

## **MINUTES**

### **LEGISLATIVE EDUCATIONAL PLANNING COMMITTEE**

August 6-7, 2001  
Room 526-S—Statehouse

#### **Members Present**

Senator Dwayne Umbarger, Chair  
Representative Jo Ann Pottorff, Vice Chair  
Senator Christine Downey, Ranking Minority Member  
Senator Lynn Jenkins  
Senator Bob Lyon  
Senator Lana Oleen  
Senator John Vratil  
Representative Barbara Ballard (August 7)  
Representative Lisa Benlon  
Representative Kathe Lloyd (August 6)  
Representative Bill Reardon  
Representative Ralph Tanner  
Representative Jonathan Wells

#### **Legislative Staff**

Ben Barrett, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Robert Waller, Kansas Legislative Research Department  
Paul West, Kansas Legislative Research Department  
Renae Jefferies, Office of the Revisor of Statutes

#### **State Department of Education Staff**

Dale Dennis, Deputy Commissioner, State Department of Education

## **Conferees**

Dr. Martha Gage, Team Leader, Certification and Teacher Education, State Department of Education  
Rod Bieker, General Counsel, State Department of Education  
Dr. Jon M. Engelhardt, Dean of the College of Education, Wichita State University  
Dr. Steve Scott, Dean of the College of Education, Pittsburg State University  
Dr. Howard Smith, Chair of Special Services and Leadership Studies and Director of the KC Metro Center, College of Education, Pittsburg State University  
Dr. Andy Tompkins, Commissioner of Education  
Dr. Sharon Freden, Team Leader, Consolidated and Supplemental Programs, State Department of Education  
Dr. John Poggio, Co-Director, Center for Educational Testing and Evaluation, University of Kansas  
Dr. Alexa Pochowski, Assistant Commissioner, State Department of Education  
Dr. Mary Devin, Superintendent USD 475 (Geary County Schools)  
Mr. Mark Evans, Deputy Superintendent, USD 259 (Wichita)  
Ms. Sheril Logan, Assistant Superintendent for Middle Schools, USD 259 (Wichita)  
Ms. Dana Selzer, Director of Curriculum Instruction, USD 460 (Hesston)  
Dr. Chris Christman, Superintendent, USD 499 (Galena)  
Mr. Jim Chadwick, Superintendent, USD 312 (Haven)  
Dr. Cal Cormack, Superintendent, USD 458 (Basehor-Linwood)  
Col. Adam King, Kansas Air Guard, Essential Services Support Officer  
Lt. Col. Brian Sholar, Kansas Army Guard, Educational Services Officer  
Cmd. Sgt. Maj. Steve Rodina, Kansas Army Guard  
Senior Master Sgt. Terisa Blanchard, Kansas Air Guard, Staff Assistant  
Tim Shallenburger, Kansas State Treasurer

## **August 6**

### **Alternative Teacher Certification**

Dr. Martha Gage, State Department of Education, summarized alternative teacher certification programs in other states, described pertinent State Board of Education rules and regulations, and told the Committee that, beginning in 2003, the State Board will award a restricted certificate as part of the new licensure system. The restricted certificate will permit individuals who are participating in an alternative certification program to teach, under specified conditions. (Dr. Gage's presentation is [Attachment 1](#)). Dr. Gage also described the visiting scholar program whereby an individual with expertise or outstanding ability can teach for one year without a teaching certificate. Eighteen visiting scholar certificates were issued in 2000. For the first four years of the program (1992 through 1994) five or fewer certificates were issued.

Committee members questioned Dr. Gage about the relevance of teacher education programs to elementary-secondary education and the balance between content and pedagogy. Dr. Gage assured the Committee that efforts are being made to relate what teacher education students learn in their education coursework to situations they will encounter in the classroom and that greater ties between schools of education and liberal arts programs will enhance the content portion of the teacher education program. Dr. Gage explained that, when the State Board's proposed changes in teacher licensure are implemented, applicants will have to pass tests that cover the content of the endorsement areas for which they wish to become certified. The current Pre-Professional Skills Test (PPST) will be discontinued as a certification requirement.

