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ROLL NUMBER

DESCRIPTION

22245

2007 SENATE FINANCE AND TAXATION

SB 2245

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2245**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: # 2938

Committee Clerk Signature

Sharon Kenyon

Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SB 2245.

Sen. Heitkamp: prime sponsor of the bill appeared in support stating this bill obviously aimed at Higher Ed costs and there are 2 factors in this bill. A 15% factor and a 20% factor and brings in the federal and the state and how the addition works. A 5% bump for military service and line 18 deals with federal credit.

Sen. Oehlke: what's a Hope Scholarship?

Answer: that language comes from Council that's why I threw in that disclaimer; I think it has something to do with the code.

Sen. Anderson: how about the life time learning credit?

Answer: same thing, while we do have affordable higher education it costs more than one it has a couple years ago and #2 North Dakotan's average income is not what our neighbors are, so how do you recognize that.

Donita Wald: Tax Dept. appeared to explain the Hope Credit and Life Time Credit. Hope Credit is for students who are pursuing an undergraduate degree or other recognized education credential, must be enrolled at least half time, that leaves one academic period beginning during the year, it is a federal credit of up to \$1500 per eligible student and is

available only for the first 2 years of their education. The Life Time Learning Credit is \$2,000 credit per return, available for all years for post secondary education in the courses to acquire or improve job skills; it is available for an unlimited number of years a student does not have to be pursuing a degree or other recognized education credential. It is available for one or more courses. The credit is phased out based on the tax payer's adjusted gross income for both. If your adjusted gross income is \$53,000 or more you cannot claim that credit. You can't double up either.

Sen. Cook: in the fiscal note the average credit that is offered is about \$837. If I start on line 18 of page 1, you divide the ND taxable income by the taxpayer's federal taxable income that comes up to a percentage. You take that percentage times the federal credit that they get?

YES. Then you would take that percentage, if you are not a national guard member times 15% and that determines what your credit is on your ND income tax?

Donita: that correct, what that particular language does is really kind of geared toward non residents who may have an income here. Because if you're a ND resident your ND taxable income and federal taxable income percentage is going to be 100%.

Sen. Cook: could we apply this to a ND income tax credit that was being given based on property taxes your paying and be constitutionally legal?

Donita: it depends on how that is written.

Sen. Horne: these are federal programs not state, is that correct?

Donita: correct

Closed the hearing.

Sen. Urlacher: I do find one problem in relationship to it, there are a lot of colleges that are taking in awful lot of foreign students and I hear its without tuition being, I would hope that they would relate some of the cost to those people to alleviate some of the costs to the student.

Sen. Cook: I wrote down here that you can't get both of them, can't double dip yet when I read the fiscal note I see 5.4% of the individual income tax returns claim one or both of these credits.

Donita: it's the expenses that you use to calculate the credit that you can't double dip. You can't use the same expense for the Hope Credit that you used to calculate the Life Time Learning Credit.

Sen. Oehlke: is there a number for how many students who apply or qualify for these benefits.

Donita: the data we received was from the IRS in just the number of credits that they claimed. There were 17,000 returns and that's the closest we could get to ___ that down.

Sen. Horne: made a **Motion for DO PASS**, seconded by Sen. Triplett.

Sen. Anderson: is this for both if your going for higher education in ND or in another University out of state?

Sen. Cook: It's silent to it; you qualify for the Hope and Life Time Learning Credit not matter where you go to college

Sen. Oehlke: I wonder if we amended it to ND higher education locations if that would affect the fiscal note?

Sen. Triplett: I like that, because its more specific to encourage investment in ND which is what we are all trying to accomplish.

Sen. Urlacher: would there be anyway of making an estimate of what affect that would be on the fiscal effect?

Donita: not from the returns from the data that we have.

Sen. Horne: I will withdraw my motion as does Sen. Triplett withdraws her second.

Sen. Anderson: made a Motion to apply to students in state, ND colleges and universities, seconded by Sen. Oehlke.

Donita: there is one thing that that will limit then is the ability to use the Life Time Learning Credit which doesn't require you to be enrolled in a ND higher education institution.

