

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 1:37 p.m. on February 4, 2004 in Room 123-S of the Capitol.

All members were present except:
Senator Anthony Hensley (excused)

Committee staff present:
Kathie Sparks, Legislative Research
Debra Hollon, Legislative Research
Theresa Kiernan, Office of the Revisor of Statutes
Judy Steinlicht, Committee Secretary

Conferees appearing before the Committee:
Kathie Sparks, Legislative Research
Theresa Kiernan, Office of the Revisor
Jeff Wagamon, Assistant State Treasurer

Others attending:
See Attached List

Minutes from January 27, 28 and 29, 2004 were presented for approval. A motion to approve the minutes was made by Senator Schodorf, seconded by Senator Teichman. Motion carried.

Senator Oleen requested introduction of a conceptual bill concerning refinement of policies concerning military dependents. Senator Schodorf made a motion to introduce the conceptual bill, seconded by Senator Teichman. Motion carried.

Overview of the Arkansas School Finance Lawsuit

Kathie Sparks, Legislative Research, has been following the Arkansas law suit (known as the Lake View Case) for over two years. To show that Kansas is not alone in our law suit, Kathie gave the Committee a computer print-out that showed 25 states with law suits in process, 20 states with no current law suits and 5 that have never had a law suit challenging the constitutionality of K-12 funding. (Attachment 1)

Kathie advised that in 1983, the Arkansas Supreme Court found the state's school funding system unconstitutional under the equal protection clause of the state's constitution. The original finding was that the court found "no legitimate state purpose" and "no rational relationship to educational needs" in the state's method of financing public schools. Since 1983, the state has twice enacted major revisions to its funding statutes, however, the plaintiffs have continued to challenge the revised system. In 2001, the district court continued to find that the system was "inequitable" and "inadequate" and ordered that a constitutional finance system must be based on the amount of money needed to provide an adequate educational system and they ordered that a adequacy study must be conducted.

Kathie reported that the court adopted the definition of an "efficient" system of education from Kentucky's Supreme Court decision in *Rose vs Council for Better Education* as the standard for a "general, suitable and efficient system of free public schools" as required by the Arkansas Constitution. This decision established seven learning goals for every child. The Governor appealed the decision in January 2002. In November 2002, the Arkansas Supreme Court affirmed the lower court's finding that the state's education finance system is unconstitutional and gave the state until January 1, 2004 to correct the inadequate and inequitable funding system. The Arkansas Supreme Court on January 22, 2004 issued a new order to appoint a special master because of the failure of the Legislature and the Executive Branch to act. On January 26, 2004, the Governor requested his own attorney to represent the executive branch because it was evident the executive and legislative branch has far different views on how to address the mandate of the Supreme Court.

Kathie included a comparison of Kansas and Arkansas for the 2002-03 school year. The number of school districts, state population, number of students, per student expenditures and total K-12 expenditures are very similar. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE at 1:37 p.m. on February 4, 2004 in Room 123-S of the Capitol.

Hearing on SB303--Learning Quest; family postsecondary education savings accounts; maximum account balance; tax exemption

Theresa Kiernan, Revisor of Statutes, gave the committee a briefing on **SB303**. The bill was introduced by Legislative Educational Planning Committee (LEPC) at the request of the State Treasurer's Office. The bill amends the Learning Quest program; 1) changes the way the maximum account balance is determined; 2) adds a reference to the statute under which the funds are exempt from garnishment, attachment or execution; and 3) increases the amount of the income tax deduction from \$2000 to \$4000 for a single tax filer and from \$4000 to \$8000 for married couple filing joint.

Jeff Wagamon, Assistant State Treasurer testified in support of **SB303**. Mr. Wagamon told the Committee that this program has been State Treasurer, Lynn Jenkins, top priority and this bill was introduced to improve and enhance the program. State Treasurer Jenkins wants to help parents and grandparents of all income levels to save for higher education. Mr. Wagamon gave the Committee a history of the Learning Quest program and explained the amendments requested in the bill. (Attachment 3) Discussion followed.

Written testimony was provided in support of **SB303** by Reginald Robinson, President and CEO of the Kansas Board of Regents. (Attachment 4)

The meeting was adjourned at 2:30 p.m. The next meeting is scheduled for February 5, 2004.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 2/4/04

<u>NAME</u>	<u>REPRESENTING</u>
Jeff Wagaman	State Treasurers Office
Scott Gates	STATE TREASURER'S OFFICE
Melissa Hunsicker Walburn	State Treasurer's Office
Brian Molin	KCC
John Peterson	American Century
Mark DeBem	KNEA
Marcia Fox	USD 320 WTA
Kimbra Caywood	Kearney & Assoc.
Val McFever	Schools for Quality Education
Ardi Forbes	Leadership Parsons / LCC
Bethany Kendrick	" "
Audrey Forbes	Leadership Parsons / LCMC
Shanna Neuberg	Leadership Parsons / LCC
Nelly Lawson	Leadership Parsons / B Bisco
Brian West	Leadership Parsons / Bowen Pharmacy
John Shoghe	Leadership Parsons / Par forms Printing
Amy West	Leadership Parsons / Bowen Pharmacy
Susan Schulze	Leadership Parsons / SKILL Resource Ctr.
Ann Serrad	Leadership Parsons / ^{Weaver} Chiropractic
Kanak Patel	Leadership Parsons / Commercial Bank
James McCarty	" " / McCarty Office Machines INC.
Diane Gjerstad	Wichita Public Schools



**LITIGATIONS CHALLENGING
CONSTITUTIONALITY of K-12
FUNDING in the 50 STATES**

January 7, 2004

In Process*(25)	No Current Lawsuit (20)	Never Had a Lawsuit (5)
Alaska Arizona Arkansas California Connecticut Idaho Iowa Kansas Kentucky Louisiana Maryland Massachusetts Missouri Montana Nebraska New Hampshire New Jersey New Mexico New York North Carolina North Dakota South Carolina Tennessee Texas Wyoming	Alabama Colorado Florida Georgia Illinois Indiana Maine Michigan Minnesota Ohio Oklahoma Oregon Pennsylvania Rhode Island South Dakota Vermont Virginia Washington West Virginia Wisconsin	Delaware Hawaii Mississippi Nevada Utah

* "In Process" ranges from recently filed cases to cases where full implementation of the remedy seems close at hand.

