

IN THE SENATE

SENATE BILL NO. 1260

BY BILYEU

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE THE DEFINITION OF "RESIDENT STUDENT."

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

1 residence when the student's parent or guardian is transferred on
2 military orders.

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

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

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

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

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

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

43 (3) The establishment of a new domicile in Idaho by a person formerly
44 domiciled in another state has occurred if such person is physically
45 present in Idaho primarily for purposes other than educational and can show
46 satisfactory proof that such person is without a present intention to return
47 to such other state or to acquire a domicile at some other place outside
48 of Idaho. A student who is enrolled for more than eight (8) hours in any
49 semester or quarter during a twelve (12) month period shall be presumed to
50 be in Idaho for primarily educational purposes. Such period of enrollment

1 shall not be counted toward the establishment of a bona fide domicile in
2 this state unless the student proves, in fact, establishment of a bona
3 fide domicile in this state primarily for purposes other than educational.
4 Institutions determining whether a student is domiciled in the state of
5 Idaho primarily for purposes other than educational shall consider, but
6 shall not be limited to, the following factors:

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

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

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

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

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

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

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

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

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

32 (v) Presence of household goods in Idaho;

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

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

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

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

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

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