

AMENDED IN ASSEMBLY APRIL 5, 2016
AMENDED IN ASSEMBLY MARCH 16, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2364

Introduced by Assembly Members Holden and Gipson

February 18, 2016

An act to ~~add Section 68130.6 to~~ amend Sections 76004 and 76140 of the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, as amended, Holden. Public postsecondary education: *community colleges*: exemption from nonresident tuition.

~~Existing law exempts a student, other than a nonimmigrant alien, as defined, from paying nonresident tuition at the California State University and the California Community Colleges if the student meets certain requirements. Existing law authorizes the governing board of a school district to allow pupils whom the district has determined would benefit from advanced scholastic or vocational work to attend community college as special part-time or full-time students, subject to parental permission. Existing law authorizes the governing board of a community college district to enter into a College and Career Access Pathways partnership with the governing board of a school district with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.~~

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California

Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts throughout the state, and authorizes them to operate campuses and provide instruction to students. Existing law authorizes community college districts to admit nonresident students, and requires that nonresident students be charged a nonresident tuition fee unless an exemption is applicable. Existing law authorizes a community college district to exempt from all or parts of the fee a special part-time student admitted pursuant to a specified program.

This bill ~~additionally~~ *instead* would require a community college district to exempt a *special part-time* student, other than a nonimmigrant alien, as defined, from paying ~~nonresident tuition at the California State University and the California Community Colleges~~ *all or parts of the fee* if that student is ~~currently a California high school pupil enrolled in a concurrent enrollment or dual enrollment program.~~ The bill would provide that a student exempt from nonresident tuition under these provisions may be reported by a community college district as a full-time equivalent student for apportionment purposes ~~in accordance with existing law.~~ *admitted pursuant to specified programs.* Because the bill would require community college districts to determine whether students qualify for exemption from nonresident tuition, it would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. ~~Section 68130.6 is added to the Education Code,~~
- 2 ~~to read:~~
- 3 68130.6. (a) ~~Notwithstanding any other law, a student, other~~
- 4 ~~than a nonimmigrant alien within the meaning of paragraph (15)~~
- 5 ~~of subsection (a) of Section 1101 of Title 8 of the United States~~
- 6 ~~Code, who is currently a California high school pupil enrolled in~~

1 ~~a concurrent enrollment or dual enrollment program shall be~~
2 ~~exempt from paying nonresident tuition at the California State~~
3 ~~University and the California Community Colleges.~~

4 ~~(b) A student exempt from nonresident tuition under this section~~
5 ~~may be reported by a community college district as a full-time~~
6 ~~equivalent student for apportionment purposes in accordance with~~
7 ~~existing law.~~

8 *SECTION 1. Section 76004 of the Education Code is amended*
9 *to read:*

10 76004. Notwithstanding Section 76001 or any other law:

11 (a) The governing board of a community college district may
12 enter into a College and Career Access Pathways (CCAP)
13 partnership with the governing board of a school district for the
14 purpose of offering or expanding dual enrollment opportunities
15 for students who may not already be college bound or who are
16 underrepresented in higher education, with the goal of developing
17 seamless pathways from high school to community college for
18 career technical education or preparation for transfer, improving
19 high school graduation rates, or helping high school pupils achieve
20 college and career readiness.

21 (b) A participating community college district may enter into a
22 CCAP partnership with a school district partner that is governed
23 by a CCAP partnership agreement approved by the governing
24 boards of both districts. As a condition of, and before adopting, a
25 CCAP partnership agreement, the governing board of each district,
26 at an open public meeting of that board, shall present the dual
27 enrollment partnership agreement as an informational item. The
28 governing board of each district, at a subsequent open public
29 meeting of that board, shall take comments from the public and
30 approve or disapprove the proposed agreement.

31 (c) (1) The CCAP partnership agreement shall outline the terms
32 of the CCAP partnership and shall include, but not necessarily be
33 limited to, the total number of high school students to be served
34 and the total number of full-time equivalent students projected to
35 be claimed by the community college district for those students;
36 the scope, nature, time, location, and listing of community college
37 courses to be offered; and criteria to assess the ability of pupils to
38 benefit from those courses. The CCAP partnership agreement shall
39 also establish protocols for information sharing, in compliance
40 with all applicable state and federal privacy laws, joint facilities

1 use, and parental consent for high school pupils to enroll in
2 community college courses.

3 (2) The CCAP partnership agreement shall identify a point of
4 contact for the participating community college district and school
5 district partner.

6 (3) A copy of the CCAP partnership agreement shall be filed
7 with the office of the Chancellor of the California Community
8 Colleges and with the department before the start of the CCAP
9 partnership. The chancellor may void any CCAP partnership
10 agreement it determines has not complied with the intent of the
11 requirements of this section.

