

(Corrected)

---

---

**As Amended by Second House Committee**

---

---

**As Amended by House Committee**

---

---

*Session of 2004*

**HOUSE BILL No. 2627**

By Representatives E. Johnson, Dahl, Goico, Huebert, Huy, Long-  
Mast, Showalter, Siegfried and Swenson

1-28

---

14 AN ACT relating to **education; concerning** United States military per-  
15 ~~sonnel; concerning taxation of certain death benefits, compensation~~  
16 ~~and income~~; authorizing certain tuition and fee waivers; amending  
17 K.S.A. 2003 Supp. 75-4364 and **76-729 and** repealing the existing  
18 ~~section sections~~.

19  
20 *Be it enacted by the Legislature of the State of Kansas:*

21 ~~New Section 1. Notwithstanding any other section of the Kansas in-~~  
22 ~~come tax act, the spouse or dependent of any legal resident of Kansas~~  
23 ~~who is killed on or after March 1, 2003, while serving in the United~~  
24 ~~States military shall not be required to pay state income taxes on any~~  
25 ~~death benefit paid by the federal government.~~

26 ~~—(b) Any income or other compensation paid to any legal resident of~~  
27 ~~Kansas who is killed on or after March 1, 2003, while serving in the United~~  
28 ~~States military and is paid or payable after the death of such individual~~  
29 ~~shall not be subject to Kansas income taxation.~~

30 ~~—(c) Any such death benefit, income and compensation shall not be~~  
31 ~~considered gross income and shall not be taxable for Kansas income tax~~  
32 ~~purposes.~~

33 **Section 1. K.S.A. 2003 Supp. 76-729 is hereby amended to**  
34 **read as follows: 76-729. (a) Persons enrolling at the state educa-**  
35 **tional institutions under the control and supervision of the state**  
36 **board of regents who, if such persons are adults, have been domici-**  
37 **liary residents of the state of Kansas or, if such persons are mi-**  
38 **nor, whose parents have been domiciliary residents of the state**  
39 **of Kansas for at least 12 months prior to enrollment for any term**  
40 **or session at a state educational institution are residents for fee**  
41 **purposes. A person who has been a resident of the state of Kansas**  
42 **for fee purposes and who leaves the state of Kansas to become a**  
43 **resident of another state or country shall retain status as a resident**

1 of the state of Kansas for fee purposes if the person returns to  
2 domiciliary residency in the state of Kansas within 12 months of  
3 departure. All other persons are nonresidents of the state of Kan-  
4 sas for fee purposes.

5 (b) The state board of regents may authorize *by rule and regu-*  
6 *lation* the following persons, or any class or classes thereof, and  
7 their spouses and dependents to pay an amount equal to resident  
8 fees:

9 (1) Persons who are employees of a state educational  
10 institution;

11 (2) persons who are in military service;

12 (3) persons who are domiciliary residents of the state, who  
13 were in active military service prior to becoming domiciliary res-  
14 idents of the state, who were present in the state for a period of  
15 not less than two years during their tenure in active military serv-  
16 ice, whose domiciliary residence was established in the state within  
17 30 days of discharge or retirement from active military service  
18 under honorable conditions, but whose domiciliary residence was  
19 not timely enough established to meet the residence duration re-  
20 quirement of subsection (a);

21 (4) persons having special domestic relations circumstances;

22 (5) persons who have lost their resident status within six  
23 months of enrollment;

24 (6) persons who are not domiciliary residents of the state, who  
25 have graduated from a high school accredited by the state board  
26 of education within six months of enrollment, who were domicili-  
27 ary residents of the state at the time of graduation from high school  
28 or within 12 months prior to graduation from high school, and who  
29 are entitled to admission at a state educational institution pursuant  
30 to K.S.A. 72-116, and amendments thereto;

31 (7) persons who are domiciliary residents of the state, whose  
32 domiciliary residence was established in the state for the purpose  
33 of accepting, upon recruitment by an employer, or retaining, upon  
34 transfer required by an employer, a position of full-time employ-  
35 ment at a place of employment in Kansas, but the domiciliary resi-  
36 dence of whom was not timely enough established to meet the  
37 residence duration requirement of subsection (a), and who are not  
38 otherwise eligible for authorization to pay an amount equal to resi-  
39 dent fees under this subsection; and

40 ~~(8) persons who have graduated from a high school accredited by the~~  
41 ~~state board of education within six months of enrollment and who, at the~~  
42 ~~time of graduation from such a high school or while enrolled and in at-~~  
43 ~~tendance at such a high school prior to graduation therefrom, were de-~~

1 ~~pendents of a person in military service within the state, if the person,~~  
2 ~~whose dependent is eligible for authorization to pay an amount equal to~~  
3 ~~resident fees under this provision, does not establish domiciliary resi-~~  
4 ~~dence in the state upon retirement from military service, eligibility of the~~  
5 ~~dependent for authorization to pay an amount equal to resident fees shall~~  
6 ~~lapse.~~

