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HOUSE BILL NO. 1041

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact § 23.1-506, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to public institutions of higher education; in-state tuition; children of active duty service members or veterans.

Patrons—Guzman and Avoli

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-506, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 23.1-506. (Effective until August 1, 2022) Eligibility for in-state tuition; exception; certain out-of-state and high school students.

A. Notwithstanding § 23.1-502 or any other provision of law to the contrary, the following students are eligible for in-state tuition charges regardless of domicile:

1. Any non-Virginia student who resides outside the Commonwealth and has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as the student is employed full time in the Commonwealth and the student pays Virginia income taxes on all taxable income earned in the Commonwealth.

2. Any non-Virginia student who resides outside the Commonwealth and is claimed as a dependent for federal and Virginia income tax purposes if the nonresident parent claiming the student as a dependent has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as his qualifying parent is employed full time in the Commonwealth, pays Virginia income taxes on all taxable income earned in the Commonwealth, and claims the student as a dependent for Virginia and federal income tax purposes.

3. Any active duty member, activated guard or reserve member, or guard or reserve member mobilized or on temporary active orders for 180 days or more who resides in the Commonwealth.

4. Any veteran who resides in the Commonwealth.

5. Any surviving spouse who resides in the Commonwealth.

6. Following completion of active duty service, any non-Virginia student who established domicile before being called to active duty in the National Guard of another state if during such active duty he maintained at least one of the following in the Commonwealth: a driver's license, motor vehicle registration, voter registration, employment, property ownership, or sources of financial support.

7. Any member of the foreign service office who resided in the Commonwealth for at least 90 days immediately prior to receiving a foreign service assignment and who continues to be assigned overseas, and any dependents of such member.

8. Any child of an active duty member or veteran who claims Virginia as his home state and filed Virginia tax returns for at least ~~two~~ *two* years during active duty service.

9. Any individual who (i) was admitted to the United States as a refugee under 8 U.S.C. § 1157 within the previous two calendar years or (ii) received a Special Immigrant Visa that has been granted a status under P.L. 110-181 § 1244, P.L. 109-163 § 1059, or P.L. 11-8 § 602 within the previous two calendar years and, upon entering the United States, resided in the Commonwealth and continues to reside in the Commonwealth as a refugee or pursuant to such Special Immigrant Visa.

10. Any student who (i) attended high school for at least two years in the Commonwealth and either (a) graduated on or after July 1, 2008, from a public or private high school or program of home instruction in the Commonwealth or (b) passed on or after July 1, 2008, a high school equivalency examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless exempted by state law, Virginia income tax returns for at least two years prior to the date of registration or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher education in the Commonwealth. Students who meet these criteria shall be eligible for in-state tuition regardless of their citizenship or immigration status, except that students with currently valid visas issued

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59 under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J)(including only students or trainees),
60 or 1101(a)(15)(M) are not eligible. Information obtained in the implementation of this subdivision shall
61 only be used or disclosed to individuals other than the student for purposes of determining in-state
62 tuition eligibility.

63 Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a
64 Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee
65 revenue policies.

66 B. Notwithstanding the provisions of § 23.1-502 or any other provision of law to the contrary, the
67 governing board of any public institution of higher education may charge in-state tuition to the
68 following students regardless of domicile:

69 1. Any non-Virginia student enrolled in one of the institution's programs designated by the Council
70 who (i) is entitled to reduced tuition charges at the institutions of higher education in any other state
71 that is a party to the Southern Regional Education Compact and that has similar reciprocal provisions
72 for Virginia students and (ii) is domiciled in such other state;

73 2. Any non-Virginia student from a foreign country who is enrolled in a foreign exchange program
74 approved by the institution of higher education during the same period in which a Virginia student from
75 such institution is attending such foreign institution as an exchange student; and

76 3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is
77 enrolled in courses specifically designed as part of the high school or magnet school curriculum in a
78 comprehensive community college for which he may, upon successful completion, receive high school
79 and college credit pursuant to a dual enrollment agreement between the high school or magnet school
80 and the comprehensive community college.

81 Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a
82 non-Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee
83 revenue policies.

84 C. The State Board shall charge in-state tuition to any non-Virginia student enrolled at a
85 comprehensive community college who resides in another state within a 30-mile radius of a public
86 institution of higher education in the Commonwealth, is domiciled in such other state, and is entitled to
87 in-state tuition charges at the institutions of higher education in any state that is contiguous to the
88 Commonwealth and that has similar reciprocal provisions for Virginia students.

