

## MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on February 22, 2006, in Room 123-S of the Capitol.

Committee members absent:

Committee staff present: Deb Hollon, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Lynn Jenkins, State Treasurer

POSSIBLE ACTION ON PREVIOUSLY HEARD BILLS:

**SB 330—Learning Quest (family postsecondary savings accounts); removing penalty for early withdrawal**

State Treasurer Lynn Jenkins called attention to a memorandum prepared by the Director of Learning Quest in response to questions raised by Committee members at a previous meeting regarding withdrawals from Learning Quest accounts. She noted that the memorandum summarized withdrawals based on dollars and based on the number of withdrawals. She pointed out that 1.6 percent of the dollars contributed by Kansans have been pulled out within the first twelve months, and the number of withdrawals represented .28 percent of the contributions made by Kansans. She called attention to a balloon amendment attached to the memorandum. She noted that the proposed amendment provided that, for the next three years, the State Treasurer must submit a report to the Senate Education Committee and the House Higher Education Committee outlining the contributions and withdrawals from the postsecondary education savings program for the preceding calendar year. (Attachment 1) She then responded to further questions from the Committee regarding concerns about early withdrawals.

Senator Allen moved to adopt the proposed balloon amendment to SB 330, seconded by Senator Teichman. The motion carried.

Senator Allen moved to recommend SB 330 favorably for passage as amended, seconded by Senator Goodwin. The motion carried.

**SB 566—Enacting the Teacher Education Grant Program Act**

Theresa Kiernan, Revisor of Statutes Office, explained that, when she drafted the bill, she used the current Kansas Teacher Service Scholarship law. She explained that, on page 1, line 32, of **SB 566** the word “scholarship” should be “grant,” and on page 5, lines 5 and 6, the words “executive officer” should read “State Board.” In response to questions from the Committee, she explained how the provisions in the bill were different from current scholarship programs, and she listed the current scholarships for teachers.

Senator Schodorf noted that there was no appropriation for the bill; therefore, if the Committee recommended the bill favorably, it would be subject to appropriations. She commented, “The strength that I have seen in this bill is that it provides a whole new pool for special education teachers who have had experience, who know what the field is like, and who might be able to go ahead and get their degree.”

Senator Apple commented that, although he thought the bill was worthwhile, he had concerns about the administration of the repayment plan. He suggested that action on the bill be delayed until the repayment provision was fully addressed. Senator Steineger commented that, if the bill needed some clean-up, it could be done on the Senate floor.

Senator Steineger moved to recommend SB 566 favorably for passage, seconded by Senator Pine.

Senator Vratil commented that he supported the bill, but he opposed working the bill on the Senate floor. In

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on February 22, 2006, in Room 123-S of the Capitol.

his opinion, if the bill needed work, it should be done in Committee. Other members agreed.

On a call for a vote on Senator Steineger's motion, the motion failed on a show of hands.

Senator Vratil moved that the Chairman appoint a subcommittee to review and work SB 566 and that the subcommittee bring back their recommendations to the full committee, seconded by Senator Goodwin. The motion carried.

Senator Schodorf appointed Senators Apple, Steineger, and Pine as **SB 566** subcommittee members.

**SB 508—Human sexuality education programs; Abstinence Plus Education Act**

Ms. Kiernan noted that **SB 508** needed a technical amendment on page 1, line 29, to change the word "are" to "be."

Senator Schodorf commented that the bill was a continuation of the current program per rules and regulations which had been in effect since 1988 or 1989.

Senator Vratil moved to amend SB 508 on page 1, line 29, by striking the word "are" and inserting the word "be" and to recommend the bill favorably for passage as amended, seconded by Senator Lee. The motion carried.

Senator Schodorf called attention to copies of the minutes of the February 6, 7, 8, and 9 meetings.


Senator Steineger moved to approve the minutes of the February 6, 7, 8, and 9 meetings, seconded by Senator Pine. The motion carried.

The meeting was adjourned at 2:10 p.m.

The next meeting is scheduled for February 23, 2006.

**SENATE EDUCATION COMMITTEE  
GUEST LIST**

DATE: Feb. 22, 2006

NAME	REPRESENTING
<b>RUSSELL MILLS</b>	<b>GACHES BRADEN</b>
Lindsey Douglas	Hein Law Firm
<b>TERRY FORSYTH</b>	<b>KNER</b>
Doug Bowman	CC ECDS
Beth Lyles	Huttles Government Relations
Claine Friskie	Division of the Budget
Doug Moeckel	USD 327
Jerry Marsh	" "
David Fitz	USD 415
Kyle Laverentz	USD 415
Miranda Thonen	USD 415
<b>BRAD BECKER</b>	USD 415
Sara Wenger	USD 415
Marjorie Tollefson	USD 415
	YWCA
Alicia Nelson	YWCA
Brett Johnson	YWCA of Topeka
Bradley Miller	YWCA
Bill Brady	SFFF