With regard to alternative certification programs, Dr. Gage told the Committee that what distinguishes such programs is that the prospective teacher has immediate access to the classroom, as opposed to a person with a baccalaureate degree who elects to become a teacher by enrolling in a traditional teacher education program. Under the alternative certification route, persons with baccalaureate degrees can teach and at the same time be enrolled in a program that leads to a teaching certificate. Dr. Gage explained that such programs are expensive to offer because they are customized for each individual and involve extensive mentoring for participants. The two universities in Kansas that offer the program—Wichita State University and Pittsburg State University—both had dedicated funding from private sources. The success of the programs partly is due to the fact that a teacher shortage exists and ways are being sought that shorten the time it takes for an individual who already has a baccalaureate degree to be placed in the classroom. When asked whether it is better to eliminate a course or use an instructor who is not fully qualified, Dr. Gage said a bad teacher sometimes can do lasting damage.

Discussion moved to the subject of whether teachers need more than expertise in content areas in order to be good teachers. It was noted that content knowledge does not prepare a teacher to deal with classroom organization and management or classroom discipline, nor does it prepare a person to deal with the personal relationships that teaching entails.

Dr. Jon Engelhardt, Wichita State University, described the University's alternative route to certification program (Attachment 2). The Wichita program began in 1992 to prepare returning Peace Corps volunteers for teaching careers. The program was funded in part with \$187,000 from the Dewitt-Wallace Readers Digest Foundation and was restricted to areas of shortage at the secondary level. In 1996, the program was expanded to individuals who had not been in the Peace Corps and expanded to all secondary and middle school endorsement areas. Foundation funding ended in 2000 and the University and USD 259 (Wichita) currently are applicants for federal funding to maintain and expand the program.

In order to participate, a person must meet requirements that include having a baccalaureate degree and a contract to teach at least half-time at a middle or high school. The two-year program includes summer school and two years of mentored teaching and university coursework. Coursework the third summer is optional and applies toward a

masters degree. Since the program began in 1992 through 1999, 83 persons have completed (out of 99 participants), including 28 Peace Corps volunteers. Of the 83, 74 are still teaching. Currently, there are 75 persons in the program.

Dr. Engelhardt asked the Committee to consider the following recommendations:

- Be supportive of university-based alternative route teacher preparation programs.
- Consider establishing Wichita State University as a statewide provider of alternative route teacher preparation and encourage partnerships with other universities.
- Provide increased financial resources to support programs that are labor intensive and expensive.

In discussion with Committee members, Dr. Engelhardt said efforts in other states to allow individuals to teach without coursework in pedagogy generally had failed and cited New Jersey as an example. According to Dr. Engelhardt, New Jersey had allowed individuals to teach who had degrees in content areas, but who lacked traditional teacher education backgrounds. However, Dr. Engelhardt said the New Jersey system has evolved to one that now is characterized by university centers located around the state that provide teacher education coursework and support to persons in the classroom. Dr. Engelhardt believes the development of university centers indicates that the move to abandon traditional teacher education preparation programs failed. Committee members questioned him about what evidence he has for his interpretation. He maintained that the centers would not have developed had there been satisfaction with the prior system.

Dr. Steve Scott and Dr. Howard Smith, Pittsburg State University, discussed the new alternative teacher education program Pittsburg recently implemented in the Kansas City area ([Attachment 3](#)). With funding from the Ewing Marion Kauffman Foundation, the program's goal is to recruit 60 individuals to teach in Kansas City schools in response to a shortage of teachers in the area. Of program participants in the fall of 2001, 31 will teach in Kansas City, Kansas, and 28 will teach in Kansas City, Missouri. More than half of the participants are African-American and about a third will teach in the areas of math and science. The most common reason given by participants for entering the program is that they always wanted to teach and now have the opportunity.

The program offered by Pittsburg State University may be completed in two years and consists of between 36 and 39 hours of coursework that includes education foundation and methods courses, psychology, and special education.

