

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 429

BY EDUCATION COMMITTEE

AN ACT

RELATING TO STUDENT RESIDENCY; AMENDING SECTION 33-2110B, IDAHO CODE, TO REVISE A DEFINITION AND TO REVISE PROVISIONS RELATING TO A PERSON ON MILITARY ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A RESIDENT STUDENT WHO IS A MEMBER OF AN IDAHO NATIVE AMERICAN INDIAN TRIBE AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-2110B, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110B. RESIDENCY -- RULES -- APPEAL -- STANDARDS FOR NONRESIDENTS. (1) For purposes of this chapter, a "resident student" is:

(a) Any student whose parents or court-appointed guardians are domiciled in the community college district and provide more than fifty percent (50%) of his support. Domicile, as used in this section, means an individual's true, fixed and permanent home and place of habitation. It is the place where he intends to remain, and to which he expects to return when he leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parents or guardian must have resided continuously in the community college district for twelve (12) months next preceding the opening day of the term for which the student matriculates.

(b) Any student who receives less than fifty percent (50%) of his support from parents or legal guardians who are not residents of the community college district for voting purposes and who has continuously resided in the community college district for twelve (12) months next preceding the opening day of the period of instruction during which he proposes to attend the community college.

(c) The spouse of a person who is classified, or is eligible for classification, as a resident of the community college district for the purposes of attending that community college.

(d) A member of the armed forces of the United States, stationed in the community college district on military orders or who entered service as a resident of the community college district and who has maintained resident status, but is not stationed within the community college district on military orders.

(e) An officer or an enlisted member of the Idaho national guard.

(f) A student whose parents or guardians are members of the armed forces and stationed in the community college district on military orders and who receives fifty percent (50%) or more of support from parents or legal guardians. The student, while in continuous attendance, shall not

lose his residence when his parents or guardians are transferred on military orders.

(g) A person separated, under honorable conditions, from the United States armed forces after at least two (2) years of active service, who at the time of separation designates the community college district as his intended domicile or who has the district as the home of record in service and enters the community college within one (1) year of the date of separation.

(h) Any individual who has been domiciled in the community college district, has qualified and would otherwise be qualified under the provisions of this statute, and who is away from the district for a period of less than one (1) calendar year and has not established legal residence elsewhere, provided a twelve (12) month period of continuous residence has been established immediately prior to departure.

(2) A community college board of trustees shall adopt rules and regulations applicable to their college now or hereafter established to determine residence status of any student and to establish procedures for review of that status.

(3) Appeal from a final determination denying resident status may be initiated by the filing of an action in the district court of the county in which the affected community college is located. An appeal from the district court shall lie as in all civil actions.

(4) Nothing contained herein shall prevent a community college board of trustees from waiving tuition to be paid by nonresident students.

(5) Nothing contained herein shall prevent a community college board of trustees from establishing quotas, standards for admission, standards for readmission, or other terms and requirements governing persons who are not residents for purposes of the first two (2) years of postsecondary education.

SECTION 2. That Section 33-3717B, Idaho Code, be, and the same is hereby amended to read as follows:

33-3717B. RESIDENCY REQUIREMENTS. (1) For any public institution of higher education in Idaho, a "resident student" is:

(a) Any student who has one (1) or more parent or parents or court-appointed guardians who are domiciled in the state of Idaho, and the parent, parents or guardians provide at least fifty percent (50%) of the student's support. Domicile, as used in this section, means that individual's true, fixed and permanent home and place of habitation. It is the place where that individual intends to remain, and to which that individual expects to return when that individual leaves without intending to establish a new domicile elsewhere. To qualify under this section, the parent, parents or guardians must have maintained a bona fide domicile in the state of Idaho for at least twelve (12) months prior to the opening day of the term for which the student matriculates.

(b) Any student, who receives less than fifty percent (50%) of the student's support from a parent, parents or legal guardians and who has continuously resided and maintained a bona fide domicile in the state of Idaho primarily for purposes other than educational for twelve (12)

1 months next preceding the opening day of the term during which the stu-
 2 dent proposes to attend the college or university.

3 (c) Subject to subsection (2) of this section, any student who is a
 4 graduate of an accredited secondary school in the state of Idaho, and
 5 who matriculates at a college or university in the state of Idaho during
 6 the term immediately following such graduation regardless of the resi-
 7 dence of the student's parent or guardian.

8 (d) The spouse of a person who is classified, or is eligible for classi-
 9 fication, as a resident of the state of Idaho for the purposes of attend-
 10 ing a college or university.

11 (e) A member of the armed forces of the United States who entered ser-
 12 vice as an Idaho resident and who has maintained Idaho resident status,
 13 but is not stationed within the state of Idaho on military orders.

14 (f) A member of the armed forces of the United States, stationed in the
 15 state of Idaho on military orders.

16 (g) An officer or an enlisted member of the Idaho national guard.

17 (h) A person separated, under honorable conditions, from the United
 18 States armed forces after at least two (2) years of service, who at
 19 the time of separation designates the state of Idaho as his intended
 20 domicile or who has Idaho as the home of record in service and enters
 21 a college or university in the state of Idaho within one (1) year of
 22 the date of separation, or who moves to Idaho for the purpose of estab-
 23 lishing domicile; provided however, to maintain status as a resident
 24 student, such person must actively establish domicile in Idaho within
 25 one (1) year of matriculation in a public institution of higher educa-
 26 tion in Idaho.

