

**MILITARY EDUCATION AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: Peter C. Knudson

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**LONG TITLE**

**General Description:**

This bill amends resident student state status definitions.

**Highlighted Provisions:**

This bill:

- ▶ defines an eligible person and the criteria for establishing resident student status.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53B-8-102**, as last amended by Laws of Utah 2014, Chapter 216

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

Section 1. Section **53B-8-102** is amended to read:

**53B-8-102. Definitions -- Resident student status -- Exceptions.**

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to benefits under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program.

~~(a)~~ (b) "Immediate family member" means an individual's spouse or child.

~~(b)~~ (c) "Military servicemember" means:

30 (i) an individual who is serving on active duty in the United States Armed Forces  
31 within the state of Utah;

32 (ii) an individual who is a member of a reserve component of the United States Armed  
33 Forces assigned in Utah; or

34 (iii) an individual who is a member of the Utah National Guard.

35 [~~(c)~~] (d) "Military veteran" means an individual who:

36 (i) has served on active duty:

37 (A) in the United States Armed Forces for at least 180 consecutive days or was a  
38 member of a reserve component and has been separated or retired with an honorable or general  
39 discharge; or

40 (B) in the National Guard and has been separated or retired with an honorable or  
41 general discharge; or

42 (ii) incurred an actual service-related injury or disability in the line of duty regardless  
43 of whether that person completed 180 days of active duty.

44 [~~(d)~~] (e) "Parent" means a student's biological or adoptive parent.

45 (2) The meaning of "resident student" is determined by reference to the general law on  
46 the subject of domicile, except as provided in this section.

47 (3) (a) Institutions within the state system of higher education may grant resident  
48 student status to any student who has come to Utah and established residency for the purpose of  
49 attending an institution of higher education, and who, prior to registration as a resident student:

50 (i) has maintained continuous Utah residency status for one full year;

51 (ii) has signed a written declaration that the student has relinquished residency in any  
52 other state; and

53 (iii) has submitted objective evidence that the student has taken overt steps to establish  
54 permanent residency in Utah and that the student does not maintain a residence elsewhere.

55 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

56 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah  
57 high school in the past 12 months;

- 58 (ii) a Utah voter registration dated a reasonable period prior to application;
- 59 (iii) a Utah driver license or identification card with an original date of issue or a  
60 renewal date several months prior to application;
- 61 (iv) a Utah vehicle registration dated a reasonable period prior to application;
- 62 (v) evidence of employment in Utah for a reasonable period prior to application;
- 63 (vi) proof of payment of Utah resident income taxes for the previous year;
- 64 (vii) a rental agreement showing the student's name and Utah address for at least 12  
65 months prior to application; and
- 66 (viii) utility bills showing the student's name and Utah address for at least 12 months  
67 prior to application.
- 68 (c) A student who is claimed as a dependent on the tax returns of a person who is not a  
69 resident of Utah is not eligible to apply for resident student status.
- 70 (4) Except as provided in Subsection (8), an institution within the state system of  
71 higher education may establish stricter criteria for determining resident student status.
- 72 (5) If an institution does not have a minimum credit-hour requirement, that institution  
73 shall honor the decision of another institution within the state system of higher education to  
74 grant a student resident student status, unless:
  - 75 (a) the student obtained resident student status under false pretenses; or
  - 76 (b) the facts existing at the time of the granting of resident student status have changed.
- 77 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and  
78 Scholarships, each institution within the state system of higher education may, regardless of its  
79 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,  
80 but not other fees.
- 81 (7) In addition to the waivers of nonresident tuition under Subsection (6), each  
82 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to  
83 the maximum number allowed by the appropriate athletic conference as recommended by the  
84 president of each institution.
- 85 (8) Notwithstanding Subsection (3), an institution within the state system of higher

86 education shall grant resident student status for tuition purposes to:

87 (a) a military servicemember, if the military servicemember provides:

88 (i) the military servicemember's current United States military identification card; and

89 (ii) a statement from the military servicemember's current commander, or equivalent,

90 stating that the military servicemember is assigned in Utah;

91 (b) a military servicemember's immediate family member, if the military

92 servicemember's immediate family member provides:

93 (i) one of the following:

94 (A) the military servicemember's current United States military identification card; or

95 (B) the immediate family member's current United States military identification card;

96 and

97 (ii) a statement from the military servicemember's current commander, or equivalent,

98 stating that the military servicemember is assigned in Utah;

99 (c) a military veteran, regardless of whether the military veteran served in Utah, if the  
100 military veteran provides:

101 (i) evidence of an honorable or general discharge;

102 (ii) a signed written declaration that the military veteran has relinquished residency in  
103 any other state and does not maintain a residence elsewhere;

104 (iii) objective evidence that the military veteran has ~~[taken overt steps to relinquish~~  
105 ~~residency in any other state and]~~ demonstrated an intent to establish residency in Utah, which  
106 may include any one of the following:

107 (A) a Utah voter registration card;

108 (B) a Utah driver license or identification card;

109 (C) a Utah vehicle registration;

110 (D) evidence of employment in Utah;

111 (E) a rental agreement showing the military veteran's name and Utah address; or

112 (F) utility bills showing the military veteran's name and Utah address; ~~[and]~~

113 (d) a military veteran's immediate family member, regardless of whether the military

114 veteran served in Utah, if the military veteran's immediate family member provides:

115 (i) evidence of the military veteran's honorable or general discharge within the last five  
116 years;