Source: Molly A. Hunter, Litigations Challenging Constitutionality of K-12 Funding in the 50 States (Campaign for Fiscal Equity, Inc. 2004). See www.schoolfunding.info for the latest developments.

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February 4, 2004

To: Senate Committee on Education
From: Kathie Sparks, Principal Analyst
Re: A Summary of the Arkansas School Finance Lawsuit

Historical Background

In 1983, the Arkansas Supreme Court found the state's school funding system unconstitutional under the equal protection clause of the state constitution, in *Dupree vs. Alma School District No. 30*. The court found "no legitimate state purpose" and "no rational relationship to educational needs" in the state's method of financing public schools. This equity ruling rejected "local control" as a possible justification for the disparities of funding and educational opportunities in the state's school districts.

At least twice since the 1983 court decision, the state has enacted major revisions to its funding statutes. However, plaintiffs have continued to challenge the revised systems. In 2001, an Arkansas trial court declared the state's education funding system unconstitutional: "The school funding system now in place . . . is inequitable and inadequate under . . . the Arkansas constitution." The court concluded that "Too many of our children are leaving school for a life of deprivation, burdening our culture with the corrosive effects of citizens who lack the education to contribute." Moreover, the court determined that a constitutional finance system must be based on the amount of money needed to provide an adequate educational system and that "an adequacy (cost) study is necessary and must be conducted forthwith" as outlined in *Lake View School District, No. 25 vs. Huckabee, No. 1992-5318* (Pulaski County Chancery Court, May 25, 2001).

In addition, the trial court in *Lake View* adopted the definition of an "efficient" system of education from Kentucky's Supreme Court decision in *Rose vs. Council for Better Education*, as the standard for a "general, suitable and efficient system of free public schools" required by the Arkansas Constitution. The *Rose vs. Council for Better Education* decision established the seven following learning goals, for "each and every child" as:

- Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- Sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;
- Sufficient understanding of government processes to enable the student to understand the issues that affect his or her community, state, and nation;
- Sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;

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- Sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- Sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

The trial court also relied on the state's recently developed standards for student achievement and accountability to charge the state with providing adequate funding to allow the system's students to achieve the expected outcomes.

The Governor appealed the decision in January 2002. On November 21, 2002, the Arkansas Supreme Court affirmed the lower court's finding that the state's education finance system is unconstitutional and gave the state until January 1, 2004 to correct the inadequate and inequitable funding system. The Supreme Court also concluded that the responsibility for educating the Arkansas students lies with the state, not local communities, and that the court has the power and duty to ensure that the funding system complies with the state constitution. The court also found that it is possible to define the educational skills and capacities necessary for an adequate education. Because the state legislature had not defined those skills and capacities, the court listed (see *Rose* learning goals above) what it deemed to be necessary under the state constitution. In examining the equity of the funding system, the court looked at "educational expenditures" rather than "educational revenues" as suggested by the state. The court concluded that there was a sharp "expenditure gap" between rich and poor school districts that "fostered a system of discrimination based on wealth."

The Supreme Court also cited underpaid teachers, unsafe facilities, lack of basic equipment and labs, and limited advanced placement course offerings as evidence of deficiencies caused by the inadequate and inequitable finance system. These deficiencies have resulted in low student achievement, high college remediation rates, and poor educational outcomes. Finally, the court concluded that money and educational expenditures matter. "There is a direct correlation between dollars expended and the quality of education a student receives."

The only area in which the court sided with the state was on the question of whether the constitution required the provision of pre-school for low-income students. The court said that although early childhood education programs could well provide educational benefits for children, the courts could not require the legislature to provide and fund such programs. The court did not immediately order the legislature to take action, opting instead to give lawmakers one year to "chart a new course for public education" in Arkansas.

Arkansas Supreme Court Action of January 22, 2004

The Arkansas Supreme Court on January 22, 2004 issued a new order with regard to *Lake View* in which they made the decision to appoint a special master after lack of progress by the Arkansas Legislature. In addition, the justices raised the possibility of "ominous consequences" after the state missed a January 1 deadline to enact reforms, according to KATV in Arkansas. In addition, the court order did not mandate school consolidation; however, "justices broached the thorny issue in discussing ways to overhaul the education system." A copy of the new order is attached.

If you have any further questions, please do not hesitate to contact me.

ATTACHMENT

Comparison of Kansas and Arkansas for 2002-03 School Year



	<u>Arkansas</u>	<u>Kansas</u>
No. of school districts	308	302
State population*	2,724,714	2,723,507
No. of students**	439,742.1	445,541.4
Per student expenditures	\$ 7,249	\$ 8,874
Total K-12 expenditures	\$ 3,187,703,261	\$ 3,953,718,874

* Annual population estimates by state by the U.S. Census Bureau for 2003.

** Enrollment in public schools. In Kansas, we actual count the children on September 20; however, in Arkansas, the number is based on average daily enrollment.



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Transcript of Supreme Court Order to Appoint Special Master

Thursday January 22, 2004 5:24pm Posted By: Tony Tabor

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Court to Appoint Special Master in School-funding Case



Little Rock - Supreme Court justices made the decision to appoint a special master Thursday, the following is a transcript of the order.