Voice vote: 7-0-0 Amendment carries

Sen. Cook: made a Motion to remove Life Time Learning Credit so that it goes just to the Hope Scholarship Credit, seconded by Sen. Tollefson.

Sen. Horne: if we do that, would it be that only those who would qualify would be undergraduate students enrolled in ND colleges and universities, not me as an attorney going off to get some credits to promote my profession?

Sen. Cook: that correct

Voice vote: 7-0-0 Amendment carries

Sen. Tollefson: made a Motion for DO PASS as Amended and Refer to Appropriations, seconded by Sen. Cook.

Roll call vote: 7-0-0 Sen. Cook will carry the bill.

FISCAL NOTE
 Requested by Legislative Council
 02/08/2007

Amendment to: SB 2245

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$2,170,000)			
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Eng. SB 2245 provides an income tax credit for the costs of higher education for taxpayers and dependents enrolled in a North Dakota college or university.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of Eng. SB 2245 authorizes an income tax credit equal to fifteen percent of the amount of federal Hope scholarship tax credit. This amount is increased by twenty percent if the student is a qualifying National Guard or reserve member.

Federal statistics indicate approx. 5.4% of the individual income tax returns claim one of two education credits, with the average federal credit totaling \$837. The breakdown between the Hope and Lifetime Learning tax credits is not available. Using these statistics, and assuming a 50%/50% split between the two federal credits, Eng. SB 2245 is expected to reduce state general fund revenues \$2.17 million in the 2007-09 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
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Phone Number: 328-3402

Date Prepared: 02/12/2007

FISCAL NOTE

Requested by Legislative Council

01/16/2007

Bill/Resolution No.: SB 2245

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$4,340,000)			
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2245 provides an income tax credit for the costs of higher education.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2245 authorizes an income tax credit equal to fifteen percent of the combined amount of federal Hope scholarship and lifetime learning tax credits. This amount is increased by twenty percent if the student is a qualifying National Guard or reserve member.

Federal statistics indicate approx. 5.4% of the individual income tax returns claim one or both of these education credits, with the average federal credit totaling \$837. Using these statistics, SB 2245 is expected to reduce state general fund revenues \$4.34 million in the 2007-09 biennium.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/05/2007

Date: 2-6-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2245

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended & Refer to Appropriations

Motion Made By Sen. Tollefson Seconded By Sen. Cook

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Cook

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2245: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2245 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "combined amount of the" and remove "and lifetime learning credit"

Page 1, line 10, after "year" insert "if the taxpayer or the dependent of the taxpayer from whom the credit is derived is attending a college or university in this state"

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2245

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2245

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 13, 2007

Recorder Job Number: 3462

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2245 [02:37].

Senator Heitkamp gave oral testimony in support of SB 2245. The bill attempts to put some investment back to the individuals who are working their way through. The bill provides an income tax credit for higher education costs. There should be a new fiscal note.

Chairman Holmberg pointed out the new fiscal note.

Senator Seymour asked where the idea for the bill came from?

Senator Heitkamp stated that a "wise man" gave it to him. He sees this as a means of economic development.

Senator Bowman asked for clarification about life time credit?

Senator Heitkamp explained that it perpetuates itself in terms of how much you can get on the tax credit. It is in relation to income tax credit for higher education costs; 15% and 20% if you are involved in the military.

Senator Bowman asked if those not in the military would still qualify?

Senator Heitkamp said yes, just a lesser percent.

Senator Bowman asked if it was for everybody who has kids in school?

Senator Heitkamp said yes, it's a way of getting a credit on your income tax.

Senator Krebsbach asked what all is included as "cost"? Room? Board? Transportation?

Senator Heitkamp stated that his intent would be that "cost" includes the costs incurred from actual education, such as books and tuition.

Senator Mathern asked if the cost of education figure on the tax statement from the university could be used as the figure?

Senator Heitkamp said yes, the statement from the university breaks it down well although it may not be a 100% figure. Compared it to the difficulty in doing taxes and defining when a child is not considered a dependent.

Chairman Holmberg commented that when the federal government looks at dependency, it is very different than what happens in the real family. A family could have a dependent that is 31 years old.

