

ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE

March 19, 2010

8:05 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Cathy Engstrom Munoz, Vice Chair
Representative Bryce Edgmon
Representative Wes Keller
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

Representative Peggy Wilson

COMMITTEE CALENDAR

HOUSE BILL NO. 367

"An Act relating to tax credits for cash contributions by taxpayers that are accepted for certain educational purposes and facilities; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 206

"An Act establishing a career assessment requirement in public schools; and relating to postsecondary courses for secondary school students."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 367

SHORT TITLE: TAX CREDITS FOR EDUCATIONAL CONTRIBUTIONS

SPONSOR(S): REPRESENTATIVE(S) MUNOZ

02/23/10	(H)	READ THE FIRST TIME - REFERRALS
02/23/10	(H)	EDC, FIN
03/10/10	(H)	EDC AT 8:00 AM CAPITOL 106
03/10/10	(H)	Heard & Held
03/10/10	(H)	MINUTE(EDC)
03/12/10	(H)	EDC AT 8:00 AM CAPITOL 106

03/12/10 (H) Heard & Held
03/12/10 (H) MINUTE(EDC)
03/19/10 (H) EDC AT 8:00 AM CAPITOL 106

BILL: HB 206

SHORT TITLE: HIGH SCHOOL ASSESSM'T/POSTSECONDARY CLASS
SPONSOR(S): EDUCATION

03/25/09 (H) READ THE FIRST TIME - REFERRALS
03/25/09 (H) EDC, FIN
03/27/09 (H) EDC AT 8:00 AM CAPITOL 106
03/27/09 (H) Heard & Held
03/27/09 (H) MINUTE(EDC)
04/03/09 (H) EDC AT 8:00 AM CAPITOL 106
04/03/09 (H) Heard & Held
04/03/09 (H) MINUTE(EDC)
04/15/09 (H) EDC AT 8:00 AM CAPITOL 106
04/15/09 (H) Heard & Held
04/15/09 (H) MINUTE(EDC)
01/20/10 (H) EDC AT 8:00 AM CAPITOL 106
01/20/10 (H) Heard & Held
01/20/10 (H) MINUTE(EDC)
02/01/10 (H) EDC AT 8:00 AM CAPITOL 106
02/01/10 (H) Scheduled But Not Heard
02/05/10 (H) EDC AT 8:00 AM CAPITOL 106
02/05/10 (H) Heard & Held
02/05/10 (H) MINUTE(EDC)
02/10/10 (H) EDC AT 8:00 AM CAPITOL 106
02/10/10 (H) Heard & Held
02/10/10 (H) MINUTE(EDC)
02/12/10 (H) EDC AT 8:00 AM CAPITOL 106
02/12/10 (H) Scheduled But Not Heard
02/15/10 (H) EDC AT 8:00 AM CAPITOL 106
02/15/10 (H) Heard & Held
02/15/10 (H) MINUTE(EDC)
02/19/10 (H) EDC AT 8:00 AM CAPITOL 106
02/19/10 (H) Heard & Held
02/19/10 (H) MINUTE(EDC)
02/22/10 (H) EDC AT 8:00 AM CAPITOL 106
02/22/10 (H) Scheduled But Not Heard
03/01/10 (H) EDC AT 8:00 AM CAPITOL 106
03/01/10 (H) Heard & Held
03/01/10 (H) MINUTE(EDC)
03/08/10 (H) EDC AT 8:00 AM CAPITOL 106
03/08/10 (H) Scheduled But Not Heard
03/17/10 (H) EDC AT 8:00 AM CAPITOL 106
03/17/10 (H) Heard & Held

03/17/10 (H) MINUTE(EDC)
03/19/10 (H) EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

KENDRA KLOSTER, Staff
Representative Cathy Munoz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 267, on behalf of the prime sponsor, Representative Cathy Munoz.

DENNIS STEFFY, Director
University of Alaska
Mining and Petroleum Training Services (MAPTS)
Soldotna, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 367.

ROBYNN WILSON, Income Audit Manager
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 367.

LES MORSE, Deputy Commissioner
Office of the Commissioner
Department of Education and Early Development
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 206.

ACTION NARRATIVE

[8:05:59 AM](#)

CHAIR PAUL SEATON called the House Education Standing Committee meeting to order at 8:05 a.m. Representatives Buch, Gardner, Munoz, Edgmon, Keller, and Seaton were present at the call to order.

