

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Dwayne Umbarger at 1:35 p.m. on February 6, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Hensley (excused)

Committee staff present: Ben Barrett, Legislative Research
Carolyn Rampey, Legislative Research
Theresa Kiernan, Revisor of Statutes
Dale Dennis, Deputy Commissioner of Education
Judy Steinlicht, Secretary

Conferees appearing before the committee: Chuck Stones, Kansas Bankers Association
Amy Brunner, KASB
Val Defever, State Board of Education
Rod Bieker, General Counsel, State Board of Education
Mark Desetti, KNEA

Others attending: See Attached List

Bill Introductions:

Senator Lee made a motion to introduce a bill to give Hoisington some assistance because of their loss of student enrollment loss due to a tornado disaster. Seconded by Senator Corbin. Motion carried.

Senator Schodorf made a motion to introduce a bill that patterns the recommendations from the Governor's Education Task Force to amend special education distribution to a 3-tier weighting system and the bill would further direct the Department of Education to establish an advisory group of special education directors and superintendents to review and oversee the categories. Seconded by Senator Downey. Motion carried.

Senator Schodorf made a motion to introduce a bill that would eliminate the requirement of the full LOB to qualify for the new facility weighting. Currently school districts must have a full 25% LOB to receive the new facility weighing. Seconded by Senator Vratil. Motion carried.

Senator Vratil made a motion to introduce three bills: the first is the Governor's bill to increase Base State Aid Per Pupil by \$20 from \$3,870 to \$3,890; the second bill is to provide that school districts who merge may retain their combined budget authority for five years (increased from the current two years) and apply the same principle to a school district that is disorganized and attached to another district; the third bill would provide that Base State Aid Per Pupil will increase each year based on the rate of increase of the Consumer Price Index and that the correlation weight threshold will be reduced by 25 students from 1725 to 1700. Seconded by Senator Downey. Motion carried.

Senator Umbarger made a motion to introduce two bills: the first is a bill to end funding for the parent education program as a separate categorical aid program and instead fund as a weight of .17 in the school finance formula; the second bill is a recommendation of the State Board of Education for health insurance for teachers which would provide single premium health coverage to all school districts, dollar for dollar, local match; all district employees would be required to participate. It would be phased in over a three year period. Seconded by Senator Schodorf. Motion carried.

Continued hearing from April 5, 2002 on SB403--Postsecondary education savings program, elimination of two-year waiting period for withdrawal, elimination of the state penalty on nonqualified withdrawal and exemption from creditors

Chuck Stones, Kansas Bankers Association spoke as an opponent to SB403. KBA is not opposed to the Learning Quest Savings Program but they are opposed to Section 1 of the bill which would add education

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION at on February 6, 2002 in Room 123-S of the Capitol.

savings accounts to the list of financial assets that could be shielded from creditors in bankruptcy proceedings. KBA says that exemptions to bankruptcy have been carefully crafted over the years. They understand that the bill is intended to make the savings plan more marketable, but the plan is already ranked among the highest in the country. If the Legislature wants to make the plan more attractive, an idea would be to reduce the minimum amount needed to open an account and reduce the minimum amount needed to make a contribution to that account. KBA would urge the Committee to remove Section 1 from **SB403**. (Attachment 1) The Committee discussed the concerns of protection of funds from creditors in bankruptcy and questions were answered by Mr. Stones.

Hearing on SB402—Charter Schools; definitions, rules and regulations, program goals

Amy Brunner, KASB, gave testimony as a proponent on **SB402**. KASB is not opposed to the intent of this bill as it is written, but would oppose any amendment that would undermine the authority of local school boards in governing charter schools. (Attachment 2)

Val DeFever, State Board of Education, testified as a proponent for **SB402**. The bill clarifies the definition of charter schools as a separate and distinct school. The bill would grant the State Board of Education authority to disapprove a charter school that is not likely to achieve their program goals. It would also grant the State Board authority to disapprove a charter school that is requesting renewal if they have not demonstrated progress in the achievement of their students. (Attachment 3)

Rod Bieker, General Counsel for the State Board of Education, explained the amendments they recommend for **SB402**. The amendments are shown in (Attachment 4)

Mark Desetti, KNEA, also spoke as a proponent of **SB402**. He said KNEA agrees with the changes to charter school provisions addressed in the bill. The bill helps define the charter schools in a new way. It would allow the State Board of Education to examine the charter application relative to the goals of the charter school and deny a petition if they believe the school is not likely to achieve those goals. They have no argument with this addition, but are concerned about the language being removed. KNEA urges the Committee to add the new language relative to program goals but not to strike the current language relative to compliance with law. (Attachment 5)

The amendments to the bill were discussed at length with Rod Bieker answering questions for the Committee. Senator Vratil stated that it was a good bill, that the LEPC Committee studied it thoroughly over the summer.

Senator Vratil made a motion to amend **SB402** as proposed by the State Board of Education. Seconded by Senator Downey. Motion carried.

Senator Corbin made a motion to pass favorably **SB402** as amended. Seconded by Senator Schodorf. Motion carried.

SB401 was scheduled to be heard today, however, time ran out and **SB401** will be rescheduled.

