

**BORDER AND NONRESIDENT STUDENT**

**AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

Senate Sponsor: Stephen H. Urquhart

Cosponsor: Jack R. Draxler

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**LONG TITLE**

**General Description:**

This bill modifies State System of Higher Education provisions relating to resident and nonresident students.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of a resident student for tuition purposes within the state system of higher education;
- ▶ increases the number of nonresident partial tuition scholarships that may be awarded;
- ▶ authorizes Dixie State College of Utah to offer a good neighbor waiver of the nonresident differential in tuition rates charged to undergraduate students;
- ▶ authorizes institution presidents to waive an amount up to the full nonresident portion of tuition for alumni legacy nonresident scholarships; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2009.

**Utah Code Sections Affected:**

AMENDS:

30           **53B-8-102**, as last amended by Laws of Utah 2007, Chapter 369

31           **53B-8-103**, as enacted by Laws of Utah 1987, Chapter 167

32           **53B-8-104**, as last amended by Laws of Utah 1997, Chapter 275

33 ENACTS:

34           **53B-8-103.5**, Utah Code Annotated 1953



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

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

38           **53B-8-102. Definition of resident student.**

39           (1) As used in this section, "parent" means a student's biological or adoptive parent.

40           (2) The meaning of "resident student" is determined by reference to the general law on  
41 the subject of domicile, except as provided in this section.

42           (3) (a) Institutions within the state system of higher education may grant resident  
43 student status to any student who has come to Utah and established residency for the purpose  
44 of attending an institution of higher education, and who, prior to registration as a resident  
45 student:

46           (i) has maintained continuous Utah residency status for one full year;

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

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

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

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

55           (ii) a Utah voter registration dated a reasonable period prior to application;

56           (iii) a Utah driver license or identification card with an original date of issue or a  
57 renewal date several months prior to application;

58 (iv) a Utah vehicle registration dated a reasonable period prior to application;  
59 (v) evidence of employment in Utah for a reasonable period prior to application;  
60 (vi) proof of payment of Utah resident income taxes for the previous year;  
61 (vii) a rental agreement showing the student's name and Utah address for at least 12  
62 months prior to application; and

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

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

67 (4) An institution within the state system of higher education may establish stricter  
68 criteria for determining resident student status~~[-, so long as the criteria do not require~~  
69 ~~nonresident students to do more than complete 60 credit hours while maintaining continuous~~  
70 ~~Utah residency, or maintain continuous Utah residency for 3 years, whichever comes first].~~

71 ~~[(5) (a) An institution within the state system of higher education may require students~~  
72 ~~transferring from another institution within the state system of higher education to~~  
73 ~~demonstrate completion of a minimum number of credit hours as a condition of receiving~~  
74 ~~resident student status, so long as those credit-hour policies do not require transferring~~  
75 ~~students to complete more than 60 credit hours prior to transferring.]~~

76 ~~[(b) In the absence of] (5) If an institution does not have~~ a minimum credit-hour  
77 requirement, ~~[an] that~~ institution shall honor the decision of another institution within the state  
78 system of higher education to grant a student resident student status, unless:

79 ~~[(i)] (a)~~ the student obtained resident student status under false pretenses; or

80 ~~[(ii)] (b)~~ the facts existing at the time of the granting of resident student status have  
81 changed.

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

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

90 (8) (a) (i) Personnel of the United States Armed Forces assigned to active duty in  
91 Utah, and the immediate members of their families residing with them in this state are entitled  
92 to resident status for tuition purposes.

93 (ii) Except as provided in Subsection (8)(b), upon the termination of active duty  
94 status, the military personnel and their family members are governed by the standards  
95 applicable to nonmilitary persons.

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

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

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

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

111 (11) A Job Corps student is entitled to resident student status if the student:

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

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

115 (12) (a) A member of the Utah National Guard is entitled to resident student status if  
116 the student:

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

119 (ii) submits verification that the student is a member of the Utah National Guard.