HB 367-TAX CREDITS FOR EDUCATIONAL CONTRIBUTIONS

[8:06:18 AM](#)

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 367 "An Act relating to tax credits for cash contributions by taxpayers that are accepted for certain educational purposes and facilities; and providing for an effective date." [Before the committee was HB 367, Version E]

[8:07:36 AM](#)

KENDRA KLOSTER, Staff, Representative Cathy Munoz, Alaska State Legislature, referred to the responses provided to the committee, in a letter of March 16, 2010 from Johanna Bales, Tax Division, Department of Revenue, and explained the information. She referred to Attachments 1-6, which answer questions raised during the last committee meeting on Version E. She explained that Attachment 1 compares the benefit of an income tax deduction to a "credit for contribution of \$50,000,000 to a university." Attachment 1 illustrates the differences between the deduction and credit, and demonstrates that the value of the credit is much larger.

[8:09:18 AM](#)

CHAIR SEATON noted that HB 367 indicates how a credit or deduction would work. He asked whether it shows how the additional expense would affect corporations since the corporation would need to contribute 50 percent from its corporate profits.

[8:10:30 AM](#)

MS. KLOSTER stated that the scenario on Attachment 1 picked the maximum of \$50 million, which represented a tax credit in the amount of \$25 million. She explained that either a deduction or credit could be taken. She referred to Attachment 2, to assumptions that compare the order of credits. Two different types of credits were used, the Income Tax Education Credit or the Film Production Tax Credit (FPTC). The difference is that the Income Tax Education Credit (ITEC) would not have a tax carry over, unlike other tax credits such as the Film Production Tax Credit. She explained the carry-over procedure indicated on the handout. Comparing Attachments 2 and 3, Attachment 2 shows that the ITEC was fully used and results in tax credits available for future use that carry over to the next year. The amount is greater than if the ITEC was not used first.

[8:11:57 AM](#)

MS. KLOSTER referred to Attachment 4 showing the credits for FY 07, FY 08, and FY 09, which provides information requested by the committee. Attachment 5 shows a breakdown by the type of tax for FY 07, FY 08, and FY 09. She related that the last page provides suggestions from the Department of Revenue (DOR).

[8:12:46 AM](#)

REPRESENTATIVE GARDNER referred to Attachment 5. She said, "The note underneath says that the amounts do not include contributions that would have enjoyed the tax credit but the taxpayer did not claim the credit and instead claimed a deduction." She asked for the circumstances in which a taxpayer has the choice between taking a tax credit or a deduction.

MS. KLOSTER offered her belief that the taxpayer would have the choice.

CHAIR SEATON asked whether the reason is because the tax credit is limited to \$200,000 and the deduction is unlimited.

[8:14:29 AM](#)

CHAIR SEATON opened public testimony on HB 367.

[8:14:46 AM](#)

DENNIS STEFFY, Director, Mining and Petroleum Training Services (MAPTS), University of Alaska (UA), stated that his division has benefited several times from the existing statute. He commented that the division has been discussing more ambitious joint projects. He stated that the limit on the amount of deductions or credits has not been attractive. He offered his belief that raising the limit would be beneficial. He recalled that up until the 1980s donations from vendors has funded the Vocational Education Department. Technology is not something companies can donate, but "serious cash money" must be spent in order for students to become competitive. He urged passage of HB 367.

[8:16:27 AM](#)

CHAIR SEATON asked him to identify the program.

MR. STEFFY related that he is the director of the University's Mining and Petroleum Training Service, which has statewide branches wherever industry is operating. He stated that he is in Southeast Alaska for attrition work at Greens Creek Mine and

to provide training for the startup of the Kensington Mine, he stated. His division works cooperatively with industry on projects that could not be funded any other way.

[8:17:07 AM](#)

REPRESENTATIVE BUCH disclosed that he has previously worked with Mr. Steffy on international partnerships on oil and gas.

[8:17:58 AM](#)

CHAIR SEATON asked whether he has been working on petroleum processes.

MR. STEFFY answered yes, the first class was taught in 1999. He said he is not active in the program.

[8:18:26 AM](#)

REPRESENTATIVE MUNOZ asked about the infrastructure needs for the program he directs.

MR. STEFFY explained the importance of training people to work in the states petroleum and mining industry. He offered that a tremendous number of high paying jobs are available. He expressed frustration with non-Alaskans in these jobs. Currently, the division has been in Juneau training students for the Kensington, Greens Creek, Niblack, and Pogo mines using a portion of the AJ Mine. The biggest need is to obtain high technology mining machinery simulators. He emphasized that he must have a more economical way of preparing people for jobs, using portable simulators. He stated that if Alaska expands its offshore oil production, that the division will "step up" its health and safety programs including cold water survival. He has been discussing a partnership to develop a cold water survival facility in the Kenai or Soldotna area. He anticipated the facility would cost about \$11 million. He offered his belief that the bill under consideration would make doing business in Alaska more attractive to companies.

[8:21:01 AM](#)

CHAIR SEATON closed public testimony on HB 367.