Meeting adjourned 2:30 p.m.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 2/6/02

<u>NAME</u>	<u>REPRESENTING</u>
Timarie Walters	KIMTA
THELBI - MIT	SOI
Dennis Cyril	USA - USD 500
Mark Tallman	KTSB
Alex Kobyanetz	Education
Brad Stauffer	TPS, USD 501
Jacque Oshro	SQE
Bruce Jett	USA
BILL Brady	SFFF
DAVID Wysonq	Citizen
Don Kinneltes	USA



The Kansas Bankers Association

TO: Senate Education Committee
FROM: Chuck Stones, Senior Vice President

RE: SB 403

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to appear before you today in opposition to Section 1 of SB 403. This section would add education savings accounts to the list of financial assets that could be shielded from creditors in bankruptcy proceedings. We think there are several considerations this body must make before passing SB 403 in its current form.

Exemptions to bankruptcy have been carefully crafted over the years. They have been put into place to allow persons filing bankruptcy to be assured of having the essentials in life, and the ability to make a living after filing bankruptcy. Bankruptcy exemption laws have also tried to eliminate the ability to shield assets from creditors. They have done this by limiting the exemptions to essential assets, placing dollar limitations on the exemptions and placing time limits on acquiring certain assets prior to filing bankruptcy. Additional exemptions should not be added only to make a product more marketable. The non-essential, investment nature of these accounts should preclude them from becoming exempt in bankruptcy proceedings.

Kansas has a great college savings plan. It already is ranked among the highest in the country. It is one of 19 states to get a "5-cap"(the highest) rating from "saving for college . com". The program has been a tremendous success and has grown to exceed \$100 million in assets in less than 2 years. Section 1 would seem to be an unnecessary provision. Exemption from bankruptcy is **not** one of the criteria looked at by this rating service.

This provision could potentially shield millions of dollars from creditors. An account could be set up with the maximum amount of \$235,000 for multiple beneficiaries. It is important to note that despite the treatment of the account as a completed gift for estate tax purposes, the donor has complete ownership and control. The donor can move the account to another state, change beneficiaries at any time or if the donor chooses to do so, take back the entire account. (web page of Peter Newman, CPA, Kansas City)

This will only put creditors, such as small business owners, banks etc., at another disadvantage when attempting to collect on a **secured** loan in bankruptcy proceedings.

Consumers continue to file for bankruptcy at an alarmingly high rate. In 1999, about 1.28 million consumers filed for bankruptcy -- an almost 50% increase since 1995, causing American families to pay an additional \$400 a year in increased costs of goods and services. Section 1 would provide the opportunity to shield assets unnecessarily.

We urge you to remove Section 1 from SB 403.

at by a process of elimination. One must learn the exemptions in Kansas, and once these are firmly entrenched, all other property is not exempt. The exemptions in Kansas are set out in the state statutes. While Bankruptcy law is federal law, 11 U.S.C. § 522 (b) allows states to opt out of the federal exemption scheme and elect to use only State exemptions. Kansas is such a state. Under K.S.A. § 60-2312 the Kansas legislature requires all debtors to utilize state exemptions except that a debtor may also utilize 11 U.S.C. § 522 (d) (10) exemptions.

The exemptions in Kansas are included under Article 23 of Chapter 60. The most common exemptions include:

Homestead or mobile home, one acre in town or 160 acres in the country. K.S.A. § 60-2301

Furnishings, equipment, supplies, including food, fuel and clothing necessary for one year.
K.S.A. § 60-2304 (a)

Jewelry not to exceed \$1,000.00 in value. K.S.A. § 60-2304 (b)

One Vehicle not to exceed \$20,000.00 in value. K.S.A. § 60-2304 (c) (this could include any vehicle or reasonable means of conveyance.)

Burial Plot. K.S.A. § 60-2304 (d)

Books, documents, furniture, instruments, tools, implements, equipment, breeding stock, seed grain, growing plants, stock or other tangible means of production used in a person's trade not to exceed \$7,500.00 in value. K.S.A. § 60-2304 (e) (The debtors tool of trade exemption must exempt tools used in the debtor's primary income producing enterprise.

If a question arises, review the previous years income tax return. The return will indicate

from which job the debtor received a majority of his income. If the tool is not used in the primary income producing employment, it is not a tool of trade and is not exempt.)

A United States pension. K.S.A. § 60-2308 (a)

Qualified retirement plans under 11 U.S.C. § 522 (d) (10) (E) (ii). Such plans must be qualified under the following IRS provisions: 26 U.S.C. § 401 (a), 26 U.S.C. § 403 (a), 26 U.S.C. § 403 (b), 26 U.S.C. § 408, 26 U.S.C. § 409. The Kansas Statutes are a maze when attempting to locate the pension exemptions. K.S.A. § 60-2312 (b) allows federal exemptions under 11 U.S.C. § 522 (d) (10) to be utilized. Thus under the 11 U.S.C. § 522 (d) (10) the attorney will find the IRS Statutes listed to indicate a properly tax qualified plan. The Kansas Statutes also list of the IRS tax qualified plans separately under K.S.A. § 60-2308 (b).