12 (d) A community college district participating in a CCAP
13 partnership shall not provide physical education course
14 opportunities to high school pupils pursuant to this section or any
15 other course opportunities that do not assist in the attainment of
16 at least one of the goals listed in subdivision (a).

17 (e) A community college district shall not enter into a CCAP
18 partnership with a school district within the service area of another
19 community college district, except where an agreement exists, or
20 is established, between those community college districts
21 authorizing that CCAP partnership.

22 (f) A high school pupil enrolled in a course offered through a
23 CCAP partnership shall not be assessed any fee that is prohibited
24 by Section 49011.

25 (g) A community college district participating in a CCAP
26 partnership may assign priority for enrollment and course
27 registration to a pupil seeking to enroll in a community college
28 course that is required for the pupil's CCAP partnership program
29 that is equivalent to the priority assigned to a pupil attending a
30 middle college high school as described in Section 11300 and
31 consistent with middle college high school provisions in Section
32 76001.

33 (h) The CCAP partnership agreement shall certify that any
34 community college instructor teaching a course on a high school
35 campus has not been convicted of any sex offense as defined in
36 Section 87010, or any controlled substance offense as defined in
37 Section 87011.

38 (i) The CCAP partnership agreement shall certify that any
39 community college instructor teaching a course at the partnering
40 high school campus has not displaced or resulted in the termination

1 of an existing high school teacher teaching the same course on that
2 high school campus.

3 (j) The CCAP partnership agreement shall certify that a qualified
4 high school teacher teaching a course offered for college credit at
5 a high school campus has not displaced or resulted in the
6 termination of an existing community college faculty member
7 teaching the same course at the partnering community college
8 campus.

9 (k) The CCAP partnership agreement shall include a certification
10 by the participating community college district of all of the
11 following:

12 (1) A community college course offered for college credit at
13 the partnering high school campus does not reduce access to the
14 same course offered at the partnering community college campus.

15 (2) A community college course that is oversubscribed or has
16 a waiting list shall not be offered in the CCAP partnership.

17 (3) Participation in a CCAP partnership is consistent with the
18 core mission of the community colleges pursuant to Section
19 66010.4, and that pupils participating in a CCAP partnership will
20 not lead to enrollment displacement of otherwise eligible adults
21 in the community college.

22 (l) The CCAP partnership agreement shall certify that both the
23 school district and community college district partners comply
24 with local collective bargaining agreements and all state and federal
25 reporting requirements regarding the qualifications of the teacher
26 or faculty member teaching a CCAP partnership course offered
27 for high school credit.

28 (m) The CCAP partnership agreement shall specify both of the
29 following:

30 (1) Which participating district will be the employer of record
31 for purposes of assignment monitoring and reporting to the county
32 office of education.

33 (2) Which participating district will assume reporting
34 responsibilities pursuant to applicable federal teacher quality
35 mandates.

36 (n) The CCAP partnership agreement shall certify that any
37 remedial course taught by community college faculty at a
38 partnering high school campus shall be offered only to high school
39 students who do not meet their grade level standard in math,
40 English, or both on an interim assessment in grade 10 or 11, as

1 determined by the partnering school district, and shall involve a
2 collaborative effort between high school and community college
3 faculty to deliver an innovative remediation course as an
4 intervention in the student's junior or senior year to ensure the
5 student is prepared for college-level work upon graduation.

6 (o) (1) A community college district may limit enrollment in
7 a community college course solely to eligible high school students
8 if the course is offered at a high school campus during the regular
9 school day and the community college course is offered pursuant
10 to a CCAP partnership agreement.

11 (2) For purposes of allowances and apportionments from Section
12 B of the State School Fund, a community college district
13 conducting a closed course on a high school campus pursuant to
14 paragraph (1) of subdivision (p) shall be credited with those units
15 of full-time equivalent students attributable to the attendance of
16 eligible high school pupils.

17 (p) A community college district may allow a special part-time
18 student participating in a CCAP partnership agreement established
19 pursuant to this article to enroll in up to a maximum of 15 units
20 per term if all of the following circumstances are satisfied:

21 (1) The units constitute no more than four community college
22 courses per term.

23 (2) The units are part of an academic program that is part of a
24 CCAP partnership agreement established pursuant to this article.

25 (3) The units are part of an academic program that is designed
26 to award students both a high school diploma and an associate
27 degree or a certificate or credential.

28 (q) The governing board of a community college district
29 participating in a CCAP partnership agreement established pursuant
30 to this article shall exempt special part-time students described in
31 subdivision (p) from the fee requirements in Sections 76060.5,
32 ~~76140~~, 76223, 76300, 76350, and 79121.

33 (r) A district shall not receive a state allowance or apportionment
34 for an instructional activity for which the partnering district has
35 been, or shall be, paid an allowance or apportionment.

