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HOUSE BILL 1997

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Cox, Priest, Kenney, Jarrett, Clements, Fromhold, Buck, Moeller, Edwards and Chase

Read first time 02/19/2003.                      Referred to Committee on Higher Education.

1            AN ACT Relating to providing assistance to institutions of higher  
2 education in managing overenrollment of students; amending RCW  
3 28B.15.012 and 28B.15.013; adding new sections to chapter 28B.15 RCW;  
4 and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** It is the legislature's intent to provide  
7 policy tools to assist the institutions of higher education in managing  
8 overenrollment of students, including students who may be enrolling in  
9 Washington institutions with resident status who should be considered  
10 nonresidents. It is also the legislature's intent to encourage  
11 students to make prudent choices and maximize the taxpayer investment  
12 in supporting their higher education. Students who are not making wise  
13 use of the opportunities provided by public institutions of higher  
14 education should not expect public support of their education to  
15 continue indefinitely.

16            **Sec. 2.** RCW 28B.15.012 and 2002 c 186 s 2 are each amended to read  
17 as follows:

18            Whenever used in chapter 28B.15 RCW:

1 (1) The term "institution" shall mean a public university, college,  
2 or community college within the state of Washington.

3 (2) The term "resident student" shall mean:

4 (a) A financially independent student who has had a domicile in the  
5 state of Washington for the period of one year immediately prior to the  
6 time of commencement of the first day of the semester or quarter for  
7 which the student has registered at any institution and has in fact  
8 established a bona fide domicile in this state primarily for purposes  
9 other than educational;

10 (b) A dependent student, if one or both of the student's parents or  
11 legal guardians have maintained a bona fide domicile in the state of  
12 Washington for at least one year immediately prior to commencement of  
13 the semester or quarter for which the student has registered at any  
14 institution;

15 (c) A student classified as a resident based upon domicile by an  
16 institution on or before May 31, 1982, who was enrolled at a state  
17 institution during any term of the 1982-1983 academic year, so long as  
18 such student's enrollment (excepting summer sessions) at an institution  
19 in this state is continuous;

20 (d) Any student who has spent at least seventy-five percent of both  
21 his or her junior and senior years in high schools in this state, whose  
22 parents or legal guardians have been domiciled in the state for a  
23 period of at least one year within the five-year period before the  
24 student graduates from high school, and who enrolls in a public  
25 institution of higher education within six months of leaving high  
26 school, for as long as the student remains continuously enrolled for  
27 three quarters or two semesters in any calendar year;

28 (e) A student who is on active military duty stationed in the state  
29 or who is a member of the Washington national guard;

30 (f) A student who is the spouse or a dependent of a person who is  
31 on active military duty stationed in the state;

32 (g) A student who resides in the state of Washington and is the  
33 spouse or a dependent of a person who is a member of the Washington  
34 national guard;

35 (h) A student of an out-of-state institution of higher education  
36 who is attending a Washington state institution of higher education  
37 pursuant to a home tuition agreement as described in RCW 28B.15.725; or

1 (i) A student who meets the requirements of RCW 28B.15.0131:  
2 PROVIDED, That a nonresident student enrolled for more than six hours  
3 per semester or quarter shall be considered as attending for primarily  
4 educational purposes, and for tuition and fee paying purposes only such  
5 period of enrollment shall not be counted toward the establishment of  
6 a bona fide domicile of one year in this state unless such student  
7 proves that the student has in fact established a bona fide domicile in  
8 this state primarily for purposes other than educational.

9 (3) The term "nonresident student" shall mean any student who does  
10 not qualify as a "resident student" under the provisions of RCW  
11 28B.15.012 and 28B.15.013. Except for students qualifying under  
12 subsection (2)(h) of this section, a nonresident student shall include:

13 (a) A student attending an institution with the aid of financial  
14 assistance provided by another state or governmental unit or agency  
15 thereof, such nonresidency continuing for one year after the completion  
16 of such semester or quarter.

17 (b) A person who is not a citizen of the United States of America  
18 who does not have permanent or temporary resident status or does not  
19 hold "Refugee-Parolee" or "Conditional Entrant" status with the United  
20 States immigration and naturalization service or is not otherwise  
21 permanently residing in the United States under color of law and who  
22 does not also meet and comply with all the applicable requirements in  
23 RCW 28B.15.012 and 28B.15.013.