Alimony and Child Support awards. K.S.A. § 60-2312 (b) and 11 U.S.C. § 522 (d) (10) (D)

Workers Compensation Awards. K.S.A. § 60-2313 (a) (3) and K.S.A. § 44-514

Life Insurance which the debtor has owned longer than one year. K.S.A. § 60-2313 (A) (8) and K.S.A. § 40-414

Unemployment Compensation. K.S.A. § 60-2313 (a) (4) and K.S.A. § 44-718

The exemptions listed above are the most common types of exempt property. Article 23 of Chapter 60 should be reviewed thoroughly to determine whether all of the exemptions available are utilized by the debtor.

An additional type of "exempt property" should be considered. The Supreme Court in *Patterson v. Shumate*, 119 L. ed 2d 519, 112 Sct 2242 (1992), held that ERISA qualified

There are many ways to shield assets from creditors and taxes

NEW YORK — The next O.J. Simpson court battle — O.J.3 — will be over whether the Browns and the Goldmans can collect any of the money they're owed. Even if the damages are reduced, Simpson's assets appear to be pretty well squirreled away.

On the evidence, he has had wise financial counsel for many years. Choices he made to secure his future, such as building a large pension fund, are keeping him safely away from his creditors today. Other asset-protection decisions may put his remaining money beyond the reach of the civil courts.

The moves Simpson is known to have made are entirely legal. But they shine a spotlight on an industry that also has a smudgy side.

A lot of wealthy people don't want to pay

their debts. Fearing trouble, they spirit their money into trusts, often out of the country, never to be seen again. Or they lock it in family limited partnerships that creditors can't crack.

There are some defensible uses of asset-protection plans. A meticulous doctor, for example, might worry that one disputed decision could bury her, unfairly, under a catastrophic malpractice suit. An entrepreneur might be shocked by a frivolous lawsuit filed against a friend.

To protect themselves, they stash their money in hidey-holes, sometimes in countries that don't enforce judgments awarded by U.S. or other foreign courts. For this secret service, clients pay lawyers \$15,000 to \$30,000 a pop plus \$2,000 to \$7,000 a year in maintenance fees.

But let's face it: Many asset-protectors are playing a dirtier game. They're laundering money, evading taxes, hiding assets in divorces, cheating business partners or ducking out on legitimate debts. Initiates whisper knowingly about the Cook Islands, Cayman, Liechtenstein, Gibraltar, Belize, Costa Rica,

Guernsey, Vanuatu and Turks and Caicos (look 'em up).

There are many different ways of ducking creditors. One popular choice is a family limited partnership, which acquires your business or investments. Typically, you retain a small interest — just 1 percent or 2 percent. The rest of the ownership rights are transferred to limited partners — say, your children. But you're the general partner, so you keep control.

Used this way, partnerships are a legitimate way of saving income and estate taxes, while passing assets to your heirs.

But they're also debt-evasion schemes. After winning a judgment against you in court, a creditor might be able to seize a partnership interest. But nothing compels you to distribute any partnership money. So all the creditor really holds is the doughnut's hole.

Some lawyers think family trusts can be cracked — especially when structured in ways more aggressive than I've described. If they're obvious tax dodges, or sham redouts against honest debts, some judge, somewhere, may say "enough."

The real paranoids (or debt dodgers) buy foreign trusts. Your assets don't have to leave the country. But because of the way the trusts are set up, they probably cannot be reached by U.S. courts.

Foreign trusts are taxable, but many owners try to duck that obligation, too.

There are many simpler ways of dodging creditors. For example, take O.J.'s \$4.1 million pension fund. It's unreachable by lawyers, but he can add to it, borrow against it, and use it in retirement at will, says Chicago bankruptcy lawyer Keith Shapiro of Holleb & Coff.

In this respect, O.J. lucked out. Some states — but not California — allow creditors to seize pension-fund withdrawals that exceed what you need for basic living expenses.

Some states protect married couples by letting them own real estate as "tenants by the entirety." That prevents one spouse's creditors from selling the house, in order to satisfy a judgment against the other.

Where that's not an option, people vulnerable to lawsuits — doctors, for example — often move assets into their spouse's name.

Cash-value life insurance may also be exempt from seizure.

Bankruptcy normally isn't considered an asset-protection strategy. But it can be in states like Texas and Florida, that let bankrupts keep enormously valuable homes. Florida has another attraction. If you're a family head, your wages cannot be garnisheed for debt, Shapiro says.

If Simpson went bankrupt under Chapter 11, he'd retain control over how his finances were rearranged. He has borrowed against his major assets — house, car, artwork — using them as security. So even if the assets were sold, unsecured creditors like the Goldmans and Browns probably wouldn't get a dime.

People subject to lawsuits complain that American juries award judgments far in excess of the damage done. But creditors have a different view. They say shrewd debtors duck their obligations much more often than people think.

