2011 SENATE FINANCE AND TAXATION

SB 2269

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2269
1/25/2011
Job Number 13334

☐ Conference Committee

A. Rittmiller

Explanation or reason for introduction of bill/resolution:

Relating to an income tax credit for a portion of higher education expenses

Minutes:

Chairman Cook opened the hearing on SB 2269.

Senator Wardner – With the aid of Joe Becker from the Tax Department and John Walstad, this was drafted. We came up with the 15%, this is adding a line so that you can take a credit, where as now you can't on the state return, you can on the federal. That's what this does.

Joe Becker, Tax Department – What the bill will do is this. Currently under federal income tax law there is an education credit allowed. They refer to that as the American Opportunity Credit and the Lifetime Learning Credit; they have been on the books for some years. That credit is calculated and claimed on a federal form 8863 which is referenced in the bill. All the bill will do is if you are claiming that credit for federal purposes, then on the state return you will be allowed 15% of that federal credit as a state credit. That's the essence of the bill. There is an item on lines 12 through 14, I did visit with Senator Wardner as to the intent of that language. My understanding is that they are trying to limit this state credit in case of a non state resident or part year resident. If that is the case then I would suggest an amendment there to change that language to refer to another section of the code where we have a ratio for those individuals. Basically, it's based on their North Dakota adjusted gross divided by their federal adjusted gross to basically limit the credit to a ratio of their North Dakota income. As the language is reading now it won't accomplish that task. The other thing that I wanted to bring to the committee's attention, on line 11, about the middle of the line, it refers to a college or university in this state. Our only concern there is the scope of that, if that is limited just to state 2 and 4 year institutions, that will be a bit narrower than the federal credit allows. I just want to go on record that our fiscal note was built upon the federal credit which would include all the post secondary institutions that qualify for the financial aid programs under federal law. So whether or not you feel a language change is needed there or not, I just wanted to make sure we went on record saying that's our understand of it right now.

Chairman Cook – Are there some institutions of higher learning that are not included in the federal credit that are located in North Dakota and would be included in this credit?

Joe Becker, Tax Department – I can't answer that, I don't know. I think the schools that are coming to mind that we're wondering if they are included here under college/university would be like vocational schools, for profit colleges, like Rasmussen, and those sorts of institutions. If those institutions qualified, or credited under federal law and can qualify for federal financial aid programs they are eligible for the federal credit.

Chairman Cook – Where do we get a list of the schools that qualify under the federal credit?

Joe Becker, Tax Department – I don't know. I presume we can make contact with the federal education department, I don't know.

Senator Burckhard – How about universities like at Minot Air Force Base? Some of the airmen take classes from Michigan University or something. They take them in class on the base. Would that university qualify?

Joe Becker, Tax Department – It depends on who we are talking about first of all. Most of those airmen are nonresidents of North Dakota. They aren't filing returns with us anyway. Beyond that, those who might be filing, would they qualify, I don't know. Assuming that particular institution is eligible as we have just been discussing. I don't know that.

Senator Triplett – Can you remind us what the phase out of the federal credits are in terms of income for single people, married people filing jointly, and such?

Joe Becker, Tax Department – I will verify this for you but the notes I have here indicate that those with an adjusted gross income of $90,000 or more or $180,000 or more in the case of a joint return, would not qualify.

Rod Landbloom – I'm appearing before you today as a parent. I'm the father of 4 children, 2 of them that have gone through institutions here in North Dakota and paid off their student loans, and I have 2 younger ones presently in Dickinson State. I was sitting down doing my taxes last year and came across the advantage that I have with the federal credit, and then I started doing the state tax. We've been promoting education in the state of North Dakota for quite a while, trying to figure out the best way to try to accommodate the interest of our economy, of our communities, and of our children, and found out that basically we are not even addressing it with a tax credit. I asked Senator Wardner to present this to the legislature as a possibility of trying to give us some relief on a tuition basis or for supplies and books that would qualify under 8863. In doing so we at least come up with some tax advantage for sending our kids to school. The 15% that is presented when talking to Senator Wardner is somewhat arbitrary at this point and I would suggest that maybe we take a look at a higher interest of maybe 25% to 30%. I realize there is a fiscal note of $4.2 million on this. So at 30% we are looking at a fiscal note of $8 million to the state. I believe it would be an investment. Investment not only by the state but an investment in our families as they pay the tuitions and support our local institutions. I do agree with the idea

that it should be confined to the institutions within the state of North Dakota. From a parents stand point I would request your support of SB 2269.

Chairman Cook asked for testimony opposed to SB 2269. No one came forward.
Chairman Cook asked for neutral testimony on SB 2269. No one came forward.

Chairman Cook closed the hearing on SB 2269.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2269
February 7, 2011
14123

☐ Conference Committee

Explanation or reason for introduction of bill/resolution:

Minutes: *Committee Work*

Senator Cook opened discussion on SB 2269 relating to an income tax credit for a portion of higher education expenses. He summarized the bill and the fiscal note. It creates a higher educational credit under section 1 of the state century code.

Discussion followed on the formula and how it works.

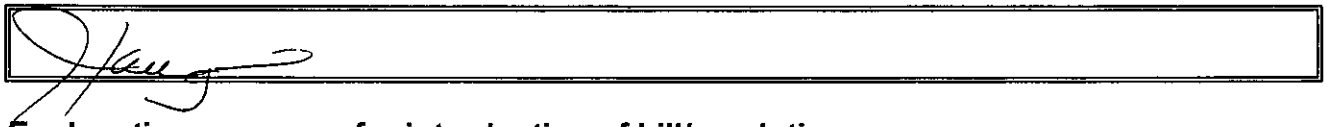
Senator Cook recessed the committee until they have a full committee to act on SB 2269.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2269
February 8, 2011
14176

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes: *Committee Work/Vote*

Senator Cook called the committee to order and opened the discussion on SB 2269. He said that it has a 6.3 million dollar fiscal note for income tax credits for college tuition.

Senator Oehlke moved a Do Not Pass.

Senator Miller seconded the motion.

Roll call vote: 6-1-0. **Motion passed.**

Carrier is **Senator Oehlke**.

FISCAL NOTE

Requested by Legislative Council
01/21/2011

Bill/Resolution No.: SB 2269

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			($6,300,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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 2269 creates a nonrefundable income tax credit for individuals based on the amount of their federal education credit (form federal Form 8863).

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.*

SB 2269 creates a state education income tax credit equal to 15% of an individual's federal education credit (on federal Form 8863). The bill requires the federal education credit to be adjusted (before applying the 15% state credit rate) by multiplying it by a ratio equal to North Dakota taxable income divided by federal taxable income. In addition, only the portion of the federal education credit that relates to attendance at a North Dakota college or university may be used in calculating the state tax credit.

Based on federal education credit statistics obtained from the IRS, it is expected that SB 2269, if enacted, will reduce state general fund revenues by an estimated $6.3 million.

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:**	01/23/2011

Date: 2-8-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2269

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod	X	
Joe Miller – Vice Chairman	X		Connie Triplett		X
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

SB 2269: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2269 was placed on the Eleventh order on the calendar.