[8:21:10 AM](#)

CHAIR SEATON asked for any comments from the tax division, particularly on Attachment 1. He read, "The purpose is to compare the benefit of a deduction or credit of \$50 million." The credit column indicates another \$25 million from corporate funds to the University of Alaska.

ROBYNN WILSON, Income Audit Manager, Tax Division, Department of Revenue, explained that this compares the benefit of a deduction to a credit. She compared it to federal taxes to illustrate her point. She explained that with respect to federal tax obligations, benefits exist in paying mortgage interest and subsequently deducting the interest along with other deductions, such as a child care tax since the deductions directly reduce the overall tax obligation. She referred to Attachment 1 in members' packets. Under the current statute, assuming a contribution of \$50 million, the taxpayer has a choice of a deduction or a credit, but not both. This principle of not taking both a deduction and a credit for the same contribution is in current statute. The previous example in the graph, in the second column, demonstrates the effect when the taxpayer elected to use a credit. The outcome is that the \$25 million deduction represents 50 percent of the actual contribution.

[8:23:57 AM](#)

CHAIR SEATON asked if he understood correctly, that Attachment 2 is a comparison of Attachment 3.

MS. WILSON agreed. She stated the current statute for higher education tax credit does not indicate how credits should be "ordered." She stated that some tax credits have a carryover and some do not. The reason that is important is apparent when calculating the tax obligation. When the taxpayer having a choice of tax credits, it would be helpful to place in statute that the education tax credit has priority. If the other tax credit has priority, the taxpayer could lose the benefit of the education tax credit. She said she wanted to bring this to the committee's attention. At the last hearing, she brought up "ordering" and thought it would be helpful for the committee to have an example to illustrate the different scenarios. This is true of any two credits that have different carryover number of years. She said she selected three tax credits for comparison, including the Education Tax Credit. She pointed out that the Alaska Oil and Gas Exploration and Development Credit already requires being applied first. She selected the Film Production Tax Credit (FPTC) as an example of another tax credit with carryover capabilities.

8:26:49 AM

CHAIR SEATON questioned the need to mandate that taxpayers be directed in a particular direction since it appears that complex taxpayers would be receiving these credits. He asked whether the state should mandate the structure for tax credits.

MS. WILSON suggested that the committee consider placing the structure in statute. She directed attention to Attachment 6, and explained the suggestions could be used as an amendment to clarify the priority.

CHAIR SEATON asked for clarification.

MS. WILSON explained that defining "tax due under this chapter" would apply the education tax credit as the next priority. She further explained that with the current level of the education tax credit, that it is not such an issue, but certainly if the education tax credit is bumped up the quite a bit the issue becomes more apparent.

8:29:18 AM

REPRESENTATIVE KELLER recalled "a soft recommendation" for this change. He asked whether the beneficiary of this change would be education, in general. He asked for clarification from the taxpayer's perspective.

MS. WILSON answered that it would depend on the circumstances, whether the taxpayer intended to make an education contribution or considered other credits since each taxpayer has different circumstance that will need to be considered. She offered her belief that having clear legislative intent would be helpful.

8:30:17 AM

CHAIR SEATON envisioned the suggested change would provide an incentive to use the credit

MS. WILSON characterized it as a "taxpayer friendly" amendment and would provide clarity regarding the administration of the tax.

8:31:35 AM

MS. WILSON, in response to Representative Gardner, highlighted that the education tax credit was initially drafted to apply to all the taxes and the insurance provisions are first in the statutes, under Title 21.

[8:32:10 AM](#)

REPRESENTATIVE EDGMON referred to Attachment 1 to an assumption, with read, "--company does all of its business in Alaska" and asked if that represented a side note or is a requirement.

MS. WILSON answered that it is not a requirement, but represents an assumption for this example. She said she also considered providing an example in which a taxpayer conducts business in multiple jurisdictions, which seemed complicated. She explained that Alaska taxes a piece of its income so the benefit of a deduction is lower. The point of Attachment 1 is to highlight that the benefit of a credit is more valuable than the benefit of a deduction.

[8:33:31 AM](#)

REPRESENTATIVE EDGMON referred to Attachment 4, titled "Alaska Education Tax Credit Credits Claimed" and asked the reason the Fishery Resource Landing Tax dramatically decreased from FY 08 to FY 09.

MS. WILSON said she did not know.

[8:33:56 AM](#)

REPRESENTATIVE KELLER turned to Attachment 6, and asked whether currently the taxpayer has the choice to prioritize the education tax credit or another credit. He asked whether ambiguity in the statute is the reason for the suggested language change.

MS. WILSON agreed there is ambiguity in the law. This is a policy call for the committee to decide. The examples provided in Attachments 2 and 3 should help with the decision.

