

Title	2015 Legislative Session
Staff lead:	Maddy Thompson
Position	Director of Policy and Government Relations
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Synopsis:	<ol style="list-style-type: none"> Staff will provide a brief overview of plans to inform legislators on the recommendations in the 2014 Strategic Action Plan. Staff will present an update on the Dual Credit and Veterans Residency proposals.
Guiding questions:	<ol style="list-style-type: none"> Do Council members have suggestions for informing legislators about the 2014 Strategic Action Plan? Do Council members support the components of the Veterans Residency Proposal? (Action Item: Seeking Motion of Support)
Possible council action:	<input type="checkbox"/> Information Only <input type="checkbox"/> Approve/Adopt <input type="checkbox"/> Other: _____
Documents and attachments:	<input type="checkbox"/> Brief/Report <input type="checkbox"/> PowerPoint <input type="checkbox"/> Third-party materials <input type="checkbox"/> Other

Residency for Veterans in Washington Aligning Washington State and Federal Laws

Background

In Washington, as in most other states, establishing residency for tuition purposes at public institutions of higher education has two components: the establishment of an official domicile, and a waiting period of one year after establishing a domicile. A collection of evidence is required to prove an individual's domicile. Individuals can only have one legal domicile in the U.S. at one time.

State Law

In current law, the term resident student covers many different types of active military duty students, spouses, and dependents, including the following:

- A student who is on active military duty stationed in the state or who is a member of the Washington National Guard.
- A student who is on active military duty or a member of the National Guard who entered service as a Washington resident and has maintained Washington as their domicile but is not stationed in the state; and a student who is a spouse or a dependent of a person who is on active military duty or a member of the National Guard who entered service as a Washington resident and has maintained Washington as their domicile but is not stationed in the state.
- A student who resides in Washington and is the spouse or a dependent of a person who is a member of the Washington National Guard; a student who resides in Washington and is on active military duty stationed in certain Oregon counties; and a student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in certain Oregon counties.

The 2014 Washington State Legislature passed SB 5318, revising the definition of a Washington resident student to remove the one year waiting period for veterans and their dependents. This bill went into effect June 12, 2014 and added to the definition of a resident:

- A student who has separated from the military under honorable conditions after at least two years of service, enters an institution of higher education in Washington within one year of the date of separation, and meets one or more criteria regarding a connection or intended connection to Washington.
- A student who is the spouse or a dependent of an individual who has separated from the military under honorable conditions after at least two years of service and meets certain criteria regarding a connection or intended connections to Washington.

Federal Law

At the federal level, the Veterans Access, Choice, And Accountability Act of 2014 was signed into law by the President on August 7, 2014, and becomes effective July 1, 2015. Section 702 of the Act requires the Veteran's Administration to approve, for the purposes of education benefits provided under the Montgomery GI Bill and Post-9/11 GI Bill programs, only public institutions of higher education that charge tuition and fees at no more than the in-state rate to certain veterans and dependents.

Section 702 makes this provision applicable to:

- Veterans who were discharged or released from at least 90 days of active service less than three years before their date of enrollment in the applicable course.
- Family members eligible for such assistance due to their relationship to such veterans.

Purpose of DRAFT Bill

This proposal will align federal and state statutes. Section 702 of federal law is a significant change in the allocation of veterans' benefits. Any payment to an institution for tuition and fees is dependent on the Veteran being classified as resident for tuition purposes. The Veterans Administration (VA) will no longer pay for courses taken by the veteran while the veteran is in a non-resident tuition status. Previously, the VA would pay for a course of education up to the in-state tuition rate for the Post 9/11 GI Bill or whatever the Montgomery GI Bill allowed.

This proposal is a benefit to the state as it would allow Veterans to continue attending colleges and universities in Washington using their GI bill benefits and funds, and allow those colleges and universities to continue receiving GI Bill funding.

