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HOUSE BILL 1191

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Jarrett, Kenney, Priest and Sommers

Read first time 01/18/2005. Referred to Committee on Higher Education.

1            AN ACT Relating to resident tuition at institutions of higher  
2 education for persons who hold nonimmigrant visas; and amending RCW  
3 28B.15.012.

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

5            **Sec. 1.** RCW 28B.15.012 and 2004 c 128 s 1 are each amended to read  
6 as follows:

7            Whenever used in chapter 28B.15 RCW:

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

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

11            (a) A financially independent student who has had a domicile in the  
12 state of Washington for the period of one year immediately prior to the  
13 time of commencement of the first day of the semester or quarter for  
14 which the student has registered at any institution and has in fact  
15 established a bona fide domicile in this state primarily for purposes  
16 other than educational;

17            (b) A dependent student, if one or both of the student's parents or  
18 legal guardians have maintained a bona fide domicile in the state of

1 Washington for at least one year immediately prior to commencement of  
2 the semester or quarter for which the student has registered at any  
3 institution;

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

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

17 (e) Any person who has completed the full senior year of high  
18 school and obtained a high school diploma, both at a Washington public  
19 high school or private high school approved under chapter 28A.195 RCW,  
20 or a person who has received the equivalent of a diploma; who has lived  
21 in Washington for at least three years immediately prior to receiving  
22 the diploma or its equivalent; who has continuously lived in the state  
23 of Washington after receiving the diploma or its equivalent and until  
24 such time as the individual is admitted to an institution of higher  
25 education under subsection (1) of this section; (~~and~~) who provides to  
26 the institution an affidavit indicating that the individual will file  
27 an application to become a permanent resident at the earliest  
28 opportunity the individual is eligible to do so and a willingness to  
29 engage in any other activities necessary to acquire citizenship,  
30 including but not limited to citizenship or civics review courses; and  
31 who does not hold a nonimmigrant visa within the meaning of 8 U.S.C.  
32 Sec. 1101(a)(26), the issuance of which is conditioned on an intent not  
33 to abandon a foreign residence, or an intent not to seek domicile in  
34 the United States;

35 (f) A student who is on active military duty stationed in the state  
36 or who is a member of the Washington national guard;

37 (g) A student who is the spouse or a dependent of a person who is  
38 on active military duty stationed in the state. If the person on

1 active military duty is reassigned out-of-state, the student maintains  
2 the status as a resident student so long as the student is continuously  
3 enrolled in a degree program;

4 (h) A student who resides in the state of Washington and is the  
5 spouse or a dependent of a person who is a member of the Washington  
6 national guard;

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

10 (j) A student who meets the requirements of RCW 28B.15.0131:  
11 PROVIDED, That a nonresident student enrolled for more than six hours  
12 per semester or quarter shall be considered as attending for primarily  
13 educational purposes, and for tuition and fee paying purposes only such  
14 period of enrollment shall not be counted toward the establishment of  
15 a bona fide domicile of one year in this state unless such student  
16 proves that the student has in fact established a bona fide domicile in  
17 this state primarily for purposes other than educational.

18 (3) The term "nonresident student" shall mean any student who does  
19 not qualify as a "resident student" under the provisions of RCW  
20 28B.15.012 and 28B.15.013. Except for students qualifying under  
21 subsection (2)(e) or (i) of this section, a nonresident student shall  
22 include:

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

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

34 (4) The term "domicile" shall denote a person's true, fixed and  
35 permanent home and place of habitation. It is the place where the  
36 student intends to remain, and to which the student expects to return  
37 when the student leaves without intending to establish a new domicile

1 elsewhere. The burden of proof that a student, parent or guardian has  
2 established a domicile in the state of Washington primarily for  
3 purposes other than educational lies with the student.

4 (5) The term "dependent" shall mean a person who is not financially  
5 independent. Factors to be considered in determining whether a person  
6 is financially independent shall be set forth in rules and regulations  
7 adopted by the higher education coordinating board and shall include,  
8 but not be limited to, the state and federal income tax returns of the  
9 person and/or the student's parents or legal guardian filed for the  
10 calendar year prior to the year in which application is made and such  
11 other evidence as the board may require.

12 (6) The term "active military duty" means the person is serving on  
13 active duty in:

14 (a) The armed forces of the United States government; or

15 (b) The Washington national guard; or

16 (c) The coast guard, merchant mariners, or other nonmilitary  
17 organization when such service is recognized by the United States  
18 government as equivalent to service in the armed forces.

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