

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 429

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO STUDENT RESIDENCY; AMENDING SECTION 33-2110B, IDAHO CODE, TO  
2 REVISE A DEFINITION AND TO REVISE PROVISIONS RELATING TO A PERSON ON  
3 MILITARY ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION  
4 33-3717B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A RESIDENT STU-  
5 DENT WHO IS A MEMBER OF AN IDAHO NATIVE AMERICAN INDIAN TRIBE AND TO MAKE  
6 TECHNICAL CORRECTIONS.  
7

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

9 SECTION 1. That Section 33-2110B, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 33-2110B. RESIDENCY -- RULES -- APPEAL -- STANDARDS FOR NONRESI-  
12 DENTS. (1) For purposes of this chapter, a "resident student" is:

13 (a) Any student whose parents or court-appointed guardians are domi-  
14 ciled in the community college district and provide more than fifty per-  
15 cent (50%) of his support. Domicile, as used in this section, means an  
16 individual's true, fixed and permanent home and place of habitation. It  
17 is the place where he intends to remain, and to which he expects to re-  
18 turn when he leaves without intending to establish a new domicile else-  
19 where. To qualify under this section, the parents or guardian must have  
20 resided continuously in the community college district for twelve (12)  
21 months next preceding the opening day of the term for which the student  
22 matriculates.

23 (b) Any student who receives less than fifty percent (50%) of his  
24 support from parents or legal guardians who are not residents of the  
25 community college district for voting purposes and who has continuously  
26 resided in the community college district for twelve (12) months next  
27 preceding the opening day of the period of instruction during which he  
28 proposes to attend the community college.

29 (c) The spouse of a person who is classified, or is eligible for clas-  
30 sification, as a resident of the community college district for the pur-  
31 poses of attending that community college.

32 (d) A member of the armed forces of the United States, stationed in the  
33 community college district on military orders or who entered service  
34 as a resident of the community college district and who has maintained  
35 resident status, but is not stationed within the community college dis-  
36 trict on military orders.

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

38 (f) A student whose parents or guardians are members of the armed forces  
39 and stationed in the community college district on military orders and  
40 who receives fifty percent (50%) or more of support from parents or le-  
41 gal guardians. The student, while in continuous attendance, shall not

1 lose his residence when his parents or guardians are transferred on mil-  
2 itary orders.

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

9 (h) Any individual who has been domiciled in the community college dis-  
10 trict, has qualified and would otherwise be qualified under the provi-  
11 sions of this statute, and who is away from the district for a period of  
12 less than one (1) calendar year and has not established legal residence  
13 elsewhere, provided a twelve (12) month period of continuous residence  
14 has been established immediately prior to departure.

15 (2) A community college board of trustees shall adopt rules and regu-  
16 lations applicable to their college now or hereafter established to deter-  
17 mine residence status of any student and to establish procedures for review  
18 of that status.

19 (3) Appeal from a final determination denying resident status may be  
20 initiated by the filing of an action in the district court of the county in  
21 which the affected community college is located. An appeal from the district  
22 court shall lie as in all civil actions.

23 (4) Nothing contained herein shall prevent a community college board of  
24 trustees from waiving tuition to be paid by nonresident students.

25 (5) Nothing contained herein shall prevent a community college board of  
26 trustees from establishing quotas, standards for admission, standards for  
27 readmission, or other terms and requirements governing persons who are not  
28 residents for purposes of the first two (2) years of postsecondary educa-  
29 tion.

30 SECTION 2. That Section 33-3717B, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 33-3717B. RESIDENCY REQUIREMENTS. (1) For any public institution of  
33 higher education in Idaho, a "resident student" is:

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

45 (b) Any student, who receives less than fifty percent (50%) of the stu-  
46 dent's support from a parent, parents or legal guardians and who has  
47 continuously resided and maintained a bona fide domicile in the state  
48 of Idaho primarily for purposes other than educational for twelve (12)

1 months next preceding the opening day of the term during which the stu-  
2 dent proposes to attend the college or university.

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

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

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

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

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

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

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

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

45 (k) A student who is a member of any of the following Idaho Native Amer-  
46 ican Indian tribes, regardless of current domicile, shall be considered  
47 an Idaho state resident for purposes of fees or tuition at institutions  
48 of higher education: members of the following an Idaho Native American  
49 Indian tribes, whose traditional and customary tribal boundaries in-  
50 cluded portions of the state of Idaho, or whose Indian tribe was granted

1 reserved lands within the state of Idaho: ~~(i) Coeur d'Alene tribe; (ii)~~  
 2 ~~Shoshone-Paiute tribes; (iii) Nez Perce tribe; (iv) Shoshone-Bannock~~  
 3 ~~tribes; (v) Kootenai tribe.~~ The state board of education shall maintain  
 4 a list of tribes who meet these requirements.

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

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

12 (b) A person who is not a citizen of the United States of America, who  
 13 does not have permanent or temporary resident status or does not hold  
 14 "refugee-parolee" or "conditional entrant" status with the United  
 15 States immigration and naturalization service or is not otherwise per-  
 16 manently residing in the United States under color of the law and who  
 17 does not also meet and comply with all applicable requirements of this  
 18 section.

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

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

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

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

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

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

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

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

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

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

9 (v) Presence of household goods in Idaho;

10 (vi) Establishment of accounts with Idaho financial institu-  
11 tions; and

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

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

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

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

28 (7) For students who apply for special graduate and professional pro-  
29 grams including, but not limited to, the WWAMI (Washington, Wyoming, Alaska,  
30 Montana, Idaho) regional medical program, the WICHE student exchange  
31 programs, Creighton university school of dental science, the univer-  
32 sity of Utah college of medicine, and the ~~Washington, Oregon, Idaho (WOI)-~~  
33 Washington-Idaho-Utah (W-I-U) regional program in veterinary ~~medical edu-~~  
34 education medicine, no applicant shall be certified or otherwise designated as  
35 a beneficiary of such special program who has not been a resident of the state  
36 of Idaho for at least one (1) calendar year previous to the application date.