₾ 02-13-15 9:00 AM ₾

Representative Paul Ray proposes the following substitute bill:

2 2015 GENERAL SESSION 3 STATE OF UTAH 4 Chief Sponsor: Paul Ray	
4 Chief Sponsor: Paul Ray	
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Senate Sponsor:	
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7 LONG TITLE	
8 General Description:	
9 This bill makes coordinating changes to the definition of veteran.	
10 Highlighted Provisions:	
This bill:	
12 ▶ adds the term "veteran" to the general definitions for the Utah Code;	
13 • makes coordinating changes to the definition of veteran; and	
14 ► makes other technical changes.	
15 Money Appropriated in this Bill:	
None None	
17 Other Special Clauses:	
This bill provides a special effective date.	
19 Utah Code Sections Affected:	
20 AMENDS:	
21 26-8a-106 , as last amended by Laws of Utah 2011, Chapter 181	
53B-8-102, as last amended by Laws of Utah 2014, Chapter 216	
23 53B-13b-102 , as enacted by Laws of Utah 2014, Chapter 87	
24 68-3-12.5 , as last amended by Laws of Utah 2011, Chapter 366	
71-7-3, as last amended by Laws of Utah 2013, Chapter 214	



	71-8-1, as last amended by Laws of Utah 2014, Chapter 85 71-12-102, as enacted by Laws of Utah 2014, Chapter 91
)	Be it enacted by the Legislature of the state of Utah:
	Section 1. Section 26-8a-106 is amended to read:
	26-8a-106. Waiver of rules.
	(1) Upon application, the committee or department may waive the requirements of a
	rule it has adopted if:
	(a) the person applying for the waiver satisfactorily demonstrates that:
	(i) the waiver is necessary for a pilot project to be undertaken by the applicant;
	(ii) in the particular situation, the requirement serves no beneficial public purpose; or
	(iii) circumstances warrant that waiver of the requirement outweighs the public benefit
	to be gained by adherence to the rule; and
	(b) for a waiver granted under Subsection (1)(a)(ii) or (iii), the committee or
	department:
	(i) extends the waiver to similarly situated persons upon application; or
	(ii) amends the rule to be consistent with the waiver.
	(2) A waiver of education, licensing, or certification requirements may be granted to a
	veteran, as defined in Section [71-8-1] <u>68-3-12.5</u> , if the veteran:
	(a) provides to the committee or department documentation showing military education
	and training in the field in which certification or licensure is sought; and
	(b) successfully passes any examination required.
	(3) No waiver may be granted under this section that is inconsistent with the provisions
	of this chapter.
	Section 2. Section 53B-8-102 is amended to read:
	53B-8-102. Definitions Resident student status Exceptions.
	(1) As used in this section:
	(a) "Immediate family member" means an individual's spouse or child.
	(b) "Military servicemember" means:
	(i) an individual who is serving on active duty in the United States Armed Forces
	within the state of Utah;

57	(ii) an individual who is a member of a reserve component of the United States Armed
58	Forces assigned in Utah; or
59	(iii) an individual who is a member of the Utah National Guard.
60	[(c) "Military veteran" means an individual who:]
61	[(i) has served on active duty:]
62	[(A) in the United States Armed Forces for at least 180 consecutive days or was a
63	member of a reserve component and has been separated or retired with an honorable or general
64	discharge; or]
65	[(B) in the National Guard and has been separated or retired with an honorable or
66	general discharge; or]
67	[(ii) incurred an actual service-related injury or disability in the line of duty regardless
68	of whether that person completed 180 days of active duty.]
69	(c) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.
70	(d) "Parent" means a student's biological or adoptive parent.
71	(2) The meaning of "resident student" is determined by reference to the general law on
72	the subject of domicile, except as provided in this section.
73	(3) (a) Institutions within the state system of higher education may grant resident
74	student status to any student who has come to Utah and established residency for the purpose of
75	attending an institution of higher education, and who, prior to registration as a resident student:
76	(i) has maintained continuous Utah residency status for one full year;
77	(ii) has signed a written declaration that the student has relinquished residency in any
78	other state; and
79	(iii) has submitted objective evidence that the student has taken overt steps to establish
80	permanent residency in Utah and that the student does not maintain a residence elsewhere.
81	(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:
82	(i) a Utah high school transcript issued in the past year confirming attendance at a Utah
83	high school in the past 12 months;
84	(ii) a Utah voter registration dated a reasonable period prior to application;
85	(iii) a Utah driver license or identification card with an original date of issue or a
86	renewal date several months prior to application;
87	(iv) a Utah vehicle registration dated a reasonable period prior to application:

