

**Department of Planning and Budget
2003 Fiscal Impact Statement**

1. Bill Number HB2339

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron Drake

3. Committee Passed Both Houses

4. Title In-state tuition for aliens.

5. Summary/Purpose:

Provides that an alien who is unlawfully present in the U.S. shall not be eligible for in-state tuition and other post-secondary educational benefits on the basis of residency within Virginia unless citizens and nationals of the United States are eligible for the same benefits without regard to their status or residency.

6. No Fiscal Impact: Final.

7. Budget amendment necessary: No.

8. Fiscal implications: None. The bill is consistent with existing legislation.

9. Specific agency or political subdivisions affected: The Commonwealth's 17 public institutions of higher education.

10. Technical amendment necessary: No.

11. Other comments: During the legislative debates, opponents of the bill argued that it would make the Commonwealth vulnerable to lawsuits, because it sets up an 'irrefutable presumption' based on an undefined class. Because there currently exists a very clear, highly regulated process for qualifying for in-state tuition, it is problematic to forbid a class of individuals from being able to make an evidentiary showing, in effect preventing them from using the process that is in place. This argument has prevailed in several legal cases over the last few years. It was also noted that the bill would pose a problem for the private institutions and the Tuition Assistance Grant program, as well as for public institutions of higher education.

Date: 03/03/03/jeh

Document: DPB G:\2003 Legislation \HB2339HR.DOC

cc: Secretary of Education