

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Dwayne Umbarger at 1:30 p.m. on February 13, 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
John Peterson, American Century
Val Defever, State Board of Education

Others attending: See Attached List

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 and John Peterson were able to work out a compromise on **SB403**. The concept would be that they would protect lineal descendants only and that the first year prior to a filing of bankruptcy there would be no protection, from 12 to 24 months there would be \$5000 per account protection and from 24 months out there would be total protection from both bankruptcy and judgements. If the Committee agrees that this is a favorable compromise, they will leave it up to the will of the Committee. John Peterson concurs with this compromise.

Chairman Umbarger explained that to accomplish this compromise, the language in **SB403**, page 2, Line 14 (after the f) through 19 would be deleted and replaced with the conceptual language "subject to the provisions of section 529 of the internal revenue code of 1986, in effect on January 1, 2002, or later versions as established in rules and regulations adopted by the treasurer."

Senator Teichman made a motion to amend **SB403** with the language described in the above paragraph as proposed by the State Treasurer's office. Seconded by Senator Vratil. Motion carried.

Senator Vratil made a motion to amend **SB403** further with the balloon amendments as proposed by the State Treasurer's office on page 2, line 19 and 40; deletions on page 3; the amendments on page 4, line 8 13; and page 5, line 40 & 43. Seconded by Senator Teichman. Motion carried. (Attachment 1)

Senator Vratil made a motion to recommend **SB403** favorably as amended. Seconded by Senator Schodorf. Motion carried.

Federal Education Plan, "No Child Left Behind" compared to the State Board of Education Plan

Val Defever gave a slide presentation showing the mandates of the new federal education plan, "No Child Left Behind" and what the state of Kansas already has in place to accomplish the mandates of the federal plan and the goals the state Board has set to accomplish the remaining mandates. (Attachment 2) Val introduced other members of the Board who visited the meeting today.

Dale Dennis distributed and explained information requested by the Committee at a previous meeting concerning the major school district funds and the policy on July 1 cash balances in the funds. (Attachment 3)

Adjourned 2:26 p.m.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 2/13/02

<u>NAME</u>	<u>REPRESENTING</u>
Denise Oph	USA, USD 500
Karee Hollman	Hem Law Firm
[unclear] Oakes	SQE
Mark Doretto	KNETA
Kathy Henderson	USD 452
Ted [unclear]	USD 452
[unclear]	—
[unclear]	KSBF
M. [unclear]	USD 482
Esie Torres	KCAD
B. [unclear]	KBOE
[unclear]	KBOE
Burt [unclear]	Office of the Governor
Blanche [unclear]	Treasurer's Office
Elizabeth A. R.	American Century [unclear]
David [unclear]	Treasurer's Office
Chuck Stokes	KBA
John Peterson	American Century
David M. Self	Houston USD 210

SENATE BILL No. 403

By Legislative Educational Planning Committee

1-22

JAN-29-02 TUE 09:34 AM REVISOR OF STATUTES FAX NO. 9132966668

9 AN ACT concerning the postsecondary education savings program;
10 amending K.S.A. 2001 Supp. 60-2308 and 75-646 and repealing the
11 existing sections.
12

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

14 Section 1. K.S.A. 2001 Supp. 60-2308 is hereby amended to read as
15 follows: 60-2308. (a) Money received by any debtor as pensioner of the
16 United States within three months next preceding the issuing of an exe-
17 cution, or attachment, or garnishment process, cannot be applied to the
18 payment of the debts of such pensioner when it appears by the affidavit
19 of the debtor or otherwise that such pension money is necessary for the
20 maintenance of the debtor's support or a family support wholly or in part
21 by the pension money. The filing of the affidavit by the debtor, or making
22 proof as provided in this section, shall be *prima facie* evidence of the
23 necessity of such pension money for such support. It shall be the duty of
24 the court in which such proceeding is pending to release all moneys held
25 by such attachment or garnishment process, immediately upon the filing
26 of such affidavit, or the making of such proof.

