

# Enrolled House Bill 2787

Sponsored by Representatives DEMBROW, HUFFMAN, JENSON, KOMP, Senator COURTNEY; Representatives BAILEY, BARKER, BOONE, BUCKLEY, CLEM, DOHERTY, FAGAN, FREDERICK, GALLEGOS, GARRETT, GELSER, GOMBERG, GORSEK, GREENLICK, HARKER, HOLVEY, HOYLE, KENY-GUYER, KOTEK, LIVELY, MCKEOWN, NATHANSON, READ, REARDON, TOMEI, VEGA PEDERSON, WILLIAMSON, WITT, Senators BURDICK, DEVLIN, DINGFELDER, EDWARDS, HASS, MONNES ANDERSON, MONROE, ROSENBAUM, SHIELDS, STEINER HAYWARD, THOMSEN

CHAPTER .....

AN ACT

Relating to exemption from nonresident status for higher education; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2013 Act is added to and made a part of ORS chapter 351.

**SECTION 2.** (1) The State Board of Higher Education shall exempt a student who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment in a public university listed in ORS 352.002 if the student:

(a) During each of the three years immediately prior to receiving a high school diploma or leaving school before receiving a high school diploma, attended an elementary or a secondary school in this state;

(b) During each of the five years immediately prior to receiving a high school diploma or leaving school before receiving a high school diploma, attended an elementary or a secondary school in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico;

(c) No more than three years before initially enrolling in a public university listed in ORS 352.002, received a high school diploma from a secondary school in this state or received the equivalent of a high school diploma; and

(d) Shows intention to become a citizen or a lawful permanent resident of the United States by submitting to the public university the student attends or plans to attend:

(A) An official copy of the student's application to register with a federal immigration program or federal deportation deferral program or a statement of intent that the student will seek to obtain citizenship as permitted under federal law; and

(B) An affidavit stating that the student has applied for a federal individual taxpayer identification number or other official federal identification document.

(2) The board shall exempt a student who is financially dependent upon a person who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment in a public university listed in ORS 352.002 if the student:

(a) During each of the three years immediately prior to receiving a high school diploma or leaving school before receiving a high school diploma, attended an elementary or a sec-

ondary school in this state and resided in this state with the person upon whom the student is dependent;

(b) During each of the five years immediately prior to receiving a high school diploma or leaving school before receiving a high school diploma, attended an elementary or a secondary school in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico and resided with the person upon whom the student is dependent;

(c) No more than three years before initially enrolling in a public university listed in ORS 352.002, received a high school diploma from a secondary school in this state or received the equivalent of a high school diploma; and

(d) For a student who is not already a citizen or lawful permanent resident of the United States, shows intention to become a citizen or a lawful permanent resident of the United States by submitting to the public university the student attends or plans to attend:

(A) An official copy of the student's application to register with a federal immigration program or federal deportation deferral program or a statement of intent that the student will seek to obtain citizenship as permitted under federal law; and

(B) An affidavit stating that the student has applied for a federal individual taxpayer identification number or other official federal identification document.

(3) A student continues to qualify for exemption from nonresident tuition and fees under subsection (1) or (2) of this section for five years after initial enrollment under the exemption in a public university listed in ORS 352.002.

(4) A student who is a citizen or a lawful permanent resident of the United States and who has resided outside of Oregon for more than three years while serving in the Armed Forces of the United States, but who otherwise meets the requirements of subsection (1) or (2) of this section, shall qualify for exemption from nonresident tuition and fees for enrollment in a public university listed in ORS 352.002 without having to reestablish residency in Oregon.

(5) The board shall adopt rules to implement the provisions of this section.

(6) Not later than July 1 of each year, the Oregon University System shall report to the Speaker of the House of Representatives, the President of the Senate and the interim committees of the Legislative Assembly with subject matter authority over higher education, for the preceding academic year:

(a) The number of students that applied and were accepted into public universities under this section; and

(b) The financial impact of this section on the Oregon University System.

**SECTION 3.** (1) Jurisdiction is conferred on the Oregon Supreme Court to determine in the manner provided by this section whether section 2 of this 2013 Act violates federal law codified at 8 U.S.C. 1623.

(2) A person who is adversely affected by section 2 of this 2013 Act, or who will be adversely affected by section 2 of this 2013 Act, may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed within 60 days after the effective date of this 2013 Act.

(b) The petition must include the following:

(A) A statement of the basis of the challenge; and

(B) A statement and supporting affidavit showing how the petitioner is adversely affected.

(3) The petitioner shall serve a copy of the petition by registered or certified mail upon the Attorney General and the Governor.

(4) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(5) In the event the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.

**SECTION 4.** Section 2 of this 2013 Act first applies to the 2013-2014 school year.

**SECTION 5.** This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.

Passed by House February 22, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 21, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State