36 (s) The attendance of a high school pupil at a community college
37 as a special part-time or full-time student pursuant to this section
38 is authorized attendance for which the community college shall
39 be credited or reimbursed pursuant to Section 48802 or 76002,

1 provided that no school district has received reimbursement for
2 the same instructional activity.

3 (t) (1) For each CCAP partnership agreement entered into
4 pursuant to this section, the affected community college district
5 and school district shall report annually to the office of the
6 Chancellor of the California Community Colleges all of the
7 following information:

8 (A) The total number of high school pupils by schoolsite
9 enrolled in each CCAP partnership, aggregated by gender and
10 ethnicity, and reported in compliance with all applicable state and
11 federal privacy laws.

12 (B) The total number of community college courses by course
13 category and type and by schoolsite enrolled in by CCAP
14 partnership participants.

15 (C) The total number and percentage of successful course
16 completions, by course category and type and by schoolsite, of
17 CCAP partnership participants.

18 (D) The total number of full-time equivalent students generated
19 by CCAP partnership community college district participants.

20 (2) On or before January 1, 2021, the chancellor shall prepare
21 a summary report that includes an evaluation of the CCAP
22 partnerships, an assessment of trends in the growth of special
23 admits systemwide and by campus, and, based upon the data
24 collected pursuant to this section, recommendations for program
25 improvements, including, but not necessarily limited to, both of
26 the following:

27 (A) Any recommended changes to the statewide cap on special
28 admit full-time equivalent students to ensure that adults are not
29 being displaced.

30 (B) Any recommendation concerning the need for additional
31 student assistance or academic resources to ensure the overall
32 success of the CCAP partnerships.

33 (3) The chancellor shall ensure that the number of full-time
34 equivalent students generated by CCAP partnerships is reported
35 pursuant to the reporting requirements in Section 76002.

36 (u) The annual report required by subdivision (t) shall also be
37 transmitted to all of the following:

38 (1) The Legislature, in compliance with Section 9795 of the
39 Government Code.

40 (2) The Director of Finance.

1 (3) The Superintendent.

2 (v) A community college district that violates this article,
3 including, but not necessarily limited to, any restriction imposed
4 by the board of governors pursuant to this article, shall be subject
5 to the same penalty as may be imposed pursuant to subdivision
6 (d) of Section 78032.

7 (w) The statewide number of full-time equivalent students
8 claimed as special admits shall not exceed 10 percent of the total
9 number of full-time equivalent students claimed statewide.

10 (x) Nothing in this section is intended to affect a dual enrollment
11 partnership agreement existing on the effective date of this section
12 under which an early college high school, a middle college high
13 school, or California Career Pathways Trust existing on the
14 effective date of this section is operated. An early college high
15 school, middle college high school, or California Career Pathways
16 Trust partnership agreement existing on the effective date of this
17 section shall not operate as a CCAP partnership unless it complies
18 with the provisions of this section.

19 (y) This section shall remain in effect only until January 1, 2022,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2022, deletes or extends that date.

22 *SEC. 2. Section 76140 of the Education Code, as amended by*
23 *Section 2.5 of Chapter 576 of the Statutes of 2013, is amended to*
24 *read:*

25 76140. (a) A community college district may admit, and shall
26 charge a tuition fee to, nonresident students, except that a
27 community college district may exempt from all or parts of the
28 fee any person described in paragraph (1), (2), *or* (3), ~~or (4)~~, and
29 shall exempt from all of the fee any person described in paragraph
30 (4) *or* (5):

31 (1) All nonresidents who enroll for six or fewer units.
32 Exemptions made pursuant to this paragraph shall not be made on
33 an individual basis.

34 (2) Any nonresident who is both a citizen and resident of a
35 foreign country, if the nonresident has demonstrated a financial
36 need for the exemption. Not more than 10 percent of the
37 nonresident foreign students attending any community college
38 district may be so exempted. Exemptions made pursuant to this
39 paragraph may be made on an individual basis.

1 (3) (A) A student who, as of August 29, 2005, was enrolled,
2 or admitted with an intention to enroll, in the fall term of the
3 2005–06 academic year in a regionally accredited institution of
4 higher education in Alabama, Louisiana, or Mississippi, and who
5 could not continue his or her attendance at that institution as a
6 direct consequence of damage sustained by that institution as a
7 result of Hurricane Katrina.

8 (B) The chancellor shall develop guidelines for the
9 implementation of this paragraph. These guidelines shall include
10 standards for appropriate documentation of student eligibility to
11 the extent feasible.

12 (C) This paragraph shall apply only to the 2005–06 academic
13 year.

14 (4) A special part-time—~~student~~ *student, other than a*
15 *nonimmigrant alien within the meaning of paragraph (15) of*
16 *subsection (a) of Section 1101 of Title 8 of the United States Code,*
17 *admitted pursuant to Section ~~76001~~; 76001 or 76004.*

18 (5) A nonresident student who is a United States citizen who
19 resides in a foreign country, if that nonresident meets all of the
20 following requirements:

21 (A) Demonstrates a financial need for the exemption.