27 (b) Except as provided in subsection (c), any money or other assets
28 payable to a participant or beneficiary from, or any interest of any partic-
29 ipant or beneficiary in, a retirement plan which is qualified under sections
30 401(a), 403(a), 403(b), 408, 408A or 409 of the federal internal revenue
31 code of 1986 and amendments thereto shall be exempt from any and all
32 claims of creditors of the beneficiary or participant. Any such plan shall
33 be conclusively presumed to be a spendthrift trust under these statutes
34 and the common law of the state. ~~All records of the debtor concerning~~
35 ~~such plan or arrangement and of the plan concerning the debtor's partic-~~
36 ~~ipation in the plan or arrangement shall be exempt from the subpoena~~
37 ~~process.~~

38 (c) Any plan or arrangement described in subsection (b) shall not be
39 exempt from the claims of an alternate payee under a qualified domestic
40 relations order. However, the interest of any and all alternate payees
41 under a qualified domestic relations order shall be exempt from any and
42 all claims of any creditor, other than the state department of social and
43 rehabilitation services, of the alternate payee. As used in this subsection,

Senate Education
2-13-02
Attachment 1

P. 03

FAX NO. 9132966668

REVISOR OF STATUTES

JAN-29-02 TUE 09:34 AM

1 the terms "alternate payee" and "qualified domestic relations order" have
2 the meaning ascribed to them in section 414(p) of the federal internal
3 revenue code of 1986 and amendments thereto.

4 (d) The provisions of subsections (b) and (c) shall apply to any pro-
5 ceeding which: (1) Is filed on or after July 1, 1986; or (2) was filed on or
6 after January 1, 1986, and is pending or on appeal July 1, 1986.

7 (e) Money held by the central unit for collection and disbursement
8 of support payments designated pursuant to K.S.A. 23-4,118, and amend-
9 ments thereto, the state department of social and rehabilitation services,
10 any clerk of a district court or any district court trustee in connection
11 with a court order for the support of any person, whether the money is
12 identified as child support, spousal support, alimony or maintenance, shall
13 be exempt from execution, attachment or garnishment process.

14 (f) Any money or other assets payable to an account owner or des-
15 ignated beneficiary from, or any interest of any account owner or desig-
16 nated beneficiary in, a family postsecondary education savings account
17 established in accordance with the provisions of K.S.A. 2001 Supp. 75-
18 640 to 75-648, and amendments thereto, shall be exempt from any and
19 all claims of creditors of the account owner or designated beneficiary.

20 Sec. 2. K.S.A. 2001 Supp. 75-646 is hereby amended to read as fol-
21 lows: 75-646. (a) Family postsecondary education savings accounts estab-
22 lished pursuant to the provisions of K.S.A. 2001 Supp. 75-640 to 75-648,
23 and amendments thereto shall be governed by the provisions of this
24 section.

25 (b) A family postsecondary education savings account may be opened
26 by any person or persons who desire to save money for the payment of
27 the qualified higher education expenses of the designated beneficiary.
28 Such persons shall be considered the account owner.

29 (1) An application for such account shall be in the form prescribed
30 by the state treasurer and contain the following:

31 (A) The name, address and social security number or employer iden-
32 tification number of the account owner or owners;

33 (B) the designation of a designated beneficiary;

34 (C) the name, address and social security number of the designated
35 beneficiary;

36 (D) the certification relating to no excess contributions; and

37 (E) such other information as the state treasurer may require.

38 (2) The state treasurer may establish a nominal nonrefundable ap-
39 plication fee for such application.

40 (c) ~~Only the account owner or owners may make contributions to the~~
41 ~~account after the account is opened.~~

42 (d) Contributions to accounts may be made only in cash.

43 (e) An account owner may withdraw all or part of the balance from

The provisions of this subsection shall apply to any proceeding
which: (1) Is filed on or after January 1, 2002; or (2) was filed
prior to January 1, 2002, and is pending on or on appeal after
January 1, 2002.