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88 (v) evidence of employment in Utah for a reasonable period prior to application; 89 (vi) proof of payment of Utah resident income taxes for the previous year; 90 (vii) a rental agreement showing the student's name and Utah address for at least 12 91 months prior to application; and 92 (viii) utility bills showing the student's name and Utah address for at least 12 months 93 prior to application. 94 (c) A student who is claimed as a dependent on the tax returns of a person who is not a 95 resident of Utah is not eligible to apply for resident student status. 96 (4) Except as provided in Subsection (8), an institution within the state system of 97 higher education may establish stricter criteria for determining resident student status. 98 (5) If an institution does not have a minimum credit-hour requirement, that institution 99 shall honor the decision of another institution within the state system of higher education to 100 grant a student resident student status, unless: 101 (a) the student obtained resident student status under false pretenses; or 102 (b) the facts existing at the time of the granting of resident student status have changed. 103 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and 104 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. 105 106 but not other fees. (7) In addition to the waivers of nonresident tuition under Subsection (6), each 107 108 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to 109 the maximum number allowed by the appropriate athletic conference as recommended by the 110 president of each institution. 111 (8) Notwithstanding Subsection (3), an institution within the state system of higher 112 education shall grant resident student status for tuition purposes to: 113 (a) a military servicemember, if the military servicemember provides: 114 (i) the military servicemember's current United States military identification card; and 115 (ii) a statement from the military servicemember's current commander, or equivalent, 116 stating that the military servicemember is assigned in Utah;

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

servicemember's immediate family member provides:

119	(i) one of the following:
120	(A) the military servicemember's current United States military identification card; or
121	(B) the immediate family member's current United States military identification card;
122	and
123	(ii) a statement from the military servicemember's current commander, or equivalent,
124	stating that the military servicemember is assigned in Utah;
125	(c) a military veteran, regardless of whether the military veteran served in Utah, if the
126	military veteran provides:
127	(i) evidence of an honorable or general discharge;
128	(ii) a signed written declaration that the military veteran has relinquished residency in
129	any other state and does not maintain a residence elsewhere;
130	(iii) objective evidence that the military veteran has taken overt steps to relinquish
131	residency in any other state and establish residency in Utah, which may include any one of the
132	following:
133	(A) a Utah voter registration card;
134	(B) a Utah driver license or identification card;
135	(C) a Utah vehicle registration;
136	(D) evidence of employment in Utah;
137	(E) a rental agreement showing the military veteran's name and Utah address; or
138	(F) utility bills showing the military veteran's name and Utah address; and
139	(d) a military veteran's immediate family member, regardless of whether the military
140	veteran served in Utah, if the military veteran's immediate family member provides:
141	(i) evidence of the military veteran's honorable or general discharge within the last five
142	years;
143	(ii) a signed written declaration that the military veteran's immediate family member
144	has relinquished residency in any other state and does not maintain a residence elsewhere; and
145	(iii) objective evidence that the military veteran's immediate family member has taken
146	overt steps to relinquish residency in any other state and establish residency in Utah, which
147	may include any one of the items described in Subsection (8)(c)(iii).
148	(9) (a) Aliens who are present in the United States on visitor, student, or other visas
149	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.

- (b) Aliens who have been granted immigrant or permanent 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;

- 02-13-15 9:00 AM 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 (15) (a) A person who is in residence in Utah to participate in a United States Olympic 191 athlete training program, at a facility in Utah, approved by the governing body for the athlete's 192 Olympic sport, shall be entitled to resident status for tuition purposes. 193 (b) Upon the termination of the athlete's participation in the training program, the 194 athlete shall be subject to the same residency standards applicable to other persons under this 195 section. 196 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah 197 counts for Utah residency for tuition purposes upon termination of the athlete's participation in 198 a Utah Olympic athlete training program. 199 (16) (a) A person who has established domicile in Utah for reasons related to divorce, 200 the death of a spouse, or long-term health care responsibilities for an immediate family 201 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a 202 nonresident classification by providing substantial evidence that the reason for the individual's 203 move to Utah was, in good faith, based on the long-term health care responsibilities. 204 (b) All relevant evidence concerning the motivation for the move shall be considered,
 - (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;

