ferred stock with or without voting rights and without regard to seniority
35 of equity position, forms of subordinate or convertible debt, or both, with
36 warrants or other means of equity conversion attached, or any other
37 means of financing which meet generally accepted national standards for
38 venture capital investment in the United States;

39 (c) "Kansas business" means any small business owned by an individ-
40 ual, any partnership, association or corporation domiciled in Kansas, or
41 any corporation, even if a wholly owned subsidiary of a foreign corpora-
42 tion, that does business primarily in Kansas or does substantially all of its
43 production in Kansas;

1 (d) “Kansas venture capital company” means any for-profit partner-
2 ship, limited liability company or corporation that has as its primary busi-
3 ness activity the investment of funds in return for equity in ventures that
4 are in need of capital for expansion, new product development or similar
5 business purposes and that may be certified by the secretary as meeting
6 the criteria of this act ~~and thus eligible for the tax credit provided in this~~
7 ~~act;~~

8 (e) “secretary” means the secretary of the department of commerce;

9 (f) “cash investment” means money or its equivalent in consideration
10 for:

11 (1) An equity interest, such as a general or limited partnership inter-
12 est, common or preferred stock with or without voting rights and without
13 regard to seniority position, forms of subordinate or convertible debt, or
14 both, with warrants or other means of equity conversion attached; or

15 (2) a debt instrument, such as a note or debenture, which is unse-
16 curred, subordinated to the general creditors of the debtor, and requires
17 no payments of principal (other than principal payments required to be
18 made out of any future profits of such debtor) for at least a seven-year
19 period after commencement of its term.

20 Sec. 13. K.S.A. 74-8306 is hereby amended to read as follows: 74-
21 8306. (a) The secretary shall promulgate rules and regulations for making
22 an application for certification of a Kansas venture capital company and
23 shall specify the information that must be submitted at the time of ap-
24 plication. No Kansas venture capital company shall be certified until the
25 secretary has adopted rules and regulations as required in K.S.A. 74-8305
26 and amendments thereto. ~~A company seeking to be certified as a Kansas~~
27 ~~venture capital company must specify the level of cash investment that~~
28 ~~the company expects to qualify for the tax credits provided for in this act.~~
29 The application must show that the applicant’s purpose is to encourage
30 and assist in the creation, development and expansion of Kansas busi-
31 nesses and to provide maximum opportunities for the employment of
32 Kansans by making venture capital available to Kansas businesses as de-
33 scribed and defined in K.S.A. 74-8303 and amendments thereto.

34 (b) The secretary shall promulgate rules and regulations defining the
35 equivalent of money for the purposes of cash investments under the pro-
36 visions of this act.

37 (c) The department, through the secretary, shall review the articles
38 of incorporation or the articles of partnership of each applicant for cer-
39 tification and the business history of the applicant and determine that the
40 capitalization is at least \$1,500,000.

41 (d) Within 60 days of application, the secretary shall issue the certi-
42 fication and notify the department of revenue of such certification, or
43 shall refuse the certification and issue an order so providing.

1 Sec. 14. K.S.A. 74-8307 is hereby amended to read as follows: 74-
2 8307. (a) To continue in certification, a Kansas venture capital company
3 must:

4 (1) Invest at least 30% of its original capitalization at the end of the
5 initial three years in such a manner as to acquire equity in the ventures
6 in which the investments are made;

7 (2) have invested at least 50% in the same manner at the end of five
8 years; and

9 (3) have invested at least 75% in the same manner at the end of seven
10 years.

11 (b) Invest at least 60% of the total investment of the Kansas venture
12 capital company in Kansas businesses in which the funds so invested were
13 to be used solely for the purpose of enhancing their productive capacity
14 within the state, or to add value to goods or services produced or pro-
15 cessed within the state.