MANDATE RECALLED; MASTER TO BE APPOINTED

PER CURIAM

Because of noncompliance with our November 21, 2002, opinion of this court, we recall our mandate in this case forthwith. This court will appoint a master, whom we will name, and we will delineate his or her responsibilities by per curiam. Under Amendment 80, 2(E), this court has the power to issue and determine any and all writs necessary in aid of its jurisdiction and to delegate to its several justices the power to issue such writs. This court will consider and decide what remedy or writ is proper to assure compliance.

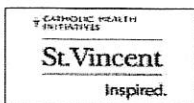
Special Justice Carol Dalby joins.
Hannah, J., concurs.
Imber, J., not participating.

CONCURRENCE.

Jim Hannah, Associate Justice

Because this court certainly has jurisdiction to recall its mandate, and because it is apparent that a noncompliance hearing is going to be held, I concur. However, I do not see that it matters whether that hearing occurs at the circuit court level where the new action is currently pending or as a result of recalling the mandate. I am concerned about the precedent we may be setting.

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Testimony of Jeff Wagaman
Assistant State Treasurer

On

SB 303

An act to enhance the Kansas college savings program

Senator Dwayne Umbarger, Chairperson
Senate Education Committee
February 4, 2004

Good morning Mr. Chairperson and members of the committee. I am Jeff Wagaman from the State Treasurer's Office. I appear before you today in support of SB 303, legislation sponsored by Treasurer Lynn Jenkins, and introduced by LEPC, to enhance Learning Quest, the state's 529-college savings program. I bring you greetings from Treasurer Jenkins, who cannot be with us today, but I have brought two members of the STO with me. One is Melissa Walburn, our new Director of the 529 program and you may also know Peggy Hanna, Deputy Assistant Treasurer who has been with the agency many years and helped start the Learning Quest Program. Peggy is well versed on the origins and history of the program. She can answer any budget or finance questions should you have any in these areas.

Treasurer Jenkins has made improving and enhancing Learning Quest a top priority of her administration. She believes strongly in the program and works every day to make it more attractive for parents and investors to invest in their child's future education. The STO has long enjoyed working with the Legislature, parents, investment professionals, and Kansas educators on the Learning Quest program. Working together, Treasurer Jenkins wants to help parents and grandparents of all income levels save for higher education – hopefully sending more Kansas students to Kansas schools. This legislative proposal represents our research into the various 529 plans offered by other states. We hope to bring to Kansas some of the features and enhancements that have proven attractive by other 529 programs.

Before I explain the components of the bill – I'd like to give you a very brief history of

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the program.

The Kansas Learning Quest Education Savings Program was created by the 1999 Kansas Legislature to authorize the establishment of savings accounts for higher learning. It's called a "529" account as it was established in accordance with Section 529 of the Internal Revenue Code. State Treasurer Jenkins administers the program and American Century Investments Company Inc. serves as the program manager. The program officially opened on July 1, 2000 and permits individuals and organizations to contribute to accounts to pay for post secondary educational expenses for individuals they designate as beneficiaries. This program has been self-funded since 2002.

Any person (the account owner) may open an account for any other person (the beneficiary). When an account is opened a beneficiary is named, and an investment track is selected. Investors can choose target year portfolios based on risk tolerance and time horizon. Treasurer Jenkins added two static tracks; a conservative option, the Prime Money Market Fund, and a more aggressive option, the 100% Equity (stock) Fund. For investors seeking non-American Century products, Treasurer Jenkins has added a multimanager investment option available through Charles Schwab. Whichever the investment strategy or risk tolerance, there are more options to save for higher education.

After the account is opened, the account owner does not have control of the investment strategy, but can change investment portfolios once a year or when the beneficiary is changed, according to federal law. The money in the account can be used for qualified educational expenses at any accredited public, private college or university, vocational or technical school in the United States eligible to receive federal financial aid. The IRS defines "educational expenses" as tuition, fees, books, room and board, supplies and other expenses required for the beneficiary's field of study.

Based on current law, withdrawals for qualified educational expenses made after December 31st, 2001 and before December 31 2010 are exempt from federal and state income taxes. Currently Kansas taxpayers may deduct contributions up to \$2,000 if filing as an individual, \$4,000 if filing jointly. The current contribution limit of \$235,000, is based on the estimated cost of five years of undergraduate education at a Midwest institution in the year 2020. There is no annual fee for Kansas account holders. Out of state account holders are charged \$27.00.

Through the end of our fiscal year (June 2003) the Learning Quest Program had more than 50,000 accounts opened with approximately 47% of those belonging to Kansas residents. Program assets totaled \$453 million dollars. The asset value varies daily with the stock market of course. However, in January when the Dow Jones went above 10,000 the assets totaled over \$600 million dollars. The Treasurer has also initiated an aggressive advertising and marketing campaign to raise the awareness of Learning Quest and increase the number of accounts and contributions.

The average Kansas account holder has an average balance of about \$5,633 in their

account. National account balances are higher with an average of \$13,020. Program assets continue to rise significantly each year, as does the national market. All fifty states have some type of 529 plan and national assets are approximately \$29 billion dollars – up almost 13% from 2002. As for market share – Kansas ranks an impressive 14th nationally. Probably because of our program marketing, outreach, and product offering.

Despite the impressive performance of the Learning Quest program – Treasurer Jenkins is always looking for improvement in the program. After comparing the Kansas 529 plan to other states' plans, Treasurer Jenkins has developed a list of enhancements she believes will make the program even more attractive not only to Kansas investors but investors nationwide.