7 (c) **As used in this section:**

8 (1) **“Parents” means and includes natural parents, adoptive**  
9 **parents, stepparents, guardians and custodians.**

10 (2) **“Guardian” has the meaning ascribed thereto by K.S.A.**  
11 **2003 Supp. 59-3051, and amendments thereto.**

12 (3) **“Custodian” means a person, agency or association granted**  
13 **legal custody of a minor under the Kansas code for care of**  
14 **children.**

15 (4) **“Domiciliary resident” means a person who has present**  
16 **and fixed residence in Kansas where the person intends to remain**  
17 **for an indefinite period and to which the person intends to return**  
18 **following absence.**

19 (5) **“Full-time employment” means employment requiring at**  
20 **least 1,500 hours of work per year.**

21 **New Sec. 2. (a) Whenever authorized personnel in the regis-**  
22 **trar’s office of a state educational institution have determined that**  
23 **an individual qualifies as a resident for fee purposes pursuant to**  
24 **subsection (a) of K.S.A. 76-729 and amendments thereto, such in-**  
25 **dividual shall be considered as a resident for fee purposes at any**  
26 **state educational institution.**

27 **(b) In the event facts pertaining to any individual have changed**  
28 **regarding a necessary element relating to the determination that**  
29 **an individual qualified as a resident for fee purposes as described**  
30 **in subsection (a), then the original determination shall no longer**  
31 **be binding on any state educational institution.**

32 **(c) As used in this section, “state educational institution”**  
33 **means the university of Kansas, Kansas state university of agricul-**  
34 **ture and applied sciences, Wichita state university, Emporia state**  
35 **university, Pittsburg state university and Fort Hays state**  
36 **university.**

37 **(d) The provisions of this section shall be controlling over any**  
38 **conflict with the provisions of K.A.R. 88-2-1, and amendments**  
39 **thereto.**

40 **(e) The provisions of this section shall apply retroactively to**  
41 **residence determinations made by registrars’ officers from and**  
42 **after January 1, 2003, and shall expire on July 1, 2005. The differ-**  
43 **ence between out-of-state tuition paid and the established resident**

1 fee shall be refunded to any individual to whom subsection (a)  
2 applies.

3 **New Sec. 3. (a) Whenever authorized personnel in the regis-**  
4 **trar's office of a state educational institution, as defined by K.S.A.**  
5 **76-711, and amendments thereto, has made a determination that**  
6 **an individual qualified as a resident for fee purposes pursuant to**  
7 **subsection (a) of K.S.A. 76-729, and amendments thereto, and a**  
8 **subsequent determination of another state educational institution**  
9 **differs, an applicant may appeal the second determination to the**  
10 **chief executive officer of the Kansas board of regents, or its des-**  
11 **ignee, if such determination is within 12 months of the prior**  
12 **determination.**

13 **(b) Any such appeal shall be submitted in writing no later than**  
14 **15 days following receipt of notification of the determination to be**  
15 **appealed.**

16 **(c) Regents residency officers shall cooperate with the appeal**  
17 **and provide full copies of the applicants' applications for residency**  
18 **determination.**

19 **(d) The chief executive officer of the Kansas board of regents**  
20 **may request additional information of the applicant.**

21 **(e) A final determination of the conflict shall be made no later**  
22 **than 30 days following the receipt of application.**

23 **(f) The provisions of this section shall control conflicting fee**  
24 **determinations when at least one determination was made subse-**  
25 **quent to July 1, 2004.**

26 **(g) The Kansas board of regents is authorized to adopt addi-**  
27 **tional rules and regulations regarding this process.**

28 ~~Sec. 2. Section 1.~~ **Sec. 4.** K.S.A. 2003 Supp. 75-4364 is hereby  
29 amended to read as follows: 75-4364. (a) As used in this section:

30 (1) "Kansas educational institution" means and includes area voca-  
31 tional schools, area vocational-technical schools, community colleges, the  
32 municipal university, state educational institutions, and technical colleges.

33 (2) "Public safety officer" means a law enforcement officer or a fire-  
34 fighter or an emergency medical services attendant.

35 (3) "Law enforcement officer" means a person who by virtue of office  
36 or public employment is vested by law with a duty to maintain public  
37 order or to make arrests for violation of the laws of the state of Kansas  
38 or ordinances of any municipality thereof or with a duty to maintain or  
39 assert custody or supervision over persons accused or convicted of crime,  
40 and includes wardens, superintendents, directors, security personnel, of-  
41 ficers and employees of adult and juvenile correctional institutions, jails  
42 or other institutions or facilities for the detention of persons accused or  
43 convicted of crime, while acting within the scope of their authority.

