

1 **NONRESIDENT TUITION FOR HIGHER**
2 **EDUCATION**

3 2002 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Jeff Alexander**

6 **This act modifies the State System of Higher Education Code by amending the definition of**
7 **a resident student for tuition purposes.**

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

9 AMENDS:

10 **53B-8-102**, as enacted by Chapters 67 and 167, Laws of Utah 1987

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

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

13 **53B-8-102. Definition of resident student.**

14 (1) The meaning of "resident student" is determined by reference to the general law on the
15 subject of domicile, except [~~that the following rules are applicable:~~] as provided in this section.

16 (2) [~~An adult~~] A person who has come to Utah and established residency for the purpose
17 of attending an institution of higher education [~~must~~] shall, prior to registration as a resident
18 student:

19 (a) maintain continuous Utah residency status [for one full year prior to the beginning of
20 the academic period for which registration as a resident student is sought, and, in each case, must]
21 while completing 60 semester credit hours at a regionally accredited Utah higher education
22 institution or an equivalent number of applicable contact hours at the Utah College of Applied
23 Technology; and

24 (b) demonstrate by additional objective evidence, including Utah voter registration, Utah
25 drivers license, Utah vehicle registration, employment in Utah, payment of Utah resident income
26 taxes, and Utah banking connections, the establishment of a domicile in Utah and that the student
27 does not maintain a residence elsewhere.



28 ~~[(3) Except as provided in Subsection (4), the domicile of a minor student is determined~~
29 ~~according to the following standards:]~~

30 ~~[(a) Unless the contrary is shown by competent evidence, the domicile of a minor is~~
31 ~~normally that of the minor's father, or if the father is dead, that of the minor's mother. If both~~
32 ~~parents are dead, it is normally the domicile of the most recently deceased parent, or, if there is a~~
33 ~~duly appointed guardian, then the minor's domicile is that of the duly appointed guardian.]~~

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

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

41 ~~[(4) (a) If the custody of a minor has been granted to any person by court order or by foster~~
42 ~~placement with Utah resident families if the placement has been made by a licensed child~~
43 ~~placement agency, the domicile of the person to whom custody was awarded constitutes the~~
44 ~~domicile of the minor.]~~

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

47 ~~[(c) The domicile of a person in loco parentis to an abandoned minor constitutes the~~
48 ~~domicile of the abandoned minor, if the abandonment was not for the purpose of enabling the~~
49 ~~minor to qualify for resident status.]~~

50 ~~[(d) If the abandonment of a minor was for the purpose of enabling the minor to qualify~~
51 ~~for resident status, the domicile of the minor is determined from all of the relevant circumstances~~
52 ~~without regard for the abandonment.]~~

53 ~~[(e) An emancipated minor may qualify for residence under the rules applicable to adults,~~
54 ~~provided that the board has adopted standards under Subsection (7) for determining whether a~~
55 ~~minor is emancipated.]~~

56 ~~[(5)]~~ (3) Personnel of the United States Armed Forces assigned to active duty in Utah, and
57 the immediate members of their families residing with them in this state are entitled to resident
58 status for tuition purposes. Upon the termination of active duty status, the military personnel and

59 their family members are governed by the standards applicable to nonmilitary persons.

60 ~~[(7)]~~ (4) (a) Aliens who are present in the United States on visitor, student, or other visas
61 which authorize only temporary presence in this country, do not have the capacity to intend to
62 reside in Utah for an indefinite period and therefore are classified as nonresidents.

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

66 ~~[(7)]~~ (5) The board, after consultation with the institutions, shall make rules not
67 inconsistent with this section[;]:

68 (a) concerning the definition of resident and nonresident students [~~and~~];

69 (b) establishing procedures for classifying and reclassifying students [~~and~~];

70 (c) establishing criteria for determining qualifying credit hours and judging claims of
71 residency[;] or domicile[; emancipation, abandonment, and];

72 (d) establishing appeals procedures; and

73 (e) other matters related to this section.

74 ~~[(8)]~~ (6) Any American Indian who is enrolled on the tribal rolls of a tribe whose
75 reservation or trust lands lie partly or wholly within Utah or whose border is at any point
76 contiguous with the border of Utah, and any American Indian who is a member of a federally
77 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to
78 resident student status.

79 ~~[(9)]~~ (7) Other institutions within the system shall honor a determination by an institution
80 that a person is a resident student unless the determination was obtained by false pretenses or the
81 facts which existed at the time of the determination have materially changed.

Legislative Review Note

as of 2-26-02 2:38 PM

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

Office of Legislative Research and General Counsel