This proposal would benefit the state's communities because higher education helps veterans transition to civilian life. Changes in federal law affect all states, so Veterans will not be looking at Washington as a destination since they can stay in their home state and receive the same benefits. Improving higher education opportunities for veterans provides a social, economic, moral, and community nexus. Veterans make great student leaders and are an important part of our community.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0205.1/15

ATTY/TYPIST: SCG:lel

BRIEF DESCRIPTION: Modifying the definition of resident student to comply with federal requirements established by the veterans access, choice, and accountability act of 2014.

1 AN ACT Relating to modifying the definition of resident student
2 to comply with federal requirements established by the veterans
3 access, choice, and accountability act of 2014; and amending RCW
4 28B.15.012.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 28B.15.012 and 2014 c 183 s 1 are each amended to
7 read as follows:

8 Whenever used in this chapter:

9 (1) The term "institution" shall mean a public university,
10 college, or community college within the state of Washington.

11 (2) The term "resident student" shall mean:

12 (a) A financially independent student who has had a domicile in
13 the state of Washington for the period of one year immediately prior
14 to the time of commencement of the first day of the semester or
15 quarter for which the student has registered at any institution and
16 has in fact established a bona fide domicile in this state primarily
17 for purposes other than educational;

18 (b) A dependent student, if one or both of the student's parents
19 or legal guardians have maintained a bona fide domicile in the state
20 of Washington for at least one year immediately prior to commencement

1 of the semester or quarter for which the student has registered at
2 any institution;

3 (c) A student classified as a resident based upon domicile by an
4 institution on or before May 31, 1982, who was enrolled at a state
5 institution during any term of the 1982-1983 academic year, so long
6 as such student's enrollment (excepting summer sessions) at an
7 institution in this state is continuous;

8 (d) Any student who has spent at least seventy-five percent of
9 both his or her junior and senior years in high schools in this
10 state, whose parents or legal guardians have been domiciled in the
11 state for a period of at least one year within the five-year period
12 before the student graduates from high school, and who enrolls in a
13 public institution of higher education within six months of leaving
14 high school, for as long as the student remains continuously enrolled
15 for three quarters or two semesters in any calendar year;

16 (e) Any person who has completed the full senior year of high
17 school and obtained a high school diploma, both at a Washington
18 public high school or private high school approved under chapter
19 28A.195 RCW, or a person who has received the equivalent of a
20 diploma; who has lived in Washington for at least three years
21 immediately prior to receiving the diploma or its equivalent; who has
22 continuously lived in the state of Washington after receiving the
23 diploma or its equivalent and until such time as the individual is
24 admitted to an institution of higher education under subsection (1)
25 of this section; and who provides to the institution an affidavit
26 indicating that the individual will file an application to become a
27 permanent resident at the earliest opportunity the individual is
28 eligible to do so and a willingness to engage in any other activities
29 necessary to acquire citizenship, including but not limited to
30 citizenship or civics review courses;

31 (f) Any person who has lived in Washington, primarily for
32 purposes other than educational, for at least one year immediately
33 before the date on which the person has enrolled in an institution,
34 and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec.
35 (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant
36 status as the spouse or child of a person having nonimmigrant status
37 under one of those subsections, or who, holding or having previously
38 held such lawful nonimmigrant status as a principal or derivative,
39 has filed an application for adjustment of status pursuant to 8
40 U.S.C. Sec. 1255(a);

1 (g) A student who is on active military duty stationed in the
2 state or who is a member of the Washington national guard;

3 (h) A student who is on active military duty or a member of the
4 national guard who entered service as a Washington resident and who
5 has maintained Washington as his or her domicile but is not stationed
6 in the state;

7 (i) A student who is the spouse or a dependent of a person who is
8 on active military duty or a member of the national guard who entered
9 service as a Washington resident and who has maintained Washington as
10 his or her domicile but is not stationed in the state. If the person
11 on active military duty is reassigned out-of-state, the student
12 maintains the status as a resident student so long as the student is
13 continuously enrolled in a degree program;

14 (j) A student who resides in the state of Washington and is the
15 spouse or a dependent of a person who is a member of the Washington
16 national guard;

