

Approved: \_\_\_\_\_

Date

4/28/99

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Barbara Lawrence at 8:00 a.m. on March 19, 1999 in Room 423-S of the Capitol.

All members were present except: Senator Hensley

Committee staff present:     Avis Swartzman, Revisor  
                                  Ben Barrett, Legislative Research  
                                  Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee:

Others attending:     See Attached List

Chairperson Lawrence called the meeting to order for the purpose of continuation of: **HB 2357 - postsecondary education savings plan**. She referred the committee to the letter sent by American Century wherein it stated the limitations of not marketing the plan nationally. She asked the committee for discussion.

The Revisor stated the letter was not totally correct as the only limitation in Kansas is at the time that an account is opened; either the beneficiary or the account holder must be a Kansas resident.

The state treasurer responded to the discussion by stating that this was discussed in the House Education committee. The Kansas connection is important. Referring to the letter from American Century, the treasurer stated that it must be remembered that the company would like to benefit from this and it would be in that company's best interest to go national, which would basically make it an investment tool. This was a concern in the House committee.

Senator Oleen commented that when the LEPC first started working on this approximately three years ago. It seems like each time the concept is revisited, it grows much larger. It might not be a program that attracts national attention, but it will be one which the Legislature decides to formulate. There is concern over allowing too many dollars per year, but the state is trying to attract people who are starting to save for their kids for the first time.

Discussion was held on the cap and it was asked what the cap was. The Revisor stated there was no annual cap, but a total cap. She referred to the bill on page 8, lines 19-23 and read, ". . . an amount equal to the average amount of the qualified higher education expenses that would be incurred for five years of study at institutions of postsecondary education located in the Midwest states. Such amount shall be determined annually by the state treasurer" She stated that in prior discussion, there had been some reservation over the term 'Midwest'. Missouri law limits its cap to \$8,000, while New York's cap is set at \$100,000.

**Senator Oleen moved to amend HB 2357 to set an annual contribution rate of \$12,000 with a total cap of \$60,000. Senator Downey gave a second to the motion.**

It was asked if there would be an overall cap. If saving for someone starting in kindergarten, it would be compounded for 18 years and be much more than it would take to go to school in Kansas.

The Revisor stated that in order to qualify for the tax benefits, it is up to the administrator of the program, the state treasurer, to make sure that an account for a child never exceeds what could reasonably be expected to be expended for qualified higher education expenditures. That determination is already in federal law.

## CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE, Room 123-S Statehouse, at 9:00 a.m. on March 19, 1999.

Christine Crenshaw, Board of Regents, in behalf of Bob Kelly, stated that in ten years, private education in Kansas is going to be closer to \$100,000. The reason the \$100,000 emerged is because it would cover a Midwest private education cost and more than cover a public one.

The comment was made that if one can put \$12,000 a year into a savings account, that is a tax writeoff. Whereas the working man making \$15 an hour who is trying to support a family and get a child through college because he can't save the money is a problem. What Senator Oleen envisioned as a savings plan for Kansas kids seems more on track.

The Chairperson stated that the committee is thinking of this in terms of total amount, but what is trying to be done is to encourage the person on an hourly wage to think about saving when the children are very young. Having something out there for the person who is not going to make more than \$30,000 a year because that person, above all, wants his children to attend college.

A further comment was that this is only the starting place. If it is too restrictive or not working in some other way, a future adjustment can be made.

The motion was asked to be clarified. It was undecided among the committee if this motion was truly what the committee desired.

One of the committee commented he sensed the problem was with the \$12,000 amount. It is targeting those people who are already likely to be able to pay for their children's college education. It might be agreeable to the committee to lower the amount.

**Senator Kerr made a substitute motion to amend HB 2357 by setting the annual contribution rate at \$6,000, with a \$60,000 cap. Senator Oleen gave a second to the motion.**

Discussion brought agreement by committee members that this seemed like an appropriate amount.

Another member stated that the committee should remember the \$60,000 is only the cap on the contribution; the money will grow and compound tax free. If the plan is started soon enough, that will be quite a large amount by the time a child starts college. This will make for a first-class education.

The Chairperson repeated the substitute motion and called for a vote.

### **The motion carried.**

David Zinn, Department of Revenue, stated there is an anticipated participation rate of less than \$1 million dollars a year.

The time line in the bill was discussed. The Revisor referred to page 9, line 11 - 16 of the bill. An account must be opened before the designated beneficiary attains 25 years of age and at least two calendar years before a qualified withdrawal can be made. Qualified withdrawals must be completed by the time the designated beneficiary attains 30 years of age or within 10 years after the initial qualified withdrawal is made, whichever comes first."

Another question arose on whom the committee wanted to administer the program, the state or private sector. Marketing, accounting and investments of the program needed to be considered. After an initial amount could be given to the private sector to get it started, most of it could be run as a percentage taken off the earnings. Is a state bureaucracy needed to run the program.

Senator Oleen stated the idea had been considered early on when the concept of the savings plan began. The focus was that the state had an identification with this and a state officer should be in charge. This was modeled after several other states that have been successful with their programs because they did provide the identification. If it is handled by the private sector, it should be promoted with state identification.

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The Revisor stated in order for it to be a qualified program under federal law, a state agency must administer it. She is not sure how to go to the private sector legally; some state agency would have to enter into the contract.

The comment was made that the state could provide the oversight and hire the entities needed to do all of it. The state treasurer stated that there is no indication of hiring a large staff; there would only be one person hired for this. They could possibly get by if someone else did the marketing, but a company that would be responsible for the marketing would probably market to the wealthy and not to the people for whom the bill is intended. Another government agency or bureaucracy is not needed. If the treasurer's office does it, it will all be subcontracted; that is how it will be done.

The Revisor stated that it doesn't necessarily have to be the treasurer's office, but it has to have a nexus.

Ms. Crenshaw informed the committee that somewhere in the process there was an amendment added to new section nine that reads, "Moneys in a family postsecondary education savings account shall not be used toward the calculation of financial aid under any student financial aid program administered by the state of Kansas. There would have to be a fiscal note for this amendment because, just as the state savings plan has to conform to federal requirements in order to be bona fide, the state cannot tell the federal student aid program that it will go along with some areas, but not in others. When Kansas aid is mixed with federal aid, the state does not have the choice to say that in Kansas we won't count the student interest or income or, in Kansas we won't count the savings plan as an asset if the federal law requires it. The only way Kansas could do that would be to require every school in the state to set up a new financial aid system only for students receiving only state funds, which would cost hundreds of thousands of dollars and make every school in the state angry because they would have to add staff for an odd quirk.

Ms. Crenshaw stated that this will be a problem at some point. Kansas has always striven to try and not place more of an administrative burden on schools and families than is absolutely necessary. She advised the committee to reconsider that amendment to the bill.

**Senator Emert moved to amend HB 2357 by deleting new section 9.**

**Senator Kerr gave a second to the motion.**

**The motion carried.**

**Senator Oleen moved to amend HB 2357 on page 1 of the bill by changing the implementation date from January 1, 2000 to July 1, 2000 and add an annual report by the treasurer's office to the legislature for an update and progress report.**

**Senator Downey gave a second to the motion.**

Further action on the bill was not taken and the meeting was adjourned.