Washington Post Writers Group



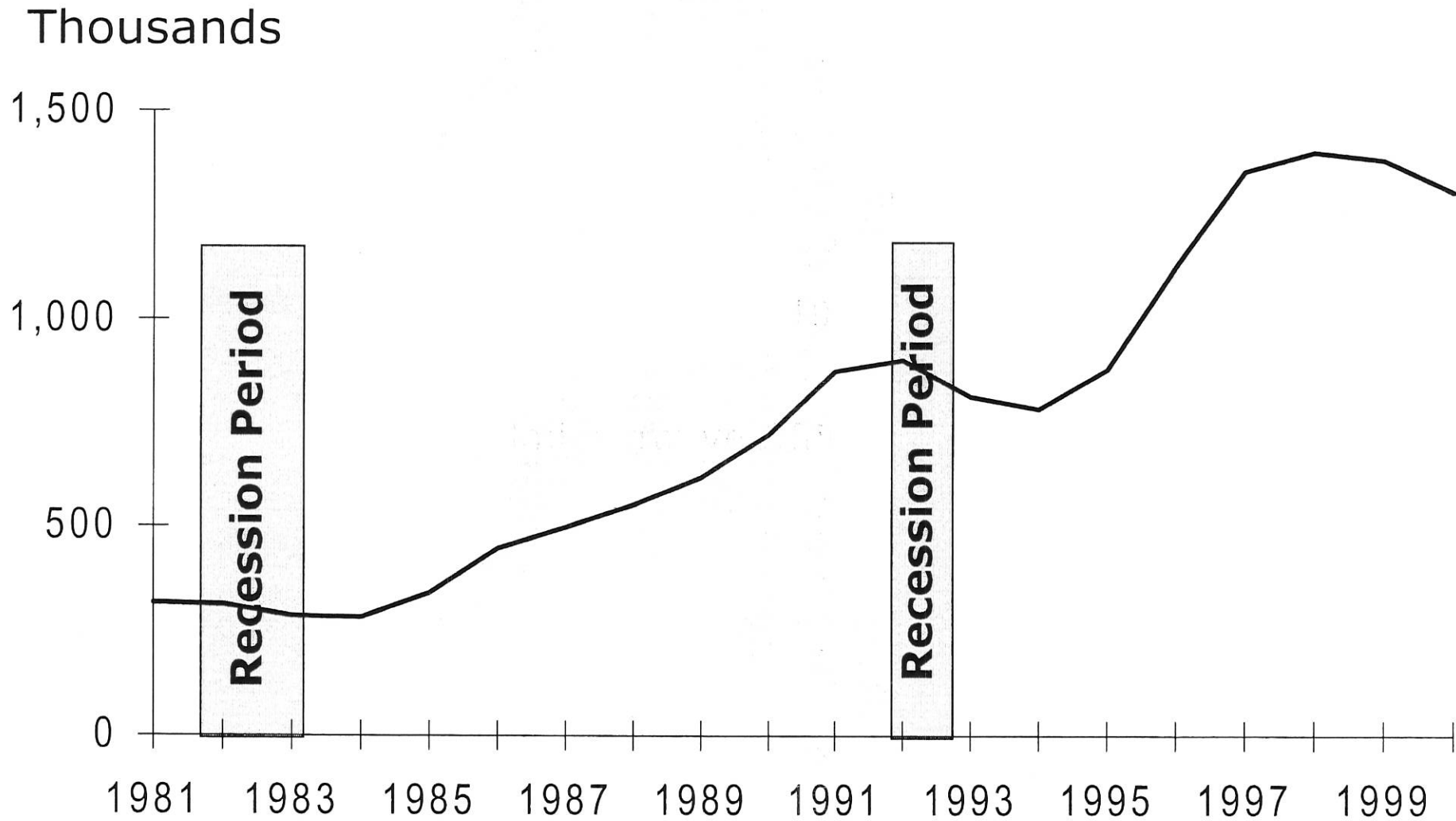
Jane Bryant Quinn

Staying ahead

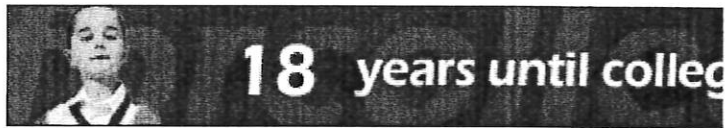
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17

Personal Bankruptcy Filings



Source: Administrative Office of the U.S. Courts



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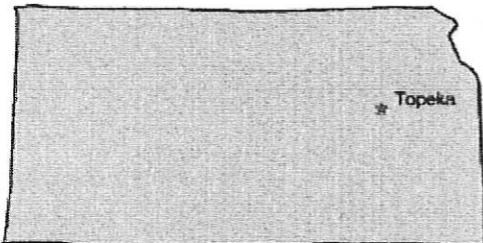
Kansas

Learning Quest Education Savings Program

State Plan
Alabama
View

Plan Manager: American Century
Type: Savings
Initial Year of Operation: 2000
In-State: 1-800-579-2203
Out-of-State: 1-800-579-2203
URL: <http://www.learningquestsavings.com>
Investment Results: [Click Here](#)
Underlying Funds: [Click Here](#)

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Status: *Signed*



Like Most: Multiple tracks to choose from in the automatically-adjusting asset allocation program.
Like Least: Lack of static (non-adjusting) investment options.

5 Cap Ratings



(Resident Rating)



(Non-Resident Rating)



what do you think?