17 (k) A student who ~~((has separated from the military under
18 honorable conditions after at least two years of service, and who
19 enters an institution of higher education in Washington within one
20 year of the date of separation who:~~

21 ~~(i) At the time of separation designated Washington as his or her
22 intended domicile; or~~

23 ~~(ii) Has Washington as his or her official home of record; or~~

24 ~~(iii) Moves to Washington and establishes a domicile as
25 determined in RCW 28B.15.013;~~

26 ~~(l) A student who is the spouse or a dependent of an individual
27 who has separated from the military under honorable conditions after
28 at least two years of service who:~~

29 ~~(i) At the time of discharge designates Washington as his or her
30 intended domicile; and~~

31 ~~(ii) Has Washington as his or her primary domicile as determined
32 in RCW 28B.15.013; and~~

33 ~~(iii) Enters an institution of higher education in Washington
34 within one year of the date of discharge)) meets the definition of
35 "covered individual" under the veterans access, choice, and
36 accountability act of 2014, P.L. 113-146 Sec. 702 under one of the
37 following criteria:~~

38 (i) The student separated from the military after at least ninety
39 days of service and enters an institution of higher education in
40 Washington within three years of the date of separation; or

1 (ii) The student is the spouse or child of an individual who
2 separated from the military after at least ninety days of service and
3 the student enters an institution of higher education in Washington
4 within three years of the individual's date of separation from the
5 military; or

6 (iii) The student is eligible for the marine gunnery sergeant
7 John David Fry scholarship as a spouse or a child of a deceased
8 individual who completed at least ninety days of service and died in
9 the line of duty, and the student enters an institution of higher
10 education in Washington within three years of the individual's death;

11 ~~((m))~~ (l) A student of an out-of-state institution of higher
12 education who is attending a Washington state institution of higher
13 education pursuant to a home tuition agreement as described in RCW
14 28B.15.725;

15 ~~((n))~~ (m) A student who meets the requirements of RCW
16 28B.15.0131: PROVIDED, That a nonresident student enrolled for more
17 than six hours per semester or quarter shall be considered as
18 attending for primarily educational purposes, and for tuition and fee
19 paying purposes only such period of enrollment shall not be counted
20 toward the establishment of a bona fide domicile of one year in this
21 state unless such student proves that the student has in fact
22 established a bona fide domicile in this state primarily for purposes
23 other than educational;

24 ~~((o))~~ (n) A student who resides in Washington and is on active
25 military duty stationed in the Oregon counties of Columbia, Gilliam,
26 Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,
27 Union, Wallowa, Wasco, or Washington; or

28 ~~((p))~~ (o) A student who resides in Washington and is the spouse
29 or a dependent of a person who resides in Washington and is on active
30 military duty stationed in the Oregon counties of Columbia, Gilliam,
31 Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,
32 Union, Wallowa, Wasco, or Washington. If the person on active
33 military duty moves from Washington or is reassigned out of the
34 Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop,
35 Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or
36 Washington, the student maintains the status as a resident student so
37 long as the student resides in Washington and is continuously
38 enrolled in a degree program.

39 (3) The term "nonresident student" shall mean any student who
40 does not qualify as a "resident student" under the provisions of this

1 section and RCW 28B.15.013. Except for students qualifying under
2 subsection (2)(e) or (~~(m)~~) (l) of this section, a nonresident
3 student shall include:

4 (a) A student attending an institution with the aid of financial
5 assistance provided by another state or governmental unit or agency
6 thereof, such nonresidency continuing for one year after the
7 completion of such semester or quarter.

8 (b) A person who is not a citizen of the United States of America
9 who does not have permanent or temporary resident status or does not
10 hold "Refugee-Parolee" or "Conditional Entrant" status with the
11 United States citizenship immigration services or is not otherwise
12 permanently residing in the United States under color of law and who
13 does not also meet and comply with all the applicable requirements in
14 this section and RCW 28B.15.013.