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

122 (13) A person is entitled to resident student status and may immediately apply for  
123 resident student status if the person:

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

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

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

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

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

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

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

139 (iii) when the person moved to Utah;

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

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

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

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

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

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

149 (16) (a) A person who is in residence in Utah to participate in a United States Olympic  
150 athlete training program, at a facility in Utah, approved by the governing body for the athlete's  
151 Olympic sport, shall be entitled to resident status for tuition purposes.

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

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

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

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

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

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

169 (iii) when the person moved to Utah;

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

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

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

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

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

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

179 (18) The board, after consultation with the institutions, shall make rules not  
180 inconsistent with this section:

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

182 (b) establishing procedures for classifying and reclassifying students;

183 (c) establishing criteria for determining and judging claims of residency or domicile;

184 (d) establishing appeals procedures; and

185 (e) other matters related to this section.

186 (19) A student shall be exempt from paying the nonresident portion of total tuition if  
187 the student:

188 (a) is a foreign national legally admitted to the Unites States;

189 (b) attended high school in this state for three or more years; and

190 (c) graduated from a high school in this state or received the equivalent of a high  
191 school diploma in this state.

192 Section 2. Section **53B-8-103** is amended to read:

193 **53B-8-103. Waiver of nonresident differential in tuition rates -- Dixie State**  
194 **College of Utah good neighbor tuition waivers.**

195 (1) Notwithstanding any other provision of law:

196 ~~[(+)]~~ (a) (i) The board may determine when to grant a full or partial waiver of the  
197 nonresident differential in tuition rates charged to undergraduate students pursuant to

198 reciprocal agreements with other states.

199       (ii) In making ~~[this]~~ the determination described under Subsection (1)(a)(i), the board  
200 shall consider the potential of the waiver to:

201       ~~[(a)]~~ (A) enhance educational opportunities for Utah residents;

202       ~~[(b)]~~ (B) promote mutually beneficial cooperation and development of Utah  
203 communities and nearby communities in neighboring states;

204       ~~[(c)]~~ (C) contribute to the quality of educational programs; and

205       ~~[(d)]~~ (D) assist in maintaining the cost effectiveness of auxiliary operations in Utah  
206 institutions of higher education.

207       ~~[(2)]~~ (b)(i) Consistent with its determinations made pursuant to Subsection (1)~~(a)~~, the  
208 board may enter into agreements with other states to provide for a full or partial reciprocal  
209 waiver of the nonresident tuition differential charged to undergraduate students. ~~[Each]~~

210       (ii) An agreement shall provide for the numbers and identifying criteria of  
211 undergraduate students, and shall specify the institutions of higher education that will be  
212 affected by the agreement.

213       ~~[(3)]~~ (c) The board shall establish policy guidelines for the administration by the  
214 affected Utah institutions of any tuition waivers authorized under this section, for evaluating  
215 applicants for such waivers, and for reporting the results of the reciprocal waiver programs  
216 authorized by this section.

217       ~~[(4)]~~ (d) A report and financial analysis of any waivers of tuition authorized under this  
218 section shall be submitted annually to the general session of the Legislature as part of the  
219 budget recommendations of the board for the system of higher education.

220       (2) (a) Dixie State College of Utah may offer a good neighbor full waiver of the  
221 nonresident differential in tuition rates charged to undergraduate students:

222       (i) pursuant to reciprocal agreements with other states; or

223       (ii) to a resident of a county that has a portion of the county located within 70 miles of  
224 the main campus of Dixie State College of Utah.

225       (b) (i) A student who attends Dixie State College of Utah under a good neighbor



226 tuition waiver shall pay a surcharge per credit hour in addition to the regular resident tuition  
227 and fees of Dixie State College of Utah.

228 (ii) The surcharge per credit hour shall be based on a percentage of the approved  
229 resident tuition per credit hour each academic year.