## **Student Assessments**

Dr. Andy Tompkins, Commissioner of Education, reviewed the history of state assessments ([Attachment 4](#)). He explained that minimum competency tests had been given in the 1970s, but by the late 1980s the decision had been made to develop higher standards of student accomplishment. Beginning with assessments in the area of math, the initiative expanded to also include assessments in reading, science, social studies, and writing. The School District Finance and Quality performance Act of 1992 incorporated existing outcomes of Quality Performance Accreditation and specified that the State Board of Education would develop "world class" standards and assessments of the standards in five subject areas by 1993. The State Department of Education has developed a cycle whereby mathematics and reading assessments are given each year and assessments in science, social studies, and writing are given every other year. All students are tested, including special education students and students with limited English proficiency. Revised standards were adopted by the State Board during the period from 1998 to 2000. Beginning in 1997, performance components of the tests, except for writing, were discontinued at the state level, but must be administered locally.

Dr. Tompkins explained to the Committee that the state assessments are intended to measure "system" (school district) improvement, and are not intended primarily to measure individual student improvement. He noted that President Bush's testing proposal is a student assessment model.

Dr. Sharon Freden, State Department of Education, explained the process of developing curricular standards in the areas of mathematics, reading, science, social studies, and writing ([Attachment 5](#)). Standards in the various areas were developed by committees of 25 to 28 persons who represented educators, parents, and other interested parties. The charge to the committees was to revise curriculum standards and make recommendations regarding the assessment of the standards. The process took months and culminated with the adoption of the standards by the State Board of Education and the development of the state assessment. Over the years, standards have been revised and new assessments have been developed.

Dr. Alexa Pochowski, State Department of Education, summarized assessment results ([Attachment 6](#)). In general, she noted that students' performance in fourth and seventh grade math continues to improve, while tenth grade math improvement remains stable. In reading, performance at all three grade levels is high and remains high across the years. However, in all cases, Hispanic and African-American students and students who are disadvantaged, defined as students who receive free lunch, perform less well on assessments than do whites, or students who do not qualify for free or reduced lunches.

Dr. Pochowski explained that Kansas law requires each school and district to collect and report student achievement data to the State Board of Education and that school districts use the information to measure instructional and student improvement. Dr. Pochowski also compared the current state testing requirements with the proposed federal law, which is expected to be implemented in 2004.

Dr. Tompkins told the Committee that part of the concern with the proposed federal testing is its cost, which is expected to be between \$7 million and \$8 million, of which the federal government will pay approximately half. (Attachment 7 shows costs of the state assessment, which are about \$1.4 million in FY 2002 and estimated to increase to \$1.6 million in FY 2005.) Dr. Tompkins said failure to abide by the federal testing requirement could jeopardize federal education funding to Kansas. (Staff Note: Following the meeting, Dr. Tompkins supplied information indicating that, under the House version of the proposal, the U.S. Secretary of Education could withhold state administrative funds for Title I and, under the Senate version, the Secretary would be required to withhold state administrative funds and state program improvement funds for Title I. That information is included as Attachment 8.) Dr. Tompkins also informed the Committee that the State Board of Education has taken a position in opposition to the President's proposal, on the grounds that the additional federal mandate will impair testing and improvement efforts already underway in Kansas. (The State Board's letter is Attachment 9.)

Dr. John Poggio, University of Kansas, reviewed the timeline involved in creating and administering state assessments (Attachment 10). The process begins when Kansas educators and staff from the State Department of Education develop curricular standards and test specifications. Educators write test questions that measure curriculum standards, which are then reviewed and revised by teams of educators. Questions are pilot tested, final questions are selected, and tests are assembled and printed. Assessments are delivered to districts in February of each year and administered in March. In April tests are returned to the Center for Educational Testing at the University of Kansas where they are evaluated. Scores are reported to district superintendents from May through September, by which time the process of developing assessments for the next year already has begun.

