

JAN 17 2024

A BILL FOR AN ACT

RELATING TO UNIVERSITY OF HAWAII TUITION.

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

1 SECTION 1. The legislature finds that existing law allows
2 the board of regents of the university of Hawaii to charge
3 resident and nonresident tuition fees for regular courses of
4 instruction within the university of Hawaii system, including
5 community colleges. The legislature also finds that the board
6 of regents subscribes to a tuition policy that seeks to keep
7 costs for resident students at the lowest practical level, and
8 therefore, resident tuition fees within the university of Hawaii
9 system are significantly lower than tuition fees for
10 nonresidents.

11 The legislature also finds that existing law sets forth a
12 basic rule in defining whether a student is a "resident" for
13 purposes of qualifying for the resident tuition rates within the
14 university of Hawaii system, limiting resident tuition fees to
15 students who have been a bona fide resident of the State for at
16 least twelve consecutive months next preceding the student's
17 first day of officially scheduled instruction. The legislature



1 further finds that the basic rule, enacted in 2006, has had a
2 disparate impact on certain aliens who are lawfully present in
3 the United States and wish to enroll in the university of Hawaii
4 system, but have not been consecutively present in the State for
5 twelve months.

6 The legislature further finds that the board of regents has
7 adopted a policy allowing undocumented aliens who are not
8 lawfully present in the United States, including aliens whose
9 deportation has been deferred pursuant to the Deferred Action
10 for Childhood Arrivals (DACA) program, to be eligible for the
11 resident tuition fee under certain conditions. The legislature
12 finds, however, that this policy may be deemed invalid under
13 section 411 of the Personal Responsibility and Work Opportunity
14 Reconciliation Act of 1996, unless there is state law that
15 affirmatively enables these aliens to be eligible for such
16 postsecondary education benefits.

17 The legislature finds that postsecondary education assists
18 graduates by preparing them for jobs and career paths that
19 typically pay higher wages, which enable them to achieve their
20 educational and career goals and afford the State's high cost of
21 living. The legislature also finds that increased enrollment



1 and completion of postsecondary education will increase and
2 enhance the State's human capital. Therefore, the legislature
3 finds that this Act, which increases the number of State
4 residents who may enroll and receive postsecondary education at
5 the university of Hawaii, serves the State's interest, and is
6 therefore a matter of statewide concern.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Allow certain aliens who are lawfully present in the
9 United States to be eligible for the resident tuition
10 fees in certain conditions; and
11 (2) Affirmatively allow DACA aliens who are not lawfully
12 present in the United States to be eligible for
13 resident tuition rates under certain conditions.

14 SECTION 2. Section 304A-402, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " [†] §304A-402 [†] **Residence for tuition purposes; basic**
17 **rule.** (a) The board of regents shall adopt the necessary rules
18 defining residence for tuition purposes herein; provided that
19 the basic rule shall be that, except as provided in subsection
20 (b), a student shall qualify for the resident tuition fee only
21 if the following criteria are met:



- 1 (1) The adult student [7] or, in the case of a minor
2 student, the student's parents or guardians has or
3 have been a bona fide resident of this State for at
4 least twelve consecutive months next preceding the
5 student's first day of officially scheduled
6 instruction for any semester or term in which the
7 student is enrolling at the particular college or
8 campus; and
- 9 (2) The adult or minor student has not been claimed as a
10 dependent for tax purposes for at least twelve months
11 next preceding the student's first day of officially
12 scheduled instruction for any semester or term in
13 which the student is enrolling at the particular
14 college or campus by the student's parents or
15 guardians who are nonresidents of the State; provided
16 that this provision shall not apply in cases where the
17 parent claiming the student as a dependent is entitled
18 to do so under a child support order or agreement
19 issued or entered into in conjunction with a divorce
20 proceeding or legal separation agreement and the other



1 parent and the student meet the criteria set forth in
2 paragraph (1).

3 (b) An alien student shall be eligible for the resident
4 tuition fee to the extent permitted under applicable federal
5 law; provided that the alien student:

6 (1) Has resided in the State for at least three months;

7 (2) At the time of application:

8 (A) Is lawfully admitted for permanent residence
9 under the federal Immigration and Nationality
10 Act, whose permanent resident status has not been
11 terminated, is eligible to file for
12 naturalization in the State, and has filed for
13 naturalization in the State;

14 (B) Has been granted asylum pursuant to section 208
15 of the federal Immigration and Nationality Act
16 and whose asylee status has not been terminated;
17 or

18 (C) Is a refugee who has been admitted to the United
19 States pursuant to section 207 of the federal
20 Immigration and Nationality Act and whose refugee
21 status has not been terminated; and



1 (3) At the time of enrollment, is not eligible to enroll
2 in a public postsecondary educational institution
3 located in another state upon payment of in-state or
4 resident tuition fees for the institution.

5 (c) An alien student who is not lawfully present in the
6 United States shall be eligible for the resident tuition fee to
7 the extent permitted under applicable federal law; provided that
8 the alien student:

9 (1) Has established domicile in the State and satisfies
10 subsection (a);

11 (2) Attended a public or private high school in the United
12 States for a period not less than three years;

13 (3) Graduated from a public or private high school in the
14 United States or attained the equivalent thereof in
15 the United States;

16 (4) At the time of enrollment, is not eligible to enroll
17 in a public postsecondary educational institution
18 located in another state upon payment of in-state or
19 resident tuition fees for the institution; and

20 (5) Has filed:



- 1 (A) An application for Deferred Action for Childhood
2 Arrivals with the Department of Homeland Security
3 United States Citizenship and Immigration
4 Services;
- 5 (B) An application for a lawful immigration status
6 pursuant to the federal Immigration and
7 Naturalization Act; or
- 8 (C) A notarized affidavit with the university,
9 attesting that the alien student will file for an
10 application pursuant to paragraph (A) or (B) as
11 soon as the alien student becomes eligible to do
12 so."

13 SECTION 3. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 4. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.

S.B. NO. 2008

1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY: 



S.B. NO. 2008

Report Title:

Higher Education; University of Hawaii System; Resident Tuition Fee; Qualification; Eligibility; Basic Rule; Lawful Permanent Residents; Asylees; Refugees; Deferred Action for Childhood Arrivals (DACA)

Description:

Allows certain lawful permanent residents, asylees, and refugees, and certain DACA aliens who are not lawfully present in the United States to be eligible for the resident tuition fee at any University of Hawaii campus under certain conditions.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