[8:35:18 AM](#)

CHAIR SEATON, with respect to applying tax credits, asked if any issues arise for a "complex" taxpayer applying for multiple credits as to the prioritization of the tax credits.

MS. WILSON offered the statute changes would help make the tax credit application process clear. Currently, as the statutes are amended to allow for additional tax credits, it becomes problematic for the department.

[8:36:26 AM](#)

REPRESENTATIVE GARDNER asked for the distinction between deductions and credits in the bill. She further asked whether federal charitable contributions are deductions or credits.

MS. WILSON referred to page 5, line 23-28 to AS 43.20.014(d), which read, "also be allowed as a deduction under 26 U.S.C.170 against the tax imposed by this chapter; and[.]" She interpreted that to mean that Alaska bases its taxes on corporations starting with federal taxable income. Thus, the federal return, with some modifications is used to calculate the Alaska tax. She highlighted that 26 U.S.C.170 references the provision of the Internal Revenue Code that allows the charitable contribution. The section outlines that if a taxpayer claims a credit, a deduction cannot also be claimed.

REPRESENTATIVE GARDNER asked whether charitable donations earn a credit or a deduction under federal law.

MS. WILSON stated that under the federal code, charitable donations have a tax deduction benefit, similar to a personal tax return.

[8:39:08 AM](#)

REPRESENTATIVE BUCH asked whether this is the first time that priorities have been aligned in Alaska.

MS. WILSON cited AS 43.20.043, the Tax Development and Exploration Credit, which creates a prioritized credit that specifies the tax credit will be applied first. She remarked that the Congress has been specific about which credits are applied first for federal tax credits.

[8:40:18 AM](#)

CHAIR SEATON referred to Attachment 6 and asked Ms. Wilson to explain the next DOR suggested edit to HB 367.

[8:40:28 AM](#)

MS. WILSON explained that the current statute indicates that a taxpayer cannot claim more than \$150,000 for the education tax credit. She provided a scenario in which a taxpayer was subject to the corporate income tax and the fisheries business tax. The statute says the taxpayer cannot claim more than a \$150,000 credit, but could apply the credit "wherever the taxpayer sees fit" between the corporate tax, fish tax, or some combination of taxes. However, the definition of taxpayer is fundamentally the problem. She described another scenario in which a big oil corporate company performs work in Alaska. The department would expect to have subsidiaries, such as pipeline, exploration and production, and marketing companies. Those corporations commonly file one tax return.

MS. Wilson related that when the education tax credit was initially enacted, the minutes show the intent was to give a single \$150,000 credit to the oil company. However, since the definition refers to the individual corporation, it is not clear whether the corporation is entitled to receive one credit or three \$150,000 credits. Additionally, using that scenario, it is possible that two would file a consolidated tax return and one would file separately and the question of the amount of tax credit is also unclear. This ambiguity also exists in the fisheries business tax area. She suggested that if the legislative intent is to offer one \$150,000 credit, the statute should be amended to clarify the intent. She referred again to Attachment 6 to the suggested language change, which defines "affiliated group" so the tax credit would apply to the group. She further explained that it could be expanded to all tax types and to related tax groups.

[8:44:36 AM](#)

CHAIR SEATON referred to page 5, line 19 of Version E, to AS 43.20.014(d) which read

(d) A contribution claimed as a credit under this section may not

(1) be **the basis for a credit** claimed [AS A CREDIT] under another provision of this title;

(2) also be allowed as a deduction under 26 U.S.C. 170 against the tax imposed by this chapter; and

(3) when combined with **contributions that are the basis for** credits..."

CHAIR SEATON asked if any distinction exists and whether this refers to existing language.

MS. WILSON responded that she used existing statute and did not consider the specific language in HB 367. She referred to the language in paragraph (3), "...**contributions that are the basis for...**" and related her understanding this will not change the meaning but does provide a clear statement of what is already in statute. She drew attention to the language in the Attachment 6, which read, "**If the taxpayer is a member of an affiliated group, then the credit may not exceed \$150,000 for the affiliated group.**" She explained that clearly limits the credit to a single tax credit of \$150,000 and if the credit is increased, that figure would be replaced with the new credit.

[8:46:31 AM](#)

CHAIR SEATON asked whether the DOR has any issue with the language previously mentioned in paragraph (3) of Version E.

MS. WILSON agreed. She pointed out that Attachment 6 would add a definition for "affiliated group." She explained that definition is in statute at AS 43.20.073 would be duplicated in this bill.

[8:47:31 AM](#)

MS. WILSON, in response to Representative Munoz, referred to Attachment 6, and statutes that should be conformed, as well.

CHAIR SEATON advised that the matter could be handled as a conceptual amendment that would make the changes uniformly throughout the bill.

[8:48:44 AM](#)

REPRESENTATIVE KELLER made a motion to adopt Conceptual Amendment 1, which read:

On page 5, line 26:

If the taxpayer is a member of an affiliate group the credit made not exceed \$25 million for the affiliated group.

AS 43.20.014(e)(3) "affiliated group" means a group of two or more corporations in which 50 percent or more

of the voting stock of each member of the group is directly or indirectly owned by one or more corporate or noncorporate common owners, or by one or more of the members of the group.

Similar language to be added to other provisions of the other taxes to which the credit would apply [AS 21.89.070, 21.89.074, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018 and AS 43.77.045].

8:50:22 AM

REPRESENTATIVE KELLER clarified his Conceptual Amendment 1 would include language to paragraph (3), as follows:

Following "with"

Insert: "when combined with **contributions that are the basis for** credits taken during the taxpayer's tax year under AS 21.89.070, 21.89.075, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045..."

CHAIR SEATON that specific language is currently in Version E.

There being no objection, Conceptual Amendment 1 was adopted.

8:51:12 AM

CHAIR SEATON added that the language for Conceptual Amendment 1 is taken from Attachment 6, adding the affiliate group definition to all taxes.

8:51:56 AM

CHAIR SEATON stated there is also a recommendation by the DOR to consider edits to prioritize Education Credit before other tax credits.

CHAIR SEATON made a motion to adopt Conceptual Amendment 2, to add a paragraph as follows:

AS 43.20.014(e)(2) "tax due under this chapter" means the tax liability after application of the credit under AS 43.20.043 and before application of any other credits allowable under this chapter.

REPRESENTATIVE KELLER objected. He said there does not appear to be enough information to support adding the language in Conceptual Amendment 2.

[8:53:17 AM](#)

CHAIR SEATON suggested that he initially had that trepidation. However, future revenue officers and commissioners could change the usefulness of the tax credit by interpreting this in an ambiguous manner. He suggested that Conceptual Amendment would provide necessary clarity.

REPRESENTATIVE KELLER offered that is possible. However, he offered his belief that it may be important to allow the industry to decide how to apply the tax credits. He suggested that if the industry would like to "go a step further" that this bill has another committee of referral and the issue could be handled in that committee.

REPRESENTATIVE EDGMON echoed the previous comments. He stated that on the surface the bill seems simple, but the details of HB 367 have far reaching implications. He suggested that it may be important to have more discussions to delve into the impacts of HB 367.

[8:55:58 AM](#)

CHAIR SEATON asked about the possible consequences of adopting Conceptual Amendment 2.

MS. WILSON advised that Conceptual Amendment 2 would give the DOR clear guidance in preparing regulations and tax return form. It would maximize the credit usage for the education credit. She stated that "clearing up the ambiguity would be the biggest benefit." She was not aware of any downside.

CHAIR SEATON related that if Conceptual Amendment 2 was adopted, and taxpayers had concerns, the language could be removed from the bill. He expressed concern that if the DOR would like more direction and guidance to "write" regulations with any downside to the industry, that his preference is to adopt Conceptual Amendment 2.

REPRESENTATIVE KELLER maintained his objection. He opined the statute could be made ambiguous in another way.

[8:59:27 AM](#)

CHAIR SEATON restated Conceptual Amendment 2, as follows:

AS 43.20.014(e)(2) "tax due under this chapter" means the tax liability after application of the credit under AS 43.20.043 and before application of any other credits allowable under this chapter.

CHAIR SEATON asked whether that language also needs to apply to other sections of the bill.

MS. WILSON answered yes.

CHAIR SEATON related Conceptual Amendment 2 is a conceptual amendment.

9:00:03 AM

A roll call vote was taken. Representatives Buch, Munoz, Edgmon, and Seaton voted in favor of Conceptual Amendment 2. Representatives Keller and Gardner voted against it. Therefore, Conceptual Amendment 2 was adopted by a vote of 4-2.

[The clerk reported the tally as 4-2.]

CHAIR SEATON asked for a count. He asked to void the tally. REPRESENTATIVE GARDNER indicated her vote was a "Yea" vote. He stated that the vote would be retaken.

9:00:10 AM

REPRESENTATIVE KELLER stated in lieu of time he would like to remove his objection.

CHAIR SEATON announced that Conceptual Amendment 2 was adopted.

9:02:47 AM

REPRESENTATIVE EDGMON related that he is still "catching up" and has some questions. He said he supports the concept, but has concern over the fiscal impact. He said he does not feel he has a full understanding of the fiscal impact at this point.

CHAIR SEATON reported that the fiscal note is an indeterminate fiscal note.