Plan News

- [Schwab to distribute Kansas 529 plan \(Dec 4th, 2000\)](#)
- [Kansas Plan Opens With American Century \(Jul 1st, 2000\)](#)
- ["New savings plan helps family pave kids way to college" - by Gene Meyer, Kansas City Star \(Jun 25th, 2000\)](#)
- [Kansas \(Jan 7th, 2000\)](#)
- [Kansas Signs Contract With American Century Investments \(Jan 1st, 2000\)](#)

Website
We need your help! Please complete our Website Survey.

Plan Details

Eligibility

- Fully open to nonresidents? *Yes*

State Tax Benefits

- State tax deduction for contributions? *Yes, up to \$2,000 per year, per beneficiary (\$4,000 for married couples filing jointly)*

State Backing

- Is your account guaranteed or backed by the state? *No*

Fees and Expenses

- Enrollment fee: *None*

What's Hot
Professional 529 what's coming in quarter 2002 e industry news Report."

Consult
Confused by complex 529 plans? Looking for guidance? Enter to find a 529 consultant.

Zip Code:

In The Spotlight



- Annual maintenance fee: \$40 (\$10 for Kansas residents and for accounts with \$100,000 balance).
- Asset-based management fee: 0.39%
- Underlying fund expenses: *Approx. range 0.52% - 0.95% (portfolio weighted average)*

Investment Considerations

- Offers an age-based or years-to-enrollment investment program? *Yes, 3 versions: aggressive, moderate, conservative*
- Does the program offer "static" investment options? *No*
- Investment/fund manager(s): *American Century*

Qualified Withdrawals

- Plan covers tuition? *Yes*
- Mandatory fees? *Yes*
- Books, supplies and equipment? *Yes*
- Room and board? *Yes*

Time or Age Limitations

- Is there a minimum period before qualified withdrawals may be taken? *Yes, 24 months*
- Any limits on age or account duration? *No*

Contributions

- Maximum contributions: *Accepts contributions until account balances reach \$235,000*
- Minimum contributions: *\$500 initial, or \$2500 if you are a non-resident, and subsequent contributions must be at least \$50*

Enrollment and Purchase Procedures

- Enrollment period: *Open*

Online Access

- Online documents? *Yes*
- Online application process? *Yes*
- Online account access? *Yes*

The Internet Guide to 529 Plans

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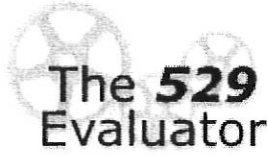
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Eligibility

Fully open to nonresidents?

State Tax Benefits

State tax deduction for contributions?

State Backing

Is your account guaranteed or backed by the state?

Fees and Expenses

- Enrollment fee:
- Annual maintenance fee:
- Asset-based management fee:
- Underlying fund expenses:

Prepaid Contracts

- Prepaid contract options:
- Prepaid contract installment options:
- Value of contract for private and out-of-state colleges:

Investment Considerations

- Offers an age-based or years-to-enrollment investment program?
- Does the program offer "static" investment options?
- Investment/fund manager(s):

Qualified Withdrawals

- Plan covers tuition?
- Mandatory fees?
- Books, supplies and equipment?
- Room and board?

Non-qualified Withdrawals

Prepaid contract cancellation:

State Pl
Alabam
Vie

Member
Be sure to regi
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- Sign In
- Register Now
Status: Signed

Website
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Time or Age Limitations

- Is there a minimum period before qualified withdrawals may be taken?
 Any limits on age or account duration?

Contributions

- Maximum contributions:
 Minimum contributions:

Enrollment and Purchase Procedures

- Enrollment period:

Online Access

- Online documents?
 Online application process?
 Online account access?

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you're in control
beneficiaries
contribution flexibility
▶ **withdrawal options**
fees

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what do
you have
in mind?SM

withdrawal options

You can withdraw money from your Learning Quest account at any time; however, the account must be open for 24 months before you can withdraw money for qualified education expenses without penalty. The minimum withdrawal amount is \$50.

To Request a Withdrawal

To request a qualified withdrawal, you'll need to complete a [withdrawal form](#) and provide proof of the expenses you incurred. All withdrawals from your account will be paid by check.

Qualified withdrawals may be used for tuition, fees, books, required supplies, equipment and room and board at any qualified educational institution in the U.S. Qualified institutions include accredited public or private colleges or universities, graduate schools, two-year community and junior colleges and vocational and technical schools.

Penalty-Free Withdrawals

If the student receives a scholarship, you can withdraw an amount equal to the value of the scholarship without penalty.

Penalty-free withdrawals may also be made in the event of the death or disability of the student.

In both of these cases, beginning in 2002, withdrawals are free from federal income tax.*

Nonqualified Withdrawals

You can request a nonqualified withdrawal at any time. The earnings portion of the withdrawal will be subject to a 10% penalty plus required taxes.

*Changes resulting from the 2001 Tax Act are effective through Dec. 31, 2010, and may be extended past the date with further legislative action.

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KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on
SB 402 – Charter Schools
Before the
Senate Committee on Education

By
Amy Brunner, Governmental Relations Specialist
Kansas Association of School Boards

February 6, 2002

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to offer comments on SB 402. KASB is not opposed to the intent of this bill, as it is written, but would like to go on record as opposing any amendments to the bill which would undermine the authority of local schools boards in governing charter schools.