117 (ii) a signed written declaration that the military veteran's immediate family member  
118 has relinquished residency in any other state and does not maintain a residence elsewhere; and

119 (iii) objective evidence that the military veteran's immediate family member has ~~taken~~  
120 ~~overt steps to relinquish residency in any other state and~~ demonstrated an intent to establish  
121 residency in Utah, which may include any one of the items described in Subsection  
122 (8)(c)(iii)[-]; and

123 (e) an eligible person who provides:

124 (i) evidence of eligibility under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active  
125 Duty Educational Assistance Program or Chapter 33, Post 9/11 Educational Assistance  
126 Program;

127 (ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;  
128 and

129 (iii) objective evidence that the eligible person has demonstrated an intent to establish  
130 residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

131 (9) (a) Aliens who are present in the United States on visitor, student, or other visas  
132 which authorize only temporary presence in this country, do not have the capacity to intend to  
133 reside in Utah for an indefinite period and therefore are classified as nonresidents.

134 (b) Aliens who have been granted immigrant or permanent resident status in the United  
135 States are classified for purposes of resident student status according to the same criteria  
136 applicable to citizens.

137 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose  
138 reservation or trust lands lie partly or wholly within Utah or whose border is at any point  
139 contiguous with the border of Utah, and any American Indian who is a member of a federally  
140 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled  
141 to resident student status.

- 142 (11) A Job Corps student is entitled to resident student status if the student:
- 143 (a) is admitted as a full-time, part-time, or summer school student in a program of
- 144 study leading to a degree or certificate; and
- 145 (b) submits verification that the student is a current Job Corps student.
- 146 (12) A person is entitled to resident student status and may immediately apply for
- 147 resident student status if the person:
- 148 (a) marries a Utah resident eligible to be a resident student under this section; and
- 149 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as
- 150 provided in Subsection (3).
- 151 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one
- 152 parent who has been domiciled in Utah for at least 12 months prior to the student's application
- 153 is entitled to resident student status.
- 154 (14) (a) A person who has established domicile in Utah for full-time permanent
- 155 employment may rebut the presumption of a nonresident classification by providing substantial
- 156 evidence that the reason for the individual's move to Utah was, in good faith, based on an
- 157 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable
- 158 work-related move for full-time permanent employment in Utah.
- 159 (b) All relevant evidence concerning the motivation for the move shall be considered,
- 160 including:
- 161 (i) the person's employment and educational history;
- 162 (ii) the dates when Utah employment was first considered, offered, and accepted;
- 163 (iii) when the person moved to Utah;
- 164 (iv) the dates when the person applied for admission, was admitted, and was enrolled
- 165 as a postsecondary student;
- 166 (v) whether the person applied for admission to an institution of higher education
- 167 sooner than four months from the date of moving to Utah;
- 168 (vi) evidence that the person is an independent person who is:
- 169 (A) at least 24 years of age; or

170 (B) not claimed as a dependent on someone else's tax returns; and  
171 (vii) any other factors related to abandonment of a former domicile and establishment  
172 of a new domicile in Utah for purposes other than to attend an institution of higher education.

173 (15) (a) A person who is in residence in Utah to participate in a United States Olympic  
174 athlete training program, at a facility in Utah, approved by the governing body for the athlete's  
175 Olympic sport, shall be entitled to resident status for tuition purposes.

176 (b) Upon the termination of the athlete's participation in the training program, the  
177 athlete shall be subject to the same residency standards applicable to other persons under this  
178 section.

179 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah  
180 counts for Utah residency for tuition purposes upon termination of the athlete's participation in  
181 a Utah Olympic athlete training program.

182 (16) (a) A person who has established domicile in Utah for reasons related to divorce,  
183 the death of a spouse, or long-term health care responsibilities for an immediate family  
184 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a  
185 nonresident classification by providing substantial evidence that the reason for the individual's  
186 move to Utah was, in good faith, based on the long-term health care responsibilities.

187 (b) All relevant evidence concerning the motivation for the move shall be considered,  
188 including:

189 (i) the person's employment and educational history;

190 (ii) the dates when the long-term health care responsibilities in Utah were first  
191 considered, offered, and accepted;

192 (iii) when the person moved to Utah;

193 (iv) the dates when the person applied for admission, was admitted, and was enrolled  
194 as a postsecondary student;

195 (v) whether the person applied for admission to an institution of higher education  
196 sooner than four months from the date of moving to Utah;

197 (vi) evidence that the person is an independent person who is:

- 198 (A) at least 24 years of age; or  
199 (B) not claimed as a dependent on someone else's tax returns; and  
200 (vii) any other factors related to abandonment of a former domicile and establishment  
201 of a new domicile in Utah for purposes other than to attend an institution of higher education.  
202 (17) The board, after consultation with the institutions, shall make rules not  
203 inconsistent with this section:  
204 (a) concerning the definition of resident and nonresident students;  
205 (b) establishing procedures for classifying and reclassifying students;  
206 (c) establishing criteria for determining and judging claims of residency or domicile;  
207 (d) establishing appeals procedures; and  
208 (e) other matters related to this section.  
209 (18) A student shall be exempt from paying the nonresident portion of total tuition if  
210 the student:  
211 (a) is a foreign national legally admitted to the United States;  
212 (b) attended high school in this state for three or more years; and  
213 (c) graduated from a high school in this state or received the equivalent of a high  
214 school diploma in this state.