15 (4) The term "domicile" shall denote a person's true, fixed and
16 permanent home and place of habitation. It is the place where the
17 student intends to remain, and to which the student expects to return
18 when the student leaves without intending to establish a new domicile
19 elsewhere. The burden of proof that a student, parent or guardian has
20 established a domicile in the state of Washington primarily for
21 purposes other than educational lies with the student.

22 (5) The term "dependent" shall mean a person who is not
23 financially independent. Factors to be considered in determining
24 whether a person is financially independent shall be set forth in
25 rules adopted by the student achievement council and shall include,
26 but not be limited to, the state and federal income tax returns of
27 the person and/or the student's parents or legal guardian filed for
28 the calendar year prior to the year in which application is made and
29 such other evidence as the council may require.

30 (6) The term "active military duty" means the person is serving
31 on active duty in:

32 (a) The armed forces of the United States government; or

33 (b) The Washington national guard; or

34 (c) The coast guard, merchant mariners, or other nonmilitary
35 organization when such service is recognized by the United States
36 government as equivalent to service in the armed forces.

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THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

OCT 29 2014

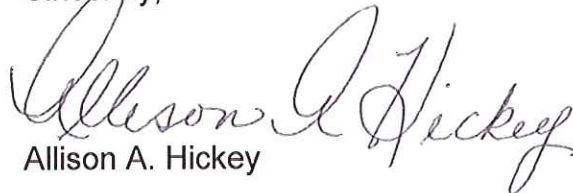
Dear Governor:

The President recently signed into law the Veterans Access, Choice and Accountability Act of 2014 ("Choice Act"). Section 702 of the Choice Act requires the Department of Veterans Affairs (VA) to disapprove programs of education under the Post-9/11 GI Bill and Montgomery GI Bill at a public institution of higher learning if the school charges qualifying Veterans and dependents tuition and fees in excess of the rate for resident students. Section 702 is effective for terms beginning after July 1, 2015.

VA's preliminary review indicates that most states and U.S. territories are not currently compliant with all of the provisions of this new law. In order to effectively assess the impact of Section 702 on Veterans attending public institutions, we are seeking to understand each State's intent and ability to comply with the provisions of the law. I therefore request your response to the questions in the enclosed Governor's Questionnaire. We have included a Fact Sheet and Guide to Determining Section 702 Compliance to assist your office in responding.

I would appreciate your immediate attention on this extremely important matter. Thank you for your commitment to our Nation's Veterans and their families.

Sincerely,


Allison A. Hickey

Enclosures

Governor's Questionnaire

- Will your State require all public institutions of higher learning to charge in-state tuition and fees to qualifying Veterans and dependents as described in Section 702?

(Please see the enclosure entitled "Guide to Determining Section 702 Compliance" to assist in determining if your State complies with all of the requirements.)

- What is the process required to make any changes necessary to bring your State into compliance?
- By what date do you expect all public institutions of higher learning within your State to be compliant?

VA would appreciate your reply by November 28, 2014. Given the short timeframe for the request, you may submit your responses and/or questions regarding Section 702 by email to the following mailbox: Section702.Vbavaco@va.gov.



EDUCATION AND TRAINING

VETERANS ACCESS, CHOICE AND ACCOUNTABILITY ACT OF 2014



SECTION 702 OF THE CHOICE ACT

Section 702 of the Veterans Access, Choice and Accountability Act of 2014 (“Choice Act”), requires VA to disapprove programs of education for payment of benefits under the Post-9/11 GI Bill and Montgomery GI Bill-Active Duty at public institutions of higher learning if the schools charge qualifying Veterans and dependents tuition and fees in excess of the rate for resident students for terms beginning after July 1, 2015.

These new requirements will ensure that our Nation’s recently discharged Veterans, and their eligible family members, will not have to bear the cost of out-of-state charges while using their well-deserved education benefits.

DO PUBLIC SCHOOLS HAVE TO OFFER IN-STATE RATES TO ALL VETERANS AND DEPENDENTS TO MEET THE REQUIREMENTS OF SECTION 702?