The hearing on SB 2245 was closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2245

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-14-07

Recorder Job Number: 3485

Committee Clerk Signature

Alice Deizer

Minutes:

Chairman Holmberg opened the hearing on SB 2245 at 9:50 am on February 14, 2007 regarding Senator Heitkamp's bill on Tax Credit on Higher Education Costs.

Senator Mathern moved a DO PASS, Senator Krauter seconded. A roll call vote was taken resulting in 11 yeas, 3 nays, and 0 absent. The motion carried. Senator Cook for Finance and Tax will carry the bill.

The hearing on SB 2245 closed.

Date: 2/14/07
 Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2245

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken de pass

Motion Made By Malkern Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann		✓	Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Back to Fen & Tax - Cook ^{Sen}

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 14, 2007 12:15 p.m.

Module No: SR-31-3224
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2245, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2245 was placed on the Eleventh order on the calendar.

2007 HOUSE FINANCE AND TAXATION

SB 2245

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2245A

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4315

Committee Clerk Signature

D. P. Moore

Minutes:

Rep. Belter: We will open the hearing on SB 2245. Clerk will read the title.

Sen. Joel Heitkamp: Sponsor, this bill deals with tax credits for those individuals involved with heading off to higher education. There are two different levels here, there is the level for the non-military, and we upped it by 5% for those involved in the military. You will see a reference to the Hope Scholarship for higher ed tax credit, that's because of the link to the federal side (see attached testimony #1). If you look at the two sections, one deals with short form and one deals with long form. That's the reason for it. Let me go through the sections. The first section provides for state income tax credit in the amount equal to 15% of the federal credit. The reference is 58-38-29 is for the state long form; the reference is 38-30.3 is for the state short form or simplified method of computing state income tax. The credit in the second part for guard or reserve members or dependents is 20%, if they have been called; and only if they have been called into active duty. In section 2 of the bill, is just a reference to the short form, the credit must be specifically mentioned in the short form law. That's it. That's the reason for the Hope Scholarship and the language there ties it into what we do on the federal level. This did pretty well over on the Senate side. I think it should be mentioned that this legislation is probably, it's pretty easy to take legislation like this and get the general support of

everybody that looks at it. I think people would look at that. It's really going to come down to balancing the book at the end of the session, whether or not this is something that the committee deemed worthy of the price tag that goes with it. I recognize that, that when we leave the session here, we don't get the pleasure of the federal government where you can leave with a huge deficit and I'll shake hands and think you did a great job. You have to balance the books. It does come with a price tag to it, or an anticipated price tag to it. To some degree, I like that. I like the fact that it provides it for them if they go to college in the state. I think it gives us a bigger incentive. If you live where I live, in the very eastern part, there is an erosion of an advantage that we had for years in the higher education system. You are starting to see an equalizing of costs to the point where other institutions are becoming very competitive for that student and everything we do in higher education is to student based. I think that NDSU might have been one of the few institutions, certainly in the east, that actually saw an increase in enrollment. UND certainly didn't. I don't believe Mayville did, or Valley City. Any incentives that we can give to keep that student home here instead of at Moorhead State, Moorhead Tech, Crookston, University of Minnesota, we've lost some to. It all comes down to dollars and cents. I think this plays a role in that too. In the end, I would certainly recognize the fact that no committee would be against giving somebody a tax break at a time when one of the biggest expenses they have in their life is there. It's just going to come down to whether you think you can afford it.

Rep. Weiler: Can you explain the Hope Scholarship credit to me.

Sen. Joel Heitkamp: It ties it to the federal code of what scholarships go. There is a breakdown, if you go into that breakdown for incomes made. It is an accelerating rate at a lower income. Eligible expenses, tuition, it goes to the cost though of the education, it doesn't go to your apartment, travel, things like that. It goes to the cost of tuition.

Rep. Weiler: Can you define education costs, and I guess you sort of answered that. Is this primarily for lower income.

Sen. Joel Heitkamp: No, but the rates change for lower income. This was one of the questions I had with some of the fiscal note. I have never been one that has come in and railed about fiscal notes and saying that they are wrong. If the fiscal note is accurate, to me that's a good sign in ND. I don't doubt it is. I think you, as your committee moves forward, have to assume that it is accurate and that they are pretty good at what they do. It ties up questions about fiscal notes before and found them to be pretty accurate so I don't want to stand and whine about the fiscal note. If it is accurate, good. It maybe even pushes further why this would be a good thing. If you put this in, this isn't going to help Joel Heitkamp that much; one is already out-of-state and one is just about done.