Committee members engaged Dr. Poggio and Dr. Tompkins in a discussion of the role of student motivation and teacher expectation in explaining test results. Dr. Poggio agreed that motivation plays a strong part in testing and that "get ready" activities are important. Dr. Tompkins responded that often educators "under expect" students who come from underprivileged backgrounds, which may contribute to students failing to perform to their fullest potential. The point was made by Committee members that the state assessments may not be taken seriously by students because there is no serious consequence attached to poor performance.

Dr. Mary Devin, Superintendent of USD 475 (Geary County Schools), described uses her district makes of state and local assessments (Attachment 11). She said the district has a comprehensive accountability system that links quality performance accreditation and student assessments and makes information about the system available in the community. State assessments are augmented by locally developed criterion referenced tests in basic content areas that are given to students in grades that do not take a state test. High school students take tests in content areas courses and selected grade levels take the norm-referenced California Achievement Test. According to Dr. Devin, current activities include focusing on collecting data at the classroom and building level that can be used to improve student performance district-wide.

Mark Evans and Sheril Logan, USD 259 (Wichita), presented information about assessments in their district (Attachments 12, 13, and 14). Mr. Evans said the steps of targeted instruction are to identify instructional goals, align curriculum, develop benchmark assessments, provide intervention, and monitor student progress. He and Ms. Logan distinguished among the following types of tests that are given to students in the district:

- Local benchmark standards-based assessments that measure individual student progress in reading, writing, and mathematics and are designed to guide instruction.
- Classroom-based formative assessments that provide continuous ways of determining how students are progressing toward meeting identified standards or indicators at the daily or weekly lesson level.
- Standards-based state assessments that measure program effectiveness using Kansas state curriculum standards for reading, writing, math, science, and social studies.

Mr. Evans and Ms. Logan explained that the tests are used to focus instruction on student skills, plan interventions for students who need improvement, align curriculum, and improve instructional strategies. Beginning in the second grade, parents and students have information about specific proficiencies or deficiencies and the community is informed of district and school progress. Interventions for students who need help include extended year programs and restructured or extended day programs. Intervention programs are supported by parental involvement, additional assessment or evaluation, and staff development. In light of the testing program the district already has in place, Mr. Evans expressed concern that the proposed federal requirements would overburden students and teachers with too much testing.

Mr. Evans told the Committee that students and parents take local assessment seriously. He said summer school is required for students who need help, but that requirement may be waived by parents. He said about 50 percent of parents sign the waiver, thus exempting their student who needs help from attending summer school. Nevertheless, Ms. Logan concluded that, even though the number of minority students and students who are eligible for free and reduced lunches in the district is going up, academic success, as measured by student assessments, continues to improve.

Dana Selzer, USD 460 (Hesston) described how her district used assessments (Attachment 15). She said state and district assessments are used for program evaluation and school improvement, instructional planning for students, and communication with stakeholders. Classroom-based assessments may be used for program evaluation and school improvement, but mainly are used for instructional planning for students and for communication with stakeholders. She showed examples of “instructional planning feedback” that analyzed student performance by grade level in specific content areas and

reported scores on the basis of socio-economic factors, such as gender, mobility, and being at risk.

She also described the Hesston Elementary School K-2 Literacy Portfolio, a series of assessment tools that documents the development of literacy skills at the early grades. In response to questions, Ms. Selzer said student mobility often is a factor in low test scores, but districts allow no exceptions in their testing activities for students who move frequently.

## **Tuesday, August 7**

### **Proposed Federal Testing**

Committee members discussed their opposition to the President's testing proposal, the financial burden it would place on the states, and the impact it might have on testing activities already underway. Upon a motion by Senator Vratil, seconded by Representative Tanner, the Committee voted to request that Chairman Umbarger draft a letter on the Committee's behalf stating the Committee's opposition to mandated federal testing, indicating the Legislature's general willingness to cooperate, and requesting a waiver from mandated testing for those states, such as Kansas, that already have a testing program in place. The letter is to be sent to President Bush, members of the Kansas congressional delegation, leadership of the U.S. House and Senate, members of the conference committee on the education bills, and the Secretary of the U.S. Education Department.

