

LEGISLATURE OF THE STATE OF IDAHO

Sixtieth Legislature

First Regular Session - 2009

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 211

BY EDUCATION COMMITTEE

AN ACT

RELATING TO RESIDENCY REQUIREMENTS FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE THE DEFINITION OF "RESIDENT STUDENT"; AND DECLARING AN EMERGENCY.

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, stationed in the state of Idaho on military orders.

(f) 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.

1 (h) A person separated, under honorable conditions, from the United States armed forces
2 after at least two (2) years of service, who at the time of separation designates the state
3 of Idaho as his intended domicile or who has Idaho as the home of record in service
4 and enters a college or university in the state of Idaho within one (1) year of the date of
5 separation.

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

15 (j) A student who is a member of any of the following Idaho Native American Indian
16 tribes, regardless of current domicile, shall be considered an Idaho state resident for
17 purposes of fees or tuition at institutions of higher education: members of the following
18 Idaho Native American Indian tribes, whose traditional and customary tribal boundaries
19 included portions of the state of Idaho, or whose Indian tribe was granted reserved lands
20 within the state of Idaho: (i) Coeur d'Alene tribe; (ii) Shoshone-Paiute tribes; (iii) Nez
21 Perce tribe; (iv) Shoshone-Bannock tribes; (v) Kootenai tribe.

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

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

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

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

44 (a) Any of the following, if done for at least twelve (12) months before the term in
45 which the student proposes to enroll as a resident student, proves the establishment

1 and maintenance of domicile in Idaho for purposes other than educational and supports
2 classification of a student as an Idaho resident:

- 3 (i) Filing of Idaho state income tax returns covering a period of at least twelve
4 (12) months before the term in which the student proposes to enroll as a resident
5 student;
6 (ii) Permanent full-time employment or the hourly equivalent thereof in the state
7 of Idaho; or
8 (iii) Ownership by the student of the student's living quarters.
9 (b) The following, if done for at least twelve (12) months before the term in which the
10 student proposes to enroll as a resident student, lend support to domiciliary intent and the
11 absence of which indicates a lack of domiciliary intent. By themselves, the following do
12 not constitute sufficient evidence of the establishment and maintenance of a domicile in
13 Idaho for purposes other than educational:
14 (i) Registration and payment of Idaho taxes or fees on a motor vehicle, mobile
15 home, travel trailer or other item of personal property for which state registration
16 and the payment of a state tax or fee is required;
17 (ii) Registration to vote for state elected officials in Idaho at a general election;
18 (iii) Holding an Idaho driver's license;
19 (iv) Evidence of abandonment of a previous domicile;
20 (v) Presence of household goods in Idaho;
21 (vi) Establishment of accounts with Idaho financial institutions; and
22 (vii) Other similar factors indicating intent to be domiciled in Idaho and the
23 maintenance of such domicile.

24 (4) The state board of education and the board of regents of the university of Idaho
25 shall adopt uniform and standard rules applicable to all state colleges and universities now or
26 hereafter established to determine resident status of any student and to establish procedures for
27 review of that status.

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

31 (6) Nothing contained herein shall prevent the state board of education and the board of
32 regents of the university of Idaho from establishing quotas, standards for admission, standards
33 for readmission, or other terms and requirements governing persons who are not residents for
34 purposes of higher education.

35 (7) For students who apply for special graduate and professional programs including,
36 but not limited to, the WWAMI (Washington, Wyoming, Alaska, Montana, Idaho) regional
37 medical program, the WICHE student exchange programs, Creighton university school of
38 dental science, the university of Utah college of medicine, and the Washington, Oregon, Idaho
39 (WOI) regional program in veterinary medical education, no applicant shall be certified or
40 otherwise designated as a beneficiary of such special program who has not been a resident of
41 the state of Idaho for at least one (1) calendar year previous to the application date.

42 SECTION 2. An emergency existing therefor, which emergency is hereby declared to
43 exist, this act shall be in full force and effect on and after its passage and approval.