

**IN-STATE TUITION FOR MILITARY SERVICEMEMBERS  
AND VETERANS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis Oda**

Senate Sponsor: Howard A. Stephenson

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**LONG TITLE**

**General Description:**

This bill amends certain provisions related to in-state tuition for military servicemembers and veterans.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ clarifies and amends provisions related to the types of evidence that a military servicemember, a veteran, and an immediate family member of a servicemember or veteran must provide to be considered a resident for in-state tuition purposes;
  - ▶ removes the 12-month deadline within which a military veteran must provide evidence of an honorable discharge to be considered a resident for in-state tuition purposes;
  - ▶ establishes a 5-year deadline within which a military veteran's immediate family member must provide evidence of an honorable discharge to be considered a resident for in-state tuition purposes;
  - ▶ clarifies that an institution within the state system of higher education is required to grant resident student status to a military veteran under certain conditions regardless of whether the military veteran served in Utah; and
  - ▶ makes technical and conforming changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53B-8-102**, as last amended by Laws of Utah 2012, Chapter 275

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

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

38 **53B-8-102. Definition of resident student -- Exceptions.**

39 (1) As used in this section[;]:

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

41 (b) "Military servicemember" means:

42 (i) an individual who is serving on active duty in the United States Armed Forces

43 within the state of Utah;

44 (ii) an individual who is a member of a reserve component of the United States Armed

45 Forces assigned in Utah; or

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

47 (c) "Military veteran" means an individual who:

48 (i) has served on active duty:

49 (A) in the United States Armed Forces for at least 180 consecutive days or was a

50 member of a reserve component and has been separated or retired with an honorable or general

51 discharge; or

52 (B) in the National Guard and has been separated or retired with an honorable or

53 general discharge; or

54 (ii) incurred an actual service-related injury or disability in the line of duty regardless

55 of whether that person completed 180 days of active duty.

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

57 (2) The meaning of "resident student" is determined by reference to the general law on

58 the subject of domicile, except as provided in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

89 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and

90 Scholarships, each institution within the state system of higher education may, regardless of its  
91 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,  
92 but not other fees.

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

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

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

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

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

105 (ii) a statement from the military servicemember's current commander, or equivalent,  
106 stating that the military servicemember is assigned in Utah;

107 (b) a military servicemember's immediate family member, if the military  
108 servicemember's immediate family member provides:

109 (i) one of the following:

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

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

112 and

113 (ii) a statement from the military servicemember's current commander, or equivalent,  
114 stating that the military servicemember is assigned in Utah;

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

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

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

120 (iii) objective evidence that the military veteran has taken overt steps to relinquish

121 residency in any other state and establish residency in Utah, which may include any one of the  
 122 following:

123 (A) a Utah voter registration card;

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

125 (C) a Utah vehicle registration;

126 (D) evidence of employment in Utah;

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

128 (F) utility bills showing the military veteran's name and Utah address; and

129 (d) a military veteran's immediate family member, regardless of whether the military  
 130 veteran served in Utah, if the military veteran's immediate family member provides:

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

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

135 (iii) objective evidence that the military veteran's immediate family member has taken  
 136 overt steps to relinquish residency in any other state and establish residency in Utah, which  
 137 may include any one of the items described in Subsection (8)(c)(iii).

138 ~~[(b) Military personnel who had Utah residency immediately prior to their active duty~~  
 139 ~~status or reserve assignment and who reestablish residency in Utah upon the termination of~~  
 140 ~~active duty status or reserve assignment are entitled to resident student status for themselves~~  
 141 ~~and the immediate members of their families residing with them for tuition purposes.]~~

142 ~~[(c) An institution within the state system of higher education shall grant resident~~  
 143 ~~student status for tuition purposes to a child of a United States military person assigned to~~  
 144 ~~active duty if the child produces:]~~

145 ~~[(i) one of the following:]~~

146 ~~[(A) the military parent's United States active duty military identification card;]~~

147 ~~[(B) the child's United States active duty military identification and privilege card; or]~~

148 ~~[(C) a statement from the military parent's current company commander stating that the~~  
 149 ~~military parent is on active duty; and]~~