From and after January 1, 2002, any person

1 an account on sixty-days notice or such shorter period as may be author-
2 ized under rules and regulations governing the program. ~~[Such rules and~~
3 ~~regulations shall include provisions that will generally enable the deter-~~
4 ~~mination as to whether a withdrawal is a nonqualified withdrawal or a~~
5 ~~qualified withdrawal. Such rules and regulations may require one or more~~
6 ~~of the following:~~

7 (1) An account owner seeking to make a qualified withdrawal must
8 provide certification of qualified higher education expenses in a form and
9 manner and pursuant to the method consistent with the requirements of
10 K.S.A. 2001 Supp. 75-640 to 75-648, and amendments thereto; and

11 (2) ~~withdrawals, not meeting the requirements of K.S.A. 2001 Supp.~~
12 ~~75-640 to 75-648, and amendments thereto shall be treated as nonqual-~~
13 ~~ified withdrawals by the program manager and if such withdrawals are~~
14 ~~subsequently deemed qualified withdrawals, the account owner must seek~~
15 ~~any refund of penalties directly from the program.]~~

16 (f) (1) An account owner may change the designated beneficiary of
17 an account to an individual who is a member of the family of the prior
18 designated beneficiary in accordance with procedures established pur-
19 suant to the provisions of K.S.A. 2001 Supp. 75-640 to 75-648, and
20 amendments thereto.

21 (2) An account owner may transfer all or a portion of an account to
22 another family postsecondary education savings account, the designated
23 beneficiary of which is a member of the family as defined in section 529
24 of the federal internal revenue code of 1986, as amended.

25 (3) Changes in designated beneficiaries and transfers under this sub-
26 section shall not be permitted to the extent that they would constitute
27 excess contributions or unauthorized investment choices.

28 (g) ~~In the case of any nonqualified withdrawal from an account, an~~
29 ~~amount equal to 10% of the portion of the withdrawal constituting earn-~~
30 ~~ings as determined in accordance with the principles of section 529 of~~
31 ~~the federal internal revenue code of 1986, as amended, shall be withheld~~
32 ~~as a penalty and paid to the Kansas postsecondary education savings~~
33 ~~program.~~

34 ~~(h) The penalty prescribed in subsection (g) may be increased if the~~
35 ~~state treasurer determines that the amount of such penalty must be in-~~
36 ~~creased to constitute a greater than de minimis penalty for purposes of~~
37 ~~qualifying the program as a qualified state tuition program as defined in~~
38 ~~section 529 of the federal internal revenue code of 1986, as amended.~~

39 ~~(i) If an account owner makes a nonqualified withdrawal and no pen-~~
40 ~~alty amount is withheld pursuant to subsection (g) or the amount withheld~~
41 ~~was less than the amount required to be withheld under such subsection~~
42 ~~for nonqualified withdrawals, the account owner shall pay the unpaid~~
43 ~~portion of the penalty to the program at the same time that the account~~

1 owner files the earlier of the account owner's state or federal income tax
2 return for the taxable year of the withdrawal or if such account owner
3 does not file such return, the due date for such returns but in any event
4 on or before the due date for such return taking into account any au-
5 thorized extensions.

6 ~~(j)~~ (j) The program shall provide separate accounting for each desig-
7 nated beneficiary.

8 ~~(k)~~ (h) No account owner or designated beneficiary of any account
9 shall be permitted to direct the investment of any contributions to an
10 account or the earnings thereon.

11 ~~(i)~~ (i) Neither an account owner nor a designated beneficiary may use
12 an interest in an account as security for a loan. Any pledge of an interest
13 in an account shall be of no force and effect.

14 ~~(m)~~ (j) (1) The state treasurer shall adopt rules and regulations to
15 prevent contributions on behalf of a designated beneficiary in excess of
16 an amount equal to the average amount of the qualified higher education
17 expenses that would be incurred for five years of study at institutions of
18 postsecondary education located in the midwest states. Such amount shall
19 be determined annually by the state treasurer.

20 (2) Such rules and regulations shall include requirements that any
21 excess contributions with respect to a designated beneficiary be promptly
22 withdrawn in a nonqualified withdrawal or transferred to another account.

23 ~~(n)~~ (k) (1) If there is any distribution from an account to any indi-
24 vidual or for the benefit of any individual during a calendar year, such
25 distribution shall be reported to the federal internal revenue service and
26 the account owner or owners, the designated beneficiary, or the distri-
27 butee to the extent required by federal law or regulation.

