

College Tuition Savings Plan Advisory Commission  
Minutes of Meeting Held: March 6, 1998  
State House Room 103

The eleventh meeting of the College Tuition Savings Plan Advisory Commission (the Commission) was called to order at 1:50 p.m. The following Commission members were present which constituted a quorum:

<u>Member</u>	<u>Represents</u>
Sylvia Larsen	Senator from Concord
Martha Gooze	Public Member from Durham Appointed by the Governor
Edward MacKay	Vice Chancellor for Budget and Planning, University System of New Hampshire
Ingrid Lemaire	Director of Public Relations, NH Higher Education Assistance Foundation
O. Alan Thulander	Representative from Frankestown
Richard A Gustafson	President, New Hampshire College, Representing College and University Council
Charles Connor	Budget Director, Office of Governor, Representing the Governor
Georgie A. Thomas	State Treasurer, Treasury Department
Mike Cryans	Public Member from Hanover Appointed by the Governor
Andrew R. Peterson	Representative from Peterborough

The following members were absent:

Hannah M. McCarthy	President, Daniel Webster College, Representing Postsecondary Education Commission
Edward Gordon	Senator from Bristol
Mary Milliken	Business Administrator, Representing Regional Community Technical College System

Theresa Conway of Fidelity gave a brief overview of the morning's meetings of all the commission subcommittees except for the investments subcommittee which met the previous week.

#### Investments Subcommittee

Ed McKay gave an overview of the activities of the investments subcommittee. He gave a brief description of the decision making process the subcommittee went through to arrive at their recommendation of the proposed asset allocation. The asset allocation allows for a rolldown of the risk profile by moving more assets to fixed income securities and less to equities over time as the target beneficiary reaches 18 years of age.

Treasurer Georgie Thomas motioned to accept the asset allocation recommended by the investment subcommittee, which was seconded by Dr. Richard Gustafson and approved unanimously.

After significant further discussion of the specific Fidelity Mutual funds used to implement the asset allocation strategy, Treasurer Georgie Thomas motioned to include Fidelity's Small Cap Selector fund and the OTC fund as 9% and 6% of the equity portion of the portfolios.

#### Legal Subcommittee

David Pearlman gave an overview of the visit to the Internal Revenue Service by Treasurer Georgie Thomas, Michael Ablowich, Assistant Attorney General Suzanne Gorman and Attorney Bill Ardinger of Rath, Young and Pignatelli and Mr. Pearlman. Fidelity did not believe the issues that were identified at the IRS meeting were significant and could be easily addressed. The most important issue was an implied suggestion to raise the penalty for non-qualified distributions from 10% to 15%. The meeting also gave the group comfort that a New Hampshire based index of educational expenses could be used as a tool to measure maximum contributions. The last issue that was raised involved a suggestion to disclose the penalty for non-qualified distributions in the trust document.

Michael Ablowich reviewed proposed changes to RSA 195-H that would help address one issue identified at the meeting with the IRS, which was the reference to the federal governments definition of qualified educational expenses as defined in section 529 of the tax code. Included in proposed changes was a new section to insulate the various portfolios from one another in the case that one was involved in a legal proceeding. It was also proposed by the legal subcommittee to remove the restriction in RSA 195-H:3,V that beneficiaries over 14 years of age leave their funds invested for 2 years before withdrawal. Changing the name of the plan in the statute was also discussed, but given the fact that the final name had not been decided on this change was postponed.

A short discussion also ensued regarding the status of legislation to create an endowment fund. It was the recommendation of the legal subcommittee that any significant changes to the RSA, such as the endowment fund, be postponed until the next legislative session. There was also some discussion regarding the current level of disclosure in the draft documents concerning the possible future existence of an endowment fund and the possible use of the state's fees for uses other than administrative costs. A concern was raised that the documents need to be flexible enough to allow for future initiative like the proposed endowment fund.

After further short discussion on a number of topics, Charles Connor motioned to set the maximum contribution limitation at five times the average tuition, room and board and fees for New Hampshire Colleges and Universities as published by the College and University Council. The motion was seconded by Treasurer Georgie A. Thomas and approved unanimously.

Charles Connor motioned to set the penalty for non-qualified distributions at 15% versus 10% as recommended by the legal subcommittee as a result of information obtained by the group's visit to the Internal Revenue Service. The motion was seconded by Martie Gooze and approved unanimously.

Charles Connor motioned to approve technical changes to RSA 195-H as recommended by the legal subcommittee as described by Michael Ablowich and described below. The Motion was seconded by Representative Andrew Peterson and approved unanimously.

*Proposed Technical amendments*

*Chapter 195-H  
College Tuition Savings Plan*

Change 1

Change reference in state statute to reflect recent changes in federal statute.

195-H:1 Definitions. In this chapter:

II. "Eligible educational institution" means that which is defined in 26 U.S.C. section 529(e)(5) ~~135(e)(3)~~.

Change 2

Delete restriction on age of beneficiaries to reflect flexibility of state's vendor to administer program.

*195-H:3 Rulemaking. The commission shall adopt rules relative to:*

V. (a) *Phasing in the savings plan and withdrawals from the savings plan, so that any policies relative to early withdrawal shall not detrimentally affect investors remaining in the savings plan. ~~No withdrawals from a savings plan for a child who is over 14 years of age at the time of enrollment shall be allowed for 24 months after the establishment of such plan.~~*

Change 3

Add statutory language to protect different investment portfolios within trust fund so that the portfolios are legally insulated from one another.

*195-H:4 College Tuition Savings Plan.*

*[IV. The savings plan shall be established in such form as shall be determined by the commission and may be established as a trust to be declared by the state treasurer. The savings plan or such trust may be divided into multiple investment portfolios. If so divided, and if distinct records are maintained for any such portfolio and the assets associated with any such portfolio are accounted for separately from the other assets of the trust, then the debts, liabilities, obligations and expenses incurred, contracted for, or otherwise existing with respect to a particular portfolio shall be enforceable against the assets of such portfolio only, and not against the assets of the trust generally.]*

David Pearlman also briefly updated the Commission on Securities and Exchange Commission and Municipal Securities Rulemaking Board compliance issues as well as Fidelity Funds load waiver requests.

Marketing Subcommittee

Michael Cryans updated the Commission on the activities of the marketing subcommittee. After a lengthy morning meeting where a number of conceptual issues were discussed and reviewed there were no significant issues to bring before the full commission for approval.

Administration Subcommittee

Representative Alan Thulander reviewed the activities of the administration subcommittee. The subcommittee review internal fidelity processing procedures and a document Fidelity had prepared that outlined the full procedures of the plan for use by internal fidelity personnel and Commission Members.

The meeting was adjourned at 3:55 on a motion by Treasurer Georgie Thomas and seconded by Representative Alan Thulander, and approved unanimously.