

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 384

BY EDUCATION COMMITTEE

AN ACT

1
2 RELATING TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION
3 33-3717B, IDAHO CODE, TO REVISE PROVISIONS OF RESIDENCY REQUIREMENTS
4 FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION RELATING TO RESIDENT STU-
5 DENTS.

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

7 SECTION 1. That Section 33-3717B, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 33-3717B. RESIDENCY REQUIREMENTS. (1) For any public institution of
10 higher education in Idaho, a "resident student" is:

11 (a) Any student who has one (1) or more parent or parents or court-ap-
12 pointed guardians who are domiciled in the state of Idaho, and the par-
13 ent, parents or guardians provide at least fifty percent (50%) of the
14 student's support. Domicile, as used in this section, means that indi-
15 vidual's true, fixed and permanent home and place of habitation. It is
16 the place where that individual intends to remain, and to which that in-
17 dividual expects to return when that individual leaves without intend-
18 ing to establish a new domicile elsewhere. To qualify under this sec-
19 tion, the parent, parents or guardians must have maintained a bona fide
20 domicile in the state of Idaho for at least twelve (12) months prior to
21 the opening day of the term for which the student matriculates.

22 (b) Any student, who receives less than fifty percent (50%) of the stu-
23 dent's support from a parent, parents or legal guardians and who has
24 continuously resided and maintained a bona fide domicile in the state
25 of Idaho primarily for purposes other than educational for twelve (12)
26 months next preceding the opening day of the term during which the stu-
27 dent proposes to attend the college or university.

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

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

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

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

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

1 ~~(g) A student whose parent or guardian is a member of the armed forces~~
2 ~~and stationed in the state of Idaho on military orders and who receives~~
3 ~~fifty percent (50%) or more of support from parents or legal guardians.~~
4 ~~The student, while in continuous attendance, shall not lose that resi-~~
5 ~~dence when the student's parent or guardian is transferred on military~~
6 ~~orders.~~

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

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

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

35 ~~(k)~~ A student who is a member of any of the following Idaho Native Amer-
36 ican Indian tribes, regardless of current domicile, shall be considered
37 an Idaho state resident for purposes of fees or tuition at institutions
38 of higher education: members of the following Idaho Native American
39 Indian tribes, whose traditional and customary tribal boundaries in-
40 cluded portions of the state of Idaho, or whose Indian tribe was granted
41 reserved lands within the state of Idaho: (i) Coeur d'Alene tribe; (ii)
42 Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock
43 tribes; (v) Kootenai tribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (v) Presence of household goods in Idaho;

48 (vi) Establishment of accounts with Idaho financial institu-
49 tions; 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.