

SixTen and Associates

Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

May 20, 2003

RECEIVED

MAY 23 2003

**COMMISSION ON
STATE MANDATES**

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: TEST CLAIM OF Contra Costa Community College District
Statutes of 2002 / Chapter 450
Tuition Fee Waivers

Dear Ms. Higashi:

Enclosed are the original and seven copies of the Contra Costa Community College District test claim for the above referenced mandate.

I have been appointed by the District as its representative for the test claim. The District requests that all correspondence originating from your office and documents subject to service by other parties be directed to me, with copies to:

John E. Hendrickson
Vice Chancellor, Finance and Administration
Contra Costa Community College District
500 Court Street
Martinez, California 94553

The Commission regulations provide for an informal conference of the interested parties

Paula Higashi, Executive Director,
Commission on State Mandates

May 20, 2003

within thirty days. If this meeting is deemed necessary, I request that it be conducted in conjunction with a regularly scheduled Commission hearing.

Sincerely,



Keith B. Petersen

C: John E. Hendrickson, Vice Chancellor, Finance and Administration
Contra Costa Community College District

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only

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MAY 23 2003

**COMMISSION ON
STATE MANDATES**

TEST CLAIM FORM

Claim No. 02-TC-21

Local Agency or School District Submitting Claim

CONTRA COSTA COMMUNITY COLLEGE DISTRICT

Contact Person

Telephone Number

Keith B. Petersen, President
SixTen and Associates

Voice: 858-514-8605
Fax: 858-514-8645

Claimant Address

Contra Costa Community College District
500 Court Street
Martinez, California 94553

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

Tuition Fee Waivers

- See: List of Statutes Cited Attached
- See: List of Code Sections Cited Attached
- See: List of Title 5, California Code of Regulations Attached
- See: Description of Revised Guidelines Attached

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

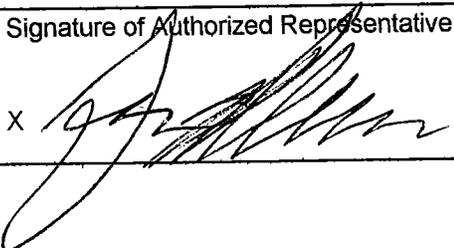
Telephone No.

John E. Hendrickson
Vice Chancellor, Finance and Administration

(925) 229-1000, Ext. 1214

Signature of Authorized Representative

Date

X 

May 1, 2003

Attachment to COSM Form CSM 2 (1/91)
Test Claim: Tuition Fee Waivers
Contra Costa Community College District

Statutes Cited

Chapter 450, Statutes of 2002
Chapter 814, Statutes of 2001
Chapter 949, Statutes of 2000
Chapter 571, Statutes of 2000
Chapter 952, Statutes of 1998
Chapter 438, Statutes of 1997
Chapter 758, Statutes of 1995
Chapter 389, Statutes of 1995
Chapter 8, Statutes of 1993
Chapter 1236, Statutes of 1992
Chapter 170, Statutes of 1992
Chapter 455, Statutes of 1991
Chapter 1372, Statutes of 1990
Chapter 985, Statutes of 1989
Chapter 900, Statutes of 1989
Chapter 424, Statutes of 1989
Chapter 753, Statutes of 1988
Chapter 317, Statutes of 1983
Chapter 1070, Statutes of 1982
Chapter 102, Statutes of 1981
Chapter 789, Statutes of 1980
Chapter 580, Statutes of 1980
Chapter 797, Statutes of 1979
Chapter 242, Statutes of 1977
Chapter 36, Statutes of 1977
Chapter 990, Statutes of 1976
Chapter 78, Statutes of 1975

Executive Orders

Revised Guidelines and Information
"Exemption From Nonresident Tuition"
Chancellor of the California
Community Colleges (May 2002)

Education Code Sections Cited

Section 68044
Section 68051
Section 68074
Section 68075
Section 68075.5
Section 68076
Section 68077
Section 68078
Section 68082
Section 68083
Section 68084
Section 68121
Section 68130.5
Section 76140

Title 5. Code of Regulations Cited

Section 54002
Section 54010
Section 54012
Section 54020
Section 54022
Section 54024
Section 54030
Section 54032
Section 54041
Section 54042
Section 54045
Section 54045.5
Section 54046
Section 54050
Section 54060
Section 54070

1 Claim Prepared By:
2 Keith B. Petersen
3 SixTen and Associates
4 5252 Balboa Avenue, Suite 807
5 San Diego, CA 92117
6 Voice: (858) 514-8605
7
8
9

10 BEFORE THE
11 COMMISSION ON STATE MANDATES
12
13 STATE OF CALIFORNIA
14
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17)
18 Test Claim of:)

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20 Contra Costa)
21 Community College District)