REPRESENTATIVE BUCH agreed with Representative Edgmon. He said he would like more time to have confidence we are moving in the right direction. He stated that he would like another hearing on the bill.

CHAIR SEATON stated several members would like another hearing.

[HB 367 was held over.]

[9:06:06 AM](#)

HB 206-HIGH SCHOOL ASSESSM'T/POSTSECONDARY CLASS

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 206, "An Act establishing a career assessment requirement in public schools; and relating to postsecondary courses for secondary school students."

[Although not formally stated, HB 206, labeled 26-LS0765\S, Mischel/4/22/09 was before the committee.]

[9:07:10 AM](#)

REPRESENTATIVE GARDNER asked whether any amendments were on the table.

CHAIR SEATON reported that Conceptual Amendment 7 was previously adopted by a vote of 5-2.

[9:07:54 AM](#)

LES MORSE, Deputy Commissioner, Office of the Commissioner, Department of Education and Early Development (DEED), asked to address questions surrounding the WorkKeys, discuss which grade level would be most appropriate for WorkKeys, discuss transcripts versus cumulative records, and make comments on the high school graduation qualifying exam. He raised the first issue, whether the qualifying exam should be given to in 11th or 12th grade. He offered his belief that it comes down to a question of whether the exam is for adults to assess which situation is best for a student's employment situation or for a student to prepare for what he/she chooses to do next. He said it seems to make sense to the department and the board that administering the test in 11th grade gives the student an opportunity to assess what he/she may wish to do differently in their 12th grade, prior to graduation. This would not prohibit students from retaking the test, but the requirement should lie

in the 11th grade. Thus, it explains the DEED's position, since it allows the student to have information to change his/her behavior in their final year of high school. He suggested the qualifying exam may motivate the student in combination with an ACT or SAT exams.

9:09:54 AM

CHAIR SEATON stated his intention is not to move the bill from committee. He related that if the information was going to be on the transcript, the text could be taken a second time. He asked for the cost, noting the Department of Labor & Workforce Development offers WorkKeys. He asked whether the school district could accept the WorkKeys if it was taken as a senior at the DLWD or if the exam must be administered through school.

MR. MORSE said he was not certain. He offered to work with the DLWD and review any interdepartmental agreements. He commented that the department shares data with the DLWD. He assumed that the DEED would obtain the data from the DLWD and he was unsure if the mechanism was in place to do so. He offered his belief that students could retake the examination in the 12th grade if the mechanism was set in place. He recalled that the current regulations allow charging students for retaking the exam, although he thought the fees were low. He offered to research the issue and provide the information to the committee.

CHAIR SEATON asked him to provide the current or projected fee for retaking the exam in the 12th grade.

MR. MORSE agreed to provide the information.

9:12:17 AM

MR. MORSE continued with an issue from the last hearing, transcripts versus cumulative records. He reported that all of the assessments that are statewide assessments require the results be placed in the "cum" [cumulative] record, which is a file of student performances during the school period. This collection provides background information for educators who are trying to determine how to assist a particular student. He related the cumulative record is different than a transcript, which is a summary of "one timeframe." The high school transcript is a summary record of all the high school courses taken, attendance, and includes the high school graduation qualifying exam (HSGQE) results.

9:13:31 AM

MR. MORSE, in response to Representative Edgmon, explained that "cum" refers to the cumulative record during the school experience.

9:14:01 AM

CHAIR SEATON recapped that the assessment would be on the high school transcript and the score of the high school graduation qualifying examination (HSGQE) would be on the transcript.

MR. MORSE answered that currently the school district is required to place the HSGQE score as a "pass" or "no pass" which is the only assessment on the transcript. He stated that it is a burden to a school district, which is usually performed as a management recordkeeping system function that brings in the score to the student record. In further response to Chair Seaton, he clarified that the HSGQE is a "pass" or "did not pass" score, which is electronically listed.

9:15:17 AM

REPRESENTATIVE KELLER asked if any indication of WorkKeys is on the diploma.

9:15:39 AM

CHAIR SEATON recalled that the WorkKeys information is not on the diploma but is on the transcript. He referred to page 2, lines 13-14, "the assessment shall be displayed in summary form on the student's high school transcript." He asked whether an employer would use a transcript to know the level of student's preparedness.

MR. MORSE offered that typically, if an employer wishes to see the student's performance, the transcript, as the universal tool, would provide that information. However, an employer could ask a student if he/she has taken the WorkKeys and if so, ask for the results. Additionally, the student could request the information from their high school from their "cum" record. He did not recall the timeframe, but thought the records are retained for 70 years.

