

**RESPONSE TO HR 110
OF THE 2012 REGULAR SESSION
OF THE LOUISIANA LEGISLATURE**

LOUISIANA BOARD OF REGENTS



January 2013

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Introduction

House Resolution 110 (HR 110) of the 2012 Regular Session of the Louisiana Legislature urges and requests the Louisiana Board of Regents, in consultation with the Louisiana Student Financial Assistance Commission, "...to study the residency requirements established by state law and commission policy for a student to qualify for a Taylor Opportunity Program for Students award when the student has a parent or court-ordered custodian who is a member of the United States Armed Forces and who is transferred by the military to Louisiana under permanent change of station orders and such parent or custodian is not a Louisiana resident; to determine if such laws and policies are fair, equitable, and consistent with residency requirements imposed by other states having merit-based postsecondary education scholarship programs for state residents; and to report in writing on study findings, conclusions, and recommendations to the legislature as provided by law and to the House Committee on Education and the Senate Committee on Education not later than ninety days prior to the start of the 2013 Regular Session of the Legislature of Louisiana." (Appendix A).

In consultation with the Louisiana Student Financial Assistance Commission, the Board of Regents reviewed the current laws and regulations pertaining to the definition of a Louisiana resident for the purposes of determining student eligibility for a Taylor Opportunity Program for Students (TOPS) award. This analysis included specifically the alternative means for determining residency of dependent students who have at least one parent or court-ordered custodian who is an active duty member of the United States Armed Forces. Additionally, the Board of Regents examined residency requirements for dependent children of members of the Armed Forces imposed by other states having similar merit-based scholarship programs. Finally, the Board of Regents solicited comments and input from the various military bases in Louisiana as well as the legislators representing those districts. Those comments have been carefully considered in preparing this report, and where appropriate, incorporated into the recommendations presented herein. The findings of this study, along with conclusions and recommendations follow.

The Taylor Opportunity Program for Students (TOPS)

The Taylor Opportunity Program for Students (TOPS), Louisiana's merit-based student aid program, was created via ACT 1375 of the 1997 Regular Legislative Session¹. Although the founding legislation does not directly articulate the goals of the program, four generally accepted purposes of TOPS are:

- To promote academic success for Louisiana's high school graduates by requiring completion of a rigorous high school core curriculum;
- To provide financial incentives for Louisiana's high school graduates as a reward for good academic performance;

¹

Incorporated into the Louisiana Revised Statutes as R.S. 17:3048.1 *et seq.*

- To keep Louisiana’s best and brightest in the state to pursue postsecondary educational opportunities; and
- To promote access to and success in postsecondary education.

TOPS is a merit-based program of state scholarships for Louisiana residents who attend either one of the Louisiana Public Colleges and Universities, Louisiana approved Proprietary and Cosmetology Schools or institutions that are a part of the Louisiana Association of Independent Colleges and Universities.

In addition to being a Louisiana resident and attending a TOPS-approved postsecondary institution, the criteria for eligibility for a TOPS award includes completion of a defined high school core curriculum, with a minimum grade point average in core courses, and a minimum ACT composite score.

Administration of TOPS is statutorily assigned to the Louisiana Student Financial Assistance Commission (LASFAC) and administered by the Louisiana Office of Student Financial Assistance (LOSFA). Initial student eligibility is determined using a combination of: the Free Application for Federal Student Aid (FAFSA) or TOPS On-Line Application; the high school transcript from the Department of Education’s Student Transcript System (STS); and official ACT scores.

Residency Requirements and Dependents of Members of the Armed Forces

HR 110 urges and requests a study of the “residency requirements established by state law and commission policy for a student to qualify for a Taylor Opportunity Program for Students award when the student has a parent or court-ordered custodian who is a member of the United States Armed Forces and who is transferred by the military to Louisiana under permanent change of station orders and such parent or custodian is not a Louisiana resident.”

The definition of a Louisiana resident for the purposes of determining TOPS eligibility, according to R.S. 17:3048.1, as incorporated into the Louisiana Student Financial Assistance Commission’s (LASFAC) Rules, is as follows:

“Any independent student or any dependent student with at least one parent or court ordered custodian who has resided in the state for a minimum of 24 consecutive months immediately preceding the month of high school graduation or the month of May in the academic year (high school) that a student completes a home study program or some other period of residency which is required to qualify the person for a specific program administered by the Louisiana Student Financial Assistance Commission.”