16 (c) Until such time as Kansas Venture Capital, Inc. redeems the
17 nonvoting preferred stock representing the investment made by the
18 pooled money investment board pursuant to K.S.A. 74-8203, and amend-
19 ments thereto, funds invested by Kansas Venture Capital, Inc. shall be
20 invested at 100% in Kansas businesses or in Kansas venture capital com-
21 panies which invest 100% of the funds invested in such companies by
22 Kansas Venture Capital, Inc. in Kansas businesses in which the funds so
23 invested were to be used solely for the purpose of enhancing their pro-
24 ductive capacity within the state, or to add value to goods or services
25 produced or processed within the state. After such redemption by Kansas
26 Venture Capital, Inc., the requirements of this subsection shall expire.

27 (d) No more than 20% of the assets of a Kansas venture capital com-
28 pany may be invested in the equity of a single business at any one time,
29 unless the Kansas venture capital company can reasonably demonstrate
30 that a greater percentage in a single company at any one time is the result
31 of losses suffered by the Kansas venture capital company in other
32 investments.

33 ~~(e) The use of invested funds by a Kansas business for oil and gas~~
34 ~~exploration and development, for real estate development or apprecia-~~
35 ~~tion, for banking or lending operations, or service or retail are not ac-~~
36 ~~ceptable investments to qualify for the tax credit provided in this act. Any~~
37 ~~investments by Kansas venture capital companies in any of these sectors~~
38 ~~shall not be counted as equity investments for the purpose of continuing~~
39 ~~certification under this section.~~

40 (f) For a service sector firm to be considered as an eligible investment
41 under the provisions of this act, the firm must fall within standard indus-
42 trial classification codes major service sector groups 70 through 89, and
43 must also demonstrate one of the following:

1 (1) More than one-half of its gross revenues are a result of sales to
2 commercial or governmental customers outside the state of Kansas; or

3 (2) more than one-half of its gross revenues are a result of sales to
4 Kansas manufacturing firms within major groups 20 through 39; or

5 (3) more than one-half of its gross revenues are a result of a combi-
6 nation of sales described in (1) and (2).

7 (g) Documents and other materials submitted by Kansas venture cap-
8 ital companies or by Kansas businesses for purposes of the continuance
9 and certification shall not be public records if such records are deter-
10 mined by the secretary to be trade or business secrets under the uniform
11 trade secrets act (K.S.A. 60-3320 to 60-3330, inclusive, and amendments
12 thereto), and shall be maintained in a secured environment by the
13 secretary.

14 (h) At the time of an initial investment by a certified Kansas venture
15 capital company, no investors in that certified Kansas venture capital com-
16 pany shall own a majority equity interest in a business in which the ven-
17 ture capital company is investing.

18 Sec. 15. K.S.A. 74-8308 is hereby amended to read as follows: 74-
19 8308. (a) Each qualified Kansas venture capital company shall report to
20 the secretary on an annual basis such information as the secretary requires
21 to be submitted to maintain certification. As a part of such information,
22 each Kansas venture capital company shall report the name, address and
23 taxpayer identification number of each investor who has invested in such
24 company and amounts invested by each such investor. ~~Investors who are
25 exempt from income taxation and who transfer income tax credits to a
26 taxpayer shall report to the venture capital company the name, address
27 and taxpayer identification number of the taxpayer who acquires the
28 credit and the company shall report this information to the secretary.~~

29 (b) The secretary shall provide this information contained in subsec-
30 tion (a) to the department of revenue on an annual basis, *except the pro-*
31 *visions of this subsection shall not apply to taxable years commencing*
32 *after December 31, 2002.*

33 (c) The secretary shall conduct an annual review of each Kansas ven-
34 ture capital company certified under the program to determine if the
35 Kansas venture capital company is in compliance with the requirements
36 of certification, to advise the Kansas venture capital company as to the
37 certification status of its investments, and to ensure that no investment
38 has been made in violation of the provisions of this act or rules and reg-
39 ulations promulgated by the department. The reasonable costs of the
40 annual review shall be paid by each Kansas venture capital company ac-
41 cording to a reasonable fee schedule adopted by the secretary. Any vio-
42 lation shall be grounds for decertification under this section.

43 (d) If the Kansas venture capital company has met the fifth year,

1 seventh year and ninth year investment levels and has subsequently sold
2 any of the companies in which those equity investments were made, the
3 temporary liquidity of the Kansas venture capital company prior to re-
4 investment in the equity of new ventures will not be cause for
5 decertification.

6 (e) In undertaking the annual review the secretary shall use reason-
7 able and generally accepted national standards of venture capital company
8 practice. If the secretary determines that a company is not in substantial
9 compliance with the requirements for continuing in certification, the sec-
10 retary shall, by written notice, inform the officers of the company and the
11 board of directors or partners that they will be decertified in 120 days
12 from the date of mailing of the notice unless they correct the deficiencies
13 and are once again in compliance with the requirements for certification.

14 (f) At the end of the 120-day period, if the Kansas venture capital
15 company is still not in substantial compliance, the secretary shall send a
16 notice of decertification to the company and *for taxable years prior to*
17 *January 1, 2003*, to the secretary of the department of revenue. Decer-
18 tification of a Kansas venture capital company shall cause the forfeiture
19 of any right or interest to the tax credit under the provisions of this act
20 and shall cause the total amount of tax credit previously claimed for tax-
21 *able years completed prior to the effective date of this act* by persons under
22 the program to be due and payable with that year's income tax liability.

23 (g) Following each annual examination, the secretary shall notify the
24 department of revenue of any Kansas venture capital companies that are
25 not in compliance with this section, *except that the provisions of this*
26 *subsection shall not apply to taxable years commencing after December*
27 *31, 2002.*

28 (h) The department of revenue shall send written notice to the ad-
29 dress of each person whose tax credit has been forfeited, using the address
30 last shown on the person's last income tax filing, *except that the provisions*
31 *of this subsection shall not apply to taxable years commencing after De-*
32 *cember 31, 2002.*

33 Sec. 16. K.S.A. 74-8309 is hereby amended to read as follows: 74-
34 8309. ~~(a) Investors in a Kansas venture capital company are required to~~
35 ~~remit to the secretary of revenue full payment for all tax credits claimed~~
36 ~~under the Kansas venture capital company act if (1) at any time the Kansas~~
37 ~~venture capital company is decertified by the department of commerce~~
38 ~~for noncompliance with the Kansas venture capital company act or (2)~~
39 ~~the Kansas venture capital company voluntarily decertifies itself prior to~~
40 ~~the end of the seventh year following its certification.~~

41 ~~—(b) Investors in a Kansas venture capital company are entitled to keep~~
42 ~~all of the tax credits claimed under the Kansas venture capital company~~
43 ~~act if the Kansas venture capital company is in compliance with the Kansas~~

1 venture capital company act and voluntarily decertifies itself after the end
2 of the seventh year following its certification.

3 —(e) A Kansas venture capital company may voluntarily decertify itself
4 by sending written notice of decertification to the secretary of commerce.

5 Sec. 17. K.S.A. 74-8310 is hereby amended to read as follows: 74-
6 8310. (a) Pursuant to K.S.A. 74-5049, and amendments thereto, the sec-
7 retary shall report the following:

8 (1) The number of Kansas venture capital companies;

9 (2) ~~the total tax credit generated;~~

10 ~~—(3) the total investments made in Kansas venture capital companies;~~
11 (4) (3) the total investments in Kansas businesses by Kansas venture
12 capital companies;

13 ~~(5) (4) an estimate of jobs created or preserved under the program;~~
14 and

15 ~~(6) (5) an estimate of the multiplier effect on the Kansas economy of~~
16 the program.

17 (b) Additionally, in the report the secretary shall evaluate the success
18 of the program in collaboration with Kansas, Inc. and the standing com-
19 mittee on commerce of the senate, the standing committee on economic
20 development of the house of representatives and the joint committee on
21 economic development, and may include specific recommendations for
22 legislation.

23 Sec. 18. K.S.A. 74-8401 is hereby amended to read as follows: 74-

24 8401. (a) ~~There shall be allowed as a credit against the tax imposed by~~
25 ~~the Kansas income tax act on the Kansas taxable income of a taxpayer and~~
26 ~~against the tax imposed by K.S.A. 40-252 and amendments thereto on~~
27 ~~insurance companies for cash investment in a certified local seed capital~~
28 ~~pool an amount equal to 25% of such taxpayer's cash investment in any~~
29 ~~such pool in the taxable year in which such investment is made and the~~
30 ~~taxable years following such taxable year until the total amount of the~~
31 ~~credit is used. The amount by which that portion of the credit allowed~~
32 ~~by this section exceeds the taxpayer's liability in any one taxable year may~~
33 ~~be carried forward until the total amount of the credit is used. If the~~
34 ~~taxpayer is a corporation having an election in effect under subchapter S~~
35 ~~of the federal internal revenue code or a partnership, the credit provided~~
36 ~~by this section shall be claimed by the shareholders of such corporation~~
37 ~~or the partners of such partnership in the same manner as such share-~~
38 ~~holders or partners account for their proportionate shares of the income~~
39 ~~or loss of the corporation or partnership.~~

40 ~~—(b) The total amount of credits allowable pursuant to this section and~~
41 ~~credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and~~
42 ~~amendments thereto, shall be attributable to not more than \$50,000,000~~
43 ~~of cash investments in Kansas venture capital companies, Kansas Venture~~

1 ~~Capital, Inc. and local seed capital pools. With respect to the additional~~
2 ~~amount of cash investments made eligible for tax credits by this act,~~
3 ~~\$10,000,000 of such amount shall be dedicated and reserved until De-~~
4 ~~cember 31, 1990, for cash investments in a seed capital fund or funds in~~
5 ~~which the Kansas technology enterprise corporation, or its subsidiaries,~~
6 ~~is an investor. The \$50,000,000 amount of cash investments now eligible~~
7 ~~for the tax credits allowed pursuant to this section and K.S.A. 74-8205,~~
8 ~~74-8206 and 74-8304 and amendments thereto shall be reduced to the~~
9 ~~extent that the total amount of cash investments received by such seed~~
10 ~~capital fund or funds before January 1, 1991, is less than \$10,000,000.~~
11 ~~However, any such credits which were not claimed for investments made~~
12 ~~prior to January 1, 1991, may be allowed to a taxpayer for cash investment~~
13 ~~made in Kansas Venture Capital, Inc. pursuant to K.S.A. 74-8205 and 74-~~
14 ~~8206, and amendments thereto, not to exceed \$2,595,236 of the~~
15 ~~\$10,000,000 reserved under this subsection for investment in seed capital~~
16 ~~funds in which the Kansas technology enterprise corporation or its sub-~~
17 ~~sidaries was an investor. A taxpayer may also be allowed a credit for cash~~
18 ~~investment made pursuant to K.S.A. 74-8304, and amendments thereto~~
19 ~~not to exceed \$6,012,345 of the \$10,000,000 reserved under this subsec-~~
20 ~~tion if such taxpayer first purchases the entire interest of the Kansas~~
21 ~~technology enterprise corporation or its subsidiaries in Kansas venture~~
22 ~~capital companies established prior to January 1, 1991. However, no~~
23 ~~credit shall be allowed for cash investment which results in the purchase~~
24 ~~of the interest of the Kansas technology enterprise corporation or its~~
25 ~~subsidiaries in Kansas venture capital companies established prior to Jan-~~
26 ~~uary 1, 1991.~~

27 ~~—(e) As used in this section, (1) “local seed capital pool” means money~~
28 ~~invested in a fund established to provide funding for use by small busi-~~
29 ~~nesses for any one or more of the following purposes: (A) Development~~
30 ~~of a prototype product or process; (B) a marketing study to determine~~
31 ~~the feasibility of a new product or process; or (C) a business plan for the~~
32 ~~development and production of a new product or process;~~

33 ~~(2) “Kansas business” means any small business owned by an individ-~~
34 ~~ual, any partnership, association or corporation domiciled in Kansas, or~~
35 ~~any corporation, even if a wholly owned subsidiary of a foreign corpora-~~
36 ~~tion, that does business primarily in Kansas or does substantially all of its~~
37 ~~production in Kansas.~~