In its current form, SB 402 gives a clear definition of charter schools. This bill also allows the Kansas State Board of Education further discretion in granting approval for establishment or continuation of charter schools after the local school board has approved the establishment or continuation. In other words, the extended discretion of the State Board contained in this bill will be in addition to the approval from the local school board that is already required. KASB supports this process, as it is laid out in SB 402, because it does not usurp the authority of local school boards in granting original approval for charter schools.

The people of Kansas have spoken definitively in support of resting this authority with local school boards. Article Six of the Kansas Constitution states that the public schools shall be “maintained, developed and operated by locally elected boards.” This provision makes all public schools directly accountable to the voters of the community they serve. We believe this plain, unambiguous language of our state’s Constitution prohibits the creation and operation of any public school without the approval and involvement of local school boards.

Thank you for your consideration.

Senate Education Committee

Date: 2-6-02

Attachment # 2



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

February 6, 2002

TO: Senate Education Committee

FROM: Val DeFever, Legislative Liaison
State Board of Education

SUBJECT: Senate Bill 402

My name is Val DeFever, Legislative Coordinator of the State Board of Education. I appreciate the opportunity to appear before this Committee on behalf of the State Board.

Senate Bill 402 clarifies the definition of charter school as a separate and distinct school, attendance which is voluntary, which is established to accomplish one or more of the purposes set forth in the law. Each charter school shall be subject to accreditation requirements for the State Board of Education and must be accredited to maintain its charter. A charter school may be maintained in a separate facility or in an existing school facility if the charter school is operated separately from the other school in the shared facility. Each charter school shall offer a general curriculum appropriate to the grades offered at the charter school, but may include one or more special programs as part of its curriculum. A charter school also may be organized around a special emphasis, theme or concept of utilize innovative educational methods or practices, or a combination of these.

Currently, the State Board of Education may not disapprove a charter school if it meets the specific criteria outlined in the law. There have been some cases in the past where the State Board approved a charter school when they did not believe the school could accomplish the program goals set forth in the charter. The State Board of Education was concerned about the quality of the educational opportunities in the school.

Senate Bill 402 would grant the State Board of Education authority to disapprove a charter school that is not likely to achieve their program goals. This bill would also grant the State Board authority to disapprove a charter school that is requesting renewal if they have not demonstrated progress in the achievement of their students.

SENATE BILL No. 402

By Legislative Educational Planning Committee

1-22

9 AN ACT concerning charter schools; amending K.S.A. 2001 Supp. 72-
10 1903, 72-1906 and 72-1907 and repealing the existing sections. 72-1904,
11

12 *Be it enacted by the Legislature of the State of Kansas:* _____ *may*

13 New Section 1. (a) The state board of education ~~shall~~ adopt rules
14 and regulations to:

- 15 (1) Administer the provisions of K.S.A. 2001 Supp. 72-1903 *et. seq.*,
- 16 and amendments thereto;
- 17 (2) require periodic reports from charter schools; and
- 18 (3) establish additional criteria for evaluating and approving charter
- 19 schools.

20 (b) Charter schools approved on or before July 1, 2002, are not re-
21 quired to comply with rules and regulations adopted pursuant to subsec-
22 tion (a) until the charter of such school expires.

23 Sec. 2. K.S.A. 2001 Supp. 72-1903 is hereby amended to read as
24 follows: 72-1903. (a) It is the intention of ~~this act~~ *article 19 of chapter 72*
25 *of the Kansas Statutes Annotated, and amendments thereto*, to provide an
26 alternative means within the public school system for ensuring accom-
27 plishment of the necessary outcomes of education by offering opportu-
28 nities for school building or school district employees groups, educational
29 services contractors, and other persons or entities to establish and main-
30 tain charter ~~school programs~~ *schools* that operate within a school district struc-
31 ture, but independently from other ~~school programs~~ *schools* of the district.

32 (b) *As used in article 19 of chapter 72 of the Kansas Statutes Anno-*
33 *tated, and amendments thereto, "charter school" means a separate and*
34 *distinct school, attendance at which is voluntary, which is established to*
35 *accomplish one or more of the purposes set forth in article 19 of chapter*
36 *72 of the Kansas Statutes Annotated, and amendments thereto. Each char-*
37 *ter school shall be subject to accreditation requirements of the state board*
38 *of education and must be accredited to maintain its charter. A charter*
39 *school may be maintained in a separate facility or in an existing school*
40 *facility if the charter school is operated separately from the other school*
41 *in the shared facility. Each charter school shall offer a general curriculum*
42 *appropriate to the grades offered at the charter school, but may include*
43 *one or more special programs as part of its curriculum. A charter school*

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Am.
72-1904

1 also may be organized around a special emphasis, theme or concept or
2 utilize innovative educational methods or practices, or a combination of
3 these.

