

1 **IN-STATE TUITION FOR VETERANS**

2 Scott K. Jenkins

2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis Oda**

5 Senate Sponsor:

7 **LONG TITLE**

8 **General Description:**

9 This bill allows certain military personnel to pay resident tuition at public higher
10 education institutions under certain conditions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that reserve members of the United States Armed Forces assigned to Utah
14 are considered residents for tuition purposes;

15 ▶ provides that a veteran of the United States Armed Forces pays resident tuition at a
16 public higher education institution if the veteran:

17 • has been honorably discharged from the United States Armed Forces within the
18 previous 12 months; and

19 • has taken steps to relinquish residency in other states and establish residency in
20 Utah; and

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **53B-8-102**, as last amended by Laws of Utah 2011, Chapter 313



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

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

32 **53B-8-102. Definition of resident student.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

74 (8) Notwithstanding Subsection (3):

75 ~~[(8)]~~ (a) ~~[(f)]~~ Personnel of the United States Armed Forces assigned to active duty in
76 Utah or members of a reserve component of the United States Armed Forces assigned to Utah,
77 and the immediate members of their families residing with them in this state are entitled to
78 resident student status for tuition purposes.

79 ~~[(ii) Except as provided in Subsection (8)(b), upon the termination of active duty~~
80 ~~status, the military personnel and their family members are governed by the standards~~
81 ~~applicable to nonmilitary persons.]~~

82 (b) Military personnel who had Utah residency immediately prior to their active duty
83 status or reserve assignment and who reestablish residency in Utah upon the termination of
84 active duty status or reserve assignment are entitled to resident student status for themselves
85 and the immediate members of their families residing with them for tuition purposes.

86 (c) ~~[Notwithstanding Subsection (3), an]~~ An institution within the state system of
87 higher education shall grant resident student status for tuition purposes to a child of a United
88 States military person assigned to active duty if the child produces:

89 (i) one of the following:

- 90 (A) the military parent's United States active duty military identification card;
- 91 (B) the child's United States active duty military identification and privilege card; or
- 92 (C) a statement from the military parent's current company commander stating that the
- 93 military parent is on active duty; and

94 (ii) the military parent's state of legal residence certificate with Utah listed as the

95 military parent's home of record.

96 (d) An institution within the state system of higher education shall grant resident

97 student status for tuition purposes to a military veteran and the military veteran's immediate

98 family members who reside in the state if the military veteran provides:

- 99 (i) evidence of a discharge from the United States Armed Forces, other than a
- 100 dishonorable discharge, that occurred in the previous 12 months;
- 101 (ii) a signed written declaration that the military veteran has relinquished residency in
- 102 any other state and does not maintain a residence elsewhere; and
- 103 (iii) objective evidence that the military veteran has taken overt steps to relinquish
- 104 residency in any other state and establish residency in Utah, which may include evidence of the
- 105 following:

- 106 (A) a Utah voter registration card;
- 107 (B) a Utah driver license or identification card;
- 108 (C) a Utah vehicle registration;
- 109 (D) evidence of employment in Utah;
- 110 (E) a rental agreement showing name and Utah address; and
- 111 (F) utility bills showing name and Utah address.

112 (9) (a) Aliens who are present in the United States on visitor, student, or other visas

113 which authorize only temporary presence in this country, do not have the capacity to intend to

114 reside in Utah for an indefinite period and therefore are classified as nonresidents.

115 (b) Aliens who have been granted immigrant or permanent resident status in the United

116 States are classified for purposes of resident student status according to the same criteria

117 applicable to citizens.

118 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose

119 reservation or trust lands lie partly or wholly within Utah or whose border is at any point

120 contiguous with the border of Utah, and any American Indian who is a member of a federally

121 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
122 to resident student status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

180 (iii) when the person moved to Utah;

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

- 183 (v) whether the person applied for admission to an institution of higher education
184 sooner than four months from the date of moving to Utah;
- 185 (vi) evidence that the person is an independent person who is:
186 (A) at least 24 years of age; or
187 (B) not claimed as a dependent on someone else's tax returns; and
- 188 (vii) any other factors related to abandonment of a former domicile and establishment
189 of a new domicile in Utah for purposes other than to attend an institution of higher education.
- 190 (18) The board, after consultation with the institutions, shall make rules not
191 inconsistent with this section:
- 192 (a) concerning the definition of resident and nonresident students;
193 (b) establishing procedures for classifying and reclassifying students;
194 (c) establishing criteria for determining and judging claims of residency or domicile;
195 (d) establishing appeals procedures; and
196 (e) other matters related to this section.
- 197 (19) A student shall be exempt from paying the nonresident portion of total tuition if
198 the student:
- 199 (a) is a foreign national legally admitted to the Unites States;
200 (b) attended high school in this state for three or more years; and
201 (c) graduated from a high school in this state or received the equivalent of a high
202 school diploma in this state.

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Office of Legislative Research and General Counsel