

HB0191S01 compared with HB0191

~~{deleted text}~~ shows text that was in HB0191 but was deleted in HB0191S01.

inserted text shows text that was not in HB0191 but was inserted into HB0191S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Bill Wright proposes the following substitute bill:

NONRESIDENT TUITION WAIVER AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{repeals}~~ amends provisions related to 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}~~ requires a student to prove that the student, or the student's parent or legal guardian, paid Utah income taxes during the prior year to qualify for an exemption from the nonresident portion of total tuition ~~{if the student:~~

~~• attended high school in the state for three or more years; and~~

~~• graduated from a high school or received its equivalent in the state}; and~~

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- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

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 2010, Chapter 191~~

REPEALS:

~~‡ 53B-8-106, as enacted by Laws of Utah 2002, Chapter 230~~

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

Section 1. Section 53B-8-106 is amended to read:

53B-8-106. Resident tuition -- Requirements -- Rules.

(1) If allowed under federal law, a student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, shall be exempt from paying the nonresident portion of total tuition if the student:

- (a) attended high school in this state for three or more years;
- (b) graduated from a high school in this state or received the equivalent of a high school diploma in this state; ~~[and]~~
- (c) registers as an entering student at an institution of higher education not earlier than the fall of the 2002-03 academic year~~[-;]~~

~~‡]; and~~

(d) provides proof that the student, or the student's parent or legal guardian, paid Utah resident income taxes for the previous year.

(2) In addition to the requirements under Subsection (1), a student without lawful immigration status shall file an affidavit with the institution of higher education stating that the student has filed an application to legalize his immigration status, or will file an application as soon as he is eligible to do so.

(3) The State Board of Regents shall make rules for the implementation of this section.

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(4) Nothing in this section limits the ability of institutions of higher education to assess nonresident tuition on students who do not meet the requirements under this section.

Section ~~{1. Section 53B-13a-102 is amended to read:~~

~~53B-13a-102. Definitions.~~

~~As used in this chapter:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) a Utah private, nonprofit postsecondary institution that is accredited by a regional accrediting organization recognized by the board.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- ~~—— (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and~~
- ~~—— (iii) are necessary for the protection of life or safety;~~
- ~~—— [(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;]~~
- ~~—— [(g)] (f) an applicant for a license under Section 61-1-4, if the applicant:~~
 - ~~—— (i) is registered with the Financial Industry Regulatory Authority; and~~
 - ~~—— (ii) files an application with the state Division of Securities through the Central Registration Depository;~~
- ~~—— [(h)] (g) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;~~
- ~~—— [(i)] (h) a home loan that will be insured, guaranteed, or purchased by:~~
 - ~~—— (i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or~~
 - ~~—— (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;~~
- ~~—— [(j)] (i) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (4)[(i)](h); and~~
- ~~—— [(k)] (j) an applicant for a license issued by the Department of Commerce, if the applicant provides the Department of Commerce:~~
 - ~~—— (i) certification, under penalty of perjury, that the applicant is:~~
 - ~~—— (A) a United States citizen;~~
 - ~~—— (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or~~
 - ~~—— (C) lawfully present in the United States; and~~
 - ~~—— (ii) a valid driver license number for a driver license issued by:~~
 - ~~—— (A) Utah; or~~
 - ~~—— (B) a state other than Utah that as part of issuing the driver license verifies an individual's lawful presence in the United States.~~
- ~~—— (5) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:~~
 - ~~—— (a) the applicant is a United States citizen; or~~

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- ~~—— (b) the applicant is:~~
- ~~—— (i) a qualified alien as defined in 8 U.S.C. Sec. 1641; and~~
- ~~—— (ii) lawfully present in the United States.~~
- ~~—— (6) An agency or political subdivision shall verify a certification required under Subsection (5)(b) through the federal program.~~
- ~~—— (7) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (4)(k)(j) or (5) is subject to the criminal penalties applicable in this state for:~~
 - ~~—— (i) making a written false statement under Subsection 76-8-504(2); and~~
 - ~~—— (ii) fraudulently obtaining:~~
 - ~~—— (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or~~
 - ~~—— (B) unemployment compensation under Section 76-8-1301.~~
- ~~—— (b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.~~
- ~~—— (8) An agency or political subdivision may adopt variations to the requirements of this section that:~~
 - ~~—— (a) clearly improve the efficiency of or reduce delay in the verification process; or~~
 - ~~—— (b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.~~
- ~~—— (9) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.~~
- ~~—— (10) A state agency or department that administers a program of state or local public benefits shall:~~
 - ~~—— (a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and~~
 - ~~—— (b) (i) monitor the federal program for application verification errors and significant delays;~~
 - ~~—— (ii) provide an annual report on the errors and delays to ensure that the application of the federal program is not erroneously denying a state or local benefit to a legal resident of the~~

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state; and

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

~~_____ Section 3. **Repealer.**~~

~~_____ This bill repeals:~~

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

~~_____ Section 4} 2. **Effective date.**~~

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}**~~