4 Sec. 3. K.S.A. 2001 Supp. 72-1906 is hereby amended to read as
5 follows: 72-1906. (a) The state board of education shall design and pre-
6 scribe the format of a petition for establishment of charter schools. The
7 petition shall be designed in a manner that will provide for inclusion of
8 a description of the key elements of the charter under which the school
9 will be operated. The board of education of a school district may adopt
10 policies and procedures for receiving, reviewing and screening petitions.

11 (b) A petition for the establishment of a charter school may be pre-
12 pared and submitted to the board of education of a school district by or
13 on behalf of a school building or school district employees group, an
14 educational services contractor, or any other person or entity. Any such
15 petition shall be submitted by not later than December 1 of the school
16 year preceding the school year in which the charter school is proposed
17 to be established.

18 (c) The board of education of a school district shall receive and review
19 each petition for establishment or continuation of a charter school and
20 may grant or renew a charter for operation of the school. The charter
21 must contain the following key elements:

- 22 (1) A description of the educational program of the school, including
23 the facilities that will be used to house the program;
- 24 (2) a description of the level of interest and support on the part of
25 school district employees, parents, and the community;
- 26 (3) specification of program goals and the measurable pupil outcomes
27 consonant with achieving the goals;
- 28 (4) explanation of how pupil performance in achieving the specified
29 outcomes will be measured, evaluated, and reported;
- 30 (5) the governance structure of the school, including the means of
31 ensuring accountability to the board of education;
- 32 (6) a description of qualifications to be met by persons employed by
33 the district for assignment to the charter school;
- 34 (7) procedures that will be followed to ensure the health and safety
35 of pupils and staff;
- 36 (8) criteria for admission of pupils, including a description of the lot-
37 tery method to be used if too many pupils seek enrollment in the school;
- 38 (9) manner in which annual financial and program audits will be
39 conducted;
- 40 (10) pupil suspension and expulsion policies, to the extent there is
41 deviation from districtwide policies;
- (11) manner of pupil participation in the Kansas assessment program;
- (12) terms and conditions of employment in the charter school;

4.2

1 (13) specification of the manner in which contracts of employment
2 and status of certificated employees of the district who participate in the
3 operation of the school will be dealt with upon nonrenewal or revocation
4 of the charter or upon a decision by any such employees to discontinue
5 participation in the operation of the school;

6 (14) identification of school district policies and state board of edu-
7 cation rules and regulations from which waiver is sought in order to fa-
8 cilitate operation of the school and explanation of the reasons such waivers
9 are being requested; and

10 (15) the proposed school budget.

11 (d) In addition to satisfying a board of education with regard to the
12 key elements contained in the charter, a charter school must comply with
13 the following requirements in order to qualify for establishment or
14 continuation:

15 (1) The school must be focused on outcomes or results and must
16 participate in the quality performance accreditation process unless a spe-
17 cific request documenting the reasons for deviation from the process is
18 submitted to and approved by the board of education and the state board
19 of education;

20 (2) pupils in attendance at the school must be reasonably reflective
21 of the racial and socio-economic composition of the school district as a
22 whole;

23 (3) pupils may not be charged tuition; and

24 (4) compliance with applicable health, safety, and access laws must
25 be assured.

26 (e) If, upon receipt of a petition for establishment or continuation of
27 a charter school, a board of education finds the petition to be incomplete,
28 the board may request the necessary information from the petitioner.
29 After receiving a satisfactory petition, the board of education shall give
30 notice of the time, date and place for the holding of a public hearing on
31 the petition and shall rule on the petition within 30 days after the public
32 hearing is held. If the board of education approves the petition, the board
33 shall notify the petitioner and the state board of education within 30 days
34 after the approval or by February 1 of the school year preceding the
35 school year in which the charter school is proposed to be established,
36 whichever is earlier.

37 (f) After being notified by a board of education of the approval of a
38 petition, the state board shall determine whether the charter school is in
39 compliance with applicable state and federal laws and rules and regula-
40 tions. If the charter school is found to be in compliance with such laws
41 and rules and regulations, the state board shall approve establishment of
42 the charter school. If the charter school is not in compliance with such
43 laws and rules and regulations, establishment of the school shall not be

72-1904. Authorization to establish; purposes. The board of education of any school district may authorize the establishment of a non-sectarian, ~~outcomes-oriented educational program, hereinafter referred to as a charter school,~~ as a means of providing new opportunities for:

- (a) Improved pupil learning;
- (b) increased learning opportunities for pupils in special areas of emphasis in accord with themes established for charter schools;
- (c) creative and unconventional instructional techniques and structures;
- (d) new professional vistas for teachers who operate such schools or who choose to work in them; and
- (e) freedom from conventional program constraints and mandates.

1 ~~approved until the state board's objections have been satisfied. can rea-~~
 2 ~~sonably be expected to accomplish the program goals such charter school~~
 3 ~~established pursuant to subsection (c). If the state board finds such charter~~
 4 ~~school is not likely to achieve such program goals, the state board shall~~
 5 ~~not approve the petition.~~

6 (g) If the state board receives notification of the approval of petitions
 7 by boards of education for establishment of more than 30 charter schools
 8 ~~that are found to be in compliance with applicable state and federal laws~~
 9 ~~and rules and regulations, the state board shall select and approve estab-~~
 10 ~~lishment of the 30 charter schools deemed to possess the greatest poten-~~
 11 ~~tial for successful operation.~~

12 (h) The state board shall notify boards of education and petitioners
 13 for the establishment of a charter school of the approval or disapproval
 14 thereof by not later than April 1 of the school year preceding the school
 15 year in which the charter school is proposed to be established.