An attractive feature of the Learning Quest program is the opportunity for Kansas residents to deduct contributions, up to \$2,000 for an individual filer, \$4,000 for married couples filing jointly, per beneficiary per year. The Treasurer proposes this deduction be increased to make it more competitive. A higher deduction limit, of \$4,000 per individual and \$8,000 for couples will be a greater incentive for Kansans to invest in higher education and send their children to college or higher education. These proposed higher deduction limits compare favorably to other state's deductions limits.

Learning Quest Director Melissa Walburn has surveyed other state's 529 plans and compared their deduction limits. We have a handout for you.

The current cap on contributions is the average cost of five years of study at an institution of higher education in midwestern states. However, students can attend any eligible institution in the country. Considering that the cost of higher education has increased by double digits the past several years, and Learning Quest is being sold nationally, we believe the Treasurer needs increased flexibility to raise the cap in future years. The ability to adjust the cap will insure that Kansans are able to save an appropriate amount of money to cover educational expenses, years into the future, at institutes of higher education nationwide.

In 2003 statutory provisions were enacted by the Kansas legislature to provide Learning Quest assets some level of protection from creditors. These provisions are contained in the Civil Code in KSA 60-2308(f). Our proposed amendment merely cross-references this protection in the Learning Quest enabling legislation (KSA 75-642).

Treasurer Jenkins is thankful for the partnership between the legislature and the Treasurer's Office that established the Learning Quest program and continues to look for ways to make it better. These proposals were brought to LEPC this fall. Originally the Treasurer proposed increasing the deduction limits to \$5,000 for an individual filer and \$10,000 for a married couple filing jointly. She also asked to eliminate the one-year waiting period for qualified withdrawals. LEPC amended the proposal to the bill you have before you. The Treasurer supports this compromise measure and asks for your support.

Her goal, like yours, is to have a competitive program that helps more individuals pursue the dreams of continued education and hopefully live and work in Kansas. This legislation is

designed to continue to make the 529 plan attractive to all types of investors. Since any Kansas investor can buy any 529 plan nationwide, we need to be competitive, innovative, and continually looking to make the program better.

Thank you and I stand for questions.

529 Plan* Comparisons By State			
STATE	PLAN	STATE TAX DEDUCTION AVAILABILITY/LEVEL OF DEDUCTION	CAP **
ALABAMA	Higher Education 529 Fund	No deduction available	\$260,000
ALASKA	Manulife College Savings	No deduction available; Alaska does not have personal income tax.	\$250,000
	T.Rowe Price College Savings	No deduction available; Alaska does not have personal income tax.	\$250,000
	University of AK College Savings	No deduction available; Alaska does not have personal income tax.	\$250,000
ARIZONA	AZ Family College Savings Program	No deduction available	\$197,000
	AZ Family College Savings (SM&R)	No deduction available	\$262,000
	Pacific Funds 529 College Savings Plan	No deduction available	\$262,000
	Waddell & Reed InvestED Plan	No deduction available	\$197,000
ARKANSAS	GIFT College Investing Plan	No deduction available	\$245,000
CALIFORNIA	Golden State ScholarShare College Savings Trust	No deduction available	\$267,580
COLORADO	CollegeInvest Scholars Choice	All Contributions Deductible, except rollovers	\$235,000
	CollegeInvest Stable Value Plus	All Contributions Deductible, except rollovers	\$235,000
CONNECTICUT	CT Higher Education Trust	No deduction available	\$235,000
DELAWARE	DE College Investment Plan	No deduction available	\$250,000
DC	DC 529 College Savings Program	\$3,000/\$6,000 per yr max.	\$260,000
FLORIDA	FL College Investment Plan	None (FL- no personal income tax)	\$283,000
GEORGIA	GA Higher Education Savings	\$2,000 max/year, per beneficiary. The maximum deduction decreases \$400 for each \$1,000 of federal AGI over \$50,000/ \$100,000 jointly. Tax deduction available only to account owner.	\$235,000
HAWAII	TuitionEDGE	No deduction available	\$297,000
IDAHO	ID College Savings Program (IDeal)	\$4,000/\$8,000	\$235,000
ILLINOIS	Bright Start College Savings Program	All Contributions Deductible, except rollovers	\$235,000
INDIANA	CollegeChoice 529 Plan	No deduction available	\$236,750
IOWA	College Savings Iowa	\$2,230/ \$4,460 per beneficiary/yr	\$239,000
	Principal College Savings Plan	\$2,230/ \$4,460 per beneficiary/yr	n/a
KANSAS	Learning Quest	\$2,000/\$4,000 per beneficiary/yr	\$235,000
	Schwab 529	\$2,000/\$4,000 per beneficiary/yr	\$235,000
KENTUCKY	Kentucky Education Savings Plan Trust	No deduction available	\$235,000
LOUISIANA	START Saving Program	\$2,400 per account/yr (excess contributions can be carried forward)	\$197,600
MAINE	NextGen Collge Investing Plan	No deduction available	\$275,000

MARYLAND	College Savings Plans of Maryland	\$2,500 per account/yr (excess contributions can be carried forward)	\$250,000
MASSACHUSETTS	U Fund College Investing Plan	No deduction available	\$250,000
MICHIGAN	MI Education Savings Program	\$5,000/\$10,000 per taxpayer/yr	\$235,000
MINNESOTA	MN College Savings Plan	No deduction available	\$235,000
MISSISSIPPI	MS Affordable College Savings (MACS)	\$10,000/\$20,000 per taxpayer/yr	
MISSOURI	MO Saving for Tuitions (MOST)	\$8,000 max per taxpayer/yr	\$235,000
MONTANA	MT Family Education Savings Program	\$3,000/\$6,000/yr for account owner	\$262,000
	Pacific Funds 529 College Savings Plan	\$3,000/\$6,000/yr for account owner	\$262,000
NEBRASKA	AIM College Savings	\$1,000 max./ return. (\$500 per person married filing as single).	\$250,000
	College Savings Plan of Nebraska	\$1,000 max./ return. (\$500 per person married filing as single).	\$250,000
	State Farm College Savings Plan	\$1,000 max./ return. (\$500 per person married filing as single).	\$250,000
	TD Waterhouse College Savings Plan	\$1,000 max./ return. (\$500 per person married filing as single).	\$250,000
NEVADA	American Scandia College Savings	None (NV-no personal income tax)	\$250,000
	Columbia 529 Savings Plan	None (NV-no personal income tax)	\$250,000
	Strong 529	None (NV-no personal income tax)	\$250,000
	Upromise College Fund	None (NV-no personal income tax)	\$250,000
	The Vanguard 529 Savings Plan	None (NV-no personal income tax)	\$250,000
	USAA College Savings Plan	None (NV-no personal income tax)	\$250,000
NEW HAMPSHIRE	UNIQUE College Investing Plan	No deduction available	\$250,000
NEW JERSEY	Franklin Templeton 529 College Savings Plan	No deduction available	\$305,000
	NJBEST 529 College Savings Plan	No deduction available	\$305,000
NEW MEXICO	Arrive Education Savings Plan	All Contributions Deductible	\$294,000
	CollegeSense 529 Higher Education Savings Plan	All Contributions Deductible	\$294,000
	Scholar's Edge	All Contributions Deductible	\$294,000
	The Education Plan's College Savings Program	All Contributions Deductible	\$294,000
NEW YORK	NY College Savings Program	\$5,000/\$10,000 per taxpayer/yr	\$235,000
NORTH CAROLINA	National College Savings Program	No deduction available	\$276,046
NORTH DAKOTA	College SAVE	No deduction available	\$269,000
OHIO	Ohio College Advantage Savings Plan	\$2,000 max/year, per beneficiary. Not restricted to account owner. Overage can be carried forward	\$245,000
	Putnam College Advantage Savings Plan	\$2,000 max/year, per beneficiary. Not restricted to account owner. Overage can be carried forward	\$245,000
OKLAHOMA	OK College Savings Plan	\$2,500 per year/ per account	\$235,000
OREGON	MFS 529 Savings Plan	\$2,000 per taxpayer/yr (\$1,000 married filing single)	\$250,000
	Oregon College Savings Plan/FACTS 529 Plan	\$2,000 per taxpayer/yr (\$1,000 married filing single)	\$250,000

	USA College Connect	\$2,000 per taxpayer/yr (\$1,000 married filing single)	\$250,000
PENNSYLVANIA	TAP 29 Investment Plan	None	\$300,000
RHODE ISLAND	CollegeBoundfund	\$500/\$1000, unlimited carryover, account owners only	\$301,550
	JP Morgan Higher Ed Plan	\$500/\$1000, unlimited carryover, account owners only	\$301,550
SOUTH CAROLINA	Future Scholar 529 College Savings Plan	All Contributions Deductible	\$265,500
SOUTH DAKOTA	CollegeAccess 529	None (SD-no personal income tax)	\$305,000
	Legg Mason Core4College 529 Plan	None (SD-no personal income tax)	\$305,000
TENNESSEE	TN's BEST Savings Plan	Contributions and distributions are exempt from all Tennessee state, county, and municipal taxes	\$235,000
TEXAS	Tomorrow's College Investment Plan	None (TX-no personal income tax)	\$257,460
UTAH	Utah Educational Savings Plan (UESP)	\$1,435/\$2,870 in 2003 \$1,470/\$2,940 in 2004 per beneficiary, provided the account was established while the beneficiary was 18 or under.	\$300,000
VERMONT	VT Higher Education Investment Plan	Tax credit of 5% of first \$2,000 contributed, or up to \$100 beginning in 2004	\$240,100
VIRGINIA	CollegeAmerica	\$2,000 per account/yr. Unlimited for taxpayers 70+. Unlimited carryover.	\$250,000
	VA Education Savings Trust	\$2,000 per account/yr. Unlimited for taxpayers 70+. Unlimited carryover.	\$250,000
WASHINGTON	(Has only a prepaid/guaranteed program)	No deduction available	n/a prepaid/guarantee program
WEST VIRGINIA	Cornerstone SMART529	All Contributions Deductible	\$265,620
	Leaders SMART 529	All Contributions Deductible	\$265,620
	SMART529 College Savings Option	All Contributions Deductible	\$265,620
WISCONSIN	EdVest	\$3,000 per beneficiary/yr provided beneficiary is taxpayer, child or grandchild of taxpayer.	\$246,000
	Tomorrow's scholar	\$3,000 per beneficiary/yr provided beneficiary is taxpayer, child or grandchild of taxpayer.	\$246,000
WYOMING	College Achievement Plan	None (WY-no personal income tax)	\$245,000

* Does not include information regarding prepaid plans unless a state has only a prepaid plan.

** Cap calculation methodologies vary by state

States having deduction amounts greater than Kansas or states making all contributions deductible, with the exception of rollovers.

3

LEVELS OF CONTRIBUTIONS TO THE KANSAS 529 PROGRAM

To the issue of investment levels, there are three approaches we have taken in gathering this information. The first looks at investment by *account owner* for the 2003 calendar year. This data represents the aggregate investment by an account owner in one year. There were 15,143 Kansas account owners in 2003, 11,357 making contributions throughout the year. As the table below demonstrates, a majority (63%) of those Kansas account holders contributed less than \$4,000 total in 2003. Most likely, the account owners represented in this data own more than one account. This data may represent consistent, systematic investment but because it is aggregated it will also include any other contributions made throughout the year. Nearly 37% of Kansas account holders annually invest less than \$1,500.