89 Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a
90 Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee
91 revenue policies.

92 **§ 23.1-506. (Effective August 1, 2022) Eligibility for in-state tuition; exception; certain**
93 **out-of-state and high school students.**

94 A. Notwithstanding § 23.1-502 or any other provision of law to the contrary, the following students
95 are eligible for in-state tuition charges regardless of domicile:

96 1. Any non-Virginia student who resides outside the Commonwealth and has been employed full
97 time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement
98 if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for
99 the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for
100 in-state tuition charges for so long as the student is employed full time in the Commonwealth and the
101 student pays Virginia income taxes on all taxable income earned in the Commonwealth.

102 2. Any non-Virginia student who resides outside the Commonwealth and is claimed as a dependent
103 for federal and Virginia income tax purposes if the nonresident parent claiming the student as a
104 dependent has been employed full time in the Commonwealth for at least one year immediately prior to
105 the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the
106 Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue
107 to be eligible for in-state tuition charges for so long as his qualifying parent is employed full time in the
108 Commonwealth, pays Virginia income taxes on all taxable income earned in the Commonwealth, and
109 claims the student as a dependent for Virginia and federal income tax purposes.

110 3. Any active duty member, activated guard or reserve member, or guard or reserve member
111 mobilized or on temporary active orders for 180 days or more who resides in the Commonwealth.

112 4. Any veteran who resides in the Commonwealth.

113 5. Any surviving spouse who resides in the Commonwealth.

114 6. Following completion of active duty service, any non-Virginia student who established domicile
115 before being called to active duty in the National Guard of another state if during such active duty he
116 maintained at least one of the following in the Commonwealth: a driver's license, motor vehicle
117 registration, voter registration, employment, property ownership, or sources of financial support.

118 7. Any member of the foreign service office who resided in the Commonwealth for at least 90 days
119 immediately prior to receiving a foreign service assignment and who continues to be assigned overseas,
120 and any dependents of such member.

121 8. Any child of an active duty member or veteran who claims Virginia as his home state and filed
122 Virginia tax returns for at least ~~40~~ *two* years during active duty service.

123 9. Any individual who (i) was admitted to the United States as a refugee under 8 U.S.C. § 1157
124 within the previous two calendar years or (ii) received a Special Immigrant Visa that has been granted a
125 status under P.L. 110-181 § 1244, P.L. 109-163 § 1059, or P.L. 111-8 § 602 within the previous two
126 calendar years and, upon entering the United States, resided in the Commonwealth and continues to
127 reside in the Commonwealth as a refugee or pursuant to such Special Immigrant Visa.

128 Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a
129 Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee
130 revenue policies.

131 B. Notwithstanding the provisions of § 23.1-502 or any other provision of law to the contrary, the
132 governing board of any public institution of higher education may charge in-state tuition to the
133 following students regardless of domicile:

134 1. Any non-Virginia student enrolled in one of the institution's programs designated by the Council
135 who (i) is entitled to reduced tuition charges at the institutions of higher education in any other state
136 that is a party to the Southern Regional Education Compact and that has similar reciprocal provisions
137 for Virginia students and (ii) is domiciled in such other state;

138 2. Any non-Virginia student from a foreign country who is enrolled in a foreign exchange program
139 approved by the institution of higher education during the same period in which a Virginia student from
140 such institution is attending such foreign institution as an exchange student; and

141 3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is
142 enrolled in courses specifically designed as part of the high school or magnet school curriculum in a
143 comprehensive community college for which he may, upon successful completion, receive high school
144 and college credit pursuant to a dual enrollment agreement between the high school or magnet school
145 and the comprehensive community college.

146 Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a
147 non-Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee
148 revenue policies.

149 C. The State Board shall charge in-state tuition to any non-Virginia student enrolled at a
150 comprehensive community college who resides in another state within a 30-mile radius of a public
151 institution of higher education in the Commonwealth, is domiciled in such other state, and is entitled to
152 in-state tuition charges at the institutions of higher education in any state that is contiguous to the
153 Commonwealth and that has similar reciprocal provisions for Virginia students.

154 Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a
155 Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee
156 revenue policies.