Rep. Weiler: How many received this Hope Scholarship credit on average a year.

Sen. Joel Heitkamp: I don't know. I can get that. The reference to that is the basis from the federal code, that's the reason for it. What you are doing is tying an income tax credit to what you are doing on the federal code side. That's why the verbiage is there.

Rep. Weiler: So they get a tax credit from their federal income tax liability. You're just asking that ND give one as well.

Sen. Joel Heitkamp: To max that at that 15%, then 20% for military families.

Rep. Froseth: The way I read this, you get 100% credit on the first \$1100 of tuition and 50% credit on the second \$1100 of tuition, if your combined average gross income is \$40,000 or less. Above \$40,000 it starts being modified and then it's a total of \$10,000 as a federal credit, lifetime earning credit. So it would be 15% of that amount, is that right.

Sen. Joel Heitkamp: That would be correct.

Rep. Belter: This credit can either be taken by an individual or by the parent.

Sen. Joel Heitkamp: Yes, there has to be proof of who's paying for what.

Rep. Brandenburg: What is the difference between an individual and the military person.

Sen. Joel Heitkamp: I'm glad you asked that question. I think the reason for it being there is because there is a recognition there, that when you are called up into active duty, which many people have been now, they're taking a hit financially in many cases. So, if we're going to do this, and I know of 2 or 3 of my good friends who got called up into active duty who weren't able to put money into that college fund at the time, because their income dropped off. I know there are some other things out there, but it seems to me that if we're going to go forward with this concept, it would really send a strong message to those people called up to active duty, that we recognize that and we're even going to up it 5%.

Rep. Brandenburg: Do they have to meet a grade point average to get the credit, so that they don't just go to school and then flunk out and then get credit for it.

Sen. Joel Heitkamp: I thought of that when we first went into this. You have to keep a grade point average to stay in school. I know a lot of 2.0 student that change the world; they created a lot of jobs out there. If you don't make that cut in college, you're not going to get the credit anyway, it is going to show you the door. So I've never been a big fan of grade point, but you are going to have to deal with that on a basis on another bill coming through. I've always felt that it's no different than me paying for your high school. If you're not making the grade in high school, and I've ended up paying for an extra year for you. The goal here is to get them through.

Rep. Owens: Why you've gone to all this trouble only for the Hope Credit, which is only for the first two years of undergraduate, as opposed as to lifetime which goes through graduate, because Hope Credit, according to the federal rules is limited to the first two years of undergraduate, and after that the Hope Credit disappears.

Sen. Joel Heitkamp: One of the biggest reasons that I may not get a unanimous vote, is because of the price tag on it. So anything I go beyond where that Hope Credit is, is going to add to that price tag. As you draft legislation, you're going to sit there and say okay, what can we afford, what's reasonable, prudent and dollar wise, I felt this was.

Rep. Owens: I don't have a copy of the fiscal note, it was like a \$2.1 million, I believe.

Sen. Joel Heitkamp: After the amendment yes.

Rep. Owens: Based on what I am looking at now..

Sen. Joel Heitkamp: Right.

Rep. Owens: It also says that it can't distinguish between the lifetime and Hope credit on there. So it's giving a total figure on the average of both of those, and since the lifetime's not in here, I propose that most of that \$2.1 is lifetime not Hope, since Hope is restricted to the first two years. My problem with this, goes back to the National Guard issue. They get tuition assistance. The way that you qualify on the federal return, is you get a 1099T that comes from the University that says this is the qualifying tuition you paid. You don't just get to say oh, I paid this for college and put it on your form. You have to get a 1099. Now in some cases, they take off scholarships and in some cases they don't take it off. So we're already paying tuition assistance for National Guard, the question is how the college is handling that and you may not be able to answer that, but if they're giving them a 1099 including the scholarship that's being paid for, in that case they would be giving a credit against money that they're not even spending.