For non-Kansas or national investors, contributions are generally higher. Of the 15,214 national investors contributing in 2003, there is less indication of trends or clusters. The \$20,000+ and \$5,000-\$7,500 breaking points are individually the most populated fields, but just under 50% of the national investment occurs at the \$4,000 or less level annually.

Total Account Owner Contribution for 2003	National	Kansas
\$0	6,003 ¹	3,786 ¹
\$1-\$500	740	1,043
\$500-\$1,000	1,336	1,679
\$1,000-\$1,500	1,449	1,507
\$1,500-\$2,000	680	750
\$2,000-\$2,500	978	1,007
\$2,500-\$3,000	1,025	413
\$3,000-\$3,500	785	426
\$3,500-\$4,000	560	353
\$4,000-\$5,000	802	1,262
\$5,000-\$7,500	1,891	735
\$7,500-\$10,000	750	916
\$10,000-\$15,000	1,530	636
\$15,000-\$20,000	530	229
\$20,000+	2,158	401
Subtotal	21,217	15,143
Total 2003 Contributors	15,214	11,357

¹ These amounts represent the number of accounts not receiving a contribution in 2003. These amounts have been subtracted from the subtotal to represent actual investment activity in 2003.

The second approach we took looks at contributions for 2003 by *beneficiary*. While a beneficiary may be the beneficiary of more than one account, owned by different account holders, this information examines total contributions for a single beneficiary. Of the 27,004 Kansas beneficiaries, 20,065 enjoyed the benefit of a contribution to their college savings account in 2003. Seventy four percent of those beneficiaries received \$4,000 or less in contributions; the majority of activity actually occurs at some level \$1,500 or less.

For national beneficiaries, the most populated field is \$500-\$1,000, followed by the \$5,000-\$7,500 range. As you can see, over half (59%) of the beneficiaries receive contributions less than \$4,000.

Total Contribution Per Beneficiary for 2003	National	Kansas
\$0 ²	10,600 ²	6,939 ²
\$1-\$500	1,455	3,114
\$500-\$1,000	2,988	4,018
\$1,000-\$1,500	2,494	2,855
\$1,500-\$2,000	1,187	1,160
\$2,000-\$2,500	1,349	1,965
\$2,500-\$3,000	1,941	591
\$3,000-\$3,500	1,348	713
\$3,500-\$4,000	732	473
\$4,000-\$5,000	1,045	3,246
\$5,000-\$7,500	2,625	849
\$7,500-\$10,000	823	310
\$10,000-\$15,000	2,203	448
\$15,000-\$20,000	522	81
\$20,000+	2,058	242
Subtotal	33,370	27,004
Total Beneficiaries Receiving Contributions in 2003	22,770	20,065

² These amounts represent the number of existing beneficiaries whose 529 saving account did not receive a contribution in 2003. These amounts have been subtracted from the subtotal to represent actual investment activity in 2003.

The third approach taken examines investor activity on a monthly basis. This information represents the account activity of those investors investing automatically and consistently through either automatic bank drafts or through the payroll deduction option. This data has been included because it represents behavior that exemplifies saving—consistent, monthly contributions. The totals represented in each of the previous tables represent a total for the year, which might reflect lump sum contributions made once a year, or in addition to a monthly contribution. This table captures known, traceable monthly contribution activity.

Sixty-four percent of Kansas investors taking advantage of automatic contribution mechanisms contribute \$100 or less.

Average Monthly Contributions ³	National	Kansas
\$0-\$25	84	2,269
\$25-\$50	3,062	2,844
\$50-\$75	560	672
\$75-\$100	2,722	1,924
\$100-\$125	285	303
\$125-\$150	671	542
\$150-\$175	195	257
\$175-\$200	1,231	645
\$200+	3,912	2,657
Total Monthly Automatic Contributors	12,722	12,113

³ Average monthly contribution is represented in terms of number of accounts. For example, 2,269 Kansas accounts are funded by amounts ranging on average, between \$1-\$25.

Quarterly performance report

For periods ended September 30, 2003

Accounts established directly with Learning Quest[®]

The performance figures listed below are for the Learning Quest[®] portfolios that are managed by American Century[®] Investment Management, Inc.

You will find a market commentary and comparative performance indices on the back of this performance report. This information will provide a look at the U.S. economic market over the past

quarter and may be helpful when reviewing the performance of the Learning Quest portfolios.

Learning Quest portfolios invest exclusively in American Century mutual funds. You will hold an interest in the Learning Quest portfolio in which you invest, not direct shares of American Century funds.

Learning Quest Portfolio	Total Returns ⁽¹⁾			Average Annual Returns ⁽²⁾		
	For the Quarter	Year to Date	One Year	Three Years	Life of Portfolio	Portfolio Inception Date
Aggressive 2021	2.63%	12.74%	18.73%	N/A	-3.61%	01/02/2002
Aggressive 2018	2.68%	13.11%	18.97%	-11.03%	-10.81%	07/03/2000
Aggressive 2015	2.64%	12.90%	19.05%	-11.02%	-10.41%	07/03/2000
Aggressive 2012	2.40%	12.87%	18.75%	-11.10%	-11.05%	07/03/2000
Aggressive 2009	1.70%	9.48%	14.74%	-10.23%	-9.80%	07/05/2000
Aggressive 2006	1.38%	8.64%	13.40%	-4.04%	-3.87%	07/05/2000
Moderate 2021	1.65%	9.53%	14.35%	N/A	-0.71%	01/16/2002
Moderate 2018	1.64%	9.34%	14.55%	-4.99%	-4.35%	07/05/2000
Moderate 2015	1.67%	9.25%	14.56%	-5.14%	-4.89%	07/05/2000
Moderate 2012	1.41%	8.84%	13.42%	-4.51%	-4.49%	07/07/2000
Moderate 2009	1.14%	7.77%	11.84%	-3.56%	-3.62%	07/11/2000
Moderate 2006	0.82%	7.21%	10.59%	-0.54%	-0.56%	07/12/2000
Conservative 2021	1.39%	8.76%	12.86%	N/A	1.18%	03/25/2002
Conservative 2018	1.26%	8.07%	12.09%	-1.28%	-1.14%	07/24/2000
Conservative 2015	1.26%	8.04%	12.04%	-1.21%	-1.02%	07/24/2000
Conservative 2012	0.82%	7.24%	10.63%	-0.67%	-0.71%	08/09/2000
Conservative 2009	0.81%	7.10%	10.42%	0.13%	-0.13%	08/17/2000
Conservative 2006	0.59%	5.80%	8.72%	0.79%	0.68%	07/10/2000
Short-Term	0.19%	2.67%	4.05%	2.13%	2.35%	07/05/2000
Money Market	N/A	N/A	N/A	N/A	0.05%	09/02/2003

¹ Actual total return, not annualized.

² Average Annual Returns illustrate the annual compounded returns that would have produced the cumulative total return if the fund's performance had remained constant throughout the period indicated.

Data presented reflect past performance and are no guarantee of future results. The investment performance shown for each Learning Quest portfolio is dependent on the performance of the underlying American Century funds in which the portfolio may invest. Portfolio values will vary due to market fluctuations affecting the underlying funds in each portfolio.

Notice: Accounts established under Learning Quest and their earnings are neither insured nor guaranteed by the State of Kansas, the Kansas State Treasurer or American Century.

Market commentary

From American Century® Investments

A summer surge for the U.S. economy and stocks brought summertime blues for Govt. Bonds

Building on a burst of optimism inspired by better-than-expected second-quarter economic growth and corporate earnings, the U.S. economy and stock market pushed mostly forward in the third quarter of 2003. The two most widely watched broad U.S. stock indices (the S&P 500 and the Nasdaq Composite) rose and the economy showed signs of improvement in spite of another wave of violence in the Middle East, higher energy prices, the worst power outage in U.S. history, a major hurricane in the Mid-Atlantic states, rising interest rates, and persistent unemployment.

The economy revived over the summer as war uncertainty diminished and the latest rounds of interest rate and tax cuts took effect. Improving consumer and business spending, together with rising stock prices and near record-low inventories, suggested the economic upturn could extend into 2004. That was music to the ears of stock investors — the major indices extended gains that had begun in the first quarter. Through

August, the S&P 500 rose for six straight months and the Nasdaq Composite advanced for seven, their longest streaks since 1998 and 1995, respectively. Though the streaks ended in September (when late-summer data raised concerns about the languishing labor market and its impact), the major indices still posted gains for the second straight quarter — the S&P 500 rose 2.70% and the Nasdaq Composite jumped 10.20%.

The recent optimism had the opposite affect on the U.S. government bond market. The 10-year Treasury note returned -1.80% — its first quarterly loss since the end of 2002 — as its yield climbed from 3.52% to 3.94%. Treasury losses pulled down the broader taxable bond market — the Lehman Brothers Aggregate returned -0.15% despite a positive return from fixed-rate mortgage-backed securities, its largest component. Positive returns were also posted by high-yield corporate and international bonds.

Comparative performance indices

For periods ended September 30, 2003

		Average Annual Returns ⁽²⁾					
		For the Quarter	Year to Date	One Year	Three Years	Five Years	10 Years
Money Market	90-Day TBill	0.24%	0.79%	1.12%	2.44%	3.51%	4.23%
Bond	Lehman Aggregate	-0.15%	3.78%	5.41%	8.94%	6.63%	6.92%
Equity	Russell 3000 Index	3.43%	16.57%	25.92%	-9.68%	1.93%	9.68%
International	MSCI EAFE	8.13%	18.37%	26.01%	-8.71%	0.55%	2.92%

The indices above are not investment products available for purchase. Fund returns include operating expenses (such as transaction costs and management fees) that reduce returns, while the returns of the indices listed above do not. The Russell 3000 Index, created by Frank Russell Company, measures the performance of the 3,000 largest U.S. companies based on the total market capitalization, which represents approximately 98% of the investable U.S. equity market. The MSCI EAFE is a widely followed group of stocks from 20 countries, excluding the United States. The Lehman Aggregate is composed of Treasury, U.S. government agency, corporate bond and mortgage-backed securities.

¹ Actual total return, not annualized.

² Average Annual Returns illustrate the annual compounded returns that would have produced the cumulative total return if the fund's performance had remained constant throughout the period indicated.

³ If a fund has been in operation for less than the period indicated, this figure reflects the return since inception (the "life" of the fund).

LearningQuestSM
529 EDUCATION SAVINGS PROGRAM

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Administered by Kansas State Treasurer Lynn Jenkins, CPA.
Managed by American Century Investment Management, Inc.

