

**HIGHER EDUCATION RESIDENCY REQUIREMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Keith Grover

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**LONG TITLE**

**General Description:**

This bill amends provisions related to higher education residency requirements.

**Highlighted Provisions:**

This bill:

► requires an institution of higher education to grant resident student status to the children of certain military personnel if the student produces certain information;

and

► makes technical amendments.

**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 2009, Chapter 363

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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. Definition of resident student.**

(1) As used in this section, "parent" means a student's biological or adoptive parent.



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

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

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

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

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

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

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

41 (ii) a Utah voter registration dated a reasonable period prior to application;

42 (iii) a Utah driver license or identification card with an original date of issue or a  
43 renewal date several months prior to application;

44 (iv) a Utah vehicle registration dated a reasonable period prior to application;

45 (v) evidence of employment in Utah for a reasonable period prior to application;

46 (vi) proof of payment of Utah resident income taxes for the previous year;

47 (vii) a rental agreement showing the student's name and Utah address for at least 12  
48 months prior to application; and

49 (viii) utility bills showing the student's name and Utah address for at least 12 months  
50 prior to application.

51 (c) A student who is claimed as a dependent on the tax returns of a person who is not a  
52 resident of Utah is not eligible to apply for resident student status.

53 (4) ~~An~~ Except as provided in Subsection (8)(c), an institution within the state system  
54 of higher education may establish stricter criteria for determining resident student status.

55 (5) If an institution does not have a minimum credit-hour requirement, that institution  
56 shall honor the decision of another institution within the state system of higher education to  
57 grant a student resident student status, unless:

58 (a) the student obtained resident student status under false pretenses; or

59 (b) the facts existing at the time of the granting of resident student status have changed.

60 (6) Within the limits established in Title 53B, Chapter 8, Tuition [~~Waivers~~] Waiver  
61 and Scholarships, each institution within the state system of higher education may, regardless  
62 of its policy on obtaining resident student status, waive nonresident tuition either in whole or in  
63 part, but not other fees.

64 (7) In addition to the waivers of nonresident tuition under Subsection (6), each  
65 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to  
66 the maximum number allowed by the appropriate athletic conference as recommended by the  
67 president of each institution.

68 (8) (a) (i) Personnel of the United States Armed Forces assigned to active duty in Utah,  
69 and the immediate members of their families residing with them in this state are entitled to  
70 resident student status for tuition purposes.

71 (ii) Except as provided in Subsection (8)(b), upon the termination of active duty status,  
72 the military personnel and their family members are governed by the standards applicable to  
73 nonmilitary persons.

74 (b) Military personnel who had Utah residency immediately prior to their active duty  
75 status and who reestablish residency in Utah upon the termination of active duty status are  
76 entitled to resident student status for themselves and the immediate members of their families  
77 residing with them for tuition purposes.

78 (c) Notwithstanding Subsection (3), an institution within the state system of higher  
79 education shall grant resident student status for tuition purposes to a child of a United States  
80 military person assigned to active duty if the child produces:

81 (i) one of the following:

82 (A) the military parent's United States active duty military identification card;

83 (B) the child's United States active duty military identification and privilege card; or

84 (C) a statement from the military parent's current company commander stating that the  
85 military parent is on active duty; and

86 (ii) one of the following:

87 (A) the military parent's state of legal residence certificate with Utah listed as the  
88 military parent's home of record;

89 (B) the military parent's Utah driver license;

90 (C) the military parent's Utah voter registration card;

91 (D) a mortgage statement for a Utah residence listing the military parent's name and  
92 Utah address;

93 (E) a current Utah vehicle registration document with the military parent's name as  
94 owner of the vehicle; or

95 (F) the military parent's leave and earnings statement showing Utah as the state where  
96 income taxes are paid.

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

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

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

108 (11) A Job Corps student is entitled to resident student status if the student:

109 (a) is admitted as a full-time, part-time, or summer school student in a program of  
110 study leading to a degree or certificate; and

111 (b) submits verification that the student is a current Job Corps student.

112 (12) (a) A member of the Utah National Guard is entitled to resident student status if  
113 the student:

114 (i) is admitted as a full-time, part-time, or summer school student in a program of study  
115 leading to a degree or certificate; and

116 (ii) submits verification that the student is a member of the Utah National Guard.

117 (b) A member of the Utah National Guard who performs active duty service shall be  
118 considered to maintain continuous Utah residency under this section.

119 (13) A person is entitled to resident student status and may immediately apply for  
120 resident student status if the person:

121 (a) marries a Utah resident eligible to be a resident student under this section; and

122 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as  
123 provided in Subsection (3).

124 (14) Notwithstanding Subsection (3)(c), a dependent student who has at least one  
125 parent who has been domiciled in Utah for at least 12 months prior to the student's application  
126 is entitled to resident student status.

127 (15) (a) A person who has established domicile in Utah for full-time permanent  
128 employment may rebut the presumption of a nonresident classification by providing substantial  
129 evidence that the reason for the individual's move to Utah was, in good faith, based on an  
130 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable  
131 work-related move for full-time permanent employment in Utah.

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

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

135 (ii) the dates when Utah employment was first considered, offered, and accepted;

136 (iii) when the person moved to Utah;

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

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

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

142 (A) at least 24 years of age; or

143 (B) not claimed as a dependent on someone else's tax returns; and

144 (vii) any other factors related to abandonment of a former domicile and establishment  
145 of a new domicile in Utah for purposes other than to attend an institution of higher education.

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

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

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

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

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

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

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

165 (iii) when the person moved to Utah;

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

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

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

171 (A) at least 24 years of age; or

172 (B) not claimed as a dependent on someone else's tax returns; and

173 (vii) any other factors related to abandonment of a former domicile and establishment  
174 of a new domicile in Utah for purposes other than to attend an institution of higher education.

175 (18) The board, after consultation with the institutions, shall make rules not  
176 inconsistent with this section:

177 (a) concerning the definition of resident and nonresident students;

178 (b) establishing procedures for classifying and reclassifying students;

179 (c) establishing criteria for determining and judging claims of residency or domicile;

180 (d) establishing appeals procedures; and

181 (e) other matters related to this section.

182 (19) A student shall be exempt from paying the nonresident portion of total tuition if

183 the student:

184 (a) is a foreign national legally admitted to the Unites States;

185 (b) attended high school in this state for three or more years; and

186 (c) graduated from a high school in this state or received the equivalent of a high

187 school diploma in this state.

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**Legislative Review Note**

**as of 1-19-11 4:38 PM**

**Office of Legislative Research and General Counsel**