24 (4) The term "domicile" shall denote a person's true, fixed and  
25 permanent home and place of habitation. It is the place where the  
26 student intends to remain, and to which the student expects to return  
27 when the student leaves without intending to establish a new domicile  
28 elsewhere. The burden of proof that a student, parent or guardian has  
29 established a domicile in the state of Washington primarily for  
30 purposes other than educational lies with the student.

31 (5) The term "dependent" shall mean a person who is not financially  
32 independent. Factors to be considered in determining whether a person  
33 is financially independent shall be set forth in rules and regulations  
34 adopted by the higher education coordinating board and shall include,  
35 but not be limited to, the state and federal income tax returns of the  
36 person and/or the student's parents or legal guardian filed for the  
37 calendar year prior to the year in which application is made, the  
38 amount of direct or indirect financial assistance in any form received

1 from the student's parents or legal guardian, and such other evidence  
2 as the board may require. Unless convincingly proven otherwise,  
3 financial assistance from a trust or account made available to the  
4 student shall be considered evidence of financial dependence.

5 **Sec. 3.** RCW 28B.15.013 and 1989 c 175 s 79 are each amended to  
6 read as follows:

7 (1) The establishment of a new domicile in the state of Washington  
8 by a person formerly domiciled in another state has occurred if such  
9 person is physically present in Washington primarily for purposes other  
10 than educational and can show (~~(satisfactory)~~) convincing proof that  
11 such person is without a present intention to return to such other  
12 state or to acquire a domicile at some other place outside of  
13 Washington.

14 (2) Unless proven to the contrary it shall be presumed that:

15 (a) The domicile of any person shall be determined according to the  
16 individual's situation and circumstances rather than by marital status  
17 or sex.

18 (b) A person does not lose a domicile in the state of Washington by  
19 reason of residency in any state or country while a member of the civil  
20 or military service of this state or of the United States, nor while  
21 engaged in the navigation of the waters of this state or of the United  
22 States or of the high seas if that person returns to the state of  
23 Washington within one year of discharge from said service with the  
24 intent to be domiciled in the state of Washington; any resident  
25 dependent student who remains in this state when such student's  
26 parents, having theretofore been domiciled in this state for a period  
27 of one year immediately prior to the time of commencement of the first  
28 day of the semester or quarter for which the student has registered at  
29 any institution, remove from this state, shall be entitled to continued  
30 classification as a resident student so long as such student's  
31 attendance (except summer sessions) at an institution in this state is  
32 continuous.

33 (3) To aid the institution in deciding whether a student, parent,  
34 legally appointed guardian or the person having legal custody of a  
35 student is domiciled in the state of Washington primarily for purposes  
36 other than educational, the rules and regulations adopted by the higher

1 education coordinating board shall include but not be limited to the  
2 following:

3 (a) Registration or payment of Washington taxes or fees on a motor  
4 vehicle, mobile home, travel trailer, boat, or any other item of  
5 personal property owned or used by the person for which state  
6 registration or the payment of a state tax or fee is required will be  
7 a factor in considering evidence of the establishment of a Washington  
8 domicile.

9 (b) Permanent full time employment in Washington by a person will  
10 be a factor in considering the establishment of a Washington domicile.

11 (c) Registration to vote for state officials in Washington will be  
12 a factor in considering the establishment of a Washington domicile.

13 (4) After a student has registered at an institution such student's  
14 classification shall remain unchanged in the absence of  
15 (~~satisfactory~~) convincing evidence to the contrary. A student  
16 wishing to apply for a change in classification shall reduce such  
17 evidence to writing and file it with the institution. In any case  
18 involving an application for a change from nonresident to resident  
19 status, the burden of proof shall rest with the applicant. Any change  
20 in classification, either nonresident to resident, or the reverse,  
21 shall be based upon written evidence maintained in the files of the  
22 institution and, if approved, shall take effect the semester or quarter  
23 such evidence was filed with the institution: PROVIDED, That  
24 applications for a change in classification shall be accepted up to the  
25 thirtieth calendar day following the first day of instruction of the  
26 quarter or semester for which application is made.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.15 RCW  
28 to read as follows:

29 (1) Undergraduate students enrolled in a degree or certificate  
30 program at a state university, regional university, The Evergreen State  
31 College, or community college, and meeting one or more criteria under  
32 section 5 of this act shall pay a tuition surcharge in addition to the  
33 tuition and fees established under this title or set by the governing  
34 board of the institution.