38 ~~(d) No credit from income tax liability shall be allowed for cash in-~~
39 ~~vestment in a local seed capital pool unless: (1) The amount of private~~
40 ~~cash investment therein is \$200,000 or more; (2) the moneys necessary~~
41 ~~to administer and operate the pool are funded from sources other than~~
42 ~~the private and public cash investments; and (3) funds invested by the~~
43 ~~local seed capital pool shall be invested at 100% in Kansas businesses.~~

1 ~~(e)~~(b) Public funds may be invested in a local seed capital pool except
2 that each dollar of public funds, other than that which may be used to
3 administer and operate a pool, shall be matched by not less than \$2 of
4 private cash investment. Public funds shall have a senior position to any
5 private cash investment and may receive a lower rate of return than that
6 allowable for a private cash investment.

7 ~~(f)~~(c) The provisions of this section, and amendments thereto, shall
8 be applicable to all taxable years commencing after December 31, 1986.

9 Sec. 19. K.S.A. 74-8402 is hereby amended to read as follows: 74-
10 8402. (a) The secretary of commerce shall promulgate rules and regula-
11 tions for making an application for certification of a local seed capital pool
12 and shall specify the information that must be submitted at the time of
13 application. ~~An applicant seeking to be certified as a local seed capital~~
14 ~~pool must specify the level of capitalization that the company expects to~~
15 ~~qualify for the tax credits provided for in this act.~~ The application must
16 show that the applicant's purpose is to encourage and assist in the creation
17 of Kansas businesses and to provide maximum opportunities for the em-
18 ployment of Kansans by making seed capital available to Kansas
19 businesses.

20 (b) The department of commerce, through the secretary, shall review
21 the articles of incorporation or the articles of partnership of each applicant
22 for certification and the business history of the applicant and determine
23 that the capitalization is at least \$200,000.

24 (c) Within 60 days of application, the secretary of commerce shall
25 issue the certification and notify the department of revenue of such cer-
26 tification, or shall refuse the certification and issue an order so providing.

27 Sec. 20. K.S.A. 74-8403 is hereby amended to read as follows: 74-
28 8403. (a) Each qualified local seed capital pool shall report to the secretary
29 of commerce on an annual basis such information as the secretary re-
30 quires to be submitted to maintain certification. As a part of such infor-
31 mation, each local seed capital pool shall report the name, address and
32 taxpayer identification number of each taxpayer who has invested in such
33 pool and amounts invested by each such taxpayer.

34 (b) The secretary of commerce shall provide this information con-
35 tained in subsection (a) to the department of revenue on an annual basis,
36 *except that the provisions of this subsection shall not apply to taxable*
37 *years commencing after December 31, 2002.*

38 (c) The secretary of commerce shall conduct an annual review of each
39 local seed capital pool certified to determine if the local seed capital pool
40 is in compliance with the requirements of certification, to advise the local
41 seed capital pool as to the certification status of its investments, and to
42 ensure that no investment has been made in violation of the provisions
43 of this act or rules and regulations promulgated by the department. The

1 reasonable costs of the annual review shall be paid by each local seed
2 capital pool according to a reasonable fee schedule adopted by the sec-
3 retary. Any violation shall be grounds for decertification under this
4 section.

5 (d) In undertaking the annual review the secretary of commerce shall
6 use reasonable and generally accepted national standards of seed capital
7 investment practice. If the secretary determines that a local seed capital
8 pool is not in substantial compliance with the requirements for continuing
9 in certification, the secretary shall, by written notice, inform the officers
10 of the pool and the board of directors or partners that they will be de-
11 certified in 120 days from the date of mailing of the notice unless they
12 correct the deficiencies and are once again in compliance with the
13 requirements for certification.

14 (e) At the end of the 120-day period, if the local seed capital pool is
15 still not in substantial compliance, the secretary of commerce shall send
16 a notice of decertification to the pool and to the secretary of the depart-
17 ment of revenue *for taxable years commencing prior to January 1, 2003*.
18 Decertification of a local seed capital pool shall cause the forfeiture by
19 the pool of any right or interest to the tax credit under the provisions of
20 this act and shall cause the total amount of tax credit previously claimed
21 *for taxable years commencing prior to January 1, 2003* by persons under
22 the program to be due and payable.

