

**HIGHER EDUCATION RESIDENCY AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends higher education residency provisions.

**Highlighted Provisions:**

This bill:

▶ enacts language classifying an international student who has applied for asylum or refugee status under United States immigration law as a resident student for higher education attendance and tuition purposes.

**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 2020, Chapter 37

*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 post-secondary educational



28 benefits under Title 38 U.S.C., Veterans' Benefits.

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

30 (c) "Military servicemember" means an individual who:

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

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

34 (iii) is a member of the Utah National Guard; or

35 (iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned

36 outside of Utah pursuant to federal permanent change of station orders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58 (vii) a rental agreement showing the student's name and Utah address for at least 12

59 months prior to application; and

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

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

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

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

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

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

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

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

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

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

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

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

85 (B) evidence that the military servicemember is domiciled in Utah, as described in  
86 Subsection (9)(a);

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

89 (i) (A) the military servicemember's current United States military identification card;

90 or

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

92 and

93 (ii) (A) a statement from the military servicemember's current commander, or

94 equivalent, stating that the military servicemember is assigned in Utah; or

95 (B) evidence that the military servicemember is domiciled in Utah, as described in

96 Subsection (9)(a);

97 (c) a military veteran, regardless of whether the military veteran served in Utah, if the

98 military veteran provides:

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

100 (ii) a signed written declaration that the military veteran has relinquished residency in

101 any other state and does not maintain a residence elsewhere;

102 (iii) objective evidence that the military veteran has demonstrated an intent to establish

103 residency in Utah, which may include any one of the following:

104 (A) a Utah voter registration card;

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

106 (C) a Utah vehicle registration;

107 (D) evidence of employment in Utah;

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

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

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

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

112 (i) evidence of the military veteran's honorable or general discharge;

113 (ii) a signed written declaration that the military veteran's immediate family member

114 has relinquished residency in any other state and does not maintain a residence elsewhere; and

115 (iii) objective evidence that the military veteran's immediate family member has

116 demonstrated an intent to establish residency in Utah, which may include any one of the items

117 described in Subsection (8)(c)(iii); or

118 (e) an eligible person who provides:

119 (i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

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

121 and

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

124 (9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

125 (i) a current Utah voter registration card;

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

127 (iii) a current Utah vehicle registration;

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

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

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

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

138 (d) An international student who is an applicant for refugee status or asylum under  
139 United States immigration law is classified for purposes of resident status according to the  
140 same criteria applicable to a citizen.

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

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

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

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

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

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

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

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

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

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

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

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

167 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

196 (iii) when the person moved to Utah;

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

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

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

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

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

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

206 (17) The board, after consultation with the institutions, shall make rules not  
207 inconsistent with this section:

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

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

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

211 (d) establishing appeals procedures; and

212 (e) other matters related to this section.

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

214 the student:

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

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

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

218 school diploma in this state.