28 (2) Statements shall be provided to each account owner at least once
29 each year within 60 days after the end of the twelve-month period to
30 which they relate. The statement shall identify the contributions made
31 during a preceding twelve-month period, the total contributions made to
32 the account through the end of the period, the value of the account at
33 the end of such period, distributions made during such period and any
34 other information that the state treasurer shall require to be reported to
35 the account owner.

36 (3) Statements and information relating to accounts shall be prepared
37 and filed to the extent required by federal and state tax law.

38 ~~(o)~~ (l) (1) A state or local government, or agency or instrumentality
39 thereof, or organization described in section 501(c) (3) of the federal
40 internal revenue code of 1986, as amended, may open and become the
41 account owner of an account to fund scholarships for persons whose iden-
42 tity will be determined upon disbursement.

43 (2) In the case of any account opened pursuant to provision (1) of

Subject to the provisions of section 529 of the internal revenue code of 1986, in effect on January 1, 2002, or later versions as established in rules and regulations adopted by the treasurer, any

(j) Subject to the provisions of subsection (f) of K.S.A. 60-2308, aat, the assets of and any interest in an account shall not be used to satisfy the debts of an account owner or a designated beneficiary of an account.

(Reletter subsections)

1 this subsection, the requirement set forth in subsection (b) that a desig-
 2 nated beneficiary be designated when an account is opened shall not
 3 apply and each individual who receives an interest in such account as a
 4 scholarship shall be treated as a designated beneficiary with respect to
 5 such interest.

6 ~~(p) (m)~~ An annual fee may be imposed upon the account owner or
 7 owners for the maintenance of the account.

8 ~~(q)~~ An account must be open at least two years before a qualified
 9 withdrawal can be made. The state treasurer may adopt rules and regu-
 0 lations providing for exceptions to the foregoing requirements for such
 1 extenuating circumstances as the state treasurer deems necessary and
 2 appropriate.

3 ~~(r) (n)~~ An account owner or designated beneficiary of a Kansas post-
 4 secondary education savings account must be a citizen or resident of the
 5 United States of America.

6 ~~(s) (o)~~ The program shall disclose the following information in writing
 7 to each account owner and prospective account owner of a family postse-
 8 condary education savings account:

9 (1) The terms and conditions for purchasing a family postsecondary
 0 education savings account;

1 (2) any restrictions on the substitution of beneficiaries;

2 (3) the person or entity entitled to terminate the savings agreement;

3 (4) the period of time during which a beneficiary may receive benefits
 4 under the savings agreement;

5 (5) the terms and conditions under which money may be wholly or
 6 partially withdrawn from the program, including, but not limited to, any
 7 reasonable charges and fees that may be imposed for withdrawal;

8 (6) the probable tax consequences associated with contributions to
 9 and distributions from accounts; and

0 (7) all other rights and obligations pursuant to savings agreements,
 1 and any other terms, conditions and provisions deemed necessary and
 2 appropriate by the state treasurer.

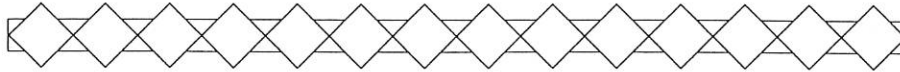
3 ~~(t) (p)~~ Nothing in K.S.A. 2001 Supp. 75-640 to 75-648, and amend-
 4 ments thereto, or in any savings agreement entered into pursuant to
 5 K.S.A. 2001 Supp. 75-640 to 75-648, and amendments thereto, shall be
 6 construed as a guarantee by the state of Kansas or any institution of pos-
 7 tsecondary education that a beneficiary will be admitted to the institution
 8 of postsecondary education or, upon admission to any institution of pos-
 9 tsecondary education, will be permitted to continue to attend or will re-
 0 ceive a degree from such institution of postsecondary education.

1 Sec. 3. K.S.A. 2001 Supp. 60-2308 and 75-646 are hereby repealed.

2 Sec. 4. This act shall take effect and be in force from and after its
 3 publication in the statute book.

(r) The amendments to this section by this act shall apply to any action or
 transaction taken or occurring from and after January 1, 2002.

No Child Left Behind



No Child Left Behind



ESEA Goals

- ◆ Hold all entities accountable and close the gap
- ◆ Elevate the quality of instruction
- ◆ Promote schoolwide reform

KS State Board Goals

- ◆ Help all students meet or exceed academic standards
- ◆ Recruit, prepare, support and retain a qualified teacher for every classroom
- ◆ Redesign Kansas schools and learning environments for a new century

Meet or Exceed Standards: Be Accountable



ESEA

- ◆ Make adequate yearly progress in at least reading and math
- ◆ In 12 years all students must be proficient
- ◆ Decrease the gap based upon the lowest achieving subgroup in the state

KS State Board

- ◆ Increase achievement in reading, writing, science, math, and social studies
- ◆ Decrease students scoring in basic and unsatisfactory
- ◆ Decrease the gap for minority/disadvantaged

Meet or Exceed Standards: Be Accountable



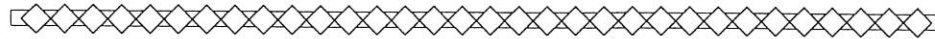
ESEA

- ◆ Implement reading instruction grounded in scientifically based reading research for Kdg-3
- ◆ For secondary schools, increase the graduation rate

KS State Board

- ◆ Increase the number of students reading at their instructional level by 2nd grade
- ◆ Increase the graduation rate

Meet or Exceed Standards: Be Accountable



ESEA

- ◆ Develop a system of rewards and sanctions to hold all public schools and districts accountable
- ◆ Develop a school improvement plan

KS State Board

- ◆ Improve the school accreditation program
- ◆ Develop a school improvement plan

How to reduce the gap?



ESEA

- ◆ Offer Early Reading First and Reading First
- ◆ Extend the school year or day
- ◆ Offer supplemental services
- ◆ Provide professional development
- ◆ Institute new curricula

KS State Board

- ◆ Offer early childhood
- ◆ Provide extended learning
- ◆ Provide additional support for low performing students
- ◆ Provide ongoing staff development
- ◆ Make assessments instructionally helpful

Recruit and Retain Highly Qualified Staff



ESEA

- ◆ Increase the number of highly qualified staff
- ◆ Reform and help educator certification
- ◆ Support professional development

KS State Board

- ◆ Increase the supply of qualified educators
- ◆ Improve the preparation programs for educators
- ◆ Provide high quality support for new and experienced educators

Recruit and Retain Highly Qualified Staff



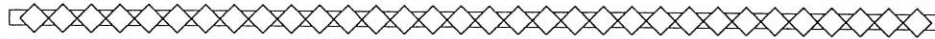
ESEA

- ◆ Teachers teaching core academic subjects must meet the state teaching requirements
- ◆ All paraprofessionals must have 2 years of IHE study, an associates degree or passed an assessment in math, reading and writing

KS State Board

- ◆ Decrease teachers unqualified for the positions they hold
- ◆ Decrease teachers leaving the profession within the first five years of practice
- ◆ Ensure the average teacher's salary in Kansas is equal to the national average

How to recruit and retain?



ESEA

- ◆ Develop alternative routes to state certification
- ◆ Develop multiple career paths and pay differentiation

KS State Board

- ◆ Provide alternative paths to second career people that lead to licensure
- ◆ Develop a comprehensive plan to advocate for incentives to increase the retention of qualified educators

How to recruit and retain?



ESEA

- ◆ Establish innovative professional development programs including partnerships with IHEs
- ◆ Partner with engineering, math and science departments in IHEs with a high need school district

KS State Board

- ◆ Encourage clinical experiences in preparation programs
- ◆ Implement a mentoring program
- ◆ Facilitate collaboration between schools of education and schools of arts and science

Schoolwide Reform/ Redesign for a New Century



ESEA

- ◆ Provide flexibility by allowing entities to carry out one, some, or all of the activities
- ◆ Assist in determining how federal funds can leverage state and local funds

KS State Board

- ◆ Increase understanding of current and future educational expectations
- ◆ Establish a vision that identifies a preferred future for Kansas schools and learning environments

How to reform and redesign?