In addition, the administering agency may require an independent student applicant or the parent or court ordered custodian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the

independent student applicant or by at least one parent or court ordered custodian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- if registered to vote, a Louisiana voters registration card; and
- if licensed to drive a motor vehicle, a Louisiana driver's license; and
- if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- if earning a reportable income, a Louisiana tax return.

According to R.S. 17: 3048.1, TOPS eligibility is contingent upon certification of Louisiana residency, as defined by the LASFAC Rules. If, as defined by the administering agency, the student is an independent student, the student must be a Louisiana resident. If, as defined by the administering agency, the student is a dependent student, at least one parent or court-ordered custodian must be a resident of Louisiana during the twenty-four months preceding the date of the student's graduation from high school.

R.S. 17: 3048.1 also contains provisions for alternative means of determining residency for dependent children of members of the United States Armed Forces. §3048.1 states that dependent children of members of the Armed Forces may meet the residency requirements if:

- The parent or court-ordered guardian is a resident of Louisiana on active duty with the United States Armed Forces and is stationed outside Louisiana but claims Louisiana as his/her official state of legal residence and has filed a Louisiana state income tax return for the most recent two years; or
- The parent or court-ordered guardian is a non-resident of Louisiana on active duty with the United States Armed Forces and is stationed in Louisiana under permanent change of station orders and who not later than one hundred eighty days after reporting to such station changes his/her military personnel records to establish Louisiana as his/her official state of legal residence and complies with Louisiana income tax laws and regulations for the time period while stationed in Louisiana; or
- The dependent student graduates from a public or approved nonpublic high school in Louisiana, is a citizen of the United States and lives in Louisiana for a period of his/her last two full years of high school culminating in graduation as certified by the high school, irrespective of whether or not the parent or court-ordered guardian, who is a member of the Armed Forces, claims Louisiana as his/her state of legal residence.

Under current law, dependent children of members of the Armed Forces who are living in Louisiana under permanent change of station orders do not meet the residency

requirements for eligibility for a TOPS award if the member of the Armed Forces does not claim Louisiana as his/her official state of legal residence, and the child has not resided in Louisiana during his/her last two full years of high school.

Residency Requirements Imposed by Other States

HR 110 urges and requests the Board of Regents, in consultation with the Louisiana Student Financial Assistance Commission, “to determine if the laws and policies pertaining to the residency requirements for TOPS are fair, equitable, and consistent with residency requirements imposed by other states having merit-based postsecondary education scholarship programs for state residents.”

A review of the states indicated that twenty-four states, including Louisiana, have merit-based postsecondary education scholarship programs. Of the states with merit-based programs, it appears that fourteen (approximately 60%) do not have special provisions for waivers from residency requirements for military dependents. Thus, the majority of the states with merit-based scholarship programs impose the same residency requirements on military dependents as those applicable to other students. However, information indicated that ten states contain some alternative provision for determining residency requirements for dependents of members of the Armed Forces. Among these ten states, there is great variability in policy.

Only four of the ten states (Florida, Georgia, Missouri and Nevada) offering merit-based scholarships waive residency requirements altogether for dependents of members of the Armed Forces, regardless of whether the Armed Forces member declares the scholarship-awarding state in which he/she is stationed as his/her legal state of residence. Of the four, Florida is the most generous, not only waiving residency requirements for the dependents of active duty members of the Armed Forces who reside in Florida, but also for those who attend a Florida College System institution or state university within fifty miles of the military establishment where their parent or court ordered guardian is stationed, if such military establishment is within a county contiguous to Florida.

Of the remaining six states among those offering scholarships similar to TOPS, two (Michigan and South Carolina) provide merit-based tuition assistance to dependent children of military veterans. Both states require the veteran parent or court-ordered guardian to be a legal resident of the state. Michigan requires that the dependent child be a legal resident of the state for at least twelve months prior to application and the veteran parent or court ordered guardian be a legal resident of Michigan immediately before entering military service, or to have established legal residency in Michigan after entering military service and must not have later resided outside of Michigan for more than two years. South Carolina requires that the veteran parent be a resident of the state at the time of entry into service and during service, or be a resident of the state for at least one year

prior to application or, if the veteran is deceased, he/she must have been a legal resident of the state for one year before his/her death.

