

Representative Jack R. Draxler proposes the following substitute bill:

RESIDENCY REQUIREMENTS FOR IN-STATE

TUITION

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill amends the definition of a resident student for tuition purposes within the state system of higher education.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ repeals the requirements for a nonresident student to complete 60 semester hours or have three years of residency prior to registration as a resident student;
- ▶ requires a nonresident student to maintain continuous Utah residency status for one full year prior to registration as a resident student;
- ▶ modifies the provisions that require objective evidence to be submitted that the student has taken overt steps to establish permanent residency in Utah;
- ▶ allows exceptions to the general residency rules for:
 - a person who marries a Utah resident;
 - a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months;
 - beginning July 1, 2007, a student who has at least one parent or grandparent who



26 graduated with at least an associate degree from an institution within the state system of higher
27 education;

28 • a person who has established domicile in Utah based on an employer requested
29 transfer to Utah, recruitment by a Utah employer, or a comparable work-related
30 move for full-time permanent employment in Utah;

31 • a person who is in residence in Utah to participate in a United States Olympic
32 athlete training program; or

33 • a person who has established domicile in Utah for reasons related to divorce, the
34 death of a spouse, or long-term health care responsibilities for an immediate
35 family member; and

36 ▶ makes technical corrections.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill takes effect on July 1, 2007.

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **53B-8-102**, as last amended by Chapters 244 and 311, Laws of Utah 2006



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

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

47 **53B-8-102. Definition of resident student.**

48 (1) As used in this section:

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

50 (b) "Grandparent" means a person whose child, either by blood, marriage, or adoption,
51 is the parent of the student.

52 ~~[(+)]~~ (2) The meaning of "resident student" is determined by reference to the general
53 law on the subject of domicile, except as provided in this section.

54 ~~[(2)(a) A person]~~ (3) (a) Institutions within the state system of higher education may
55 grant resident student status to any student who has come to Utah and established residency for
56 the purpose of attending an institution of higher education ~~[shall]~~, and who, prior to registration

57 as a resident student:

58 (i) ~~[maintain]~~ has maintained continuous Utah residency status[;] for one full year;

59 ~~[(A) while completing 60 semester credit hours at a regionally accredited Utah higher~~
60 ~~education institution or an equivalent number of applicable contact hours at the Utah College~~
61 ~~of Applied Technology; or]~~

62 ~~[(B) for three years regardless of the number of credit hours earned; and]~~

63 ~~[(ii) demonstrate by additional objective evidence, including]~~

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

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

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

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

71 (ii) a Utah voter registration[;] dated a reasonable period prior to application;

72 (iii) a Utah ~~[drivers]~~ driver license[;] or identification card with an original date of
73 issue or a renewal date several months prior to application;

74 (iv) a Utah vehicle registration[;] dated a reasonable period prior to application;

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

76 (vi) proof of payment of Utah resident income taxes[; and Utah banking connections;
77 the establishment of a domicile in Utah and that the student does not maintain a residence
78 elsewhere.] for the previous year;

79 ~~[(b) A member of the Utah National Guard who performs active duty service shall be~~
80 ~~considered to maintain continuous Utah residency under this Subsection (2).]~~

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

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

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

87 (4) An institution within the state system of higher education may establish stricter

88 criteria for determining resident student status, so long as the criteria do not require nonresident
89 students to do more than complete 60 credit hours while maintaining continuous Utah
90 residency, or maintain continuous Utah residency for 3 years, whichever comes first.

91 (5) (a) An institution within the state system of higher education may require students
92 transferring from another institution within the state system of higher education to demonstrate
93 completion of a minimum number of credit hours as a condition of receiving resident student
94 status, so long as those credit-hour policies do not require transferring students to complete
95 more than 60 credit hours prior to transferring.

96 (b) In the absence of a minimum credit-hour requirement, an institution shall honor the
97 decision of another institution within the state system of higher education to grant a student
98 resident student status, unless:

99 (i) the student obtained resident student status under false pretenses; or

100 (ii) the facts existing at the time of the granting of resident student status have changed.

