

HB0102S01 compared with HB0102

~~deleted text~~ shows text that was in HB0102 but was deleted in HB0102S01.

inserted text shows text that was not in HB0102 but was inserted into HB0102S01.

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Representative Marsha Judkins proposes the following substitute bill:

HIGHER EDUCATION RESIDENCY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: ~~_____~~ Daniel McCay

LONG TITLE

General Description:

This bill amends higher education residency provisions.

Highlighted Provisions:

This bill:

- ▶ requires an institution within the state system of higher education to grant residency status to an individual who is not a citizen of the United States but has been granted or has applied for certain immigration status.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

HB0102S01 compared with HB0102

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

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

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

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

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

Utah;

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

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

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

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

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

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

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

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

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

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

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah

HB0102S01 compared with HB0102

high school in the past 12 months;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB0102S01 compared with HB0102

(i) the military servicemember's current United States military identification card; and
(ii) (A) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah; or

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

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

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

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

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

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

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

(i) evidence of an honorable or general discharge;

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

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

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

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

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

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

HB0102S01 compared with HB0102

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

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

(e) an eligible person who provides:

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

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

and

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

(f) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law.

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

(i) a current Utah voter registration card;

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

(iii) a current Utah vehicle registration;

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

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

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted [immigrant or] or have applied for permanent

HB0102S01 compared with HB0102

resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

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

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

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

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

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

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

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

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

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

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

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

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

(iii) when the person moved to Utah;

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

HB0102S01 compared with HB0102

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

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

(A) at least 24 years [~~of age~~] old; or

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

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

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

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

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

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

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

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

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

(iii) when the person moved to Utah;

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

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

HB0102S01 compared with HB0102

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

(A) at least 24 years of age; or

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

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

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

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

(b) establishing procedures for classifying and reclassifying students;

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

(d) establishing appeals procedures; and

(e) other matters related to this section.

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

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

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

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