

1 **NONRESIDENT TUITION WAIVER AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Carl Wimmer**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill repeals an exemption from the nonresident portion of total tuition within the
10 State System of Higher Education.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ repeals the provision that, if allowed under federal law, a student, other than a
14 nonimmigrant alien, is exempt from the nonresident portion of total tuition if the
15 student:

- 16 • attended high school in the state for three or more years; and
- 17 • graduated from a high school or received its equivalent in the state; and

18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill takes effect on July 1, 2011.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **53B-13a-102**, as last amended by Laws of Utah 2004, Chapter 10

26 **63G-11-104**, as last amended by Laws of Utah 2010, Chapter 191

27 REPEALS:



28 **53B-8-106**, as enacted by Laws of Utah 2002, Chapter 230

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **53B-13a-102** is amended to read:

32 **53B-13a-102. Definitions.**

33 As used in this chapter:

34 (1) "Cost of attendance" means the total of costs payable to the institution, plus other
35 direct educational expenses and transportation and living expenses while attending the
36 institution, set forth in institutional cost-of-attendance budgets which meet criteria established
37 by board rules.

38 (2) (a) "Eligible student" means a financially needy student who is:

39 (i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at
40 least a half-time basis, as defined by the board, in an eligible postsecondary program leading to
41 a defined education or training objective, as defined by the board; and

42 (ii) ~~[(A)]~~ a resident student under Section 53B-8-102 and rules of the board~~[-or].~~

43 ~~[(B) exempt from paying the nonresident portion of total tuition under Section~~
44 ~~53B-8-106.]~~

45 (b) "Eligible student" does not include a graduate student.

46 (3) "Federal poverty guideline" means the federal poverty measure issued each year by
47 the U.S. Department of Health and Human Services in the Federal Register.

48 (4) "Financial aid" means grants or work-study stipends to financially needy students
49 enrolled or accepted for enrollment at a Utah postsecondary institution.

50 (5) "Financially needy student" means a student who demonstrates, on the basis of
51 criteria established by the board, the financial inability, either through the student's parents or
52 family, or personally, to meet all or a portion of the total cost of attendance at an institution for
53 any period of attendance as defined by the board.

54 (6) "Fiscal year" means the fiscal year of the state.

55 (7) "Program" means the Utah Centennial Opportunity Program for Education.

56 (8) "Utah postsecondary institution" or "institution" means:

57 (a) an institution of higher education listed in Section 53B-1-102; or

58 (b) a Utah private, nonprofit postsecondary institution that is accredited by a regional

59 accrediting organization recognized by the board.

60 Section 2. Section **63G-11-104** is amended to read:

61 **63G-11-104. Receipt of state, local, or federal public benefits -- Verification --**
62 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

63 (1) As used in this section, "federal program" means the Systematic Alien Verification
64 for Entitlements Program operated by the United States Department of Homeland Security or
65 an equivalent program designated by the Department of Homeland Security.

66 (2) Except as provided in Subsection (4) or when exempted by federal law, an agency
67 or political subdivision of the state shall verify the lawful presence in the United States of an
68 individual at least 18 years of age who applies for:

69 (a) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

70 (b) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
71 agency or political subdivision of this state.

72 (3) This section shall be enforced without regard to race, religion, gender, ethnicity, or
73 national origin.

74 (4) Verification of lawful presence under this section is not required for:

75 (a) any purpose for which lawful presence in the United States is not restricted by law,
76 ordinance, or regulation;

77 (b) assistance for health care items and services that:

78 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
79 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

80 (ii) are not related to an organ transplant procedure;

81 (c) short-term, noncash, in-kind emergency disaster relief;

82 (d) public health assistance for immunizations with respect to immunizable diseases
83 and for testing and treatment of symptoms of communicable diseases whether or not the
84 symptoms are caused by the communicable disease;

85 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
86 intervention, and short-term shelter, specified by the United States Attorney General, in the
87 sole and unreviewable discretion of the United States Attorney General after consultation with
88 appropriate federal agencies and departments, that:

89 (i) deliver in-kind services at the community level, including through public or private