230 (iii) The percentage assessed as a surcharge per credit hour may not be less than 70%  
231 of resident tuition per credit hour.

232 (c) Dixie State College of Utah may restrict the number of good neighbor tuition  
233 waivers awarded.

234 (d) A student who attends Dixie State College of Utah on a good neighbor tuition  
235 waiver may not count the time during which the waiver is received towards establishing  
236 resident student status in Utah.

237 Section 3. Section **53B-8-103.5** is enacted to read:

238 **53B-8-103.5. Alumni legacy nonresident scholarships.**

239 (1) In addition to other nonresident tuition scholarships, the president of an institution  
240 may also waive an amount up to the full nonresident portion of tuition for alumni legacy  
241 nonresident scholarships.

242 (2) The purposes of alumni legacy nonresident scholarships are to:

243 (a) assist in maintaining an adequate level of service and related cost-effectiveness of  
244 auxiliary operations in institutions of higher education;

245 (b) promote enrollment of nonresident students with high academic aptitudes; and

246 (c) recognize the legacy of past graduates and promote a continued connection to their  
247 alma mater.

248 (3) To qualify for an alumni legacy scholarship, a student shall:

249 (a) enroll at an institution within the state system of higher education for the first time;  
250 and

251 (b) have at least one parent who graduated with an associates degree or higher from  
252 the same institution in which the student is enrolling.

253 (4) A student who attends an institution within the state system of higher education on

254 an alumni legacy nonresident scholarship may not count the time during which the scholarship  
255 is received towards establishing resident student status in Utah.

256 Section 4. Section **53B-8-104** is amended to read:

257 **53B-8-104. Nonresident partial tuition scholarships.**

258 (1) The board may grant a scholarship for partial waiver of the nonresident portion of  
259 total tuition charged by public institutions of higher education to nonresident undergraduate  
260 students, subject to the limitations provided in this section, if the board determines that the  
261 scholarship will:

262 (a) promote mutually beneficial cooperation between Utah communities and nearby  
263 communities in states adjacent to Utah;

264 (b) contribute to the quality and desirable cultural diversity of educational programs in  
265 Utah institutions;

266 (c) assist in maintaining an adequate level of service and related cost-effectiveness of  
267 auxiliary operations in Utah institutions of higher education; and

268 (d) promote enrollment of nonresident students with high academic aptitudes.

269 (2) The board shall establish policy guidelines for the administration by institutions of  
270 higher education of any partial tuition scholarships authorized under this section, for  
271 evaluating applicants for those scholarships, and for reporting the results of the scholarship  
272 program authorized by this section.

273 (3) The policy guidelines promulgated by the board under Subsection (2) shall include  
274 the following provisions:

275 (a) the amount of the approved scholarship may not be more than 1/2 of the  
276 differential tuition charged to nonresident students for an equal number of credit hours of  
277 instruction;

278 (b) a nonresident partial tuition scholarship may be awarded initially only to a  
279 nonresident undergraduate student who has not previously been enrolled in a college or  
280 university in Utah and who has enrolled full time for ten or more credit hours, whose legal  
281 domicile is within approximately 100 highway miles of the Utah system of higher education

282 institution at which the recipient wishes to enroll or such distance that the regents may  
283 establish for any institution;

284 (c) the total number of nonresident partial tuition scholarships granted may not exceed  
285 a total of [~~400~~] 600 such scholarships in effect at any one time; and

286 (d) the board shall determine eligibility for nonresident partial tuition scholarships on  
287 the basis of program availability at an institution and on a competitive basis, using  
288 quantifiable measurements such as grade point averages and results of test scores.

289 (4) The board shall submit an annual report and financial analysis of the effects of  
290 offering nonresident partial tuition scholarships authorized under this section to the  
291 Legislature as part of its budget recommendations for the system of higher education.

292 Section 5. **Effective date.**

293 This bill takes effect on July 1, 2009.