23 (f) Following each annual examination, *for taxable years commencing*
24 *prior to January 1, 2003*, the secretary shall notify the department of
25 revenue of any local seed capital pools that are not in compliance with
26 this section.

27 Sec. 21. K.S.A. 74-8404 is hereby amended to read as follows: 74-
28 8404. At any time after the end of the seventh year of certification, a local
29 seed capital pool which is in compliance with this act may voluntarily
30 decertify itself by sending written notice of decertification to the secretary
31 of commerce and, in such case, the investors shall not be liable for re-
32 payment to the state of credit amounts claimed under this act. A local
33 seed capital pool which is not in compliance with the provisions of this
34 act may voluntarily decertify itself by sending written notice of decerti-
35 fication to the secretary and by remitting to the secretary of the depart-
36 ment of revenue full payment of all tax credits claimed *prior to January*
37 *1, 2003*, by investors under its participation in the certification program
38 which cost shall be borne by the pool's partners.

39 Sec. 22. K.S.A. 74-8405 is hereby amended to read as follows: 74-
40 8405. (a) Pursuant to K.S.A. 74-5049, and amendments thereto, the sec-
41 retary of commerce and housing shall report the following:

- 42 (1) The number of local seed capital pools;
- 43 (2) ~~the total tax credit generated;~~

1 —~~(3)~~ the total investments made in Kansas venture capital companies;
2 ~~(4)~~(3) the total investments in Kansas businesses by local seed capital
3 pools;
4 ~~(5)~~(4) an estimate of jobs created or preserved under the program;
5 and
6 ~~(6)~~(5) an estimate of the multiplier effect on the Kansas economy of
7 the program.

8 (b) Additionally, in the report the secretary shall evaluate the success
9 of the program in collaboration with Kansas, Inc. and the standing com-
10 mittee on commerce of the senate, the standing committee on economic
11 development of the house of representatives and the joint committee on
12 economic development, and may include specific recommendations for
13 legislation.

14 New Sec. 23. The provisions of this act shall be applicable to all tax-
15 able years commencing after December 31, 2002.

16 Sec. 24. K.S.A. 39-7,132, 40-2246, 74-50,113, 74-50,114, 74-50,115,
17 74-50,118, 74-50,131, 74-50,132, 74-50,133, 74-50,135, 74-8017, 74-
18 8203, 74-8205, 74-8206, 74-8207, 74-8302, 74-8303, 74-8304, 74-8304a,
19 74-8306, 74-8307, 74-8308, 74-8309, 74-8310, 74-8316, 74-8401, 74-
20 8402, 74-8403, 74-8404, 74-8405, 79-1117, 79-32,111a, 79-32,140, 79-
21 32,152n, 79-32,155, 79-32,156, 79-32,157, 79-32,158, 79-32,159, 79-
22 32,159a, 79-32,159b, 79-32,159c, 79-32,160, 79-32,160b, 79-32,160c,
23 79-32,175, 79-32,176, 79-32,177, 79-32,178, 79-32,179, 79-32,180, 79-
24 32,181, 79-32,182, 79-32,190, 79-32,191, 79-32,192, 79-32,194, 79-
25 32,198, 79-32,199, 79-32,200, 79-32,202 and 79-32,203 and K.S.A. 2002
26 Supp. 40-2240, 79-1126a, 79-32,153, 79-32,154, 79-32,160a, 79-32,181a,
27 79-32,182b, 79-32,195, 79-32,196, 79-32,197, 79-32,197a, 79-32,199a, 79-
28 32,199b, 79-32,201, 79-32,204, 79-32,205, 79-32,206, 79-32,207, 79-
29 32,210, 79-32,211, 79-32,212 and 79-32,213 are hereby repealed.

30 Sec. 25. This act shall take effect and be in force from and after its
31 publication in the statute book.

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