### **Teacher Vacancies**

Dale Dennis, State Department of Education, informed the Committee that the State Department currently is conducting a survey of teacher vacancies that will be presented to the Committee at a later date. Committee members observed that Kansas is losing teachers to Oklahoma, or is not able to attract teachers from Oklahoma, because the base salary for teachers in Oklahoma was recently raised by \$3,000. It also was noted that in Wichita an effort is being made to get special education teachers who have moved into regular classroom teaching to move back into special education.

### **Charter Schools**

Rod Bieker, State Department of Education, described the statutory framework within which charter schools operate in Kansas (Attachment 16). He stressed that charter schools in Kansas must be approved by a school district board of education and that the State Board of Education's authority to review proposed programs is limited to cases in which applications exceed the statutory limit of 30. Only in that case can the State Board evaluate applications on their merits; otherwise, the State Board's review is merely to determine



whether the petition is in compliance with state and federal laws and rules and regulations.

In Committee discussion following Mr. Bieker's presentation, members asked him if the charter school law allowed school districts greater latitude than had existed before, given that the State Board of Education has general authority to waive certain requirements. Mr. Bieker responded that the charter school law provided no new flexibility and that, in fact, many charter schools are the same as traditional alternative schools for at-risk students. Dale Dennis expanded upon the response by saying that, most likely, the availability of three-year start-up federal grants for charter schools accounts for the growth of charter schools in Kansas. (Between \$8 million and \$9 million in federal funding has been available for charter schools in Kansas.) For the first time under the law, the number of applications (22) exceeded the number of slots available (17). Members also discussed the requirement in Kansas law that charter schools be approved by local school boards of education and generally agreed that it is that aspect of the law that causes Kansas to be considered a "weak" charter school state.

Val DeFever, a member of the State Board of Education, addressed the State Board's role in approving charter schools and said its ability to make a substantive evaluation of applications only when the number of applications exceeds the number of available slots means that the State Board is forced to approve applications that meet requirements as to proper form but lack merit. She said that, of the 17 applications recently approved, she thinks only six or seven had merit. Sue Gamble, another State Board member, said she refuses to vote on charter school applications because she considers the Kansas law so weak. Mr. Bieker added that the State Board supports charter schools, but most members would like more authority for the State Board over the substance of charter school applications.

Dr. Sharon Freden, State Department of Education, presented additional information about charter schools ([Attachment 17](#)). She said a total of 32 have been approved in Kansas. (Thirty currently exist—the cap under Kansas law—and two have been discontinued.) Kansas charter schools serve the following grades:

- 15 schools—grades 9 through 12;
- 5 schools—grades 7 through 12;
- 4 schools—grades kindergarten through 12;
- 2 schools—grades kindergarten through 5 and grades 11 and 12;
- 1 school—grades kindergarten through 8;
- 1 school—grades 1 through 5;
- 1 school—grades 6 through 8; and
- 1 school—grades 1 through 8.

According to Dr. Freden, a number of charter high schools are alternative schools. Other school types are basic education schools, virtual or Internet schools, and performance-based schools. Dr. Freden told the Committee that only two types of waivers have been requested and granted: three schools were waived from the requirement to

teach human sexuality and AIDS awareness and two were approved to participate in quality performance accreditation as part of another school.

Dr. Freden said that the State Department makes an effort to assess the effectiveness of charter schools, but the small number of charter schools in the early years of the act (15) and weaknesses in the reporting system make analysis difficult. She said the data generally indicate that charter schools are successful in meeting the individual needs of students participating in unique and alternative settings to the traditional classroom.

Dr. Chris Christman, USD 499 (Galena) described Cornerstone Alternative High School, an alternative high school for at-risk students that involves four participating school districts in Cherokee County. The school was begun in 1993 and became a charter school in 1998. Charter school status made the school eligible for federal funding, which, along with private support, enabled the school to purchase a trophy and engraving business that students run as part of their educational experience. Dr. Christman explained that the purpose of the school is to increase the graduation rate and employability of students and that students are able to combine academic and vocational coursework.

In response to questions, Dr. Christman said the charter school is different from regular schools because it has smaller classes and makes greater use of technology.