22 (B) Has a parent or guardian who has been deported or was
23 permitted to depart voluntarily under the federal Immigration and
24 Nationality Act in accordance with Section 1229c of Title 8 of the
25 United States Code. The student shall provide documents from the
26 United States Citizenship and Immigration Services evidencing
27 the deportation or voluntary departure of his or her parent or
28 guardian.

29 (C) Moved abroad as a result of the deportation or voluntary
30 departure specified in subparagraph (B).

31 (D) Lived in California immediately before moving abroad. The
32 student shall provide information and evidence that demonstrates
33 the student previously lived in California.

34 (E) Attended a public or private secondary school, as described
35 in Sections 52 and 53, in the state for three or more years. The
36 student shall provide documents that demonstrate his or her
37 secondary school attendance.

38 (F) Upon enrollment, will be in his or her first academic year
39 as a matriculated student in California public higher education, as
40 that term is defined in subdivision (a) of Section 66010, will be

1 living in California, and will file an affidavit with the institution
2 stating that he or she intends to establish residency in California
3 as soon as possible.

4 (b) A district may contract with a state, a county contiguous to
5 California, the federal government, or a foreign country, or an
6 agency thereof, for payment of all or a part of a nonresident
7 student's tuition fee.

8 (c) Nonresident students shall not be reported as full-time
9 equivalent students (FTES) for state apportionment purposes,
10 except as provided by subdivision (j) or another statute, in which
11 case a nonresident tuition fee may not be charged.

12 (d) The nonresident tuition fee shall be set by the governing
13 board of each community college district not later than February
14 1 of each year for the succeeding fiscal year. The governing board
15 of each community college district shall provide nonresident
16 students with notice of nonresident tuition fee changes during the
17 spring term before the fall term in which the change will take
18 effect. Nonresident tuition fee increases shall be gradual, moderate,
19 and predictable. The fee may be paid in installments, as determined
20 by the governing board of the district.

21 (e) (1) The fee established by the governing board pursuant to
22 subdivision (d) shall represent for nonresident students enrolled
23 in 30 semester units or 45 quarter units of credit per fiscal year
24 one or more of the following:

25 (A) The amount that was expended by the district for the
26 expense of education as defined by the California Community
27 College Budget and Accounting Manual in the preceding fiscal
28 year increased by the projected percent increase in the United
29 States Consumer Price Index as determined by the Department of
30 Finance for the current fiscal year and succeeding fiscal year and
31 divided by the FTES (including nonresident students) attending
32 in the district in the preceding fiscal year. However, if for the
33 district's preceding fiscal year FTES of all students attending in
34 the district in noncredit courses is equal to, or greater than, 10
35 percent of the district's total FTES attending in the district, the
36 district may substitute the data for expense of education in grades
37 13 and 14 and FTES in grades 13 and 14 attending in the district.

38 (B) The expense of education in the preceding fiscal year of all
39 districts increased by the projected percent increase in the United
40 States Consumer Price Index as determined by the Department of

1 Finance for the fiscal year and succeeding fiscal year and divided
2 by the FTES (including nonresident students) attending all districts
3 during the preceding fiscal year. However, if the amount calculated
4 under this paragraph for the succeeding fiscal year is less than the
5 amount established for the current fiscal year or for any of the past
6 four fiscal years, the district may set the nonresident tuition fee at
7 the greater of the current or any of the past four-year amounts.

8 (C) An amount not to exceed the fee established by the
9 governing board of any contiguous district.

10 (D) An amount not to exceed the amount that was expended by
11 the district for the expense of education, but in no case less than
12 the statewide average as set forth in subparagraph (B).

13 (E) An amount no greater than the average of the nonresident
14 tuition fees of public community colleges of no less than 12 states
15 that are comparable to California in cost of living. The
16 determination of comparable states shall be based on a composite
17 cost-of-living index as determined by the United States Department
18 of Labor or a cooperating government agency.

19 (2) The additional revenue generated by the increased
20 nonresident tuition permitted under the amendments made to this
21 subdivision during the 2009–10 Regular Session shall be used to
22 expand and enhance services to resident students. In no event shall
23 the admission of nonresident students come at the expense of
24 resident enrollment.

25 (f) The governing board of each community college district also
26 shall adopt a tuition fee per unit of credit for nonresident students
27 enrolled in more or less than 15 units of credit per term by dividing
28 the fee determined in subdivision (e) by 30 for colleges operating
29 on the semester system and 45 for colleges operating on the quarter
30 system and rounding to the nearest whole dollar. The same rate
31 shall be uniformly charged nonresident students attending any
32 terms or sessions maintained by the community college. The rate
33 charged shall be the rate established for the fiscal year in which
34 the term or session ends.

