

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 384

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE PROVISIONS OF RESIDENCY REQUIREMENTS FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION RELATING TO RESIDENT STUDENTS.

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

SECTION 1. 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) months next preceding the opening day of the term during which the student proposes to attend the college or university.

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

(d) The spouse of a person who is classified, or is eligible for classification, as a resident of the state of Idaho for the purposes of attending a college or university.

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

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

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

~~(g) A student whose parent or guardian is a member of the armed forces and stationed in the state of Idaho 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 that residence when the student's parent or guardian is transferred on military orders.~~

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

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

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

~~(j)~~k A student who is a member of any of the following Idaho Native American Indian tribes, regardless of current domicile, shall be considered an Idaho state resident for purposes of fees or tuition at institutions of higher education: members of the following Idaho Native American Indian tribes, whose traditional and customary tribal boundaries included 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.

(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:

(i) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile home, travel trailer or other item of personal property for which state registration and the payment of a state tax or fee is required;

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

(iii) Holding an Idaho driver's license;

(iv) Evidence of abandonment of a previous domicile;

(v) Presence of household goods in Idaho;

(vi) Establishment of accounts with Idaho financial institutions; and

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

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

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

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

17 (7) For students who apply for special graduate and professional pro-  
18 grams including, but not limited to, the WWAMI (Washington, Wyoming, Alaska,  
19 Montana, Idaho) regional medical program, the WICHE student exchange pro-  
20 grams, Creighton university school of dental science, the university of  
21 Utah college of medicine, and the Washington, Oregon, Idaho (WOI) regional  
22 program in veterinary medical education, no applicant shall be certified or  
23 otherwise designated as a beneficiary of such special program who has not  
24 been a resident of the state of Idaho for at least one (1) calendar year pre-  
25 vious to the application date.