

AMENDED IN SENATE MAY 8, 2013  
AMENDED IN SENATE APRIL 25, 2013  
AMENDED IN SENATE APRIL 11, 2013  
AMENDED IN SENATE MARCH 12, 2013

**SENATE BILL**

**No. 141**

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**Introduced by Senator Correa**  
**(Principal coauthor: Senator Leno)**  
**(Coauthors: Senators Cannella, Hernandez, Lara, and Steinberg)**  
**(Coauthors: Assembly Members Ammiano, Garcia, and Wieckowski)**

January 29, 2013

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An act to amend Sections ~~69508.5, 76140, 76140~~ and 89705 of the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 141, as amended, Correa. Postsecondary education benefits: children of deported or voluntarily departed parents.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, the California State University, under the administration of the Trustees of the California State University, and the University of California, under the administration of the Regents of the University of California, as the 3 segments of public higher education in the state. Existing law exempts specified students from paying nonresident tuition at the California Community Colleges and the California State University.

This bill would additionally exempt a student who is a United States citizen who resides in a foreign country, and who meets all of the following requirements, from nonresident tuition at the California

Community Colleges and the California State University: (A) demonstrates financial need for the exemption; (B) has a parent who has been deported or was permitted to depart voluntarily; (C) moved abroad as a result of that deportation or voluntary departure; (D) lived in California immediately before moving abroad; (E) attended a secondary school in the state for 3 or more years; and (F) is in his or her first academic year as a matriculated student in California public higher education, as defined. The bill would request the regents to enact regulations and procedures to exempt similarly situated students of the University of California from nonresident tuition.

~~(2) Existing law makes a student who meets the requirements for exemption from nonresident tuition pursuant to specified law eligible to apply for, and participate in, any student financial aid program administered by the state, as specified.~~

~~This bill would additionally make students who meet the requirements for exemption provided by this bill eligible to apply for, and participate in, any financial aid program administered by the state, as specified.~~

~~(3)~~

(2) To the extent the provisions of this bill would place additional requirements on community college districts regarding the provision of postsecondary education benefits to additional categories of students, the bill would impose 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. The Legislature finds and declares all of the  
2 following:

3 (a) It is estimated that over 5 million children are currently living  
4 in the United States with at least one undocumented immigrant  
5 parent. Approximately 75 percent of these children are United  
6 States citizens, and many of them are from California.

1 (b) When one or both parents are deported, these citizen children  
2 often have no recourse but to leave the country. At no fault of their  
3 own, these children lose their schools, friends, and the place they  
4 have come to know as “home.”

5 (c) As a result of moving abroad, there is a break in these  
6 children’s presence in California, affecting their ability in later  
7 years to attend a California public college or university at the much  
8 lower resident prices.

9 (d) Today, these children, who are American citizens, are  
10 growing up outside the United States, yet their desire to return to  
11 their birth home continues to live within them. These children lack  
12 many basic services granted to most United States citizens.

13 (e) The State of California has an interest in ensuring that these  
14 children can access and afford a high-quality education.

15 ~~SEC. 2. Section 69508.5 of the Education Code is amended to~~  
16 ~~read:~~

17 ~~69508.5. (a) Notwithstanding any other law, and except as~~  
18 ~~provided for in subdivision (c), a student who meets the~~  
19 ~~requirements of subdivision (a) of Section 68130.5, paragraph (4)~~  
20 ~~of subdivision (a) of Section 76140, or subdivision (c) of Section~~  
21 ~~89705, or who meets equivalent requirements adopted by the~~  
22 ~~Regents of the University of California, is eligible to apply for,~~  
23 ~~and participate in, any student financial aid program administered~~  
24 ~~by the State of California to the full extent permitted by federal~~  
25 ~~law. The Legislature finds and declares that this section is a state~~  
26 ~~law within the meaning of Section 1621(d) of Title 8 of the United~~  
27 ~~States Code.~~

28 ~~(b) Notwithstanding any other law, the Student Aid Commission~~  
29 ~~shall establish procedures and forms that enable students who are~~  
30 ~~exempt from paying nonresident tuition under Section 68130.5,~~  
31 ~~paragraph (4) of subdivision (a) of Section 76140, or subdivision~~  
32 ~~(c) of Section 89705, or who meet equivalent requirements adopted~~  
33 ~~by the regents, to apply for, and participate in, all student financial~~  
34 ~~aid programs administered by the State of California to the full~~  
35 ~~extent permitted by federal law.~~

36 ~~(c) A student who is exempt from paying nonresident tuition~~  
37 ~~under Section 68130.5 shall not be eligible for Competitive Cal~~  
38 ~~Grant A and B Awards unless funding remains available after all~~  
39 ~~California students not exempt pursuant to Section 68130.5 have~~

1 received Competitive Cal Grant A and B Awards for which they  
2 are eligible.

3 ~~(d) This section shall become operative on January 1, 2013.~~

4 ~~SEC. 3.~~

5 *SEC. 2.* Section 76140 of the Education Code, as added by  
6 Section 66 of Chapter 38 of the Statutes of 2012, is amended to  
7 read:

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

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

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

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

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

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

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

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

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

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

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

13 (E) Attended a secondary school in the state for three or more  
14 years.

15 (F) Is in his or her first academic year as a matriculated student  
16 in California public higher education, as that term is defined in  
17 subdivision (a) of Section 66010.

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

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

26 (d) The nonresident tuition fee shall be set by the governing  
27 board of each community college district not later than February  
28 1 of each year for the succeeding fiscal year. The governing board  
29 of each community college district shall provide nonresident  
30 students with notice of nonresident tuition fee changes during the  
31 spring term before the fall term in which the change will take  
32 effect. Nonresident tuition fee increases shall be gradual, moderate,  
33 and predictable. The fee may be paid in installments, as determined  
34 by the governing board of the district.

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

39 (A) The amount that was expended by the district for the  
40 expense of education as defined by the California Community

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

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

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

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

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

33 (2) The additional revenue generated by the increased  
34 nonresident tuition permitted under the amendments made to this  
35 subdivision during the 2009–10 Regular Session shall be used to  
36 expand and enhance services to resident students. In no event shall  
37 the admission of nonresident students come at the expense of  
38 resident enrollment.

39 (f) The governing board of each community college district also  
40 shall adopt a tuition fee per unit of credit for nonresident students

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

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

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

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

22 (j) The attendance of nonresident students who are exempted  
23 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) or  
24 (4) of subdivision (a), from the mandatory fee requirement  
25 described in subdivision (a) for nonresident students may be  
26 reported as resident FTES for state apportionment purposes. Any  
27 nonresident student reported as resident FTES for state  
28 apportionment purposes pursuant to subdivision (h) or (i) shall  
29 pay a per unit fee that is three times the amount of the fee  
30 established for residents pursuant to Section 76300. That fee is to  
31 be included in the FTES adjustments described in Section 76330  
32 for purposes of computing apportionments.

33 (k) This section shall become operative on July 1, 2013.

34 ~~SEC. 4.~~

35 *SEC. 3.* Section 89705 of the Education Code is amended to  
36 read:

37 89705. (a) Except as provided in subdivision (c), and as  
38 otherwise specially provided, an admission fee and rate of tuition  
39 fixed by the trustees shall be required of each nonresident student.  
40 The rate of tuition to be paid by each nonresident student, as

1 defined in Section 68018, shall not be less than three hundred sixty  
2 dollars (\$360) per year. The rate of tuition paid by each nonresident  
3 student who is a citizen and resident of a foreign country and not  
4 a citizen of the United States, except as otherwise specifically  
5 provided, shall be fixed by the trustees and shall not be less than  
6 three hundred sixty dollars (\$360) per year.

7 (b) The trustees may waive entirely, or reduce below the rate,  
8 or the minimum rate, fixed by this section, the tuition fee of a  
9 nonresident student who is a citizen and resident of a foreign  
10 country and not a citizen of the United States and who attends a  
11 state university or college under an agreement entered into by a  
12 governmental agency or a nonprofit corporation or organization  
13 with a similar agency, or corporation or association, domiciled in  
14 and organized under laws of a foreign country, where a principal  
15 purpose of the agreement is to encourage the exchange of students  
16 with the view of enhancing international good will and  
17 understanding. The trustees shall, in each instance, determine  
18 whether the conditions for this exemption from fees exist and may  
19 prescribe appropriate procedures to be complied with in obtaining  
20 the exemption.

21 (c) The trustees shall waive entirely the admission fee and rate  
22 of tuition fixed under this section for a nonresident student who  
23 is a United States citizen who resides in a foreign country, if that  
24 nonresident meets all of the following requirements:

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

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

33 (3) Moved abroad as a result of the deportation or voluntary  
34 departure specified in paragraph (2).

35 (4) Lived in California immediately before moving abroad. The  
36 student shall provide information and evidence that demonstrates  
37 the student previously lived in California.

38 (5) Attended a secondary school in the state for three or more  
39 years.

1 (6) Is in his or her first academic year as a matriculated student  
2 in California public higher education, as that term is defined in  
3 subdivision (a) of Section 66010.

4 ~~SEC. 5.~~

5 *SEC. 4.* The Legislature requests the Regents of the University  
6 of California to enact regulations and procedures that exempt from  
7 nonresident tuition students of that university who meet the  
8 requirements applicable to students of the California Community  
9 Colleges and the California State University, respectively, in  
10 paragraph (4) of subdivision (a) of Section 76140, and subdivision  
11 (c) of Section 89705, of the Education Code.

12 ~~SEC. 6.~~

13 *SEC. 5.* If the Commission on State Mandates determines that  
14 this act contains costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.

O