35 (g) Any loss in district revenue generated by the nonresident
36 tuition fee shall not be offset by additional state funding.

37 (h) Any district that has fewer than 1,500 FTES and whose
38 boundary is within 10 miles of another state that has a reciprocity
39 agreement with California governing student attendance and fees

1 may exempt students from that state from the mandatory fee
2 requirement described in subdivision (a) for nonresident students.

3 (i) Any district that has more than 1,500, but less than 3,001,
4 FTES and whose boundary is within 10 miles of another state that
5 has a reciprocity agreement with California governing student
6 attendance and fees may, in any one fiscal year, exempt up to 100
7 FTES from that state from the mandatory fee requirement described
8 in subdivision (a) for nonresident students.

9 (j) The attendance of nonresident students who are exempted
10 pursuant to subdivision (h) or (i), or pursuant to paragraph ~~(3)~~ (3),
11 (4), or (5) of subdivision (a), from the mandatory fee requirement
12 described in subdivision (a) for nonresident students may be
13 reported as resident FTES for state apportionment purposes. Any
14 nonresident student reported as resident FTES for state
15 apportionment purposes pursuant to subdivision (h) or (i) shall
16 pay a per unit fee that is three times the amount of the fee
17 established for residents pursuant to Section 76300. That fee is to
18 be included in the FTES adjustments described in Section 76300
19 for purposes of computing apportionments.

20 *SEC. 3. Section 76140 of the Education Code, as amended by*
21 *Section 1 of Chapter 657 of the Statutes of 2015, is amended to*
22 *read:*

23 76140. (a) A community college district may admit, and shall
24 charge a tuition fee to, nonresident students, except that a
25 community college district may exempt from all or parts of the
26 fee any person described in paragraph (1), (2), (3), ~~(4)~~, or (6), and
27 shall exempt from all of the fee any person described in paragraph
28 (4) or (5):

29 (1) All nonresidents who enroll for six or fewer units.
30 Exemptions made pursuant to this paragraph shall not be made on
31 an individual basis.

32 (2) Any nonresident who is both a citizen and resident of a
33 foreign country, if the nonresident has demonstrated a financial
34 need for the exemption. Not more than 10 percent of the
35 nonresident foreign students attending any community college
36 district may be so exempted. Exemptions made pursuant to this
37 paragraph may be made on an individual basis.

38 (3) (A) A student who, as of August 29, 2005, was enrolled,
39 or admitted with an intention to enroll, in the fall term of the
40 2005–06 academic year in a regionally accredited institution of

1 higher education in Alabama, Louisiana, or Mississippi, and who
2 could not continue his or her attendance at that institution as a
3 direct consequence of damage sustained by that institution as a
4 result of Hurricane Katrina.

5 (B) The chancellor shall develop guidelines for the
6 implementation of this paragraph. These guidelines shall include
7 standards for appropriate documentation of student eligibility to
8 the extent feasible.

9 (C) This paragraph shall apply only to the 2005–06 academic
10 year.

11 (4) A special part-time—~~student~~ *student, other than a*
12 *nonimmigrant alien within the meaning of paragraph (15) of*
13 *subsection (a) of Section 1101 of Title 8 of the United States Code,*
14 *admitted pursuant to Section ~~76001~~: 76001 or 76004.*

15 (5) A nonresident student who is a United States citizen who
16 resides in a foreign country, if that nonresident meets all of the
17 following requirements:

18 (A) Demonstrates a financial need for the exemption.

19 (B) Has a parent or guardian who has been deported or was
20 permitted to depart voluntarily under the federal Immigration and
21 Nationality Act in accordance with Section 1229c of Title 8 of the
22 United States Code. The student shall provide documents from the
23 United States Citizenship and Immigration Services evidencing
24 the deportation or voluntary departure of his or her parent or
25 guardian.

26 (C) Moved abroad as a result of the deportation or voluntary
27 departure specified in subparagraph (B).

28 (D) Lived in California immediately before moving abroad. The
29 student shall provide information and evidence that demonstrates
30 the student previously lived in California.

31 (E) Attended a public or private secondary school, as described
32 in Sections 52 and 53, in the state for three or more years. The
33 student shall provide documents that demonstrate his or her
34 secondary school attendance.

35 (F) Upon enrollment, will be in his or her first academic year
36 as a matriculated student in California public higher education, as
37 that term is defined in subdivision (a) of Section 66010, will be
38 living in California, and will file an affidavit with the institution
39 stating that he or she intends to establish residency in California
40 as soon as possible.

1 (6) (A) A student who attends Lake Tahoe Community College
 2 and who has residence, pursuant to subparagraph (B), in one of
 3 the following communities in Nevada:

- 4 (i) Incline Village.
- 5 (ii) Kingsbury.
- 6 (iii) Round Hill.
- 7 (iv) Skyland.
- 8 (v) Stateline.
- 9 (vi) Zephyr Cove.

