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MEMORANDUM

To: Legislative Educational Planning Committee
From: Eunice Peters, Assistant Revisor
Date: November 13, 2012
Re: Review of 2012 Legislation Related to Out-of-State Tuition for Military Personnel,
and their Spouses and Dependents

Current Law

In general, a person qualifies as a resident for fee purposes (i.e. in-state tuition) at a state educational institution if a person is a domiciliary resident of the state of Kansas or, if a minor, the parents of that person have been domiciliary residents of the state of Kansas, for at least 12 months prior to enrollment.¹ In addition to the general rule, a spouse or dependent of a person in military service is allowed to pay an amount equal to resident fees if such person in military service is reassigned from Kansas to another duty station and such spouse or dependent continues to reside in Kansas.²

Other persons, or any class or classes thereof, may also qualify for the resident fee privilege if authorized by the state board of regents. Such persons include the following military personnel, and their spouse and dependents:

"(2) Persons who are in military service;

(3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);

...

(9) persons who have retired or have been honorably discharged from military service, had a permanent change of station order for active duty in Kansas during such military service and live in Kansas at the time of enrollment."³

¹ K.S.A. 2012 Supp. 76-729(a). In addition to the general rule, the statute also permits a person who has been a Kansas resident, but leaves to become a resident of another state or country to retain his or her status as a Kansas resident for fee purposes if such person returns to domiciliary residency in Kansas within five years of departure.

² K.S.A. 2012 Supp. 76-729(c)(1).

³ K.S.A. 2012 Supp. 76-729(b).

If the state board of regents authorizes such persons, or any class or classes thereof, to receive the resident fee privilege, the board is required to adopt rules and regulations prescribing criteria or guidelines for determination of eligibility of those persons.⁴

Currently, the state board of regents has authorized these military personnel, and their spouses and dependents, to receive the resident fee privilege if those persons meet certain eligibility requirements.⁵ These eligibility requirements, which are in the process of being amended, generally require some connection to Kansas either through residency in Kansas, assignment to a permanent duty station located in Kansas or membership in the Kansas army or air national guard. These eligibility requirements, as amended, are included in Appendix A.

Proposed 2012 legislative changes

In 2012, HB 2652, H Sub SB 393 (COW) § 45 and SB 401 proposed to amend K.S.A. 2011 Supp. 76-729. These proposed amendments primarily required that the first two previously named classes of military personnel receive the resident fee privilege without the current rule-and-regulation restrictions; the last class of military personnel be removed from consideration; and these changes would not be similarly applied to spouses and dependents. The specific changes proposed by this legislation are included in Appendix A.

Proposed 2011 legislative changes

In 2011, HB 2168 provided additional benefits to persons who had been honorably discharged from active service in any branch of the armed forces of the United States and such person's dependents. Included in these benefits was a tuition and fee waiver. Specifically, section 2 of this bill required community colleges, Washburn University, technical colleges and state universities to enroll such persons without charging tuition or fees. Enrollment would be limited to 10 semesters.

Attachments

- Appendix A
- HB 2652 (same language is in H Sub SB 393 (COW) § 45 and SB 401)
- K.S.A. 2012 Supp. 76-729
- K.A.R. 88-3-8a, as amended
- Fiscal Note for HB 2652
- Testimony for HB 2652 (Sara Sneath; Bradley Boomsma; and Charles Yunker)
- HB 2168
- Fiscal Note for HB 2168

⁴ K.S.A. 76-730(b).

⁵ K.A.R. 88-3-8a (active military personnel) and K.A.R. 88-3-12 (discharged or retired military personnel).