The remaining four states (Arkansas, Tennessee, Idaho and Pennsylvania) provide merit-based scholarships to dependent children of only those members of the Armed Forces who have been determined by the federal government to be a prisoner of war or missing in action or, that have died of injuries or wounds sustained in action. Arkansas and Idaho also include for eligibility the dependent children of service members who have become totally or permanently disabled by injuries or wounds sustained in action. Pennsylvania relegates eligibility only to dependent children of service members that are prisoners of war or are missing in action. Both Arkansas and Pennsylvania require that the member of the Armed Forces be a legal resident of the state, with Pennsylvania stating specifically that the member of the Armed Forces must have been a legal resident of the state for at least twelve months before serving on active duty. Idaho requires that both the member of the Armed Forces and the student be a resident of the state. In addition, the student must have completed secondary school or its equivalent in the state of Idaho. Tennessee requires that the student be a legal resident of the state at the time the member of the Armed Forces died, was imprisoned, or was reported missing in action.

Additional Statutorily Dedicated Benefits in Louisiana for Dependents of Members of the Armed Forces

The State of Louisiana has a long history of supporting both active duty military members, veterans, and their dependents. In addition to R.S. 17:3048.1 (TOPS Statute), listed below are other statutes providing extended benefits related to public postsecondary education in Louisiana for members of the Armed Forces and their dependents. (Some of these benefits may be subject to an appropriation of the Legislature.)

- *R.S. 17: 2137 Resident classification for tuition/fees for members of the armed forces and dependents and for certain individuals who have served in the armed forces*
- *R.S. 29:288- Educational benefits (including tuition waivers) for children, spouses, and surviving spouses of veterans.*

Louisiana's revised statutes also contain many other benefits for active duty military members, veterans, and their dependents outside of postsecondary education, including homestead exemptions and waivers of Department of Motor Vehicle fees, to name just a few.

Findings and Recommendations

House Resolution 110 (HR 110) of the 2012 Regular Session of the Louisiana Legislature urges and requests the Louisiana Board of Regents, in consultation with the Louisiana Student Financial Assistance Commission to:

1. study the residency requirements established by state law and commission policy for a student to qualify for a Taylor Opportunity Program for Students award when the student has a parent or court-ordered custodian who is a member of the United States Armed Forces and who is transferred by the military to Louisiana under permanent change of station orders and such parent or custodian is not a Louisiana resident;
2. to determine if such laws and policies are fair, equitable, and consistent with residency requirements imposed by other states having merit-based postsecondary education scholarship programs for state residents; and
3. to report in writing on study findings, conclusions, and recommendations to the legislature as provided by law and to the House and senate Committees on Education.

The Board of Regents, in consultation with the Louisiana Office of student Financial Assistance, reviewed the current TOPS laws, rules and regulations, and merit-based programs in other states. Also, as requested in the resolution, the Board of Regents contacted the base commanders in Louisiana and local legislators representing those districts seeking their comment and input on this issue. Two of the base commanders chose to respond, supporting a change in LOSFA rule to eliminate residency as a TOPS requirement for dependents of members of the armed forces stationed in Louisiana. Additionally, Senator Peacock in whose district Barksdale Air Force Base is located, responded, supporting the options for military dependents currently available with no recommended changes to existing residency policies.

The data reviewed places Louisiana among those states highly favorable to members of the armed forces and their dependents. Major findings included:

1. TOPS eligibility requirements include Louisiana residency since TOPS is a state benefit funded primarily by state residents;
2. Through legislative action, several provisions have been made to provide alternative residency requirements for dependents of members of the armed forces;
3. From a military dependent's standpoint, the only population not currently provided for statutorily are those dependent children who have a parent or court ordered custodian who is a member of the armed services stationed in Louisiana who has decided not to claim Louisiana as his/her legal residence;
4. Regardless of the residency of the parent or court ordered custodian, for TOPS purposes, a dependent can meet the residency requirement if he/she completes his/her last two full years of high school in Louisiana and subsequently graduates from a public or approved nonpublic high school in Louisiana.
5. Of the twenty four states with merit-based programs, it appears that fourteen (approximately 60%) do not have special waivers from residency requirements for military dependents;
6. Out of the remaining ten states which have some alternative provision for determining residency requirements for dependents of members of the armed

forces, only four waive residency requirements completely. The remaining six require some affirmation of legal residence by either the student or the parent.