10 (B) Residence shall be determined pursuant to Article 5
 11 (commencing with Section 68060) of Chapter 1 of Part 41 of
 12 Division 5. A person shall have residence in one of the
 13 communities listed in subparagraph (A) if the person has lived in
 14 the community for more than one year immediately prior to seeking
 15 the fee exemption pursuant to this paragraph.

16 (C) The governing board of the Lake Tahoe Community College
 17 District shall adopt rules and regulations for determining a student's
 18 residence classification and for establishing procedures for an
 19 appeal and review of the residence classification. No more than
 20 200 students shall be exempted from payment of a nonresident
 21 tuition fee under this paragraph in any academic year.

22 (b) A district may contract with a state, a county contiguous to
 23 California, the federal government, or a foreign country, or an
 24 agency thereof, for payment of all or a part of a nonresident
 25 student's tuition fee.

26 (c) Nonresident students shall not be reported as full-time
 27 equivalent students (FTES) for state apportionment purposes,
 28 except as provided by subdivision (j) or another statute, in which
 29 case a nonresident tuition fee may not be charged.

30 (d) The nonresident tuition fee shall be set by the governing
 31 board of each community college district not later than February
 32 1 of each year for the succeeding fiscal year. The governing board
 33 of each community college district shall provide nonresident
 34 students with notice of nonresident tuition fee changes during the
 35 spring term before the fall term in which the change will take
 36 effect. Nonresident tuition fee increases shall be gradual, moderate,
 37 and predictable. The fee may be paid in installments, as determined
 38 by the governing board of the district.

39 (e) (1) The fee established by the governing board pursuant to
 40 subdivision (d) shall represent for nonresident students enrolled

1 in 30 semester units or 45 quarter units of credit per fiscal year
2 one or more of the following:

3 (A) The amount that was expended by the district for the
4 expense of education as defined by the California Community
5 Colleges Budget and Accounting Manual in the preceding fiscal
6 year increased by the projected percent increase in the United
7 States Consumer Price Index as determined by the Department of
8 Finance for the current fiscal year and succeeding fiscal year and
9 divided by the FTES (including nonresident students) attending
10 in the district in the preceding fiscal year. However, if for the
11 district's preceding fiscal year FTES of all students attending in
12 the district in noncredit courses is equal to, or greater than, 10
13 percent of the district's total FTES attending in the district, the
14 district may substitute the data for expense of education in grades
15 13 and 14 and FTES in grades 13 and 14 attending in the district.

16 (B) The expense of education in the preceding fiscal year of all
17 districts increased by the projected percent increase in the United
18 States Consumer Price Index as determined by the Department of
19 Finance for the fiscal year and succeeding fiscal year and divided
20 by the FTES (including nonresident students) attending all districts
21 during the preceding fiscal year. However, if the amount calculated
22 under this paragraph for the succeeding fiscal year is less than the
23 amount established for the current fiscal year or for any of the past
24 four fiscal years, the district may set the nonresident tuition fee at
25 the greater of the current or any of the past four-year amounts.

26 (C) An amount not to exceed the fee established by the
27 governing board of any contiguous district.

28 (D) An amount not to exceed the amount that was expended by
29 the district for the expense of education, but in no case less than
30 the statewide average as set forth in subparagraph (B).

31 (E) An amount no greater than the average of the nonresident
32 tuition fees of public community colleges of no less than 12 states
33 that are comparable to California in cost of living. The
34 determination of comparable states shall be based on a composite
35 cost-of-living index as determined by the United States Department
36 of Labor or a cooperating government agency.

37 (2) The additional revenue generated by the increased
38 nonresident tuition permitted under the amendments made to this
39 subdivision during the 2009–10 Regular Session shall be used to
40 expand and enhance services to resident students. In no event shall

1 the admission of nonresident students come at the expense of
2 resident enrollment.

3 (f) The governing board of each community college district also
4 shall adopt a tuition fee per unit of credit for nonresident students
5 enrolled in more or less than 15 units of credit per term by dividing
6 the fee determined in subdivision (e) by 30 for colleges operating
7 on the semester system and 45 for colleges operating on the quarter
8 system and rounding to the nearest whole dollar. The same rate
9 shall be uniformly charged nonresident students attending any
10 terms or sessions maintained by the community college. The rate
11 charged shall be the rate established for the fiscal year in which
12 the term or session ends.

13 (g) Any loss in district revenue generated by the nonresident
14 tuition fee shall not be offset by additional state funding.

15 (h) Any district that has fewer than 1,500 FTES and whose
16 boundary is within 10 miles of another state that has a reciprocity
17 agreement with California governing student attendance and fees
18 may exempt students from that state from the mandatory fee
19 requirement described in subdivision (a) for nonresident students.