Jim Chadwick, USD 312 (Haven) reported on the charter school in his district (Attachment 19). The Yoder Charter School began in response to a sharp drop in enrollment that resulted when Amish students left the public schools and began to be home schooled. Public school officials felt the need to bring them back or else face closing a school. The decision was to offer a "come as you want" school involving active participation by parents, who could ensure that their children were getting the education they wanted them to have. The success of the initial venture has prompted the school district to plan another charter school which will serve secondary and adult students.

According to Mr. Chadwick, Yoder Charter School has been successful in winning the trust of parents and gaining the support from school staff, who have had to demonstrate flexibility and willingness to be innovative. Most importantly, Mr. Chadwick told the Committee that student performance in the charter school has exceeded the district average on the basis of state reading and mathematics assessments.

In discussion with Committee members, Mr. Chadwick reiterated that the charter school originally was for home-schooled children, although home schoolers comprise only about half of the current enrollment. He admitted that some parents were suspicious of the school at first, but said the school has full acceptance now. He said decisions affecting the school are made by the site council and that the school is characterized by parental control and parental choice. He added that students and teachers at the school also feel empowered to make choices.

Mr. Chadwick agreed that federal funding for charter schools was an important incentive which enabled the school to hire paraprofessionals and to purchase computer

software. But he maintained that “charter” implies an agreement or a contract between parents and the school district and that the importance of the charter school designation involves more than just eligibility for federal funds. In response to a question about whether the charter school has had an effect on other schools in the district, Mr. Chadwick responded that he believes other schools in the district are more open to new ideas and parental involvement. But he emphasized that, although cooperation among administrators, teachers, and parents could happen in any school setting, it is more likely to occur in a school setting that is designated as “special.” In his opinion, making all schools charter schools would be a mistake because the designation would lose its mystique.

Mr. Chadwick was asked what he believes the Legislature should do and he responded as follows:

- Adequately fund basic education;
- Do not stifle innovative and visionary ideas; and
- Do not impose excessive structure and requirements to the extent that visionary plans are impaired because officials are unable to produce a “five year plan” for an innovative program that has not yet evolved.

Mr. Chadwick told the Committee that the per-pupil expenditures for the charter school were approximately \$5,400-\$5,500 and that the school currently enrolls 105 students, of whom 45 are Old Order Amish. He said there is a waiting list of 25 students. Priority is given to admitting students who formerly attended Yoder Grade School, then to students in the Yoder attendance area, and then to remaining students in the district.

Dr. Cal Cormack, USD 458 (Basehor-Linwood) presented information about the Basehor-Linwood Virtual Charter School ([Attachment 20](#)). Basehor-Linwood Virtual Charter School is a K-12 program that enrolled 363 students school year 2000-01. School district staff involved in the school include two administrators, 39 teachers, and four support staff. The school is Internet-based and targets students both in and outside the school district who have dropped out of school or are at risk of dropping out, students who want enriched opportunities to augment their regular enrollment, and students who are home schooled. Students must meet the same academic goals and standards as other students in the district and must participate in the district’s program of assessments, which include the Iowa Test of Basic Skills, Kansas state assessments, and local criterion referenced tests that are specific to course objectives. Dr. Cormack told the Committee that a special effort is made to make sure parents understand that students must meet all school district requirements. He explained that some students have dropped out because their parents do not want them to participate in mandated testing programs.

According to Dr. Cormack, although the school is Internet-based and students must have a computer, much of the learning takes place at home away from the computer. The district provides instructional support and assistance with the technology and also provides

opportunities for enrichment, group activities, parental involvement, and training. An analysis of student attainment, as measured on state assessments, indicates that reading scores for the charter school are comparable to students in other Basehor-Linwood schools but math scores are lower, prompting officials to identify math as an area of emphasis for improvement for the 2001-02 school year.

According to Dr. Cormack, the charter school has had a beneficial effect for the entire district and has caused teachers and administrators to focus more on how students learn than on how they should teach. The insight has had an effect on staff development and on how teachers view the learning process.