No. To remain approved for VA’s GI Bill programs, schools must charge in-state tuition and fee amounts to “covered individuals.” A “covered individual” is defined in the Choice Act as:

- A Veteran who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of discharge from a period of active duty service of 90 days or more.
- A spouse or child using transferred benefits who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within 3 years of the transferor’s discharge from a period of active duty service of 90 days or more.
- A spouse or child using benefits under the Marine Gunnery Sergeant John David Fry Scholarship who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of the Servicemember’s death in the line of duty following a period of active duty service of 90 days or more.



Note: Individuals who initially meet the requirements above will maintain “covered individual” status as long as they remain continuously enrolled at the institution of higher learning, even if they are outside the 3-year window or enroll in multiple programs.

WHAT HAPPENS IF A STATE DOES NOT OFFER IN-STATE TUITION AND FEES TO ALL “COVERED INDIVIDUALS”?

The law requires VA to disapprove programs of education for everyone training under the Post-9/11 GI Bill and the Montgomery GI Bill –Active Duty (MGIB-AD) if in-state tuition and fees are not offered to all “covered individuals.”

WHAT STEPS MUST BE TAKEN TO ENSURE THAT VETERANS AND THEIR FAMILY MEMBERS CAN RECEIVE VA GI BILL BENEFITS AT PUBLIC SCHOOLS IN MY STATE?

States must ensure all public institutions of higher learning offering VA-approved programs charge in-state tuition and fees to “covered individuals” as described, to include same-sex spouses and children (biological, adopted, pre-adoptive, and stepchildren of same-sex spouses) after July 1, 2015. To ensure compliance, States should consider offering in-state tuition and fees to all individuals eligible for benefits under the Post-9/11 and MGIB-AD programs.

WHEN DO STATES HAVE TO MEET THESE REQUIREMENTS?

Public institutions must offer in-state tuition and fees to all “covered individuals” for Veterans and family members to be eligible to receive GI Bill benefits for training beginning after July 1, 2015. VA will not issue payments for any students eligible for the Post-9/11 GI Bill or the MGIB-AD until the school becomes fully compliant. VA is in the process of developing waiver criteria for States that are actively pursuing changes to comply with these provisions. More information regarding the waiver criteria will be included in a regulation published in the Federal Register.

IF MY SCHOOL BECOMES COMPLIANT AFTER JULY 1, 2015, WHEN WILL VA BEGIN ISSUING PAYMENTS?

VA will not issue payments under the Post-9/11 GI Bill and MGIB-AD for all students in terms beginning after July 1, 2015, if the requirements of Section 702 are not met, unless a waiver is granted. If the in-state tuition and fee policies are brought into compliance with the requirements after July 1, 2015, and no waiver was previously granted, VA will begin making payments for terms, quarters, or semesters that begin on or after the date that the compliant policies take effect.

WHERE CAN I GO TO GET MORE INFORMATION?

Questions regarding the provisions of Section 702 may be submitted to Section702.Vbavaco@va.gov. VA will provide updates on its website at www.benefits.va.gov/gibill.



Guide to Determining Section 702 Compliance

The questions below can be used to identify potential areas of non-compliance with the new requirements of Section 702 of the Veterans Access, Choice, and Accountability Act ("Choice Act"). The Fact Sheet also enclosed provides a description of "covered individuals." If you have specific questions regarding eligibility for your State, please email Section702.Vbavaco@va.gov.

Veterans

Veterans eligible for educational assistance under the Post-9/11 GI Bill and Montgomery GI Bill are the primary group of individuals who are considered "covered individuals." Benefit eligibility may be established based on one, or more than one, period of active duty service, and qualifying service may be earned in the various branches of the armed forces and uniformed services.