20 (i) Any district that has more than 1,500, but less than 3,001,
21 FTES and whose boundary is within 10 miles of another state that
22 has a reciprocity agreement with California governing student
23 attendance and fees may, in any one fiscal year, exempt up to 100
24 FTES from that state from the mandatory fee requirement described
25 in subdivision (a) for nonresident students.

26 (j) The attendance of nonresident students who are exempted
27 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (4),
28 (5), or (6) of subdivision (a), from the mandatory fee requirement
29 described in subdivision (a) for nonresident students may be
30 reported as resident FTES for state apportionment purposes. Any
31 nonresident student reported as resident FTES for state
32 apportionment purposes who is exempt pursuant to paragraph (6)
33 of subdivision (a), or pursuant to subdivision (h) or (i), shall pay
34 a per unit fee that is three times the amount of the fee established
35 for residents pursuant to Section 76300. That fee is to be included
36 in the FTES adjustments described in Section 76300 for purposes
37 of computing apportionments.

38 (k) This section shall become inoperative on July 1, 2022, and,
39 as of January 1, 2023, is repealed, unless a later enacted statute,

1 that becomes operative on or before January 1, 2023, deletes or
2 extends the dates on which it becomes inoperative and is repealed.

3 *SEC. 4. Section 76140 of the Education Code, as added by*
4 *Section 2 of Chapter 657 of the Statutes of 2015, is amended to*
5 *read:*

6 76140. (a) A community college district may admit, and shall
7 charge a tuition fee to, nonresident students, except that a
8 community college district may exempt from all or parts of the
9 fee any person described in paragraph (1), (2), *or* (3), ~~or (4)~~, and
10 shall exempt from all of the fee any person described in paragraph
11 *(4) or (5)*:

12 (1) All nonresidents who enroll for six or fewer units.
13 Exemptions made pursuant to this paragraph shall not be made on
14 an individual basis.

15 (2) Any nonresident who is both a citizen and resident of a
16 foreign country, if the nonresident has demonstrated a financial
17 need for the exemption. Not more than 10 percent of the
18 nonresident foreign students attending any community college
19 district may be so exempted. Exemptions made pursuant to this
20 paragraph may be made on an individual basis.

21 (3) (A) A student who, as of August 29, 2005, was enrolled,
22 or admitted with an intention to enroll, in the fall term of the
23 2005–06 academic year in a regionally accredited institution of
24 higher education in Alabama, Louisiana, or Mississippi, and who
25 could not continue his or her attendance at that institution as a
26 direct consequence of damage sustained by that institution as a
27 result of Hurricane Katrina.

28 (B) The chancellor shall develop guidelines for the
29 implementation of this paragraph. These guidelines shall include
30 standards for appropriate documentation of student eligibility to
31 the extent feasible.

32 (C) This paragraph shall apply only to the 2005–06 academic
33 year.

34 (4) A special part-time ~~student~~ *student, other than a*
35 *nonimmigrant alien within the meaning of paragraph (15) of*
36 *subsection (a) of Section 1101 of Title 8 of the United States Code,*
37 *admitted pursuant to Section ~~76001~~ 76001 or 76004.*

38 (5) A nonresident student who is a United States citizen who
39 resides in a foreign country, if that nonresident meets all of the
40 following requirements:

1 (A) Demonstrates a financial need for the exemption.

2 (B) Has a parent or guardian who has been deported or was
3 permitted to depart voluntarily under the federal Immigration and
4 Nationality Act in accordance with Section 1229c of Title 8 of the
5 United States Code. The student shall provide documents from the
6 United States Citizenship and Immigration Services evidencing
7 the deportation or voluntary departure of his or her parent or
8 guardian.

9 (C) Moved abroad as a result of the deportation or voluntary
10 departure specified in subparagraph (B).

11 (D) Lived in California immediately before moving abroad. The
12 student shall provide information and evidence that demonstrates
13 the student previously lived in California.

14 (E) Attended a public or private secondary school, as described
15 in Sections 52 and 53, in the state for three or more years. The
16 student shall provide documents that demonstrate his or her
17 secondary school attendance.

18 (F) Upon enrollment, will be in his or her first academic year
19 as a matriculated student in California public higher education, as
20 that term is defined in subdivision (a) of Section 66010, will be
21 living in California, and will file an affidavit with the institution
22 stating that he or she intends to establish residency in California
23 as soon as possible.

24 (b) A district may contract with a state, a county contiguous to
25 California, the federal government, or a foreign country, or an
26 agency thereof, for payment of all or a part of a nonresident
27 student's tuition fee.

28 (c) Nonresident students shall not be reported as full-time
29 equivalent students (FTES) for state apportionment purposes,
30 except as provided by subdivision (j) or another statute, in which
31 case a nonresident tuition fee may not be charged.