Sen. Joel Heitkamp: You're right when you say I can't for sure answer that. It may even change college (?). To me, the National Guard provision, if you go to it, goes beyond that National Guard member. It goes to that family member which there is a parcel in there that

expands this. In other words, if you are paying for your daughter's tuition, we can talk about this.

Rep. Belter: You're saying this bill, if you are a member of the National Guard, and you have children in school, then you would get a higher rate because of your job.

Sen. Joel Heitkamp: Yes, as I mentioned in my testimony, that was the point. It is my belief that they take a hit, for the most part, not all are getting the same pay or even close to the same pay in many cases as what they are making out there in the private sector, so they come in and take a hit. It's awfully tough to put money in a college fund when you are called up. I think the employers, some employers have been really good about that. Some can't. They've got to go on and hire someone to replace that individual and working on a more narrow margin. That provision is just a recognition of that. I think it's going to come down to you and others, when you sit down and figure, at the end of the day we have to balance the books. This has been a bi-partisan recognition of what would be great, can you pay the bill for it. I recognize that.

Rep. Belter: Thank you. Further testimony in support. Testimony in opposition or neutral. Dee, on this Hope Credit, you get that, that's something that doesn't have anything to do with standard deduction or anything, that's just a straight deal.

Donnita Wald, Office of State Tax Commissioner: Yes, that's correct. The tax is off the bottom tax credit.

Rep. Headland: I saw you shaking your head when Rep. Owens was making his comments. Can you explain to us what it really does.

Donnita Wald: You indicated that some of that \$2.17 is probably lifetime learning credit, is that what you said.

Rep. Owens: Based on what I read, it talks about how they can't determine in the fiscal note, which is Hope and Lifelong learning. So if that's the case, then the estimates, and it said the estimates were based on the federal...federal statistics indicate 5.4 individual tax returns claim one or both on the average, these statistics are expected to reduce, and it went on to say

Donnita Wald: That an assumption that if the 4.3 million claimed it at the federal level that 50% of that would probably be committed to the Hope, because they didn't take the credit.

Rep. Owens: My belief is that since the Hope is only the first two years, 50-50 is not a good estimate, because you are talking about graduate school, and in some cases, a taxpayer looks and says I can even for the first two years I can take it for lifelong learning or I can take it for Hope and I get a better deal with lifelong learning, a better tax credit, because an example, a tax credit just based on this, if we were doing lifelong learning and Hope, Hope maximum deduction would be 245.25 while the lifelong learning would be 400. So the lifelong learning does have a higher income tax credit than the Hope credit. I know this from experience, in some cases, you take the lifelong learning because it allowed the paying of less taxes. So that was my only point. I believe Hope credit is actually used less than lifelong learning, because lifelong learning includes graduate courses, all the way up to Ph.D. as opposed to Hope Credit being only the first two years of college.

Donnita Wald: In fact, you don't even have to be enrolled to get the lifelong learning (can't hear).

Rep. Froelich: Could I start out taking the Hope Credit for my child and then after two years, I wouldn't qualify anymore, can you then jump over to the lifetime.

Donnita Wald: I believe you can.

Rep. Froelich: On the federal form.

Rep. Belter: As far as the tax credit goes, you can carry that credit over then or not.

Donnita Wald: I don't have an answer to that question. I don't think it is. I don't believe it is a carry forward either. I don't think it's needed.

Rep. Belter: I am thinking from a college student's standpoint, if they're filing their own income tax, they're probably at a pretty low income, so they probably aren't even paying any tax, how would it benefit them.

Donnita Wald: From what I understand, because of the income and independent qualifications for college students have changed quite a bit. I think that has changed in the last 10-15 years. So I think the parents would be claiming for the student for the credit.

Rep. Pinkerton: For the Hope Credit, it seemed like you had to have a fairly low income before you were able to accept credit, and phases out at \$110,000.

Donnita Wald: That amount has changed to \$55,000 for single returns and \$107,000 for married filing joint. Those numbers are adjusted every year for inflation, indexed for inflation.

Rep. Pinkerton: Doesn't that drop down to 20%, you have an amount that you can take and then it comes off when the university sends you the 1099T. They send you the form and there is a percentage that you can take. That percentage is quite low when you reach that high threshold income, is that correct, it gets down to 20% of the maximum.