150 ~~[(ii) the military parent's state of legal residence certificate with Utah listed as the~~  
 151 ~~military parent's home of record.]~~

152 ~~[(d) An institution within the state system of higher education shall grant resident~~  
153 ~~student status for tuition purposes to a military veteran and the military veteran's immediate~~  
154 ~~family members who reside in the state if the military veteran provides:]~~

155 ~~[(i) evidence of a discharge from the United States Armed Forces, other than a~~  
156 ~~dishonorable discharge, that occurred in the previous 12 months;]~~

157 ~~[(ii) a signed written declaration that the military veteran has relinquished residency in~~  
158 ~~any other state and does not maintain a residence elsewhere; and]~~

159 ~~[(iii) objective evidence that the military veteran has taken overt steps to relinquish~~  
160 ~~residency in any other state and establish residency in Utah, which may include evidence of the~~  
161 ~~following:]~~

162 ~~[(A) a Utah voter registration card;]~~

163 ~~[(B) a Utah driver license or identification card;]~~

164 ~~[(C) a Utah vehicle registration;]~~

165 ~~[(D) evidence of employment in Utah;]~~

166 ~~[(E) a rental agreement showing name and Utah address; and]~~

167 ~~[(F) utility bills showing name and Utah address.]~~

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

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

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

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

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

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

183 ~~[(12) (a) A member of the Utah National Guard is entitled to resident student status if~~  
184 ~~the student:]~~

185 ~~[(i) is admitted as a full-time, part-time, or summer school student in a program of~~  
186 ~~study leading to a degree or certificate; and]~~

187 ~~[(ii) submits verification that the student is a member of the Utah National Guard.]~~

188 ~~[(b) A member of the Utah National Guard who performs active duty service shall be~~  
189 ~~considered to maintain continuous Utah residency under this section.]~~

190 ~~[(13)]~~ (12) A person is entitled to resident student status and may immediately apply  
191 for resident student status if the person:

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

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

195 ~~[(14)]~~ (13) Notwithstanding Subsection (3)(c), a dependent student who has at least  
196 one parent who has been domiciled in Utah for at least 12 months prior to the student's  
197 application is entitled to resident student status.

198 ~~[(15)]~~ (14) (a) A person who has established domicile in Utah for full-time permanent  
199 employment may rebut the presumption of a nonresident classification by providing substantial  
200 evidence that the reason for the individual's move to Utah was, in good faith, based on an  
201 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable  
202 work-related move for full-time permanent employment in Utah.

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

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

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

207 (iii) when the person moved to Utah;

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

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

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

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

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

217 ~~[(16)]~~ (15) (a) A person who is in residence in Utah to participate in a United States  
218 Olympic athlete training program, at a facility in Utah, approved by the governing body for the  
219 athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

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

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

226 ~~[(17)]~~ (16) (a) A person who has established domicile in Utah for reasons related to  
227 divorce, the death of a spouse, or long-term health care responsibilities for an immediate family  
228 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a  
229 nonresident classification by providing substantial evidence that the reason for the individual's  
230 move to Utah was, in good faith, based on the long-term health care responsibilities.

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

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

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

236 (iii) when the person moved to Utah;

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

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

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

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

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

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



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

246           ~~[(18)]~~ (17) The board, after consultation with the institutions, shall make rules not  
247 inconsistent with this section:

- 248           (a) concerning the definition of resident and nonresident students;
- 249           (b) establishing procedures for classifying and reclassifying students;
- 250           (c) establishing criteria for determining and judging claims of residency or domicile;
- 251           (d) establishing appeals procedures; and
- 252           (e) other matters related to this section.

253           ~~[(19)]~~ (18) A student shall be exempt from paying the nonresident portion of total  
254 tuition if the student:

- 255           (a) is a foreign national legally admitted to the Unites States;
- 256           (b) attended high school in this state for three or more years; and
- 257           (c) graduated from a high school in this state or received the equivalent of a high  
258 school diploma in this state.

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**Legislative Review Note**  
**as of 12-23-13 2:10 PM**

**Office of Legislative Research and General Counsel**