9:18:51 AM

MR. MORSE, in response to Chair Seaton, explained that a transcript is a one-page document. It tells the course taken and reflects the grade earned. He stated that most of the information fits on one page. The transcript is sent when a student, through the registrar, requests that a transcript be sent or by obtaining a certified copy of the transcript. Typically, the transcript is sent to a college or university.

CHAIR SEATON suggested the committee would like the diploma to be more useful and accessible. It could be the transcript or the WorkKeys document could be forwarded to an employer as a separate item from the transcript. He offered his appreciation for any efforts to help the committee determine a better way to disseminate the information available to the employer.

[9:20:43 AM](#)

REPRESENTATIVE KELLER asked for clarification on the summary form on the high school transcript. He assumed the school district would need to determine the content and the burden of providing the mechanism to obtain a full report. He said it seemed like it would raise the value of the transcript to have the WorkKeys summary listed, with a means to access additional information for the full WorkKeys transcript.

MR. MORSE offered his view that summary information would provide the level achieved on each test. For example, in math the student would have attained a bronze, silver, or gold level. It may be possible to add a line to read, "Full record can be requested from Registrar's office," but the student would need to give permission, since that right is provided under the student's federal rights. He said he could speak to the cost, but school districts would need to obtain information on the programming costs.

[9:22:41 AM](#)

REPRESENTATIVE GARDNER thought the committee was making this matter more complicated than necessary. She suggested that a diploma means the student met the graduation requirements; a transcript lists grades, attendance records, and she anticipated that if the legislature adds WorkKeys, that the transcript would list the WorkKeys score level. She did not recall any employer or college ever needing more information than the transcript.

[9:23:33 AM](#)

The committee took an at-ease from 9:23 a.m. to 9:42 a.m. as the fire alarm sounded and members left the building.

9:42:06 AM

CHAIR SEATON brought the committee back to order. [Members present were Representatives Buch, Gardner, Edgmon, Munoz, and Seaton.]

9:42:38 AM

MR. MORSE reported that he researched a prior question during the break, and according to regulations, if a student repeats the HSGQE in their 12th grade and improves his/her score, there is not any charge for the examination. If not, the student could be charged by the school district.

9:43:13 AM

MR. MORSE stated that the State Board of Education and Early Development supports keeping the HSGQE in place. The board would like to take a view of the comprehensive assessment system and accountability system and not change pieces at this time. He stated that the state must ensure its compliance at the federal level and some potential changes will occur in the next year or so. He cautioned that the state does not want to be out of "sync" with the federal requirements. The board's position is that the qualifying examination is accomplishing a goal of ensuring that students graduate with a minimum set of skills and recommends keeping the exam in place at this time, although some further work could be valuable. He remarked that it is important that the WorkKeys be a separate issue since the exams fulfill different purposes. The HSGQE tests the state's content standards. He referred to a document in members' packets titled "HSGQE Proficiency Descriptors and WorkKeys Skill Levels," although he related he did not want to cover this in detail. However, some skills are covered on one exam but not on the other exam. The examinations cover different things. He pointed out that the document describes the different levels of WorkKeys requirements. He offered his belief that WorkKeys can be an important test for information, but should not be used as a "high stakes individual student test." He said he would be reluctant to use the exam since the "high stakes" student test potentially may deny students a diploma and the vendor must use vendor rules. The state would not be able to devise state rules, particularly as it relates to accommodations.

9:46:06 AM

MR. MORSE said he learned that "signing" is not allowed on the WorkKeys assessments although "signing" is allowed on all state-developed tests. In response to Chair Seaton, he acknowledged that he was referring to the American Sign Language when he referred to "signing." He added that the presumption is that someone who cannot hear could read.

9:46:40 AM

MR. MORSE related that WorkKeys assessments provide information, but he would not consider using it as a "high stakes" tool or any vendor product as a "high stakes" tool. He mentioned that another question was a request for analysis on certification levels and WorkKeys equivalent to the HSGQE. He related that the DEED attempted to compare students who took the WorkKeys in 11th grade to their 10th grade HSGQE's scores. The question was to examine how well students perform on the HSGQE relative to their WorkKeys level of Bronze, Silver, Gold, or Platinum. He suggested more students will provide more sophisticated analysis. So far, the school district has less than 390 students, which is not enough to make a judgment since the sample is too small. Generally, those students obtaining a silver or gold level or higher passed the HSGQE. Typically, some students achieving a bronze level did not pass the HSGQE. He explained that next year the whole student population will take the WorkKeys and the DEED will be able to provide better analysis.

MR. MORSE, in response to Chair Seaton, related the DEED will have the data to easily be able to compare. In further response to Chair Seaton, he stated that a report could be provided to the committee.