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

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

109 ~~[(3)]~~ (8) (a) (i) Personnel of the United States Armed Forces assigned to active duty in
110 Utah, and the immediate members of their families residing with them in this state are entitled
111 to resident status for tuition purposes.

112 (ii) Except as provided in Subsection ~~[(3)]~~ (8)(b), upon the termination of active duty
113 status, the military personnel and their family members are governed by the standards
114 applicable to nonmilitary persons.

115 (b) Military personnel who had Utah residency immediately prior to their active duty
116 status and who reestablish residency in Utah upon the termination of active duty status are
117 entitled to resident status for themselves and the immediate members of their families residing
118 with them for tuition purposes.

119 ~~[(4)]~~ (9) (a) Aliens who are present in the United States on visitor, student, or other
120 visas which authorize only temporary presence in this country, do not have the capacity to
121 intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

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

125 ~~[(5) The board, after consultation with the institutions, shall make rules not
126 inconsistent with this section:]~~

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

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

129 ~~[(c) establishing criteria for determining qualifying credit hours and judging claims of
130 residency or domicile;]~~

131 ~~[(d) establishing appeals procedures; and]~~

132 ~~[(e) other matters related to this section:]~~

133 ~~[(6)]~~ (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose
134 reservation or trust lands lie partly or wholly within Utah or whose border is at any point
135 contiguous with the border of Utah, and any American Indian who is a member of a federally
136 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled
137 to resident student status.

138 ~~[(7)]~~ (11) A Job Corps student is entitled to resident student status if the student:

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

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

142 ~~[(8)]~~ (12) (a) A member of the Utah National Guard is entitled to resident student
143 status if the student:

144 ~~[(a)]~~ (i) is admitted as a full-time, part-time, or summer school student in a program of
145 study leading to a degree or certificate; and

146 ~~[(b)]~~ (ii) submits verification that the student is a member of the Utah National Guard.

147 (b) A member of the Utah National Guard who performs active duty service shall be
148 considered to maintain continuous Utah residency under this section.

149 (13) A person is entitled to resident student status and may immediately apply for

150 resident student status if the person:

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

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

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

157 (15) Beginning July 1, 2007, a student who enrolls at an institution within the state
158 system of higher education for the first time is entitled to resident student status if the student
159 has at least one parent or grandparent who graduated with at least an associate's degree from an
160 institution within the state system of higher education.

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

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

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

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

170 (iii) when the person moved to Utah;

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

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

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

176 (A) at least 24 years of age; or

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

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

180 (17) (a) A person who is in residence in Utah to participate in a United States Olympic

181 athlete training program, at a facility in Utah, approved by the governing body for the athlete's
182 Olympic sport, shall be entitled to resident status for tuition purposes.

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

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

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

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

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

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

199 (iii) when the person moved to Utah;

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

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

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

205 (A) at least 24 years of age; or

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

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

209 (19) The board, after consultation with the institutions, shall make rules not
210 inconsistent with this section:

211 (a) concerning the definition of resident and nonresident students;

- 212 (b) establishing procedures for classifying and reclassifying students;
- 213 (c) establishing criteria for determining and judging claims of residency or domicile;
- 214 (d) establishing appeals procedures; and
- 215 (e) other matters related to this section.
- 216 ~~[(9) Other institutions within the system shall honor a determination by an institution~~
- 217 ~~that a person is a resident student unless the determination was obtained by false pretenses or~~
- 218 ~~the facts which existed at the time of the determination have materially changed.]~~
- 219 Section 2. **Effective date.**
- 220 This bill takes effect on July 1, 2007.

H.B. 118 1st Sub. (Buff) - Residency Requirements for In-state Tuition

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill may result in some Utah System of Higher Education institutions experiencing a net gain in tuition revenue due to new non-resident students enrolling in that institution because they are able to gain residency sooner under the provisions of this bill. Other institutions may see a net loss in tuition revenue because current non-resident students would be able to gain residency sooner and avoid paying the higher, non-resident tuition rates. Over the entire system, it is anticipated that the net tuition revenue will not show a significant change.

Individual, Business and/or Local Impact

Non-resident students who meet the criteria will benefit from paying resident tuition.