**SENATE EDUCATION COMMITTEE  
GUEST LIST**

**DATE:** 2-22-06

NAME	REPRESENTING
Bill Steiner	USD 274 Oakley
Ken Boekwinkle	USD 291 Grinnell
Kara McChesney	USD 421 Belleville & KNEA
K4 Wudy	LGR
Shannon Bell	LGR
Dodie Wellshear	KEC
Jm Edward	KASB
Mark Tallman	KASB
Katie Durbin	student @ Washburn
Val DeFevon	
David Fitz	USD 465



STATE OF KANSAS

**Lynn Jenkins, CPA**  
TREASURER

900 SW JACKSON ST, SUITE 201  
TOPEKA, KANSAS 66612-1235

PHONE: 785-296-3171  
FAX: 785-296-7950

To: Sen. Schodorf and Sen. Vratil

From: Scott M. Gates, Director of Learning Quest

Re: Contributions followed by withdrawals within 30 days, 6 months and 1 year

Date: February 15, 2006

We obtained a report from American Century for Kansas residents with contributions in calendar year 2004 and 2005 followed by redemptions within one year. We separated out accounts using an Automatic Periodic Investment (API) from the account holders' bank account as it seemed less likely that these recurring contributions would be for the purpose of manipulating the tax deduction. There are still several small contributions included in the report that are probably a result of payroll deduction, but these are not tracked separately as API transactions in American Century's system, so we have included them in our calculations. We also have no way of tracking whether these withdrawals were for qualified higher education expenses. The tax deduction is subject to recapture for non-qualified withdrawals regardless of when the contribution was made.

The total of non-API contributions withdrawn from accounts within one year following the contribution is \$2,891,694. It is difficult to match contributions to tax deductions because we don't know contributors' filing status and the report does not track whether contributions were made under the \$2,000 and \$4,000 limits in 2004 or the \$3,000 and \$6,000 limits in 2005. The top 54 withdrawn contributions exceeded the \$6,000 maximum deduction by \$457,125. Subtracting this amount from the total of withdrawn contributions leaves \$2,434,569 in withdrawn contributions that could possibly have received a deduction. This number would be significantly smaller if we could track whether contributions were made under the lower 2004 limits or by single taxpayers. We have assumed the worst case scenario. Of the 1192 accounts with this type of contribution, 650 had withdrawn recent contributions less than \$2,000; 488 were between \$2,000 and \$6,000; and 54 exceeded the \$6,000 deduction limits. Total withdrawals of \$8,818,360 far exceeded the \$3,514,200 that was contributed to these accounts within one year before the withdrawal. This demonstrates that investors had been investing over time and were simply maximizing their deduction while their student is in college.

In calendar year 2004, there were 192,723 contributions made to accounts owned by Kansans totaling \$68,735,419 and 5,558 withdrawals were made totaling \$8,361,502. In 2005, there were 226,581 contributions made to accounts owned by Kansans totaling \$84,360,986 and 9,231 withdrawals were made totaling \$12,676,491. The \$2,434,569 in contributions that were withdrawn within one year (as described in the paragraph above) represents **1.6% of the \$153,096,405 (\$68,735,419 plus \$84,360,986) in total contributions by Kansans**, and these 1192 contributions represent **0.28% of the 419,304 number of contributions by Kansans** over the two year time period.

Please let me know if you would like a copy of the underlying data of if I can be of further assistance.

*Senate Education Committee  
2-22-06  
Attachment 1*

## SENATE BILL No. 330

By Legislative Educational Planning Committee

1-5

9 AN ACT concerning family postsecondary education savings accounts;  
10 amending K.S.A. 2005 Supp. 75-646 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2005 Supp. 75-646 is hereby amended to read as  
14 follows: 75-646. (a) Family postsecondary education savings accounts es-  
15 tablished pursuant to the provisions of K.S.A. 2005 Supp. 75-640 ~~to~~  
16 ~~through~~ 75-648, and amendments thereto, shall be governed by the pro-  
17 visions of this section.

18 (b) A family postsecondary education savings account may be opened  
19 by any person ~~or persons who desire~~ *who desires* to save money for the  
20 payment of the qualified higher education expenses of the designated  
21 beneficiary. Such ~~persons~~ *person* shall be considered the account owner.

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

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

26 (B) the designation of a designated beneficiary;

27 (C) the name, address and social security number of the designated  
28 beneficiary;

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

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

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

33 (c) Any person may make contributions to the account after the ac-  
34 count is opened.

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

36 (e) An account owner may withdraw all or part of the balance from  
37 an account on sixty-days' notice or such shorter period as may be au-  
38 thorized under rules and regulations governing the program.

39 (f) (1) An account owner may change the designated beneficiary of  
40 an account to an individual who is a member of the family of the prior  
41 designated beneficiary in accordance with procedures established pur-  
42 suant to the provisions of K.S.A. 2005 Supp. 75-640 ~~to~~ ~~through~~ 75-648,  
43 and amendments thereto.

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

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

8 (g) The program shall provide separate accounting for each desig-  
9 nated beneficiary.