32 (d) The nonresident tuition fee shall be set by the governing
33 board of each community college district not later than February
34 1 of each year for the succeeding fiscal year. The governing board
35 of each community college district shall provide nonresident
36 students with notice of nonresident tuition fee changes during the
37 spring term before the fall term in which the change will take
38 effect. Nonresident tuition fee increases shall be gradual, moderate,
39 and predictable. The fee may be paid in installments, as determined
40 by the governing board of the district.

1 (e) (1) The fee established by the governing board pursuant to
2 subdivision (d) shall represent for nonresident students enrolled
3 in 30 semester units or 45 quarter units of credit per fiscal year
4 one or more of the following:

5 (A) The amount that was expended by the district for the
6 expense of education as defined by the California Community
7 Colleges Budget and Accounting Manual in the preceding fiscal
8 year increased by the projected percent increase in the United
9 States Consumer Price Index as determined by the Department of
10 Finance for the current fiscal year and succeeding fiscal year and
11 divided by the FTES (including nonresident students) attending
12 in the district in the preceding fiscal year. However, if for the
13 district's preceding fiscal year FTES of all students attending in
14 the district in noncredit courses is equal to, or greater than, 10
15 percent of the district's total FTES attending in the district, the
16 district may substitute the data for expense of education in grades
17 13 and 14 and FTES in grades 13 and 14 attending in the district.

18 (B) The expense of education in the preceding fiscal year of all
19 districts increased by the projected percent increase in the United
20 States Consumer Price Index as determined by the Department of
21 Finance for the fiscal year and succeeding fiscal year and divided
22 by the FTES (including nonresident students) attending all districts
23 during the preceding fiscal year. However, if the amount calculated
24 under this paragraph for the succeeding fiscal year is less than the
25 amount established for the current fiscal year or for any of the past
26 four fiscal years, the district may set the nonresident tuition fee at
27 the greater of the current or any of the past four-year amounts.

28 (C) An amount not to exceed the fee established by the
29 governing board of any contiguous district.

30 (D) An amount not to exceed the amount that was expended by
31 the district for the expense of education, but in no case less than
32 the statewide average as set forth in subparagraph (B).

33 (E) An amount no greater than the average of the nonresident
34 tuition fees of public community colleges of no less than 12 states
35 that are comparable to California in cost of living. The
36 determination of comparable states shall be based on a composite
37 cost-of-living index as determined by the United States Department
38 of Labor or a cooperating government agency.

39 (2) The additional revenue generated by the increased
40 nonresident tuition permitted under the amendments made to this

1 subdivision during the 2009–10 Regular Session shall be used to
2 expand and enhance services to resident students. In no event shall
3 the admission of nonresident students come at the expense of
4 resident enrollment.

5 (f) The governing board of each community college district also
6 shall adopt a tuition fee per unit of credit for nonresident students
7 enrolled in more or less than 15 units of credit per term by dividing
8 the fee determined in subdivision (e) by 30 for colleges operating
9 on the semester system and 45 for colleges operating on the quarter
10 system and rounding to the nearest whole dollar. The same rate
11 shall be uniformly charged nonresident students attending any
12 terms or sessions maintained by the community college. The rate
13 charged shall be the rate established for the fiscal year in which
14 the term or session ends.

15 (g) Any loss in district revenue generated by the nonresident
16 tuition fee shall not be offset by additional state funding.

17 (h) Any district that has fewer than 1,500 FTES and whose
18 boundary is within 10 miles of another state that has a reciprocity
19 agreement with California governing student attendance and fees
20 may exempt students from that state from the mandatory fee
21 requirement described in subdivision (a) for nonresident students.

22 (i) Any district that has more than 1,500, but less than 3,001,
23 FTES and whose boundary is within 10 miles of another state that
24 has a reciprocity agreement with California governing student
25 attendance and fees may, in any one fiscal year, exempt up to 100
26 FTES from that state from the mandatory fee requirement described
27 in subdivision (a) for nonresident students.

28 (j) The attendance of nonresident students who are exempted
29 pursuant to subdivision (h) or (i), or pursuant to paragraph ~~(3)~~ (3),
30 (4), or (5) of subdivision (a), from the mandatory fee requirement
31 described in subdivision (a) for nonresident students may be
32 reported as resident FTES for state apportionment purposes. Any
33 nonresident student reported as resident FTES for state
34 apportionment purposes pursuant to subdivision (h) or (i) shall
35 pay a per unit fee that is three times the amount of the fee
36 established for residents pursuant to Section 76300. That fee is to
37 be included in the FTES adjustments described in Section 76300
38 for purposes of computing apportionments.

39 (k) This section shall become operative on July 1, 2022.

1 ~~SEC. 2.~~

2 *SEC. 5.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

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