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including:

210 (iv) the dates when the person applied for admission, was admitted, and was enrolled 211 as a postsecondary student;

212	(v) whether the person applied for admission to an institution of higher education
213	sooner than four months from the date of moving to Utah;
214	(vi) evidence that the person is an independent person who is:
215	(A) at least 24 years of age; or
216	(B) not claimed as a dependent on someone else's tax returns; and
217	(vii) any other factors related to abandonment of a former domicile and establishment
218	of a new domicile in Utah for purposes other than to attend an institution of higher education.
219	(17) The board, after consultation with the institutions, shall make rules not
220	inconsistent with this section:
221	(a) concerning the definition of resident and nonresident students;
222	(b) establishing procedures for classifying and reclassifying students;
223	(c) establishing criteria for determining and judging claims of residency or domicile;
224	(d) establishing appeals procedures; and
225	(e) other matters related to this section.
226	(18) A student shall be exempt from paying the nonresident portion of total tuition if
227	the student:
228	(a) is a foreign national legally admitted to the United States;
229	(b) attended high school in this state for three or more years; and
230	(c) graduated from a high school in this state or received the equivalent of a high
231	school diploma in this state.
232	Section 3. Section 53B-13b-102 is amended to read:
233	53B-13b-102. Definitions.
234	As used in this chapter:
235	(1) "Federal program" means the Post-9/11 Veterans Educational Assistance Act of
236	2008, Pub. L. No. 110-252.
237	(2) "Institution of higher education" or "institution" means a:
238	(a) credit-granting higher education institution within the state system of higher
239	education; or
240	(b) an institution of higher learning, as defined in the federal program, that is located in
241	the state.
242	(3) "Program" means the Veterans Tuition Gap Program created in this chapter.

243	(4) (a) "Qualifying military veteran" means [an individual] a veteran, as defined in
244	<u>Section</u> <u>68-3-12.5</u> , who:
245	(i) is a resident student under Section 53B-8-102 and rules of the board;
246	(ii) is accepted into an institution and enrolled in a program leading to a bachelor's
247	degree;
248	(iii) has qualified for the federal program;
249	(iv) has maximized the federal benefit under the federal program; and
250	(v) has not completed a bachelor's degree.
251	(b) "Qualifying military veteran" does not include a family member.
252	Section 4. Section 68-3-12.5 is amended to read:
253	68-3-12.5. Definitions for Utah Code.
254	(1) The definitions listed in this section apply to the Utah Code, unless:
255	(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant
256	to the context of the statute; or
257	(b) a different definition is expressly provided for the respective title, chapter, part,
258	section, or subsection.
259	(2) "Adjudicative proceeding" means:
260	(a) an action by a board, commission, department, officer, or other administrative unit
261	of the state that determines the legal rights, duties, privileges, immunities, or other legal
262	interests of one or more identifiable persons, including an action to grant, deny, revoke,
263	suspend, modify, annul, withdraw, or amend an authority, right, or license; and
264	(b) judicial review of an action described in Subsection (2)(a).
265	(3) "Administrator" includes "executor" when the subject matter justifies the use.
266	(4) "Advisory board," "advisory commission," and "advisory council" mean a board,
267	commission, committee, or council that:
268	(a) is created by, and whose duties are provided by, statute or executive order;
269	(b) performs its duties only under the supervision of another person as provided by
270	statute; and
271	(c) provides advice and makes recommendations to another person that makes policy
272	for the benefit of the general public.
273	(5) "County executive" means:

274	(a) the county commission, in the county commission or expanded county commission
275	form of government established under Title 17, Chapter 52, Changing Forms of County
276	Government;
277	(b) the county executive, in the county executive-council optional form of government
278	authorized by Section 17-52-504; or
279	(c) the county manager, in the council-manager optional form of government
280	authorized by Section 17-52-505.
281	(6) "County legislative body" means:
282	(a) the county commission, in the county commission or expanded county commission
283	form of government established under Title 17, Chapter 52, Changing Forms of County
284	Government;
285	(b) the county council, in the county executive-council optional form of government
286	authorized by Section 17-52-504; and
287	(c) the county council, in the council-manager optional form of government authorized
288	by Section 17-52-505.
289	(7) "Depose" means to make a written statement made under oath or affirmation.
290	(8) "Executor" includes "administrator" when the subject matter justifies the use.
291	(9) "Guardian" includes a person who:
292	(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary
293	or court appointment; or
294	(b) is appointed by a court to manage the estate of a minor or incapacitated person.
295	(10) "Highway" includes:
296	(a) a public bridge;
297	(b) a county way;
298	(c) a county road;
299	(d) a common road; and
300	(e) a state road.
301	(11) "Intellectual disability" means a significant, subaverage general intellectual
302	functioning that:
303	(a) exists concurrently with deficits in adaptive behavior; and
304	(b) is manifested during the developmental period as defined in the current edition of

305	the Diagnostic and Statistical Manual of Mental Disorders, published by the American
306	Psychiatric Association.
307	(12) "Intermediate care facility for people with an intellectual disability" means an
308	intermediate care facility for the mentally retarded, as defined in Title XIX of the Social
309	Security Act.
310	(13) "Land" includes:
311	(a) land;
312	(b) a tenement;
313	(c) a hereditament;
314	(d) a water right;
315	(e) a possessory right; and
316	(f) a claim.
317	(14) "Month" means a calendar month, unless otherwise expressed.
318	(15) "Oath" includes "affirmation."
319	(16) "Person" means:
320	(a) an individual;
321	(b) an association;
322	(c) an institution;
323	(d) a corporation;
324	(e) a company;
325	(f) a trust;
326	(g) a limited liability company;
327	(h) a partnership;
328	(i) a political subdivision;
329	(j) a government office, department, division, bureau, or other body of government;
330	and
331	(k) any other organization or entity.
332	(17) "Personal property" includes:
333	(a) money;
334	(b) goods;
335	(c) chattels;

336	(d) effects;
337	(e) evidences of a right in action;
338	(f) a written instrument by which a pecuniary obligation, right, or title to property is
339	created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
340	(g) a right or interest in an item described in Subsections (17)(a) through (f).
341	(18) "Personal representative," "executor," and "administrator" include:
342	(a) an executor;
343	(b) an administrator;
344	(c) a successor personal representative;
345	(d) a special administrator; and
346	(e) a person who performs substantially the same function as a person described in
347	Subsections (18)(a) through (d) under the law governing the person's status.
348	(19) "Policy board," "policy commission," or "policy council" means a board,
349	commission, or council that:
350	(a) is authorized to make policy for the benefit of the general public;
351	(b) is created by, and whose duties are provided by, the constitution or statute; and
352	(c) performs its duties according to its own rules without supervision other than under
353	the general control of another person as provided by statute.
354	(20) "Population" is shown by the most recent state or national census, unless expressly
355	provided otherwise.
356	(21) "Process" means a writ or summons issued in the course of a judicial proceeding.
357	(22) "Property" includes both real and personal property.
358	(23) "Real estate" or "real property" includes:
359	(a) land;
360	(b) a tenement;
361	(c) a hereditament;
362	(d) a water right;
363	(e) a possessory right; and
364	(f) a claim.
365	(24) "Review board," "review commission," and "review council" mean a board,
366	commission committee or council that:

367	(a) is authorized to approve policy made for the benefit of the general public by another
368	body or person;
369	(b) is created by, and whose duties are provided by, statute; and
370	(c) performs its duties according to its own rules without supervision other than under
371	the general control of another person as provided by statute.
372	(25) "Road" includes:
373	(a) a public bridge;
374	(b) a county way;
375	(c) a county road;
376	(d) a common road; and
377	(e) a state road.
378	(26) "Signature" includes a name, mark, or sign written with the intent to authenticate
379	an instrument or writing.
380	(27) "State," when applied to the different parts of the United States, includes a state,
381	district, or territory of the United States.
382	(28) "Swear" includes "affirm."
383	(29) "Testify" means to make an oral statement under oath or affirmation.
384	(30) "United States" includes each state, district, and territory of the United States of
385	America.
386	(31) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless
387	the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:
388	(a) on the day on which the 1953 recodification of the Utah Code was enacted; or
389	(b) (i) after the day described in Subsection (31)(a); and
390	(ii) before the most recent amendment to the referenced portion of the 1953
391	recodification of the Utah Code.
392	(32) "Vessel," when used with reference to shipping, includes a steamboat, canal boat,
393	and every structure adapted to be navigated from place to place.
394	(33) (a) "Veteran" means an individual who:
395	(i) has served in the United States Armed Forces for at least 180 days:
396	(A) on active duty; or
397	(B) in a reserve component, to include the National Guard; or