10 (h) Subject to the provisions of section 529 of the internal revenue  
11 code of 1986, in effect on January 1, 2002, or later versions as established  
12 in rules and regulations adopted by the treasurer, an account owner of  
13 any account shall be permitted to direct the investment of any contri-  
14 butions to an account or the earnings thereon.

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

18 ~~(j) Except as provided in K.S.A. 2005 Supp. 75-640 through 75-648,  
19 and amendments thereto, or section 529 of the federal internal revenue  
20 code of 1986, as amended, any withdrawal made within one year after an  
21 account has been opened under a qualified tuition program as defined in  
22 section 529 of the federal internal revenue code of 1986, as amended, is  
23 a nonqualified withdrawal.~~

24 ~~(k) (j) (1) The state treasurer shall adopt rules and regulations to~~  
25 prevent contributions on behalf of a designated beneficiary in excess of  
26 an amount equal to the average amount of the qualified higher education  
27 expenses that would be incurred for five years of study at institutions of  
28 postsecondary education located in the midwest states. Such amount shall  
29 be determined annually by the state treasurer.

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

33 ~~(k) (k) (1) If there is any distribution from an account to any individ-~~  
34 ual or for the benefit of any individual during a calendar year, such dis-  
35 tribution shall be reported to the federal internal revenue service and the  
36 ~~each~~ account owner ~~or owners~~, the designated beneficiary, or the distri-  
37 butee to the extent required by federal law or regulation.

38 (2) Statements shall be provided to each account owner at least once  
39 each year within 60 days after the end of the twelve-month period to  
40 which they relate. The statement shall identify the contributions made  
41 during a preceding twelve-month period, the total contributions made to  
42 the account through the end of the period, the value of the account at  
43 the end of such period, distributions made during such period and any

- 1 other information that the state treasurer shall require to be reported to  
2 the account owner.
- 3 (3) Statements and information relating to accounts shall be prepared  
4 and filed to the extent required by federal and state tax law.
- 5 ~~(m)~~ (l) (1) A state or local government, or agency or instrumentality  
6 thereof, or organization described in section 501(c)(3) of the federal in-  
7 ternal revenue code of 1986, as amended, may open and become the  
8 account owner of an account to fund scholarships for persons whose iden-  
9 tity will be determined upon disbursement.
- 10 (2) In the case of any account opened pursuant to provision (1) of  
11 this subsection, the requirement set forth in subsection (b) that a desig-  
12 nated beneficiary be designated when an account is opened shall not  
13 apply and each individual who receives an interest in such account as a  
14 scholarship shall be treated as a designated beneficiary with respect to  
15 such interest.
- 16 ~~(n)~~ (m) An annual fee may be imposed upon the account owner or  
17 owners for the maintenance of the account.
- 18 ~~(o)~~ (n) An account owner or designated beneficiary of a Kansas pos-  
19 tsecondary education savings account must be a citizen or resident of the  
20 United States of America.
- 21 ~~(p)~~ (o) The program shall disclose the following information in writing  
22 to each account owner and prospective account owner of a family postse-  
23 condary education savings account:
- 24 (1) The terms and conditions for purchasing a family postsecondary  
25 education savings account;
- 26 (2) any restrictions on the substitution of beneficiaries;
- 27 (3) the person or entity entitled to terminate the savings agreement;
- 28 (4) the period of time during which a beneficiary may receive benefits  
29 under the savings agreement;
- 30 (5) the terms and conditions under which money may be wholly or  
31 partially withdrawn from the program, including, but not limited to, any  
32 reasonable charges and fees that may be imposed for withdrawal;
- 33 (6) the probable tax consequences associated with contributions to  
34 and distributions from accounts; and
- 35 (7) all other rights and obligations pursuant to savings agreements,  
36 and any other terms, conditions and provisions deemed necessary and  
37 appropriate by the state treasurer.
- 38 ~~(q)~~ (p) Nothing in K.S.A. 2005 Supp. 75-640 ~~to through~~ 75-648, and  
39 amendments thereto, or in any savings agreement entered into pursuant  
40 to K.S.A. 2005 Supp. 75-640 ~~to through~~ 75-648, and amendments thereto,  
41 shall be construed as a guarantee by the state of Kansas or any institution  
42 of postsecondary education that a beneficiary will be admitted to the  
43 institution of postsecondary education or, upon admission to any insti-



1 tution of postsecondary education, will be permitted to continue to attend  
2 or will receive a degree from such institution of postsecondary education.  
3 ~~(r)~~ (q) Moneys in a family postsecondary education savings account  
4 shall be exempt from attachment, execution or garnishment as provided  
5 by K.S.A. 60-2308, and amendments thereto.  
6 ~~Sec. 2.~~ K.S.A. 2005 Supp. 75-646 is hereby repealed.  
7 Sec. 3. This act shall take effect and be in force from and after its  
8 publication in the statute book.

(r) The state treasurer shall submit a report to the senate education committee and the house higher education committee in 2007, 2008, and 2009 outlining contributions and withdrawals for the Kansas postsecondary education savings program for the preceding calendar year.