90 nonprofit agencies;

91 (ii) do not condition the provision of assistance, the amount of assistance provided, or
92 the cost of assistance provided on the income or resources of the individual recipient; and

93 (iii) are necessary for the protection of life or safety;

94 [~~(f)~~ the exemption for paying the nonresident portion of total tuition as set forth in
95 Section 53B-8-106;]

96 [~~(g)~~ (f) an applicant for a license under Section 61-1-4, if the applicant:

97 (i) is registered with the Financial Industry Regulatory Authority; and

98 (ii) files an application with the state Division of Securities through the Central
99 Registration Depository;

100 [~~(h)~~ (g) a state public benefit to be given to an individual under Title 49, Utah State
101 Retirement and Insurance Benefit Act;

102 [~~(i)~~ (h) a home loan that will be insured, guaranteed, or purchased by:

103 (i) the Federal Housing Administration, the Veterans Administration, or any other
104 federal agency; or

105 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

106 [~~(j)~~ (i) a subordinate loan or a grant that will be made to an applicant in connection
107 with a home loan that does not require verification under Subsection (4)[~~(i)~~](h); and

108 [~~(k)~~ (j) an applicant for a license issued by the Department of Commerce, if the
109 applicant provides the Department of Commerce:

110 (i) certification, under penalty of perjury, that the applicant is:

111 (A) a United States citizen;

112 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

113 (C) lawfully present in the United States; and

114 (ii) a valid driver license number for a driver license issued by:

115 (A) Utah; or

116 (B) a state other than Utah that as part of issuing the driver license verifies an
117 individual's lawful presence in the United States.

118 (5) An agency or political subdivision required to verify the lawful presence in the
119 United States of an applicant under this section shall require the applicant to certify under
120 penalty of perjury that:

- 121 (a) the applicant is a United States citizen; or
- 122 (b) the applicant is:
 - 123 (i) a qualified alien as defined in 8 U.S.C. Sec. 1641; and
 - 124 (ii) lawfully present in the United States.
- 125 (6) An agency or political subdivision shall verify a certification required under
- 126 Subsection (5)(b) through the federal program.
- 127 (7) (a) An individual who knowingly and willfully makes a false, fictitious, or
- 128 fraudulent statement or representation in a certification under Subsection (4)~~(k)~~(j) or (5) is
- 129 subject to the criminal penalties applicable in this state for:
 - 130 (i) making a written false statement under Subsection 76-8-504(2); and
 - 131 (ii) fraudulently obtaining:
 - 132 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or
 - 133 (B) unemployment compensation under Section 76-8-1301.
- 134 (b) If the certification constitutes a false claim of United States citizenship under 18
- 135 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
- 136 States Attorney General for the applicable district based upon the venue in which the
- 137 application was made.
- 138 (8) An agency or political subdivision may adopt variations to the requirements of this
- 139 section that:
 - 140 (a) clearly improve the efficiency of or reduce delay in the verification process; or
 - 141 (b) provide for adjudication of unique individual circumstances where the verification
 - 142 procedures in this section would impose an unusual hardship on a legal resident of Utah.
- 143 (9) It is unlawful for an agency or a political subdivision of this state to provide a state,
- 144 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.
- 145 (10) A state agency or department that administers a program of state or local public
- 146 benefits shall:
 - 147 (a) provide an annual report to the governor, the president of the Senate, and the
 - 148 speaker of the House regarding its compliance with this section; and
 - 149 (b) (i) monitor the federal program for application verification errors and significant
 - 150 delays;
 - 151 (ii) provide an annual report on the errors and delays to ensure that the application of

152 the federal program is not erroneously denying a state or local benefit to a legal resident of the
153 state; and

154 (iii) report delays and errors in the federal program to the United States Department of
155 Homeland Security.

156 Section 3. **Repealer.**

157 This bill repeals:

158 Section **53B-8-106, Resident tuition -- Requirements -- Rules.**

159 Section 4. **Effective date.**

160 This bill takes effect on July 1, 2011.

Legislative Review Note
as of 9-28-10 7:58 AM

Office of Legislative Research and General Counsel