27 (i) The dependent child of a person who qualifies as a resident student
 28 under the provisions of subsection (1) (e) through (h) of this section,
 29 and who receives at least fifty percent (50%) support from such person
 30 shall also be a resident student, and shall not lose that resident sta-
 31 tus if, after he or she enters a college or university in the state of
 32 Idaho, the parent or guardian is transferred out of the state of Idaho on
 33 military orders.

34 (j) Any individual who has been domiciled in the state of Idaho, has
 35 qualified and would otherwise be qualified under the provisions of this
 36 statute and who is away from the state for a period of less than thirty
 37 (30) months and has not established legal residence elsewhere, provided
 38 a twelve (12) month period of continuous residence has been established
 39 immediately prior to departure; provided however, time spent away from
 40 the state while enrolled in a postsecondary education program shall not
 41 be included in the thirty (30) months. Such time spent away from the
 42 state while enrolled shall include normal academic year breaks, such as
 43 summer breaks or breaks between semesters or quarters, that occur prior
 44 to the receipt of the postsecondary degree.

45 (k) A student who is a member of any of the following Idaho Native Amer-
 46 ican Indian tribes, regardless of current domicile, shall be considered
 47 an Idaho state resident for purposes of fees or tuition at institutions
 48 of higher education: members of the following an Idaho Native American
 49 Indian tribes, whose traditional and customary tribal boundaries in-
 50 cluded portions of the state of Idaho, or whose Indian tribe was granted

reserved lands within the state of Idaho: ~~(i) Coeur d'Alene tribe; (ii) Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock tribes; (v) Kootenai tribe.~~ The state board of education shall maintain a list of tribes who meet these requirements.

(2) A "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of subsection (1) of this section, and shall include:

(a) A student attending an institution in this state with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one (1) year after the completion of the semester for which such assistance is last provided.

(b) A person who is not a citizen of the United States of America, who does not have permanent or temporary resident status or does not hold "refugee-parolee" or "conditional entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of the law and who does not also meet and comply with all applicable requirements of this section.

(3) The establishment of a new domicile in Idaho by a person formerly domiciled in another state has occurred if such person is physically present in Idaho primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Idaho. A student who is enrolled for more than eight (8) hours in any semester or quarter during a twelve (12) month period shall be presumed to be in Idaho for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile in this state unless the student proves, in fact, establishment of a bona fide domicile in this state primarily for purposes other than educational. Institutions determining whether a student is domiciled in the state of Idaho primarily for purposes other than educational shall consider, but shall not be limited to, the following factors:

(a) Any of the following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, proves the establishment and maintenance of domicile in Idaho for purposes other than educational and supports classification of a student as an Idaho resident:

(i) Filing of Idaho state income tax returns covering a period of at least twelve (12) months before the term in which the student proposes to enroll as a resident student;

(ii) Permanent full-time employment or the hourly equivalent thereof in the state of Idaho; or

(iii) Ownership by the student of the student's living quarters.

(b) The following, if done for at least twelve (12) months before the term in which the student proposes to enroll as a resident student, lend support to domiciliary intent and the absence of which indicates a lack of domiciliary intent. By themselves, the following do not constitute sufficient evidence of the establishment and maintenance of a domicile in Idaho for purposes other than educational:

1 (i) Registration and payment of Idaho taxes or fees on a motor ve-
 2 hicle, mobile home, travel trailer or other item of personal prop-
 3 erty for which state registration and the payment of a state tax or
 4 fee is required;

5 (ii) Registration to vote for state elected officials in Idaho at
 6 a general election;

7 (iii) Holding an Idaho driver's license;

8 (iv) Evidence of abandonment of a previous domicile;

9 (v) Presence of household goods in Idaho;

10 (vi) Establishment of accounts with Idaho financial institu-
 11 tions; and

12 (vii) Other similar factors indicating intent to be domiciled in
 13 Idaho and the maintenance of such domicile.

14 (4) The state board of education and the board of regents of the uni-
 15 versity of Idaho shall adopt uniform and standard rules applicable to all
 16 state colleges and universities now or hereafter established to determine
 17 resident status of any student and to establish procedures for review of that
 18 status.

19 (5) Appeal from a final determination denying resident status may be
 20 initiated by the filing of an action in the district court of the county in
 21 which the affected college or university is located; an appeal from the dis-
 22 trict court shall lie as in all civil actions.

23 (6) Nothing contained herein shall prevent the state board of education
 24 and the board of regents of the university of Idaho from establishing quo-
 25 tas, standards for admission, standards for readmission, or other terms and
 26 requirements governing persons who are not residents for purposes of higher
 27 education.

28 (7) For students who apply for special graduate and professional pro-
 29 grams including, but not limited to, the WWAMI (Washington, Wyoming, Alaska,
 30 Montana, Idaho) regional medical program, the WICHE student exchange
 31 programs, Creighton university school of dental science, the univer-
 32 sity of Utah college of medicine, and the ~~Washington, Oregon, Idaho (WOI)~~
 33 Washington-Idaho-Utah (W-I-U) regional program in veterinary ~~medical edu-~~
 34 education medicine, no applicant shall be certified or otherwise designated as
 35 a beneficiary of such special program who has not been a resident of the state
 36 of Idaho for at least one (1) calendar year previous to the application date.