9:49:00 AM

MR. MORSE related that if the "high stakes" nature of the HSGQE was removed but WorkKeys content tested the same areas that one content test in WorkKeys is not given on the HSGQE. Currently, the DEED offers some subtests on reading comprehension and math, but the open-ended writing and grammar tests in the HSGQE are not covered in WorkKeys. He also related that some detailed skills are not tested that are on the standards. He stated that the state board could change their regulations to include all content areas.

MR. MORSE commented that the original purpose of the HSGQE was to give graduates the basic skills. Since its inception in 2005, more students are graduating today. The state has gone from a 61.4 percent to 67.5 percent graduation rate. Additionally, the Special Education population group has improved from 39.6 to 43.6 percent. While more improvement is needed, some improvement has been made, he stated.

[9:51:24 AM](#)

REPRESENTATIVE GARDNER asked whether the HSGQE is the reason for the increase in graduates and it may be an incidental result.

MR. MORSE acknowledged that the DEED has not performed a study to pinpoint the increase. He agreed that other improvements in the standards-based movement or other things could have impacted the graduation rate. However, if the rates had decreased, the department would consider whether the HSGQE was preventing some students from graduating.

REPRESENTATIVE GARDNER offered her belief that testimony has been given that does show it prevents some students from graduating. She related that the "high stakes" refers to students who have otherwise met course requirements, but have not passed the HSGQE and cannot graduate.

MR. MORSE reported that in the class of 2008, at 12th grade level, 270 students did not graduate since they did not pass the HSGQE, but met other requirements. In 2008, 1,926 12th grade students did not graduate, but passed all parts of HSGQE exam. In those instances, the local requirements interfered with graduation. The majority of those not graduating are actually passing the exam, he concluded.

[9:54:04 AM](#)

REPRESENTATIVE GARDNER related that the 1,976 may include students who decide they do not need to go to school since they passed the exam.

MR. MORSE said he did not think it would apply to the specific population since most of the students passed the exam in 10th or 11th grade, but were still appearing in school in the 12th grade. He suggested he does not have any survey or data of the number of students who leave due to that reason. He offered his belief that number would be small.

[9:54:58 AM](#)

MR. MORSE, in response to Chair Seaton, offered that these 270 students obtained a certificate of achievement, which means that they achieved the local requirements but did not pass the HSGQE. The 1,926 students did not receive anything since they needed to pass local requirements prior to graduation. He suggested those students may have returned and finished high school the next year. He pointed out that 69.1 percent of the 2,787 seniors did not graduate. Thus, the 1,926 students represent the 69.1 percent of the students who were seniors but did not graduate.

CHAIR SEATON referred to that figure as the dropout population. He said it may not be the total figure since some students will return and graduate in their 5th year. He assumed the DEED has the identifying student number and will follow up to obtain an outcome. He asked him to provide the committee with the report.

MR. MORSE agreed to do so. He said it is important to note that 30 percent of dropouts come back the next year. Some of them will drop out again. Nearly 20 percent of students have been in the dropout population two times.

[9:57:22 AM](#)

REPRESENTATIVE BUCH said he was encouraged at the enhanced graduation rates. He recalled that the state has enhanced the investment. He said that some teachers have stated that the Special Education investment is huge. He asked for the percentage of investment for special education students since 2005.

[9:58:55 AM](#)

MR. MORSE said he believed that the funding has increased for all students, as well as for the intensive special education students, who may never earn a diploma. He related that school districts are providing better education for all teachers on how to teach all students. He related a scenario in which 2 of 30 students in a classroom are special education students. He stated that the teacher training is more sophisticated on how to help those students. He related that this has improved due to technical assistance at the state and federal level. Additionally, it has improved due to the investment the legislature has made in education.

REPRESENTATIVE BUCH said he is encouraged. He just wondered about the shift in funding since the legislature spends more funds on education. He did not disagree with the changes or shift, but expressed an interest in knowing the percentage.

[10:00:33 AM](#)

REPRESENTATIVE MUNOZ asked for an example of the HSGQE.

MR. MORSE offered to provide an "item sampler" that would give feel for the items on a test.

[HB 206 was held over.]

[10:01:05 AM](#)

HB 367-TAX CREDITS FOR EDUCATIONAL CONTRIBUTIONS

CHAIR SEATON announced that the committee would take up HB 367.

REPRESENTATIVE MUNOZ made a motion to offer a Conceptual Amendment 3 to lower the tax credit from \$25 million to \$5 million.

CHAIR SEATON referred to page 3, line 25, and stated the Conceptual Amendment 3 would lower the tax credit from \$25 million to \$5 million.

REPRESENTATIVE BUCH objected for purpose of discussion.

REPRESENTATIVE BUCH offered to assist. He removed his objection. There being no objection, Conceptual Amendment 3 was adopted.

[HB 367 was held over.]

[10:03:18 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 10:03 a.m.