16 (i) If a charter school that has been approved for establishment
 17 has sought waiver from any school district policy or state board of edu-
 18 cation rules and regulations, the board of education of the school district
 19 in which the charter school will be established may consider the reasons
 20 for which the waivers have been requested. If the board of education
 21 determines that the reasons for seeking such waivers are meritorious and
 22 legitimately related to successful operation of the charter school, the
 23 board of education may grant waiver of school district policy and may
 24 make application, on behalf of the charter school, to the state board of
 25 education for waiver of state board rules and regulations. The state board
 26 may consider the application for waiver and approve, deny, or amend and
 27 approve the application. Upon approval or amendment and approval of
 28 the application, the charter school may operate under the terms and con-
 29 ditions of the waiver. The manner and method of exercising the rights
 30 and performing the responsibilities, duties and functions provided for
 31 under any school district policy or state board rules and regulations that
 32 are waived under authority of this subsection shall be prescribed in the
 33 charter and governed thereby.

34 Sec. 4. K.S.A. 2001 Supp. 72-1907 is hereby amended to read as
 35 follows: 72-1907. (a) Whenever a charter school has been approved for
 36 establishment or continuation by the board of education of a school dis-
 37 trict and the state board of education, no other approval shall be required
 38 for a period of three school years. The board of education may consider
 39 renewal of the operational status of the charter school at the conclusion
 40 of such three-year period and may either renew the charter and continue
 41 operation of the school, subject to approval by the state board of educa-
 42 tion, or nonrenew the charter and discontinue operation of the school.

43 (b) *Renewal of the operational status of the charter school shall be*

1 approved only if the charter school has demonstrated progress in achiev-
 2 ing the program goals it established pursuant to K.S.A. 2001 Supp. 72-
 3 1906, and amendments thereto. The board of education of a school district
 4 shall first determine whether the charter school is demonstrating such
 5 progress. If approved by the board of education, the state board shall
 6 review such progress and approve or nonrenew the charter or discontinue
 7 operation of the school.

8 (c) The board of education shall revoke the charter of a school if the
 9 school:

- 10 (1) Materially violates provisions contained in the charter;
- 11 (2) fails to meet or pursue to make progress in achieving the educa-
 12 tional objectives program goals contained in the charter;
- 13 (3) fails to comply with fiscal accountability procedures as specified
 14 in the charter; or
- 15 (4) violates rules and regulations of the state board of education that
 16 have not been waived by the state board.

17 (d) Prior to nonrenewing or revoking a charter, a board of edu-
 18 cation shall hold a hearing on the issues in controversy. Spokespersons
 19 for the charter school shall be provided the opportunity to present infor-
 20 mation refuting the basis upon which the nonrenewal or revocation is
 21 premised. At least 30 days notice must be provided to representatives of
 22 the charter school prior to the hearing. Within 60 days after the hearing,
 23 the board of education shall announce its decision on the nonrenewal or
 24 revocation issue. The board may abandon the proposed nonrenewal or
 25 revocation, nonrenew or revoke the charter, or continue recognition of
 26 the charter contingent upon compliance with specified conditions. The
 27 decision of a board of education to nonrenew or revoke a charter is not
 28 subject to appeal; however, the charter school authorities may renew pro-
 29 cedures for authority to operate a charter school.

30 Sec. 5. K.S.A. 2001 Supp. 72-1903, 72-1906 and 72-1907 are hereby
 31 repealed.

32 Sec. 6. This act shall take effect and be in force from and after its
 33 publication in the statute book.

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Mark Desetti Testimony Before
Senate Education Committee
Wednesday, February 6, 2002

Thank you Mr. Chairman and members of the Committee for the opportunity to speak with you about Senate Bill 402 and charter schools. I am Mark Desetti and I represent Kansas NEA.

Basically, we agree with the changes to charter school provisions addressed in this legislation. We know there has been considerable discussion in the past few years about just what a charter school is and the first set of changes in this bill – new Sub-section (b) under Section 2 – helps define these schools in a new way. Hopefully this will bring the kinds of proposals that legislators have been hoping to see for some time. We also believe that the changes to Section 4 dealing with renewal of charters speak directly to the idea of linking renewal with progress. Since the idea of charter schools is to see if their ideas bear fruit, then these changes make perfect sense.

That leaves the changes to Section 3 that allow the State Board of Education to examine the charter application relative to the goals of the charter school and deny a petition if they believe the school is not likely to achieve those goals. While we have no argument with this addition, we have some concern about the language that would be removed. We believe the State Board should also have an obligation to ensure that nothing in the charter would make a school be out of compliance with state and federal laws and rules and regulations. We would urge you to add the new language relative to program goals but not to strike the current language relative to compliance with law.

We thank you for the opportunity to share our thoughts on this bill and hope you will consider our recommendation.

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Date: 2-6-02

Attachment # 5