Responding to a question about federal funding, Dr. Cormack said the availability of federal funds encouraged the district to take the risk to be innovative. (Staff Note: The discussion of charter schools resumed later in the meeting.)

### **National Guard Tuition Assistance Program**

The staff presented a memorandum entitled *Kansas National Guard Educational Assistance Program*, which described the program and its funding (Attachment 21).

Col. Adam King, Kansas Air Guard, presented information to the Committee about the Kansas National Guard State Tuition Assistance Program and the ROTC Scholarship Program (Attachment 22). He explained that the latter program is administered by the State Board of Regents and obligates recipients of tuition assistance to four-years of service in the Kansas National Guard. Failure to satisfy the obligation results in recipients having to repay the scholarship. Recouped money is returned to the ROTC Scholarship Fund so that it can be used for additional scholarships. Statutory limits are set at 40 scholarships for each of the universities that has a ROTC program (the University of Kansas, Kansas State University, Pittsburg State University, and Washburn University), for a total of 160 scholarships. Col. King reported that there currently are 62 scholarship recipients and that the program results in an average of seven new lieutenants committed to the Kansas National Guard each year.

The National Guard Educational Assistance Program provides state payment of tuition and required fees for eligible members of the Kansas National Guard at area vocational schools, technical colleges, community colleges, Washburn University, Regents universities, and accredited independent institutions. The program is administered by the Adjutant General. Participants incur a four-year obligation to serve in the Kansas National Guard, regardless of how many years they receive tuition assistance. Failure to fulfill the obligation results in repayment of all assistance received. All repayments are credited to the State General Fund. During spring semester, 2001, 221 Guard members, enrolled in 37 postsecondary institutions, participated in the program. For FY 2002, a total of \$497,218 is approved for the program, of which \$247,218 is from the State General Fund and \$250,000 is from the Economic Development Initiatives Fund.

Col. King told the Committee there are several disadvantages of the current program. One is that tuition assistance recipients must have completed basic military training, which often is not available for as long as a year after the recipient enlists in the National Guard. Upon enrolling, the recipient must pay tuition out-of-pocket and wait up to 45 days to be reimbursed. Because assistance is subject to appropriation, the amount of reimbursement may not cover actual costs. To remedy these problems, Col. King proposed the following changes to the program:

- Individuals should be eligible for assistance immediately upon enlistment in the Kansas National Guard and should not have to spend up to a year to complete military training.
- Tuition assistance recipients should be able to apply to an eligible institution and have tuition waived so that the institution is reimbursed by the agency that administers the program, not by the recipient. This recommendation would make the program parallel to the ROTC Scholarship Program and would eliminate the need for the recipient to make an out-of-pocket expenditure and then wait to be reimbursed.
- The service obligation should be reduced from a four-year commitment to serve in the National Guard to one and one-half years for each year of benefit with the commitment to be served concurrently with the benefit.

In addition, Col. King requested that the program be administered by the State Board of Regents. In response to questions, he indicated that he believes the amount of funding available for FY 2002 is adequate to fully fund the demand for fall and spring enrollments. He was not sure whether summer school enrollments would result in the need to prorate the funding.

### **Charter Schools and Other Matters, continued**

Consideration of charter schools continued, with the Committee engaging conferees in additional discussion. Dr. Cormack was asked if virtual school students suffered from a lack of "socialization" with other students. He replied that students schooled at home can still participate in field trips and other group activities and also often are involved in group experiences that are unrelated to school activities. Responding to another question, he said virtual school students generally have four or five substantive contacts of about 20 minutes each with instructors each week. He said enrollment in the school generally is open to any student, with some exceptions. For example, the district most likely would refuse to enroll an elementary student in a case where there is no parent in the home to supervise. School district staff involved in the charter school generally teach full regular classroom loads and work with charter school students in the evenings. Dr. Cormack said that the charter school had requested no waivers of State Board regulations.

Asked if a charter school is obligated to accept any child in the school district, conferees responded that the school must select students who represent a “cross-section of the student population.” When asked about the cost of maintaining the virtual school, Dr. Cormack responded that a large part of the cost is associated with maintaining the technology.

