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HOUSE BILL NO. 1120

Offered January 12, 2022

A *BILL to amend and reenact § 23.1-506 of the Code of Virginia, as it is currently effective and as it shall become effective, and to amend the Code of Virginia by adding sections numbered 23.1-407.2 and 23.1-609.1, relating to public institutions of higher education; admission, in-state tuition, and tuition waivers; members of certain American Indian tribes.*

Patron—McQuinn

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-506 of the Code of Virginia, as it is currently effective and as it shall become effective, is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 23.1-407.2 and 23.1-609.1 as follows:

§ 23.1-407.2. Admissions policies; members of certain American Indian tribes.

Each public institution of higher education shall establish and implement an admissions policy whereby a certain number of annual offers of student admission shall be reserved for individuals who are members of a state-recognized or federally recognized American Indian tribe that is headquartered in the Commonwealth.

§ 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 10 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

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59 examination approved by the Secretary of Education; (ii) has submitted evidence that he or, in the case
60 of a dependent student, at least one parent, guardian, or person standing in loco parentis has filed, unless
61 exempted by state law, Virginia income tax returns for at least two years prior to the date of registration
62 or enrollment; and (iii) registers as an entering student or is enrolled in a public institution of higher
63 education in the Commonwealth. Students who meet these criteria shall be eligible for in-state tuition
64 regardless of their citizenship or immigration status, except that students with currently valid visas issued
65 under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J)(including only students or trainees),
66 or 1101(a)(15)(M) are not eligible. Information obtained in the implementation of this subdivision shall
67 only be used or disclosed to individuals other than the student for purposes of determining in-state
68 tuition eligibility.

69 *11. Any non-Virginia student who is a member of a state-recognized or federally recognized*
70 *American Indian tribe that is headquartered in the Commonwealth.*

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

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

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

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

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

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

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

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

100 **§ 23.1-506. (Effective August 1, 2022) Eligibility for in-state tuition; exception; certain**
101 **out-of-state and high school students.**

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

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

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

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

120 4. Any veteran who resides in the Commonwealth.

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

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

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

129 8. Any child of an active duty member or veteran who claims Virginia as his home state and filed
130 Virginia tax returns for at least 10 years during active duty service.

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

136 10. *Any non-Virginia student who is a member of a state-recognized or federally recognized*
137 *American Indian tribe that is headquartered in the Commonwealth.*

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

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

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

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

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

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

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

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

167 ***§ 23.1-609.1. Members of certain American Indian tribes; tuition waivers.***

168 *Any student who is a member of a state-recognized or federally recognized American Indian tribe*
169 *headquartered in the Commonwealth and who has been admitted to a public institution of higher*
170 *education is eligible for a tuition waiver up to the amount necessary to cover the last-dollar cost of the*
171 *institution's in-state tuition and mandatory fees after all other federal and state financial aid to which*
172 *the student is entitled is taken into account.*