

**NONRESIDENT TUITION AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Richard A. Greenwood**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

- attended high school in this state for three or more years; and
- graduated from a high school or received its equivalent in this state; and

▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2010.

**Utah Code Sections Affected:**

AMENDS:

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

**63G-11-104**, as last amended by Laws of Utah 2009, Chapter 138

REPEALS:



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



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) Except as provided in Subsection (3) or where exempted by federal law, an agency  
64 or political subdivision of the state shall verify the lawful presence in the United States of an  
65 individual at least 18 years of age who has applied for:

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

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

69 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or  
70 national origin.

71 (3) Verification of lawful presence under this section is not required for:

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

74 (b) assistance for health care items and services that are necessary for the treatment of  
75 an emergency medical condition, as defined in 42 U.S.C., Sec. 1396b(v)(3), of the individual  
76 involved and are not related to an organ transplant procedure;

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

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

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

85 (i) deliver in-kind services at the community level, including through public or private  
86 nonprofit agencies;

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

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

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

92 ~~[(g) (f) an applicant for a license under Section 61-1-4, if the applicant is registered~~  
93 ~~with the Financial Industry Regulatory Authority and files an application with the state~~  
94 ~~Division of Securities through the Central Registration Depository;~~

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

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

98 ~~(i) the Federal Housing Administration, the Veterans Administration, or any other~~  
99 ~~federal agency; or~~

100 ~~(ii) an enterprise as defined in 12 U.S.C., Sec. 4502; and~~

101 ~~[(j) (i) a subordinate loan or a grant that will be made to an applicant in connection~~  
102 ~~with a home loan that does not require verification under Subsection (3) [(i) (h)].~~

103 ~~(4) An agency or political subdivision required to verify the lawful presence in the~~  
104 ~~United States of an applicant under this section shall require the applicant to certify under~~  
105 ~~penalty of perjury that:~~

106 ~~(a) the applicant is a United States citizen; or~~

107 ~~(b) the applicant is:~~

108 ~~(i) a qualified alien as defined in 8 U.S.C., Sec. 1641; and~~

109 ~~(ii) lawfully present in the United States.~~

110 ~~(5) An agency or political subdivision shall verify a certification required under~~  
111 ~~Subsection (4)(b) through the Systematic Alien Verification for Entitlements Program,~~  
112 ~~hereafter referred to in this section as the "program," operated by the United States Department~~  
113 ~~of Homeland Security or an equivalent program designated by the Department of Homeland~~  
114 ~~Security.~~

115 ~~(6) (a) An individual who knowingly and willfully makes a false, fictitious, or~~  
116 ~~fraudulent statement or representation in a certification under Subsection (4) is subject to the~~  
117 ~~criminal penalties applicable in this state for:~~

118 ~~(i) making a written false statement under Subsection 76-8-504(2); and~~

119 ~~(ii) fraudulently obtaining public assistance program benefits under Sections 76-8-1205~~  
120 ~~and 76-8-1206 or unemployment compensation under Section 76-8-1301.~~

121 (b) If the certification constitutes a false claim of U.S. citizenship under 18 U.S.C.,  
122 Sec. 911, the agency or political subdivision shall file a complaint with the United States  
123 Attorney General for the applicable district based upon the venue in which the application was  
124 made.

125 (7) An agency or political subdivision may adopt variations to the requirements of this  
126 section which:

127 (a) clearly improve the efficiency of or reduce delay in the verification process; or

128 (b) provide for adjudication of unique individual circumstances where the verification  
129 procedures in this section would impose an unusual hardship on a legal resident of Utah.

130 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,  
131 local, or federal benefit, as defined in 8 U.S.C., Sec. 1611 and Sec. 1621, in violation of the  
132 provisions of this section.

133 (9) Each state agency or department that administers a program of state or local public  
134 benefits shall:

135 (a) provide an annual report to the governor, the president of the Senate, and the  
136 speaker of the House regarding its compliance with this section; and

137 (b) (i) monitor the program for application verification errors and significant delays;

138 (ii) provide an annual report on the errors and delays to ensure that the application of  
139 the program is not erroneously denying a state or local benefit to a legal resident of the state;  
140 and

141 (iii) report delays and errors in the program to the United States Department of  
142 Homeland Security.

143 **Section 3. Repealer.**

144 This bill repeals:

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

146 **Section 4. Effective date.**

147 This bill takes effect on July 1, 2010.

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**Legislative Review Note**  
as of 2-12-10 4:36 PM

**Office of Legislative Research and General Counsel**

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**H.B. 428 - Nonresident Tuition Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Approximately 400 identified non-citizen students currently generate about \$1.5 million in tuition to various institutions in the Utah System of Higher Education. To the extent that those students choose to forgo higher education due to the price change enacted by this bill, the Utah System of Higher Education would experience revenue losses and cost reductions.

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**Individual, Business and/or Local Impact**

Non-citizen students would be affected by the bill. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses, or local governments.

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