ESEA

- ◆ Increase flexibility
- ◆ Reduce the poverty threshold for schoolwide status eligibility
- ◆ Use as a lever to assist states and districts as part of a comprehensive approach to improvement

KS State Board

- ◆ Identify barriers in current delivery systems
- ◆ Create a blueprint for enhancing educational opportunities
- ◆ Develop policy options and advocacy for implementing the blueprint



Kansas State Department of Education

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

February 8, 2002

TO: Senate Education Committee
FROM: Dale M. Dennis, Deputy
Commissioner of Education
SUBJECT: Review of School District Funds/Cash Balances

This memorandum is written in response to your request for a brief summary of the major school district funds and the policy on July 1 cash balances in these funds.

General Fund The general fund usually has no cash balance. Occasionally, there may be a small amount left in the fund. Any cash balance left is a part of local effort and results in a deduction in state aid the next year. The budget is financed on a 12-month budget with the intent of a zero balance. The only revenue in this fund on July 1 would be minimal amounts that may have been received from the county treasurer such as delinquent taxes, mineral production taxes, and unexpected federal impact aid funds.

Supplemental General Fund The supplemental general fund cash balance at the end of the year is normally small since this budget is financed on a 12-month basis. If the district underspends the amount budgeted and is entitled to supplemental general state aid, the district is required to refund back to the state the portion of the budget that was state aid. For example, if the budget was underspent by \$10,000 and the state aid was 25 percent, the district would owe the state \$2,500.

Bilingual Education The bilingual education fund has no balance. If there is a balance, it is transferred to the general fund and becomes part of local effort.

Transportation The transportation fund has no balance. If there is a balance, it is transferred to the general fund and becomes part of local effort.

Vocational Education The vocational education Fund has no balance. If there is a balance, it is transferred to the general fund and becomes part of local effort.

Capital Outlay The capital outlay fund primarily consists of revenue received from the property tax which was a result of a resolution approved by the board of education with a right of protest. If a protest was received, it required an election prior to implementation. These funds can only be spent for capital outlay items outlined in the law. Since this is a mill levy for a specific purpose, statutorily and constitutionally, the funds cannot be used for other purposes.

(over)

Senate Education
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Attachment 3

- Food Service** The food service fund primarily consists of revenue received from the federal government, student receipts, and a small state appropriation which is less than five cents per meal. Federal law provides that this balance cannot exceed three months of the district's average expenditures unless there is a good reason. A cash balance is essential on July 1 in order to purchase food, breakfast/lunch supplies, and pay salaries until the federal reimbursement begins in October.
- Driver Training** The driver training fund primarily consists of revenue received from the state safety fund, student fees, and transfers from the general and supplemental general funds. A cash balance in this fund depends upon when you operate the program. For example, if a district has a summer program, they will need revenue to operate during July and be able to pay salary and car expenses until they receive the state aid payment in November.
- Special Education** The special education fund primarily consists of revenue received from state funds, federal funds, and transfers from the general and supplemental general funds. This cash balance must be sufficient to operate from July 1 until state and federal aid are received which is normally in October. Cash flow in this fund can be challenging due to the total cost of special education.
- Parent Education** The parent education fund primarily consists of revenue received from state aid and transfers from the general and supplemental general funds. The local district must match 65 percent of the state funds. There needs to be sufficient revenue to operate the program from the beginning of the fiscal year until state funds are received in mid-August.
- Contingency Reserve** The contingency reserve fund contains revenue set aside for contingencies that were not anticipated when the budget was adopted. Approximately 90 school districts do not have a contingency reserve fund and about 50 more districts have very small amounts in this fund. The Legislature placed a limit of four percent of the general fund for this fund.
- Bond and Interest** The revenue in the bond and interest fund, which involves a mill levy and some state aid, must be sufficient to meet bond and interest payments. In most cases, those payments are due in the fall and spring. This revenue can only be spent for this purpose.

We hope this information will be of assistance to you.