

1 **BORDER AND NONRESIDENT STUDENT**

2 **AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Don L. Ipson**

6 Senate Sponsor: Stephen H. Urquhart

7

LONG TITLE

8 **General Description:**

9 This bill modifies State System of Higher Education provisions relating to resident and
10 nonresident students.
11

12 **Highlighted Provisions:**

13 This bill:

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

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2009.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **53B-8-102**, as last amended by Laws of Utah 2007, Chapter 369

30 **53B-8-103**, as enacted by Laws of Utah 1987, Chapter 167

31 **53B-8-104**, as last amended by Laws of Utah 1997, Chapter 275

32 ENACTS:

33 **53B-8-103.5**, Utah Code Annotated 1953



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

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

37 **53B-8-102. Definition of resident student.**

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

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

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

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

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

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

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

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

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

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

55 (iv) a Utah vehicle registration dated a reasonable period prior to application;

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

57 (vi) proof of payment of Utah resident income taxes for the previous year;

58 (vii) a rental agreement showing the student's name and Utah address for at least 12

59 months prior to application; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

136 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

165 (iii) when the person moved to Utah;

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

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

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

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

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

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

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

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

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

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

180 (d) establishing appeals procedures; and

181 (e) other matters related to this section.

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

183 the student:

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

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

186 (c) graduated from a high school in this state or received the equivalent of a high

187 school diploma in this state.

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

189 **53B-8-103. Waiver of nonresident differential in tuition rates -- Dixie State**
190 **College of Utah good neighbor tuition waivers.**

191 (1) Notwithstanding any other provision of law:

192 [~~(1)~~] (a) (i) The board may determine when to grant a full or partial waiver of the
193 nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal
194 agreements with other states.

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

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

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

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

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

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

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

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

213 [~~(4)~~] (d) A report and financial analysis of any waivers of tuition authorized under this

214 section shall be submitted annually to the general session of the Legislature as part of the
215 budget recommendations of the board for the system of higher education.

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

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

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

221 (b) (i) A student who attends Dixie State College of Utah under a good neighbor tuition
222 waiver shall pay a surcharge per credit hour in addition to the regular resident tuition and fees
223 of Dixie State College of Utah.

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

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

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

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

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

234 **53B-8-103.5. Alumni legacy nonresident scholarships.**

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

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

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

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

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

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

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

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

249 (4) A student who attends an institution within the state system of higher education on
250 an alumni legacy nonresident scholarship may not count the time during which the scholarship
251 is received towards establishing resident student status in Utah.

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

253 **53B-8-104. Nonresident partial tuition scholarships.**

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

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

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

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

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

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

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

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

273 (b) a nonresident partial tuition scholarship may be awarded initially only to a
274 nonresident undergraduate student who has not previously been enrolled in a college or
275 university in Utah and who has enrolled full time for ten or more credit hours, whose legal

276 domicile is within approximately 100 highway miles of the Utah system of higher education
277 institution at which the recipient wishes to enroll or such distance that the regents may
278 establish for any institution;

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

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

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

287 Section 5. **Effective date.**

288 This bill takes effect on July 1, 2009.

Legislative Review Note
as of 2-16-09 9:48 AM

Office of Legislative Research and General Counsel

H.B. 364 - Border and Nonresident Student Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Some institutions in the Utah System of Higher Education may see an increase in the number of students enrolled because they may be eligible for the tuition waivers or scholarships. This would result in an increase in revenue collections on those campuses. There could also be an offsetting decrease in revenue collections if students who would have otherwise enrolled and paid nonresident tuition now receive one of these waivers or scholarships. The impact will be determined by how many new students enroll and how many waivers and scholarships are awarded.

Individual, Business and/or Local Impact

Students who are eligible for tuition waivers will benefit from not paying nonresident tuition.