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3-12

Kansas 529 Program Distributions in 2003

<i>Total Payments Directly to Schools</i>	<i>\$1,357,485.32</i>
<i>Kansas Schools</i>	<i>\$367,889.34</i>
<i>National Schools</i>	<i>\$989,595.98</i>
<i>Total 2003 Withdrawals</i>	<i>\$15,642,638.00</i>
<i>Kansas Account Holders</i>	<i>\$3,185,043.00</i>
<i>National Account Holders</i>	<i>\$12,457,595.00</i>

Institutions Directly Receiving Distributions in 2003

University	Total amount
KU	\$137,154.45
KSU	\$117,954.94
Vanderbilt University	\$101,962.37
Bates College	\$37,512.00
Miami University	\$33,785.42
Colby College	\$27,590.00
Colorado State University	\$24,319.85
Brown University	\$23,907.00
University of California	\$20,452.60
Lawrence University	\$20,348.00
Hampshire College	\$20,000.00
Elon University	\$19,543.50
Boston University	\$19,292.00
Stanford University	\$18,862.32
High Point University	\$17,750.00
Notre Dame	\$17,435.83
Bethel College	\$17,427.18
University of Missouri	\$17,407.94
Clark University	\$16,814.50
Truman State University	\$16,000.00
Hesston College	\$15,797.71
Drake University	\$15,700.00
Washington University	\$15,401.34
American University	\$14,915.00
University of Pennsylvania	\$14,748.92
University of Colorado	\$14,655.12
Bucknell University	\$14,480.00
Rutgers State	\$14,212.80

Saint Louis University	\$14,000.00
Santa Clara University	\$12,900.00
Georgia Institution of Tech	\$12,285.00
Boston College	\$12,282.57
Bentley	\$12,245.66
Tabor College	\$12,211.20
Tulane University	\$11,526.00
Benedictine University	\$10,982.26
Washburn University	\$10,643.24
Wesleyan University	\$10,350.33
Whitman College	\$10,022.35
Rice	\$10,000.00
Emporia State University	\$9,993.57
University of Redlands	\$9,955.65
William Jewell College	\$9,785.00
Penn State	\$9,569.23
University of Southern CA	\$9,521.70
Loyola University	\$9,402.00
University of Maryland	\$8,954.80
University of Connecticut	\$8,502.06
Baylor University	\$8,406.59
Texas Christian University	\$8,158.58
Colorado College	\$8,086.00
Princeton University	\$7,976.00
Iowa State University	\$7,731.57
University of Tulsa	\$7,597.59
Univ of Minnesota-Duluth	\$7,467.71
NW Missouri State University	\$7,362.47
Oklahoma Baptist University	\$7,316.50
Johnson County Community College	\$7,285.00
Furman University	\$7,244.00
University of Hartford	\$7,000.00
Sacred Heart University	\$6,934.88
South Western College	\$6,798.59
Westminster College	\$6,780.00
Northern Arizona University	\$6,646.00
University of Wisconsin	\$6,545.65
St Olaf College	\$6,524.30
Central Michigan University	\$6,185.00
University of Texas	\$5,915.80
Bennington College	\$5,822.00
Davidson College	\$5,465.59
Pittsburg State University	\$5,429.86
Union College	\$5,102.94
University of Oregon	\$5,000.00
University of California - Riverside	\$5,000.00
Fort Hays State University	\$4,739.31

Luther College	\$4,354.44
Birmingham Southern	\$4,340.00
Miami University of Ohio	\$4,333.95
Oklahoma University	\$4,268.75
Spring Hill College	\$4,173.80
Arizona State University	\$4,109.54
Allen County Community College	\$4,000.00
Creighton University	\$4,000.00
Yale	\$4,000.00
Trevecca Nazarene University	\$4,000.00
University of Georgia	\$3,881.00
Carroll College	\$3,575.00
Butler Cnty Community College	\$3,391.04
Cornell College	\$3,202.49
Washington Bible College	\$3,060.00
Simons Rock College	\$3,000.00
De Paul	\$3,000.00
Western State College	\$3,000.00
Friends University	\$2,852.00
University of Michigan	\$2,651.10
George Washington University	\$2,500.00
Neosha County Comm College	\$2,500.00
Western Illinois	\$2,500.00
California College of Arts	\$2,500.00
University of Kentucky	\$2,273.25
Loyola Marymount University	\$2,119.46
Mid-American Nazarene	\$2,058.61
Plaza Academy	\$1,942.32
Messiah College	\$1,891.97
Baker University	\$1,839.26
Morgan Cnty Community College	\$1,783.22
University of Minnesota	\$1,779.20
Lindenwood University	\$1,665.31
Prince George's Comm College	\$1,463.00
Community College of Nevada	\$1,398.75
Highland Community College	\$1,278.00
Coffeyville Community College	\$1,251.71
Oklahoma Christian University	\$1,200.00
Columbus College - Art/Design	\$1,157.92
Barton Community College	\$1,100.00
Richland College	\$1,000.00
University of California, San Diego	\$995.20
University of Nebraska-Kearney	\$882.00
Tulsa Community College	\$843.40
Front Range Jr College	\$800.00
Regents Community College	\$798.75
Hastings College	\$650.00

Kansas Wesleyan	\$500.00
Mississippi Affordable College	\$331.31
Ozark Christian College	\$204.23
<i>Total School Payments</i>	<i>\$1,357,485.32</i>
<i>Kansas Schools</i>	<i>\$367,889.34</i>
<i>National Schools</i>	<i>\$989,595.98</i>



KANSAS BOARD OF REGENTS

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February 4, 2004

Senator Dwayne Umbarger
Chairman
Senate Education Committee
State Capitol – Room 401-S
Topeka, KS 66612

Dear Senator Umbarger:

Today your Committee will hear testimony regarding SB 303. As you know, this legislation addresses the Kansas Learning Quest Education Savings Plan.

While the Board of Regents takes no formal position on SB 303, the Board does support the Learning Quest Program. As an advocate for higher education in Kansas, the Board is pleased to support programs, such as Learning Quest, that help Kansans to prepare for and pursue their higher education goals and dreams.

Thank you for the opportunity to comment on this legislation. Please let me know if I can be of further assistance.

Sincerely,


Reginald Robinson
President & CEO

cc: Lynn Jenkins, State Treasurer

*Senate Education
2-4-04
Attachment 4*