

HIGHER EDUCATION RESIDENCY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marsha Judkins

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill provides that a nonimmigrant under a certain type of temporary federal immigration benefit may become a resident student under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a nonimmigrant under a certain type of temporary federal immigration benefit may become a resident student under certain circumstances; and
- ▶ makes technical and conforming changes.

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 2023, Chapters 44, 50

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.



28 (1) As used in this section:

29 (a) "Eligible person" means an individual who is entitled to post-secondary educational
30 benefits under Title 38 U.S.C., Veterans' Benefits.

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

32 (c) "Military service member" means an individual who:

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

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

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

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

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

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

41 (f) "T nonimmigrant status" means a temporary immigration visa issued by the federal
42 government in accordance with 8 C.F.R. Sec. 214.11.

43 (g) "U nonimmigrant status" means a temporary immigration visa issued by the federal
44 government in accordance with 8 C.F.R. Sec. 214.14.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87 (a) a military service member, if the military service member provides:

88 (i) the military service member's current United States military identification card; and

89 (ii) (A) a statement from the military service member's current commander, or

90 equivalent, stating that the military service member is assigned in Utah; or

91 (B) evidence that the military service member is domiciled in Utah, as described in
92 Subsection (9)(a);

93 (b) a military service member's immediate family member, if the military service
94 member's immediate family member provides:

95 (i) (A) the military service member's current United States military identification card;

96 or

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

98 and

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

101 (B) evidence that the military service member is domiciled in Utah, as described in
102 Subsection (9)(a);

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

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

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

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

110 (A) a Utah voter registration card;

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

112 (C) a Utah vehicle registration;

113 (D) evidence of employment in Utah;

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

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

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

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

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

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

124 (e) an eligible person who provides:

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

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

127 and

128 (iii) objective evidence that the eligible person has demonstrated an intent to establish
129 residency in Utah, which may include any one of the items described in Subsection
130 (8)(c)(iii)[-]; or

131 (f) an alien who provides:

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

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

135 (iii) evidence that the alien has submitted in good faith an application for refugee
136 status, humanitarian parole, temporary protected status, or asylum under United States
137 immigration law[-];

138 (iv) evidence that the alien is in T or U nonimmigrant status; or

139 (v) evidence that the alien has submitted in good faith an application for T or U
140 nonimmigrant status.

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

142 (i) a current Utah voter registration card;

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

144 (iii) a current Utah vehicle registration;

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

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

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

152 classified as nonresidents.

153 (c) Aliens who have been granted or have applied for permanent resident status in the
154 United States are classified for purposes of resident student status according to the same
155 criteria applicable to citizens.

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

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

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

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

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

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

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

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

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

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

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

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

182 (iii) when the person moved to Utah;

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

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

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

188 (A) at least 24 years old; or

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

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

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

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

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

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

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

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

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

211 (iii) when the person moved to Utah;

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

214 (v) whether the person applied for admission to an institution of higher education
215 sooner than four months from the date of moving to Utah;
216 (vi) evidence that the person is an independent person who is:
217 (A) at least 24 years old; or
218 (B) not claimed as a dependent on someone else's tax returns; and
219 (vii) any other factors related to abandonment of a former domicile and establishment
220 of a new domicile in Utah for purposes other than to attend an institution of higher education.

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

- 223 (a) concerning the definition of resident and nonresident students;
- 224 (b) establishing procedures for classifying and reclassifying students;
- 225 (c) establishing criteria for determining and judging claims of residency or domicile;
- 226 (d) establishing appeals procedures; and
- 227 (e) other matters related to this section.

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

- 230 (a) is a foreign national legally admitted to the United States;
- 231 (b) attended high school in this state for three or more years; and
- 232 (c) graduated from a high school in this state or received the equivalent of a high
233 school diploma in this state.

234 **Section 2. Effective date.**

235 This bill takes effect on May 1, 2024.