

**STATE OF KANSAS
STATE TREASURER'S OFFICE**

NOTICE OF HEARING ON PROPOSED ADMINISTRATIVE REGULATIONS

A public hearing will be conducted at 1:30 pm, Monday November 23, 2009, in Room 201, Landon State Office Building, 900 S.W. Jackson, Topeka, KS, to consider amendments 3-4-4, governing Kansas Investments Developing Scholars Matching Grant Program.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Scott Gates, Chief Counsel and Learning Quest Director, Kansas State Treasurer's Office, 900 S.W. Jackson # 201, Topeka, KS, 66612-1235 or by email to Scott@Treasurer.state.ks.us. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Scott Gates, Chief Counsel, at (785)296-5317 (TTY 1-800-766-3777) or scott@treasurer.state.ks.us. Handicapped parking is located at the north entrance of the building, and the north entrance is accessible.

Summary of the proposed regulations:

The Treasurer's office has previously published notice to amend K.A.R. 3-4-1, 3-4-2, 3-4-4, 3-4-5, & 3-4-7 to allow each beneficiary to receive a \$600 matching grant instead of the current rule that gives one \$600 match to each account owner. We plan to adopt those changes along with this additional amendment to K.A.R. 3-4-4 that was suggested during the public comment period. This change would prevent a beneficiary from receiving matching grant in any calendar year in which the account owner or beneficiary makes a withdrawal from the account. The current procedure is to calculate the matching grant by adding all contributions for the year and subtracting any withdrawals. This ensures that the program rewards more long term savings rather than simply churning deposits and withdrawals within the same calendar year. This proposed change is a simpler way to administer the same objective.

Copies of the proposed regulations and the associated economic impact statement may be obtained from The State Treasurer's Office, 900 S.W. Jackson #201, Topeka, KS, 66612-1235, by phone at (785)296-3171 or on the Web at: www.kansasstatetreasurer.com/kids.

K.A.R. 3-4-1. Definitions. In addition to the terms and definitions in K.S.A. 75-643 and K.S.A. 75-650; and amendments thereto, the following terms shall have the meanings specified in this regulation:

(a) “Account owner” means the account owner or joint account owners of a participant account.

(b) “Contribution” means any deposit made by a participant to the participant’s an account owner to that account owner’s participant account during a calendar year, except any deposit that is one of the following:

(1) A rollover from another account in the Kansas postsecondary education savings program;

(2) a rollover from another state’s qualified tuition program as defined in internal revenue code section 529;

(3) a transfer from a Coverdell education savings account as defined in internal revenue code section 530; or

(4) a transfer of proceeds from a qualified U.S. savings bond as described in internal revenue code section 135(c)(2)(C).

~~(b)~~(c) “Household” means a group of individuals who are related by birth, marriage, or adoption and who share a residence.

~~(e)~~(d) “Participant” has the meaning specified in K.S.A. 75-650, and amendments thereto. Each participant shall be ~~an account owner~~ a beneficiary of a Kansas postsecondary education savings program account, as defined in K.S.A. 75-643 and amendments thereto. ~~Each joint account owner shall separately meet the program’s eligibility requirements.~~

(e) "Participant account" means the Kansas postsecondary education savings program account established by an account owner for the benefit of a participant who is enrolled in the matching grant program.

This regulation shall be effective on and after January 1, 2010. (Authorized by and implementing K.S.A. ~~2006~~ 2008 Supp. 75-650, as amended by L. 2009, ch. 113, sec. 1; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007; amended P-_____.)

K.A.R. 3-4-2. Eligibility requirements. ~~(a)~~ Each ~~applicant~~ account owner shall meet the following requirements:

~~(1)~~(a) Be a resident of the state of Kansas;

~~(2)~~(b) reside in a household with a combined federal adjusted gross income for all individuals residing in the household that is not more than 200 percent of the current federal poverty level; and

~~(3)~~(c) not be claimed as a dependent on someone else's income tax return.

~~(b) Any individual who files a joint income tax return may apply individually or jointly with the other individual listed on the income tax return if that other individual also meets the program's eligibility requirements.~~

~~(c) Any set of joint account owners may apply either jointly for one matching grant or separately for one matching grant for each joint account owner. If multiple accounts are used to qualify for multiple matching grants, the same individuals shall be listed as the joint account owners of each account.~~

This regulation shall be effective on and after January 1, 2010. (Authorized by and implementing K.S.A. ~~2006~~ 2008 Supp. 75-650, as amended by 2009 SB 225, sec. 1; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007; amended P- _____.)

K.A.R. 3-4-4. Eligibility period. Each participant shall be entitled to a matching grant equal to the amount of the ~~participant's~~ account owner's contributions to the ~~participant's~~ participant account ~~or accounts~~ for the program year in which the ~~participant's~~ account owner's application is approved. The program year shall coincide with the period designated for contributions that are eligible for the deduction pursuant to K.S.A. 79-32,117(c)(xv) and amendments thereto. Each ~~participant~~ account owner shall reapply each program year to remain eligible for the program. A participant shall not be eligible during a program year in which a qualified or nonqualified withdrawal is taken from the participant account.

This regulation shall be effective on and after January 1, 2010. (Authorized by and implementing K.S.A. ~~2006~~ 2008 Supp. 75-650, as amended by L. 2009 , ch 113, sec. 1; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007; amended P-_____.)

