

IN THE SENATE

SENATE BILL NO. 1280, As Amended

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO IDAHO PUBLIC INSTITUTIONS OF HIGHER EDUCATION AND RESIDENCY
2 REQUIREMENTS; AMENDING SECTION 33-3717B, IDAHO CODE, TO REVISE A DEF-
3 INITION, TO REVISE PROVISIONS RELATING TO RESIDENCY REQUIREMENTS FOR
4 STUDENTS OF AN IDAHO PUBLIC INSTITUTION OF HIGHER EDUCATION AND TO MAKE
5 TECHNICAL CORRECTIONS.
6

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

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

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

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

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

29 (c) ~~Subject to subsection (2) of this section, a~~Any student who is
30 a graduate of an accredited secondary school in the state of Idaho
31 pursuant to section 33-119, Idaho Code, is domiciled in Idaho, and who
32 matriculates at a college or university in the state of Idaho during
33 the term an Idaho public institution of higher education within six (6)
34 years immediately following ~~such~~ secondary school graduation regard-
35 less of the ~~residence~~ domicile of the student's parent or guardian, or
36 any student who completes six (6) years of elementary and secondary ed-
37 ucation in Idaho, is domiciled in Idaho, and matriculates at an Idaho
38 public institution of higher education within six (6) years immediately
39 following completion of secondary education.

40 (d) The spouse of a person who is classified, or is eligible for classi-
41 fication, as a resident of the state of Idaho for the purposes of attend-
42 ing ~~a college or university~~ an Idaho public institution of higher edu-

1 cation, except that a student who was enrolled as a full-time student in
 2 any term during the twelve (12) month period before the term in which the
 3 student proposes to enroll as a resident student must independently es-
 4 tablish domicile under subsection (2) of this section.

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

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

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

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

21 (i) The dependent child of a person who qualifies as a resident student
 22 under the provisions of ~~subsection (1) paragraphs (e) through (g)~~ of
 23 this subsection and who receives at least fifty percent (50%) support
 24 from such person shall also be a resident student and shall not lose that
 25 resident status if, after he or she enters ~~a college or university in the~~
 26 ~~state of an~~ Idaho public institution of higher education, the parent or
 27 guardian is transferred out of the state of Idaho on military orders.

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

39 (k) A student who is a member of an Idaho Native American Indian tribe,
 40 whose traditional and customary tribal boundaries included portions
 41 of the state of Idaho, or whose Indian tribe was granted reserved lands
 42 within the state of Idaho. The state board of education shall maintain a
 43 list of tribes who meet these requirements.

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.~~

~~(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 has resided in Idaho for the prior twelve (12) months and 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 as a full-time student in any semester or quarter term during a the prior 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: can provide proof of full-time employment in Idaho for twelve (12) months before the term in which the student proposes to enroll as a resident student and the filing of an Idaho state resident income tax return for the prior tax year.~~

~~(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;~~

1 ~~(v) Presence of household goods in Idaho;~~

2 ~~(vi) Establishment of accounts with Idaho financial institu-~~
3 ~~tions; and~~

4 ~~(vii) Other similar factors indicating intent to be domiciled in~~
5 ~~Idaho and the maintenance of such domicile~~

6 (3) Notwithstanding the provisions of subsections (1) and (2) of this
7 section, the following students shall be considered nonresidents for tu-
8 ition purposes:

9 (a) A student attending an Idaho public institution of higher education
10 with financial assistance provided by another country or governmental
11 unit or agency thereof. Such nonresidency shall continue for twelve
12 (12) months after the completion of the last semester for which such
13 assistance was provided.

14 (b) A student who is not a United States citizen, unless lawfully
15 present in the United States.

16 (4) The state board of education and the board of regents of the univer-
17 sity of Idaho shall adopt uniform and standard rules applicable to all ~~state~~
18 ~~colleges and universities~~ Idaho public institutions of higher education now
19 or hereafter established to determine ~~resident~~ residency status of any stu-
20 dent and to establish procedures for review of that status.

21 (5) Appeal from a final determination denying ~~resident~~ residency sta-
22 tus may be initiated by the filing of an action in the district court of the
23 county in which the affected ~~college or university~~ public institution of
24 higher education is located; ~~an.~~ An appeal from the district court shall lie
25 as in all civil actions.

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

31 (7) For students who apply for special graduate and professional pro-
32 grams including, but not limited to, the WWAMI (Washington, Wyoming, Alaska,
33 Montana, Idaho) regional medical program, the WICHE student exchange pro-
34 grams, ~~Creighton university school of dental science~~ Idaho dental education
35 program, the university of Utah ~~college~~ school of medicine, and the Washing-
36 ~~ton-Idaho-Utah (W-I-U)~~ regional program in veterinary medicine, no appli-
37 cant shall be certified or otherwise designated as a beneficiary of such spe-
38 cial program who ~~has~~ does not ~~been a~~ meet the definition of ~~resident of the~~
39 ~~state of Idaho for at least one (1) calendar year previous to the application~~
40 ~~date~~ student as set forth in subsection (1) of this section.