Conferees requested the opportunity to respond to other agenda items, primarily concerning teacher vacancies. Dr. Christman reported that his district had 18 percent staff turnover and is experiencing a particular problem recruiting foreign language teachers. Asked whether he thinks exempting teacher salaries from the state income tax or paying health benefits would be the better recruitment incentive, he responded that he would choose the tax exemption over the health benefit. Dale Dennis elaborated on the number of teacher vacancies by saying that, with all but 28 school districts reporting, 483 positions are vacant for fall 2001 and districts are being forced to use 143 temporary employees. In the Kansas City school district, 87 classrooms have no teachers. Of the vacancies, 67 are at the secondary level and half are in special education. A high number of vacancies also exists in the areas of math and science. Conferees concluded that the large number of vacant positions and the difficulty in recruiting teachers are due to low teacher salaries.

Representative Benlon made a statement about charter schools to the effect that she had been an early supporter of charter schools, primarily because she believed innovations could be piloted and tested in charter schools and later be implemented in regular classrooms. She said she is impressed with what is occurring in the charter schools with which she is familiar, but overall is disappointed that so little feedback from charter schools has reached the regular classroom. Instead of providing a testing ground and incubator for new and successful programs to enhance learning in regular classrooms, the charter school movement in Kansas thus far has been confined to a limited number of schools.

## **Learning Quest**

State Treasurer Tim Shallenburger reported to the Committee on Learning Quest, the Kansas Postsecondary Education Savings Program enacted in 1999 (Attachments 23 and 24). Under the program, an account may be opened as a savings fund to pay postsecondary education expenses. Kansas account owners earn up to \$2,000 as a deduction from the account owner’s Kansas adjusted gross income and no state or federal income taxes are assessed on the earnings in the account until they are withdrawn. A student beneficiary of an account may attend any accredited university or college or approved vocational program in the United States. The program currently has assets of \$67 million and more than 15,000 accounts. Mr. Shallenburger said Charles Schwab is marketing the program to priority investors and *Kiplinger Magazine* has ranked the program among the best in the nation.

According to Mr. Shallenburger, the following recent changes in federal tax law affect student tuition savings programs:

- Qualified withdrawals are federal income tax free, beginning in 2002. Under current law, earnings on qualified withdrawals are taxed as ordinary income.
- Account owners may transfer assets in one account to a similar account once in one year (a “rollover”) without changing beneficiaries, beginning in 2002. Under current law, assets may be transferred, but only if the beneficiary changes.
- The definition of “family member” has been broadened to include first cousins, beginning in 2002. Under current law, “family” includes parents, grandparents, siblings, step-siblings, certain in-laws, and the spouses of the aforementioned relations. The term has relevance with regard to the ability of an account owner to change beneficiaries, as long as an account is transferred to another member of the beneficiary’s family.

Mr. Shallenburger asked the Committee to consider three amendments to Kansas law, either to make the Kansas program more attractive to investors or as the result of recent changes to federal tax law. The recommended changes are the following:

- Eliminate the two-year waiting period from the time an account is opened until the time a qualified withdrawal can be made. According to Mr. Shallenburger, this waiting period is cited as one negative aspect of the Kansas plan that could make it less attractive to investors.
- Eliminate the 10 percent state penalty tax on a non-qualified withdrawal. Under the new federal legislation, a 10 percent federal penalty is imposed, which would result in a 20 percent penalty for non-qualified withdrawals under the Kansas program.
- Exempt accounts from bankruptcy proceedings. According to Mr. Shallenburger, this change was suggested by American Century Investment Company, the private investment firm that is under contract to manage the Kansas program. The effect of the recommended change would be to protect accounts from creditors.

### **Committee Minutes**

Upon a motion by Representative Benlon, seconded by Senator Jenkins, the Committee approved the minutes of the July meeting.

The meeting was adjourned.

Prepared by Carolyn Rampey

Approved by Committee on:

August 27, 2001  
(date)

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