

RESIDENT STUDENT TUITION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marie H. Poulson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions regarding resident student tuition for military servicemembers and their immediate family members.

Highlighted Provisions:

This bill:

- ▶ amends definitions; and
- ▶ requires an institution of higher education to grant resident student status for tuition purposes to military servicemembers and their immediate family members who maintain domicile in Utah.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-8-102 (Effective 07/01/16), as last amended by Laws of Utah 2015, Chapters 125 and 141

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

Section 1. Section **53B-8-102 (Effective 07/01/16)** is amended to read:



28 **53B-8-102 (Effective 07/01/16). Definitions -- Resident student status --**

29 **Exceptions.**

30 (1) As used in this section:

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

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

35 (c) "Military servicemember" means an individual who is:

36 ~~[(i) an individual who is]~~

37 (i) (A) serving on active duty in the United States Armed Forces [within the state of
38 Utah]; and

39 (B) assigned in Utah, or domiciled in Utah as described in Subsection (8)(a)(ii)(B);

40 ~~[(ii) an individual who is]~~

41 (ii) (A) a member of a reserve component of the United States Armed Forces; and

42 (B) assigned in Utah[;], or domiciled in Utah as described in Subsection (8)(a)(ii)(B);

43 or

44 ~~[(iii) an individual who is]~~

45 (iii) a member of the Utah National Guard.

46 (d) "Military veteran" has the same meaning as veteran in Section [68-3-12.5](#).

47 (e) "Parent" means a student's biological or adoptive parent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and
81 Scholarships, each institution within the state system of higher education may, regardless of its
82 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,
83 but not other fees.

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

88 (8) Notwithstanding Subsection (3), an institution within the state system of higher
89 education shall grant resident student status for tuition purposes to:

90 (a) a military servicemember, if the military servicemember provides:
91 (i) the military servicemember's current United States military identification card; and
92 (ii) (A) a statement from the military servicemember's current commander, or
93 equivalent, stating that the military servicemember is assigned in Utah; or
94 (B) evidence that the military servicemember is domiciled in Utah, as described in
95 Subsection (9)(a);

96 (b) a military servicemember's immediate family member, if the military
97 servicemember's immediate family member provides:
98 (i) [~~one of the following:~~] (A) the military servicemember's current United States
99 military identification card; or
100 (B) the immediate family member's current United States military identification card;
101 and

102 (ii) (A) a statement from the military servicemember's current commander, or
103 equivalent, stating that the military servicemember is assigned in Utah; or
104 (B) evidence that the military servicemember is domiciled in Utah, as described in
105 Subsection (8)(a)(ii)(B);

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

108 (i) evidence of an honorable or general discharge;
109 (ii) a signed written declaration that the military veteran has relinquished residency in
110 any other state and does not maintain a residence elsewhere;
111 (iii) objective evidence that the military veteran has demonstrated an intent to establish
112 residency in Utah, which may include any one of the following:

113 (A) a Utah voter registration card;
114 (B) a Utah driver license or identification card;
115 (C) a Utah vehicle registration;
116 (D) evidence of employment in Utah;
117 (E) a rental agreement showing the military veteran's name and Utah address; or
118 (F) utility bills showing the military veteran's name and Utah address;
119 (d) a military veteran's immediate family member, regardless of whether the military
120 veteran served in Utah, if the military veteran's immediate family member provides:

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

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

125 (iii) objective evidence that the military veteran's immediate family member has
126 demonstrated an intent to establish residency in Utah, which may include any one of the items
127 described in Subsection (8)(c)(iii); ~~and~~ or

128 (e) an eligible person who provides:

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

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

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

136 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) includes:

137 (i) a current Utah voter registration card;

138 (ii) a valid Utah driver license or identification card;

139 (iii) a current Utah vehicle registration;

140 (iv) a copy of a Utah income tax return, in the military servicemember's or military
141 servicemember's spouse's name, filed as a resident in accordance with Section [59-10-502](#); or

142 (v) proof that the military servicemember or military servicemember's spouse owns a
143 home in Utah, including a property tax notice for property owned in Utah.

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

147 ~~(b)~~ (c) Aliens who have been granted immigrant or permanent resident status in the
148 United States are classified for purposes of resident student status according to the same
149 criteria applicable to citizens.

150 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose
151 reservation or trust lands lie partly or wholly within Utah or whose border is at any point

152 contiguous with the border of Utah, and any American Indian who is a member of a federally
153 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
154 to resident student status.

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

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

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

159 (12) A person is entitled to resident student status and may immediately apply for
160 resident student status if the person:

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

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

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

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

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

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

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

176 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

205 (iii) when the person moved to Utah;

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

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

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

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

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

213 (vii) any other factors related to abandonment of a former domicile and establishment

214 of a new domicile in Utah for purposes other than to attend an institution of higher education.

215 (17) The board, after consultation with the institutions, shall make rules not

216 inconsistent with this section:

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

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

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

220 (d) establishing appeals procedures; and

221 (e) other matters related to this section.

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

223 the student:

224 (a) is a foreign national legally admitted to the United States;

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

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

227 school diploma in this state.

228 Section 2. **Effective date.**

229 This bill takes effect on July 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel