

1 **HIGHER EDUCATION TUITION WAIVERS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: John W. Hickman**

5 AN ACT RELATING TO HIGHER EDUCATION; PROVIDING THAT AN INDIVIDUAL
6 WHO HAS BEEN HONORABLY DISCHARGED FROM THE UNITED STATES ARMED
7 FORCES IS ENTITLED TO RESIDENT STATUS FOR TUITION PURPOSES AT PUBLIC
8 HIGHER EDUCATION INSTITUTIONS; AND PROVIDING AN EFFECTIVE DATE.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **53B-8-102**, as enacted by Chapters 67 and 167, Laws of Utah 1987

12 *Be it enacted by the Legislature of the state of Utah:*

13 Section 1. Section **53B-8-102** is amended to read:

14 **53B-8-102. Definition of resident student.**

15 (1) The meaning of "resident student" is determined by reference to the general law on the
16 subject of domicile, except that the following rules are applicable:

17 (2) An adult who has come to Utah and established residency for the purpose of attending
18 an institution of higher education must maintain continuous Utah residency status for one full year
19 prior to the beginning of the academic period for which registration as a resident student is sought,
20 and, in each case, must demonstrate by additional objective evidence the establishment of a
21 domicile in Utah and that the student does not maintain a residence elsewhere.

22 (3) Except as provided in Subsection (4), the domicile of a minor student is determined
23 according to the following standards:

24 (a) Unless the contrary is shown by competent evidence, the domicile of a minor is
25 normally that of the minor's father, or if the father is dead, that of the minor's mother. If both
26 parents are dead, it is normally the domicile of the most recently deceased parent, or, if there is a
27 duly appointed guardian, then the minor's domicile is that of the duly appointed guardian.

1 (b) A minor whose parents move to Utah to establish a permanent domicile, and not for
2 the primary purpose of allowing the minor to attend an institution of higher education as a resident,
3 is immediately eligible to register as a resident student.

4 (c) A minor enrolled as a resident student will not lose that classification because his
5 parents or guardian remove their legal residence from the state during the continuous period of the
6 minor's higher education, unless the parents or guardian came to the state as a means of gaining
7 residency for the minor.

8 (4) (a) If the custody of a minor has been granted to any person by court order or by foster
9 placement with Utah resident families if the placement has been made by a licensed child
10 placement agency, the domicile of the person to whom custody was awarded constitutes the
11 domicile of the minor.

12 (b) If the minor's parents are divorced or separated, but custody has not been awarded, the
13 minor's domicile is determined from all of the relevant circumstances.

14 (c) The domicile of a person in loco parentis to an abandoned minor constitutes the
15 domicile of the abandoned minor, if the abandonment was not for the purpose of enabling the
16 minor to qualify for resident status.

17 (d) If the abandonment of a minor was for the purpose of enabling the minor to qualify for
18 resident status, the domicile of the minor is determined from all of the relevant circumstances
19 without regard for the abandonment.

20 (e) An emancipated minor may qualify for residence under the rules applicable to adults,
21 provided that the board has adopted standards under Subsection (7) for determining whether a
22 minor is emancipated.

23 (5) (a) Personnel of the United States Armed Forces assigned to active duty in Utah, and
24 the immediate members of their families residing with them in this state are entitled to resident
25 status for tuition purposes.

26 (b) Upon the termination of active duty status, the military personnel and their family
27 members are governed by the standards applicable to nonmilitary persons, except as provided in
28 Subsection (5)(c).

29 (c) An individual who has received ~~h~~ [-an honorable] A h discharge h , UNDER HONORABLE
29a CONDITIONS h from the United States Armed
30 Forces is entitled to resident status for tuition purposes at institutions within the state's higher
31 education system h , IF HE OR SHE STARTS SCHOOL WITHIN 180 DAYS OF DISCHARGE h .

31a h (d)(i) THE BOARD SHALL DETERMINE THE LOSS IN TUITION REVENUES UNDER
31b SUBSECTION (5)(c) FOR THE 1998-99 SCHOOL YEAR DUE TO THE RESIDENT CLASSIFICATION
31c FOR INDIVIDUALS HONORABLY DISCHARGED FROM MILITARY SERVICE AND REPORT THAT
31d INFORMATION TO THE LEGISLATURE DURING ITS 1999 GENERAL SESSION.
31e (ii) UNLESS THE LEGISLATURE APPROPRIATES MONEYS DURING THE 1999 GENERAL
31f SESSION TO OFFSET THE LOSS IN REVENUES REPORTED UNDER SUBSECTION (5)(d)(i).
31g SUBSECTION (5)(c) SHALL BE REPEALED EFFECTIVE JUNE 30, 1999. h

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

4 (b) Aliens who have been granted immigrant or permanent resident status in the United
5 States are classified for purposes of resident status according to the same criteria applicable to
6 citizens.

7 (7) The board, after consultation with the institutions, shall make rules not inconsistent
8 with this section, concerning the definition of resident and nonresident students and establishing
9 procedures for classifying and reclassifying students and criteria for judging claims of residency,
10 domicile, emancipation, abandonment, and other matters related to this section.

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

15 (9) Other institutions within the system shall honor a determination by an institution that
16 a person is a resident student unless the determination was obtained by false pretenses or the facts
17 which existed at the time of the determination have materially changed.

18 Section 2. **Effective date.**

19 This act takes effect on July 1, 1998.

Legislative Review Note
as of 12-11-97 2:23 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel