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SENATE BILL NO. 1387

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 21, 2021)

(Patron Prior to Substitute—Senator Boysko)

A BILL to amend and reenact § 23.1-506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-505.1, relating to the State Council of Higher Education for Virginia; eligibility for in-state tuition.

Be it enacted by the General Assembly of Virginia:

1. That § 23.1-506 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered § 23.1-505.1 as follows:

§ 23.1-505.1. *Eligibility for in-state tuition and state financial assistance programs.*

Notwithstanding § 23.1-502 or any other provision of law to the contrary, 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 or private institution of higher education in the Commonwealth, is eligible for in-state tuition regardless of citizenship or immigration status, except that students with currently valid visas issued under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J) (including only students or trainees), or 1101(a)(15)(M) are not eligible. All such students shall be afforded the same educational benefits, including access to financial assistance programs administered by the Council, the State Board, or a public institution of higher education, as any other individual who is eligible for in-state tuition pursuant to § 23.1-502. Information obtained in the implementation of this section shall only be used or disclosed to individuals other than the student for purposes of determining such educational benefits.

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

§ 23.1-506. *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. 111-8 § 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 under 8 U.S.C. § 1101(a)(15)(F), 1101(a)(15)(H)(iii), 1101(a)(15)(J)(including only students or trainees), or 1101(a)(15)(M) are not eligible. Information obtained in the implementation of this subdivision shall only be used or disclosed to individuals other than the student for purposes of determining in-state tuition eligibility.

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

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

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

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

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

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

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

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

2. That the provisions of this act shall become effective on August 1, 2022.

3. That the State Council of Higher Education for Virginia, in coordination with institutions of higher education in the Commonwealth, shall promulgate regulations to implement the provisions of this act.