1 (4) “Firefighter” means a person who is: (1) Employed by any city,  
2 county, township or other political subdivision of the state and who is  
3 assigned to the fire department thereof and engaged in the fighting and  
4 extinguishment of fires and the protection of life and property therefrom;  
5 or (2) a volunteer member of a fire district, fire department or fire  
6 company.

7 (5) “Emergency medical services attendant” means a first responder,  
8 emergency medical technician, emergency medical technician-interme-  
9 diate, emergency medical technician-defibrillator or a mobile intensive  
10 care technician certified by the emergency medical services board pur-  
11 suant to the statutory provisions contained in article 61 of chapter 65 of  
12 Kansas Statutes Annotated.

13 (6) “Dependent” means (A) a birth child, adopted child or stepchild  
14 ~~of a public safety officer~~ or (B) any child other than the foregoing who is  
15 actually dependent in whole or in part on ~~a public safety officer~~ *the in-*  
16 *dividual* and who is related to ~~the public safety officer~~ *such individual* by  
17 marriage or consanguinity.

18 (7) “State board” means the state board of regents.

19 (8) **“Military service” means any active service in any armed**  
20 **service of the United States and any active state or federal service**  
21 **in the Kansas army or air national guard;**

22 (9) **“prisoner of war” means a person who was a prisoner of**  
23 **war under article 4 of the third Geneva convention and any indi-**  
24 **vidual who was in military service in an armed conflict and who**  
25 **was taken prisoner of war by opposing forces, whether or not un-**  
26 **der an official declaration of war; and**

27 (10) **“resident of Kansas” means a person who is a domiciliary**  
28 **resident as defined by K.S.A. 76-729, and amendments thereto.**

29 (11) **“Spouse” means the unremarried spouse of a deceased**  
30 **public safety officer or deceased military service person.**

31 (b) Every Kansas educational institution shall provide for enrollment  
32 without charge of tuition or fees for: (1) Any dependent *or spouse* of a  
33 public safety officer who died as the result of injury sustained while per-  
34 forming duties as a public safety officer so long as such dependent *or*  
35 *spouse* is eligible; ~~and~~ (2) *any dependent or spouse of any legal resident*  
36 *of Kansas who is killed on or after March 1, 2003, while, and as a result*  
37 *of, serving in the United States military; and* (3) **any prisoner of war.**  
38 Any such dependent *or spouse* **and any prisoner of war** shall be eligible  
39 for enrollment at a Kansas educational institution without charge of tui-  
40 tion or fees for not to exceed eight semesters of undergraduate instruc-  
41 tion, or the equivalent thereof, at all such institutions, ~~in the aggregate,~~  
42 ~~for any such dependent or spouse.~~

43 (c) Subject to appropriations therefor, any Kansas educational insti-

1 tuition, at which enrollment, without charge of tuition or fees, of ~~the a~~  
2 **prisoner of war or a dependent of a deceased public safety officer or**  
3 *spouse* is provided for under subsection (b), may file a claim with the state  
4 board for reimbursement of the amount of such tuition and fees. The  
5 state board shall be responsible for payment of reimbursements to Kansas  
6 educational institutions upon certification by each such institution of the  
7 amount of reimbursement to which entitled. Payments to Kansas edu-  
8 cational institutions shall be made upon vouchers approved by the state  
9 board and upon warrants of the director of accounts and reports. Pay-  
10 ments may be made by issuance of a single warrant to each Kansas ed-  
11 ucational institution at which one or more eligible dependents *or spouses*  
12 **or prisoners of war** are enrolled for the total amount of tuition and fees  
13 not charged ~~eligible dependents or spouses~~ for enrollment at that insti-  
14 tution. The director of accounts and reports shall cause such warrant to  
15 be delivered to the Kansas educational institution at which *any* such eli-  
16 gible ~~dependent or~~ dependents *or spouses* **or prisoners of war** are en-  
17 rolled. If an eligible dependent *or spouse* **or prisoner of war** discontin-  
18 ues attendance before the end of any semester, after the Kansas  
19 educational institution has received payment under this subsection, the  
20 institution shall pay to the state the entire amount which such eligible  
21 dependent *or spouse* **or prisoner of war** would otherwise qualify to have  
22 refunded, not to exceed the amount of the payment made by the state in  
23 behalf of such dependent *or spouse* **or prisoner of war** for the semester.  
24 All amounts paid to the state by Kansas educational institutions under  
25 this subsection shall be deposited in the state treasury and credited to  
26 the state general fund.

27 (d) The state board shall adopt rules and regulations for administra-  
28 tion of the provisions of this section and shall determine the qualification  
29 of persons as dependents *and spouses* of public safety officers *or United*  
30 *States military personnel* and the eligibility of such persons for the ben-  
31 efits provided for under this section.

32 Sec. ~~3-2-5~~. K.S.A. 2003 Supp. 75-4364 ~~is~~ **and 76-729 are** hereby  
33 repealed.

34 Sec. ~~4-3-6~~. This act shall take effect and be in force from and after  
35 its publication in the statute book.