- VA will use any period of fully honorable service to establish eligibility under the Post-9/11 GI Bill and Montgomery GI Bill. For individuals with more than one period of service, the final discharge need not be fully honorable. Consequently, an individual who receives an other-than-honorable or less than fully honorable final discharge (e.g. general- under honorable conditions or bad conduct) can still be eligible for GI Bill benefits and "covered individual" status.
- "Covered individual" can include Veterans of the regular components of Army, Navy, Air Force, Marine Corps, and Coast Guard; Veterans who performed certain full-time service in, or were called up from, the reserve components or the National Guard; and Veterans of the commissioned corps of the Public Health Service or National Oceanic and Atmospheric Administration are also included.

Please keep these facts in mind when answering the following question.

1. Are public institutions of higher learning (IHLs) in your State required to charge in-state tuition and fees for a Veteran eligible for benefits under the Post-9/11 GI Bill or Montgomery GI Bill who-
 - a. Enrolls within 3 years of being discharged from active duty service of 90 days or more, and
 - b. Lives in your State, regardless of his/her state of residency?

Family Members Using Transferred Entitlement

Spouses and children using transferred entitlement under the Post-9/11 GI Bill and Montgomery GI Bill are considered "covered individuals." VA requires the family member to meet the definition of a spouse or child at the time that he/she is determined to be eligible for benefits. Please note that eligibility is retained even if the status changes at some later point in time.

- A spouse, for the purposes of determining eligibility for transferred GI Bill benefits includes those wedded through both same-sex and opposite-sex marriages. Divorced spouses (including same-sex spouses) retain eligibility, even if they remarry, as long as the Veteran chooses not to revoke the transfer.
- A child, for the purposes of determining eligibility for transferred GI Bill benefits includes biological children, adopted children, pre-adoptive children, and stepchildren. A child does not have to be financially dependent on the parent or have been listed on the current or previous tax return. A stepchild (including the child of a same-sex spouse) retains eligibility if the Veteran divorces the child's biological parent, even if the parent remarries, as long as the Veteran chooses not to revoke the transfer. Children may use benefits up to the age of 26, and a child's marital status has no effect on benefit eligibility.

Please keep these facts in mind when answering the following question.

2. Are public IHLs in your State required to charge in-state tuition and fees for family members using transferred entitlement under the Post-9/11 GI Bill and Montgomery GI Bill who-
 - a. Enroll within 3 years of the transferor's release from active duty service of 90 days or more, and
 - b. Live in the State, regardless of their state of residency (regardless of whether the transferring Veteran is a resident of, or lives in, your state)?

Family Members Using Benefits Under the Marine Gunnery Sergeant John David Fry Scholarship provisions of the Post-9/11 GI Bill

Surviving spouses and children eligible for the Fry Scholarship are considered "covered individuals" as well. VA requires the family member to meet the definition of a spouse or child at the time that he/she is determined to be eligible for benefits..

- A spouse, for the purposes of determining eligibility for the Fry Scholarship, includes those wedded through both same-sex and opposite-sex marriages. Remarriage results in the loss of benefit eligibility.

- A child, for the purposes of determining eligibility for the Fry Scholarship, includes biological children, adopted children, pre-adoptive children, and stepchildren. A child does not have to be financially dependent on the parent or have been listed on the current or previous tax return. A child (including the child of a same-sex spouse) retains eligibility even if the surviving spouse remarries. Generally, children may use benefits up to the age of 33, and a child's marital status has no effect on benefit eligibility.

Please keep these facts in mind when answering the following question.

3. Are public IHLs in your State required to charge in-state tuition and fees for family members using benefits under the Marine Gunnery Sergeant John David Fry Scholarship provisions of the Post-9/11 GI Bill who-
 - a. Enroll within 3 years of the Servicemember's death in the line of duty following active duty service of 90 days or more, and
 - b. Live in the State, regardless of their State of residency (regardless of whether the transferring Veteran is a resident of, or lives in, your State)?

All Types of Beneficiaries

4. Are public IHLs in your State required to continue to charge in-state tuition and fee rates for the individuals described above for as long as they remain continuously enrolled?
5. Are public IHLs in your State required to charge in-state tuition and fee rates for the individuals described above for all approved programs they offer (e.g. certificate, undergraduate, graduate, etc.)?