K.A.R. 3-4-5. Matching grant accounts. The matching grant funds for each participant shall be deposited in a separate account in the participant's account owner's name for the benefit of the participant, with the following restrictions:

~~(a) Only the participant shall be the account owner of the matching grant account. Joint applicants shall be joint account owners of both their joint account and the corresponding matching grant account.~~

~~(b)~~ No change in ownership of the participant's participant account or the corresponding matching grant account shall be allowed, except upon approval by the treasurer. A change in account ownership to another participant account owner who meets the eligibility requirements in K.A.R. 3-4-2 may be approved by the treasurer. A change in account ownership to any individual may be approved by the treasurer upon the participant's account owner's death, divorce, or incapacity.

~~(c)~~ ~~(b)~~ For participant accounts that are not used to participate in the matching grant program after January 1, 2010, any participant may change in the designated beneficiary for that a participant's participant account or accounts by the account owner shall cause the beneficiary for the corresponding matching grant account to be changed to the same new beneficiary. However, the designated beneficiary for the matching grant account shall always be the same as the designated beneficiary for the participant's account.

~~(d)~~ ~~(c)~~ The investment portfolio for the corresponding matching grant account shall always be the same as the investment portfolio selected for the participant's each participant account.

~~(e)~~ (d) Each request for a withdrawal from the matching grant account shall be submitted to the treasurer's office for approval. If the treasurer determines that the request is for qualified higher education expenses, then the request shall be approved. Each approved withdrawal from the matching grant account shall be paid either directly to the educational institution or to the ~~participant~~ account owner or the designated beneficiary, upon presentation of documentation acceptable to the treasurer that the ~~participant~~ account owner or designated beneficiary has paid qualified higher education expenses at least equal to the amount of the requested withdrawal. Each approved withdrawal shall be equally funded from the ~~participant's~~ participant account and the corresponding matching grant account.

This regulation shall be effective on and after January 1, 2010. (Authorized by and implementing K.S.A. ~~2006~~ 2008 Supp. 75-650, as amended by 2009 SB 225, sec. 1; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007; amended P-_____.)

K.A.R. 3-4-6. This regulation shall be revoked on January 1, 2010. (Authorized by and implementing K.S.A. 2006 Supp. 75-650; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007; revoked P- _____.)

K.A.R. 3-4-7. Forfeit of matching grant funds. (a)(1) Except as specified in paragraphs (a)(2) and (a)(3), funds in a ~~participant's~~ matching grant account shall be forfeited in an amount equal to either of the following:

(A) Any nonqualified withdrawal from the ~~participant's~~ corresponding participant account; or

(B) any rollover distribution to another qualified tuition plan from the corresponding participant account.

(2) If any nonqualified withdrawal or rollover distribution closes ~~the participant's~~ a participant account, the corresponding matching grant account shall be closed and its entire balance shall be forfeited.

(3) Any ~~participant~~ account owner who contributes more than the \$600 maximum matching grant amount may make a nonqualified withdrawal or rollover distribution of the excess contribution without forfeiting funds from the matching grant account.

(b) If the treasurer determines that a ~~participant~~ the account owner has made a material misrepresentation on the ~~participant's~~ application, all matching grant funds resulting from the application shall be forfeited.

(c) If a ~~participant's~~ participant account ever becomes reportable as unclaimed property under K.S.A. 58-3934 et seq. and amendments thereto or the unclaimed property laws of any other state, the remaining balance in the corresponding matching grant account shall be forfeited.

(d) For participants who are enrolled in the matching grant program on or after January 1, 2010, if the account owner changes the beneficiary of the participant account,

all funds in the corresponding matching grant account shall be forfeited regardless of when the matching grant was provided by the state.

(e) All forfeited funds shall be returned to the Kansas postsecondary education savings trust fund.

This regulation shall be effective on and after January 1, 2010. (Authorized by and implementing ~~L. 2006, ch 189, sec. 3~~ K.S.A. 2008 Supp. 75-650, as amended by 2009 SB 225, sec 1; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended P-_____.)



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Economic Impact Statement for the proposed additional amendments to
K.A.R. 3-4-4

Legislative changes

In 2009, the Kansas Legislature passed Senate Bill 225 making the three year pilot for the K.I.D.S. Program a permanent part of the Learning Quest 529 Education Savings Plan and authorizing up to 1200 matching grants of \$600 each, subject to annual appropriation bills.

Overview of Regulation Amendments

The proposed amendments to K.A.R. 3-4-4 would prevent a participant from receiving a matching grant in a year in which they make a withdrawal. This change is consistent with the legislative intent to reward savings toward longer term goals. The program was not intended to provide a scholarship for students currently enrolled in postsecondary education if they simply make a contribution to their Learning Quest account and then immediately withdraw the funds to pay their qualified higher education expenses. The current procedure calculates the annual match by adding all contributions for the year and subtracting any withdrawals. It is hoped that this new bright line rule will be easier to administer and less confusing for investors.

Implementation of the amendment would be delayed until January 1, 2010 because the matching grant is based on contributions each calendar year.

Impacted entities

These regulations will primarily impact the low income Kansas residents who are eligible for the program and the State Treasurer's office, who is the program's administrator. It is not anticipated that these amendments will affect cities, counties or other units of government.