7. Louisiana's residency requirements for dependents of members of the armed services appear favorable when compared to other merit-based scholarship states.

Louisiana has a history of extending generous benefits to active duty military, veterans and their dependents, especially to those who have made the ultimate sacrifice. The findings of the Board of Regents' examination in response to HR 110 indicate that Louisiana's current provisions for military dependents are favorable when compared to other states with merit-based scholarship programs and that there are few dependents of armed services members who do not qualify for TOPS due to the residency requirements. In those instances, the residency requirements are not onerous and can be fulfilled simply by the member of the armed services residing in Louisiana declaring Louisiana residency and complying with Louisiana's income tax requirements. Therefore, it is the recommendation of the Board of Regents to maintain the current residency requirements and all the provisions which have been made to alternatively determine residency for dependents of members of the armed forces.

APPENDIX A.

Regular Session, 2012

HOUSE RESOLUTION NO. 110

BY REPRESENTATIVE ARMES

A RESOLUTION

To urge and request the Board of Regents, in consultation with the Louisiana Student Financial Assistance Commission and certain others, to study the residency requirements established by state law and commission policy for a student to qualify for a Taylor Opportunity Program for Students award when the student has a parent or court-ordered custodian who is a member of the United States Armed Forces and who is transferred by the military to Louisiana under permanent change of station orders and such parent or custodian is not a Louisiana resident; to determine if such laws and policies are fair, equitable, and consistent with residency requirements imposed by other states having merit-based postsecondary education scholarship programs for state residents; and to report in writing on study findings, conclusions, and recommendations to the legislature as provided by law and to the House Committee on Education and the Senate Committee on Education not later than ninety days prior to the start of the 2013 Regular Session of the Legislature of Louisiana.

WHEREAS, the Taylor Opportunity Program for Students, originally known as the Tuition Opportunity Program for Students and generally referred to as "TOPS", was established by the legislature in 1997; and

WHEREAS, the residency requirements established by state law and policies of the program's administering agency, the Louisiana Student Financial Assistance Commission, that provide for a student to qualify for a TOPS award when the student has a parent or court-ordered custodian who is a member of the United States Armed Forces and who is transferred by the military to Louisiana under

permanent change of station orders and such parent or custodian is not a Louisiana resident have been in place for a number of years and have remained basically unchanged; and WHEREAS, concerns have been raised to Louisiana legislators by some in military service that such residency requirements and policies may not be fair, equitable, and consistent with residency requirements imposed by other states having merit-based postsecondary education scholarship programs for state residents, and further that Louisiana's current practices on this issue do not operate in the best interest of military families living in our state.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby urge and request the Board of Regents, in consultation with the Louisiana Student Financial Assistance Commission and others, to study the residency requirements established by state law and commission policy for a student to qualify for a Taylor Opportunity Program for Students award when the student has a parent or court-ordered custodian who is a member of the United States Armed Forces and who is transferred by the military to Louisiana under permanent change of station orders and such parent or custodian is not a Louisiana resident; to determine if such laws and policies are fair, equitable, and consistent with residency requirements imposed by other states having merit-based postsecondary education scholarship programs for state residents; and to report in writing on study findings, conclusions, and recommendations to the legislature as provided by R.S. 24:771 and 772 and to the House Committee on Education and the Senate Committee on Education not later than ninety days prior to the start of the 2013 Regular Session of the Legislature of Louisiana.

BE IT FURTHER RESOLVED that the Board of Regents, in conducting the study, shall notify appropriate persons in charge of military bases located in Louisiana, state legislators in whose legislative districts such bases are located, and others as deemed appropriate by the board of the study and actively solicit their comments, concerns, and recommendations relative to the current residency requirements and any changes needed thereto.

BE IT FURTHER RESOLVED that copies of this Resolution shall be transmitted to the presiding officer of the Board of Regents, the commissioner of higher education, the presiding officer of the Louisiana Student Financial Assistance Commission, and the executive director of the office of student financial assistance.

SPEAKER OF THE HOUSE OF REPRESENTATIVES