398	(ii) has incurred an actual service-related injury or disability while in the United States
399	Armed Forces regardless of whether the individual completed 180 days; and
400	(iii) was separated or retired under conditions characterized as honorable or general.
401	(b) This definition is not intended to confer eligibility for benefits.
402	[(33)] <u>(34)</u> "Will" includes a codicil.
403	[(34)] (35) "Writ" means an order or precept in writing, issued in the name of:
404	(a) the state;
405	(b) a court; or
406	(c) a judicial officer.
407	[(35)] <u>(36)</u> "Writing" includes:
408	(a) printing;
409	(b) handwriting; and
410	(c) information stored in an electronic or other medium if the information is retrievable
411	in a perceivable format.
412	Section 5. Section 71-7-3 is amended to read:
413	71-7-3. Development, operation, and maintenance of Utah Veterans' Cemetery
414	and Memorial Park Responsibilities of Department of Veterans' and Military Affairs
415	Costs Definition.
416	(1) The Department of Veterans' and Military Affairs, in consultation with the
417	Veterans' Memorial Park Board, shall develop, operate, and maintain a veterans' cemetery and
418	memorial park.
419	(2) To help pay the costs of developing, constructing, operating, and maintaining a
420	veterans' cemetery and memorial park, the Department of Veterans' and Military Affairs may:
421	(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal
422	Funds Procedures Act, receive federal funds, and may receive state funds, contributions from
423	veterans' organizations, and other private donations; and
424	(b) charge fees for at least the cost of the burial of veterans' spouses and other persons,
425	whom the department and the Veterans' Memorial Park Board determines are eligible to be
426	buried in a veterans' cemetery established by the state.
427	(3) [As used in this chapter, "veteran" has the same meaning as in Section 71-8-1]
428	"Veteran" has the same meaning as defined in Section 68-3-12.5.

429	Section 6. Section 71-8-1 is amended to read:
430	71-8-1. Definitions.
431	As used in this [chapter] title:
432	(1) "Contractor" means a person who is or may be awarded a government entity
433	contract.
434	(2) "Council" means the Veterans' Advisory Council.
435	(3) "Department" means the Department of Veterans' and Military Affairs.
436	(4) "Executive director" means the executive director of the Department of Veterans'
437	and Military Affairs.
438	(5) "Government entity" means the state and any county, municipality, local district,
439	special service district, and any other political subdivision or administrative unit of the state,
440	including state institutions of education.
441	(6) "Specialist" means a full-time employee of a government entity who is tasked with
442	responding to, and assisting, veterans who are employed by the entity or come to the entity for
443	assistance.
444	[(7) "Veteran" means:]
445	[(a) an individual who has served on active duty in the armed forces for at least 180
446	consecutive days or was a member of a reserve component, and who has been was separated or
447	retired under honorable or general conditions; or]
448	[(b) any individual incurring an actual service-related injury or disability in the line of
449	duty whether or not that person completed 180 days of active duty.]
450	(7) "Veteran" has the same meaning as defined in Section 68-3-12.5.
451	Section 7. Section 71-12-102 is amended to read:
452	71-12-102. Definitions.
453	As used in this chapter:
454	(1) "Council" means the Veterans' Advisory Council as created in Section 71-8-4.
455	(2) "Department" means the Department of Veterans' and Military Affairs as created in
456	Section 71-8-2.
457	(3) "Donor" means an individual or entity that provides material goods, services, or
458	labor without charge to veterans in accordance with this chapter.
459	(4) "Recipient" means a veteran as defined in Section [71-8-1] <u>68-3-12.5</u> , or a veteran's

1st Sub. (Buff) H.B. 36

02-13-15 9:00 AM

460	dependent spouse and children.
461	Section 8 Effective date.

This bill takes effect on July 1, 2016.