Donnita Wald: I'm not exactly sure, that percentage is pretty low. It's still maxed out at \$1650 per student, it's not unlimited.

Rep. Pinkerton: Then this bill would allow 20% of that to go onto your state return.

Donnita Wald: That's correct, 20% if you are a national guard member or family.

Rep. Pinkerton: So of the \$1650, you're talking about \$310.00, is that correct.

Donnita Wald: Somewhere around there.

Rep. Belter: But it's 20% of the \$1650, right.

Donnita Wald: Yes, if they're able to claim the full maximum amount yes.

Rep. Belter: Which would be \$330.00.

Donnita Wald: Yes, if you had enough qualifying incentives, if your income wasn't working it's way up.

Rep. Belter: If you got the maximum so that you'd only be allowed this for two years.

Donnita Wald: Yes, for the first two years.

Rep. Belter: Thank you. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2245B

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/6/07

Recorder Job Number: 4410

Committee Clerk Signature *Penrose*

Minutes:

Rep. Belter: We will take a look at SB 2245. What are the committee's wishes.

Rep. Brandenburg: I move a Do Not Pass.

Rep. Headland: Second.

9 YES 5 NO 0 ABSENT

DO NOT PASS

CARRIER: Rep. Froseth

Date: 3-6-07
Roll Call Vote #: 2245

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Not Pass

Motion Made By Rep. Brandenburg Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		✓
Vice Chairman Drovdal	✓		Rep. Kelsh		✓
Rep. Brandenburg	✓		Rep. Pinkerton		✓
Rep. Froseth	✓		Rep. Schmidt		✓
Rep. Grande	✓		Rep. Vig		✓
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Froseth

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 6, 2007 12:33 p.m.

Module No: HR-42-4525
Carrier: Froseth
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2245, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman)
recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2245 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2245

Planning Note

CCH Analysts note that the IRS has updated their worksheets for self-employed individuals to account for the lower tax rates and the increase in the child tax credit.

.05 Code Sec. 24.	.45 Code Sec. 24(b)(3) and Code Sec. 26(a).
.10 Code Sec. 24(c).	.50 Code Sec. 24(d).
.15 Code Sec. 24(d)(1).	.55 Code Sec. 24(b).
.20 Code Sec. 24(d)(3).	.60 Act Sec. 203 of P.L. 107-16.
.25 Rev. Proc. 2005-70, I.R.B. 2005-47.	.65 Code Sec. 24(b).
.30 Code Sec. 24(d)(1).	.70 Code Sec. 6429, as amended by P.L. 108-27.
.35 Code Sec. 24(d)(1).	.75 Code Sec. 6429(b)(3), as amended by P.L. 108-27.
.40 Code Sec. 24(d)(1).	

Higher Education Credits

¶ 2223 **Credits for Higher Education Tuition.** The maximum \$1,650 per student Hope scholarship credit and a 20-percent lifetime learning credit may be elected by low- and middle-income individuals for tuition expenses incurred by students pursuing college or graduate degrees or vocational training (.05). The Hope scholarship credit provides a maximum allowable credit per student for each of the first two years of postsecondary education (.10). The lifetime learning credit allows a credit of 20 percent of qualified tuition expenses paid by the taxpayer for any year the Hope credit is not claimed (.15).

Specifically, the Hope scholarship credit initially allows taxpayers a 100-percent credit per eligible student for the first \$1,100 of tuition expenses (but not room, board, or books) and a 50-percent credit for the second \$1,100 of tuition paid. The lifetime learning credit is equal to 20-percent of the amount of tuition paid by the taxpayer and is available for the first \$10,000 of tuition for tax years beginning after 2002.

Eligible expenses

Both credits are available for qualified tuition and related expenses incurred by the taxpayer, the taxpayer's spouse, or the taxpayer's dependent at an eligible educational institution (.20). The Hope scholarship credit applies to expenses paid after December 31, 1997 (in tax years ending after that date) for education furnished in academic periods after such date. The maximum \$1,500 is allowed per student. The student must be in their first two years of post-secondary education, enrolled for at least one academic period which begins in such year, and has not been convicted of either a Federal or State felony offense for the possession of distribution of a controlled substance (.25). The lifetime learning credit applies to expenses paid after June 30, 1998 (in the tax years ending after such date) for education furnished in academic periods after such date. The maximum credit is calculated per taxpayer and does not vary based on number of students in the taxpayer's family. The credits are elective and nonrefundable (.30). Payment of qualified tuition during one tax year for an academic period that begins during the first three months of the taxpayer's next tax year may be claimed as a credit only in the tax year the expenses are paid (.35). No double benefit is permitted; the credits are not permitted to more than one taxpayer in the same year (i.e., either the parent or dependent child may take the credit), and cannot be claimed for the same expenses for which another tax benefit is also received.

Planning Note

CCH Analysts note that carefully planning by high income taxpayers could minimize the total family tax liability. If the student has sufficient income to have a tax liability and if the parents income is sufficiently high enough that the educational credit and the dependency exemption are phased out, it could lower the total amount of tax owed by the family to have the parents waive the claiming of the student's dependency

exemption. This would allow the student to claim the educational credit on their income tax return. However, as a reminder, just because the parents waived claiming the dependency exemption for the student does not mean the student is entitled to claim a personal exemption.

The \$1,000 amount of tuition expenses eligible for the Hope scholarship credit and the amount used to compute the credit under Code Sec. 25A(b)(1) are adjusted for inflation beginning after the year 2001, as will be the income limitation amounts (see following). For 2006, the \$1,000 amount of qualified tuition expenses for the Hope scholarship credit will be \$1,100. No inflation adjustment is provided for the \$10,000 tuition amounts used to determine the amount of the lifetime learning credit.

Income limitations

The allowable amount of the credits is reduced for taxpayers who have modified adjusted gross income (AGI) above certain amounts (.40). The phaseout of the credits begins for most taxpayers when modified AGI reaches \$40,000; the credits are completely phased out when modified AGI reaches \$50,000. For joint filers, the phaseout range is \$80,000 to \$100,000. Modified AGI is AGI increased by income earned outside the United States (amounts otherwise excluded from income under Code Secs. 911, 931, 933). Income earned in Puerto Rico and U.S. possessions is considered to be earned abroad. The income ranges for the phaseout of the credits will be indexed for inflation occurring after the year 2001. The income ranges for the phaseout of the educational credits for 2006 are \$45,000 to \$55,000 for single filers and \$90,000 to \$110,000 for joint filers (.45). The Hope credit and the lifetime learning credit are not available to married taxpayers who file separate returns. The credits are available to married individuals (as defined in Code Sec. 7703) only if a joint return is filed.

Coordination with other provisions

The order of use of qualified educational expenses to claim one or more of the educational incentives has been changed by Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16) (EGTRRA) and the Job Creation and Worker Assistance Act of 2002 (P.L. 107-147). Qualified educational expenses must first be reduced by any scholarships and/or fellowships, educational assistance payments and/or any other payment that are excludable for gross income (.50). Next, the remaining qualified expenses are reduced by the claiming of one of the educational credits unless the taxpayer elects *not* to claim the any educational credits. Any remaining qualified expenses are reduced by the exclusion of any distributions from a Coverdell educational savings accounts (ESAs) or qualified tuition programs (QTPs) (.55). EGTRRA made it possible to claim both an educational credit and apply any unused qualified educational expenses to distributions from ESAs or QTPs for the purpose of excluding a distribution from gross income. The Job Creation and Worker Assistance Act of 2002 (P.L. 107-147) clarified that the 10-percent tax penalty for excess distributions from ESAs or QTPs will not apply if the excess distribution is caused by the claiming of an educational credit. Finally, if any qualified expenses remain, these expense may be used to exclude from gross income the interest on Series EE U.S. Savings Bonds (.60).

Planning Note

CCH Analyst note that it is possible to use distributions from both a Coverdell educational savings account and a qualified tuition program to pay qualified educational expenses in the same tax year. In the event that the distributions exceed the qualified expenses, the taxpayer is required to allocate the expenses between the two distributions for purposes of excluding amounts from gross income (.65).