

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters:

Subject: Higher Education - UW System

Extra Copies: PG

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN2713,

Topic:

Aliens and resident tuition eligibility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mlief 06/18/2001	hhagen 06/18/2001		_____			
/1		jdyer 06/19/2001	jfrantze 06/18/2001	_____	lrb_docadmin 06/18/2001		
/2			pgreensl 06/19/2001	_____	lrb_docadmin 06/19/2001		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters:

Subject: Higher Education - UW System

Extra Copies: PG

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN2713,

Topic:

Aliens and resident tuition eligibility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mlief 06/18/2001	hhagen 06/18/2001					
/1		1/2 6/19 jld	jfrantze 06/18/2001	6/19	lrb_docadmin 06/18/2001		

FE Sent For:

9/19
pg

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: mlief

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Addl. Drafters:

Subject: Higher Education - UW System

Extra Copies: PG

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN2713,

Topic:

Aliens and resident tuition eligibility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	mlief	1, kmh 6/18/01	<i>[Handwritten signature]</i> 6/18	<i>[Handwritten signature]</i> 6/18	SEM		

FE Sent For:

<END>

2

CN2713

Subject or Agency	Description	Source / connection	Fiscal effect /positions if known
UW	Allow undocumented persons living in WI to qualify for resident tuition rates at UW System -- Leg Council is working on language	Draft language attached	

MJZ

[Handwritten mark]

AN ACT

relating to the eligibility of certain persons to qualify as residents of this state for purposes of higher education tuition or to pay tuition at the rate provided to residents of this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.051(m), Education Code, is amended to read as follows:

(m) Unless the student establishes residency as provided by Section 54.052(j) or 54.057, tuition [Tuition] for a student [students] who is a citizen [are citizens] of any country other than the United States of America is the same as the tuition required of other nonresident students.

SECTION 2. Section 54.052, Education Code, is amended by adding Subsection (j) to read as follows:

student who is a citizen of my country who now is

(j) Notwithstanding any other provision of this subchapter, an individual shall be classified as a Texas resident until the individual establishes a residence outside this state if the individual resided with the individual's parent, guardian, or conservator while attending a public or private high school in this state and:

(1) graduated from a public or private high school or received the equivalent of a high school diploma in this state;

(2) resided in this state for at least three years as of the date the person graduated from high school or received the equivalent of a high school diploma;

[Handwritten mark]

(11)

(3) registers as an entering student in an institution of higher education not earlier than the 2001 fall semester, and

(4) provides to the institution an affidavit stating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so.

SECTION 3. Subchapter B, Chapter 54, Education Code, is amended by adding Section 54.0551 to read as follows:

Sec. 54.0551. CHANGE OF RESIDENCE; ONE PARENT

REMAINING IN STATE. An individual who is 18 years of age or under or is a dependent and who, along with the individual's parents, was formerly a resident of this state is entitled to pay tuition at the rate provided for Texas residents if:

(1) the individual and the parent who is the individual's managing conservator or who is the individual's joint managing conservator with whom the individual primarily resides change their legal residence from this state to another state; and

(2) the other parent who is the individual's possessory conservator or who is the individual's joint managing conservator with whom the individual does not primarily reside continues to reside in this state and is not delinquent on the payment of any child support.

SECTION 4. Section 54.057(a), Education Code, is amended to read as follows:

(a) An alien who is living in this country under a visa permitting permanent residence or who has applied to or has a petition pending with the Immigration and Naturalization Service to attain lawful status under federal immigration law ~~[filed with the proper~~

~~federal immigration authorities a declaration of intention to become a citizen]~~ has the same privilege of qualifying for resident status for tuition and fee purposes under this subchapter ~~[Act]~~ as has a citizen of the United States. A resident alien residing in a junior college district located immediately adjacent to Texas boundary lines shall be charged the resident tuition by that junior college.

SECTION 5. Section 54.060(b), Education Code, is amended to read as follows:

(b) The foreign student tuition fee prescribed in this chapter does not apply to a foreign student who is a resident of a nation situated adjacent to Texas, who registers in any general academic teaching institution, as defined in Section 61.003(3) ~~[of this code]~~, or component of the Texas State Technical College System in a county immediately adjacent to the nation in which the foreign student resides or who registers for lower division courses at a community or junior college having a partnership agreement pursuant to Subchapter N, Chapter 51, ~~[of this code]~~, with an upper-level university and both institutions are located in the county immediately adjacent to the nation in which the foreign student resides, or who registers in Texas A&M University--Kingsville, ~~[or]~~ Texas A&M University--Corpus Christi, or The University of Texas at San Antonio and, except as provided by this subsection, who demonstrates a financial need after the financial resources of the foreign student and the student's family are considered. The foreign student described in this subsection shall pay tuition equal to that charged Texas residents under Sections 54.051 and 54.0512 ~~[of this code]~~. The coordinating board shall adopt rules governing the determination of financial need of students under this subsection and rules governing a pilot project to be established at general academic teaching institutions and at components of the Texas State Technical College System in counties that are not immediately

adjacent to the nation in which the foreign student resides.

SECTION 6. Sections 1 through 5 of this Act apply only to tuition for a term or semester that begins on or after the effective date of this Act.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

President of the Senate

Speaker of the House

I certify that H.B. No. 1403 was passed by the House on April 23, 2001, by the following vote: Yeas 142, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1403 on May 24, 2001, by the following vote: Yeas 130, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1403 was passed by the Senate, with amendments, on May 21, 2001, by the following vote: Yeas 30, Nays 0, 1 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor

2001

Date (time) needed

D-N

LRB b 0726 11

AMDT TO BUDGET SUB AMDT

MJL: hnh:

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT
~~TO SENATE AMENDMENT~~
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment (amendment) as follows:

#. Page [✓]519, line [✓]5: after that line insert:

[INS A]

#. Page , line :

end

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

SECTION 1360m CR; 36.27(2)(cr)

36.27(2)(cr) A person who is a citizen of
⑧

a country other than the United States is

entitled ^{to the} to the exemption under para (a) if

that person meets all of the following requirements:

1. The person graduated from a high school in this state or received a high school graduation equivalency ~~from~~ ^{from} this state.
~~high school diploma in this state~~

2. The person resided in this state for at least 3 years after graduation from high school or ^{received a} after having high school equivalency ~~diploma~~ ^{from} from this state.

3. The person enrolls in an institution and provides that institution with an affidavit stating that the person will file an application with the Immigration and Naturalization Service as soon as the person is eligible to do so.

for a permanent resident visa

INS A

(D-N)

b072611

MJL:tmh

Date:

John:

As I have explained to Andy Janssen and Doug Burnett, I believe that this amendment, if enacted, would violate 8, U.S.C., 1623, which prohibits a college or university from ^{offering} ~~offer~~ an "alien who is not lawfully ^{present} present in the United States" resident tuition. Although the I.N.S. has not yet promulgated regulations interpreting this provision, ~~and~~ I think that the provision is largely unambiguous. Even if the ^{federal} ~~federal~~ provision is ~~ultimately~~ successfully challenged in court that process could take years; in the meantime, the UW System would be placed in the untenable situation of having to violate federal law to comply with state law.

(MJL)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0726/1dn
MJL:hmh:jf

June 18, 2001

John:

As I have explained to Andy Janssen and Doug Burnett, I believe that this amendment, if enacted, would violate 8 USC 1623, which prohibits a college or university from offering an "alien who is not lawfully present in the United States" resident tuition. Although the I.N.S. has not yet promulgated regulations interpreting this provision, I think that the provision is largely unambiguous. Even if the federal provision is successfully challenged in court that process could take years; in the meantime, the UW System would be placed in the untenable situation of having to violate federal law to comply with state law.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0726/1²
MJL:hmh:jf
+ jld

SDC:.....Keckhaver – CN2713, Aliens and resident tuition eligibility

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

DN

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 519, line 5: after that line insert:

3 "SECTION 1360m. 36.27 (2) (cr) of the statutes is created to read:

4 36.27 (2) (cr) A person who is a citizen of a country other than the United States
5 is entitled to the exemption under par. (a) if that person meets all of the following
6 requirements:

7 1. The person graduated from a high school in this state or received a high
8 school graduation[✓] equivalency from this state.

9 2. The person resided in this state for at least 3 years after graduation from
10 high school or after having received a high school^{graduation} equivalency from this state.

1 3. The person enrolls in an institution and provides that institution with an
2 affidavit stating that the person will file an application for a permanent resident visa
3 with the Immigration and Naturalization Service as soon as the person is eligible to
4 do so.”

5

(END)

D-N

John:

² This redraft simply adds the word "graduation" after "high school" in created s. 36.27(2)(c) 2. The legal issues that I raised in my drafter's note to LRB50726/1 remain.

MJL

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0726/2dn
MJL:jld:pg

June 19, 2001

John:

This redraft simply adds the word "graduation" after "high school" in created s. 36.27 (2) (cr) 2. The legal issues that I raised in my drafter's note to LRBb0726/1 remain.

Madelon J. Lief
Legislative Attorney
Phone: (608) 267-7380

SDC:.....Keckhaver - CN2713, Aliens and resident tuition eligibility

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 519, line 5: after that line insert:

3 **“SECTION 1360m.** 36.27 (2) (cr) of the statutes is created to read:

4 **36.27 (2) (cr)** A person who is a citizen of a country other than the United States
5 is entitled to the exemption under par. (a) if that person meets all of the following
6 requirements:

7 1. The person graduated from a high school in this state or received a high
8 school graduation equivalency from this state.

1 2. The person resided in this state for at least 3 years after graduation from
2 high school or after having received a high school graduation equivalency from this
3 state.

4 3. The person enrolls in an institution and provides that institution with an
5 affidavit stating that the person will file an application for a permanent resident visa
6 with the Immigration and Naturalization Service as soon as the person is eligible to
7 do so.”

8

(END)