35 (2) The tuition surcharge under this section shall equal the  
36 average instructional support in state general funds and operating fees  
37 per full-time equivalent undergraduate for the prior academic year, as

1 disclosed by the higher education coordinating board under RCW  
2 28B.10.044, minus the operating fee per full-time equivalent resident  
3 undergraduate student for the prior academic year.

4 (3) The average instructional support and operating fee used to  
5 calculate the tuition surcharge under this section shall be based on  
6 the institution where the student is enrolled, except a single average  
7 instructional support shall be used for all community colleges.

8 (4) The amount of the tuition surcharge shall be prorated for part-  
9 time students based on the number of credits for which the student is  
10 registered.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.15 RCW  
12 to read as follows:

13 Subject to the limitations in section 6 of this act, section 4 of  
14 this act shall apply to the following students:

15 (1) Students enrolled in a four-year institution of higher  
16 education who have accumulated more than one hundred twenty percent of  
17 the number of credits required to complete a baccalaureate degree in  
18 their respective academic discipline;

19 (2) Students enrolled in a community college who have accumulated  
20 more than one hundred twenty-two percent of the number of credits  
21 required to complete an associate degree or certificate in their  
22 respective academic or vocational program;

23 (3) Students meeting an institution's definition of a full-time  
24 student at the beginning of an academic quarter or semester who drop  
25 courses during the quarter or semester and thereby fall below full-time  
26 status. Such students shall pay the tuition surcharge in section 4 of  
27 this act for all courses the student registered for at the beginning of  
28 the quarter or semester;

29 (4) Students who have been placed on academic probation under  
30 policies established by the institution of higher education regarding  
31 low scholarship. Such students shall not be required to pay the  
32 tuition surcharge in section 4 of this act for the first quarter or  
33 semester of academic probation but shall pay the tuition surcharge for  
34 any subsequent quarter or semester that the student is considered on  
35 academic probation under policies established by the institution of  
36 higher education; and

1 (5) Students who have been reinstated or readmitted to an  
2 institution of higher education after dismissal or disenrollment due to  
3 low scholarship. Such students shall pay the tuition surcharge in  
4 section 4 of this act for each quarter or semester the student is  
5 considered on academic probation under policies established by the  
6 institution of higher education.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.15 RCW  
8 to read as follows:

9 (1) Credits earned in the following manner shall not be applied to  
10 the total credits accumulated for purposes of section 5 (1) and (2) of  
11 this act:

12 (a) Credits earned at private institutions of higher education in  
13 the state of Washington, at public or private institutions of higher  
14 education in other states, or through advanced placement programs;

15 (b) For former community or technical college students who transfer  
16 to a four-year institution of higher education, credits earned at a  
17 community or technical college that are in excess of the credits  
18 necessary to complete an associate degree;

19 (c) Credits earned by a dislocated worker as defined by RCW  
20 50.04.075 or any person engaging in a job training program under the  
21 purview of the work force training and education coordinating board;

22 (d) Credits earned by students who are enrolled in institutionally  
23 established double-degree programs;

24 (e) Credits earned by students participating in the border county  
25 higher education opportunity pilot project under RCW 28B.80.806; or

26 (f) Credits earned by certificated teachers of the K-12 school  
27 system who are pursuing continuing education according to certification  
28 requirements.

29 (2) Students who believe that extraordinary or unforeseen academic  
30 or personal circumstances or institutional constraints caused them to  
31 meet the criteria in section 5 of this act may petition the institution  
32 of higher education for a special waiver from the tuition surcharge  
33 imposed by section 4 of this act. The governing board of each  
34 institution of higher education shall create a process through which  
35 student petitions may be fairly processed, heard, and determined. The  
36 governing board of each institution of higher education may also impose  
37 a reasonable fee for students to file a waiver petition to defray the

1 costs of administering the petition process and to discourage frivolous  
2 petition filings. A governing board shall refund the fee for students  
3 whose waiver petition is approved.

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