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No. CSM _____

Chapter 450, Statutes of 2002
Chapter 814, Statutes of 2001
Chapter 949, Statutes of 2000
Chapter 571, Statutes of 2000
Chapter 952, Statutes of 1998
Chapter 438, Statutes of 1997
Chapter 758, Statutes of 1995
Chapter 389, Statutes of 1995
Chapter 8, Statutes of 1993
Chapter 1236, Statutes of 1992
Chapter 170, Statutes of 1992
Chapter 455, Statutes of 1991
Chapter 1372, Statutes of 1990
Chapter 985, Statutes of 1989
Chapter 900, Statutes of 1989
Chapter 424, Statutes of 1989
Chapter 753, Statutes of 1988
Chapter 317, Statutes of 1983
Chapter 1070, Statutes of 1982
Chapter 102, Statutes of 1981
(Continued on next page)

Tuition Fee Waivers

TEST CLAIM FILING

Test Claim of Contra Costa Community College
Chapter 450/02 Tuition Fee Waivers

1	)	Chapter 789, Statutes of 1980
2	)	Chapter 580, Statutes of 1980
3	)	Chapter 797, Statutes of 1979
4	)	Chapter 242, Statutes of 1977
5	)	Chapter 36, Statutes of 1977
6	)	Chapter 990, Statutes of 1976
7	)	Chapter 78, Statutes of 1975
8)	
9	)	Education Code Sections 68044,
10	)	68051, 68074, 68075, 68075.5,
11	)	68076, 68077, 68078, 68082, 68083
12	)	68084, 68121, 68130.5, 76140
13)	
14	)	Title 5, California Code of Regulations
15	)	Sections 54002, 54010, 54012, 54020,
16	)	54022, 54024, 54030, 54032, 54041,
17	)	54042, 54045, 54045.5, 54046, 54050,
18	)	54060 and 54070
19)	
20	)	Revised Guidelines and Information
21	)	"Exemption From Nonresident Tuition"
22	)	Chancellor of the California Community
23	)	Colleges (May 2002)
24)	

PART 1. AUTHORITY FOR THE CLAIM

The Commission on State Mandates has the authority pursuant to Government Code section 17551(a) to "...hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." Contra Costa Community College District is a "school district"

1 as defined in Government Code section 17519.¹

2 PART II. LEGISLATIVE HISTORY OF THE CLAIM

3 This test claim alleges mandated costs reimbursable by the state for community
4 college districts to develop and implement policies and procedures to classify students
5 as residents or non-residents, to notify nonresident students of impending increases in
6 nonresident tuition, and for the waiver of, and the cost of waiving, nonresident tuition for
7 qualifying students.

8 SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

9 Education Code Section 22812² defined a "resident" as a student who has
10 residence in the state for more than one year immediately preceding the residence
11 determination date. Education Code Section 22813³ defined a "nonresident" as a

¹ Government Code Section 17519, as added by Chapter 1459/84:

"School District" means any school district, community college district, or county superintendent of schools."

² Education Code Section 22812, added by Chapter 1100, Statutes of 1972, Section 2:

"A "resident" is a student who has residence, pursuant to Article 5 (commencing with Section 68060) of this chapter in the state for more than one year immediately preceding the residence determination date."

³ Education Code Section 22813, added by Chapter 1100, Statutes of 1972, Section 2:

"A "nonresident" is a student who does not have residence in the state for more than one year immediately preceding the residence determination date."

1 student who does not have residence in the state for more than one year immediately
2 preceding the residence determination. Education Code Section 22816⁴ defined
3 "district" as a community college district maintaining one or more community colleges.

4 Education Code Section 22835⁵ required, as to a California community college,
5 that each student be classified as a district resident, a nondistrict resident or a
6 nonresident. Education Code Section 22836⁶ required each student enrolled or

⁴ Education Code Section 22816, added by Chapter 1100, Statutes of 1972,
Section 2:

"District" means a community college district maintaining one or more community
colleges."

⁵ Education Code Section 22835, added by Chapter 1100, Statutes of 1972,
Section 2:

"Each student enrolled or applying for admission to an institution shall provide such
information and evidence of residence as deemed necessary by the governing board to
determine his classification. An oath or affirmation may be required in connection with
taking testimony necessary to ascertain a student's classification. The determination of
a student's classification shall be made in accordance with the provisions of this
chapter and the residence determination date for the semester, quarter, or term for
which the student proposes to attend an institution."

⁶ Education Code Section 22836, added by Chapter 1100, Statutes of 1972,
Section 2:

"Each student enrolled or applying for admission to an institution shall provide such
information and evidence of residence as deemed necessary by the governing board to
determine his classification. An oath or affirmation may be required in connection with
taking testimony necessary to ascertain a student's classification. The determination of
a student's classification shall be made in accordance with the provisions of this
chapter and the residence determination date for the semester, quarter, or term for
which the student proposes to attend an institution."

1 applying for admission to provide such information and evidence of residence as
2 deemed necessary by the governing board. Education Code Section 22839⁷ required
3 that the governing boards adopt rules and regulations for determining a student's
4 classification and establish procedures for review and appeal of that classification.
5 Education Code Section 22840⁸ required that a student classified as a nonresident be
6 required, except as otherwise provided, to pay, in addition to other fees required by the
7 institution, nonresident tuition. Education Code Section 22841⁹ required the governing
8 board to adopt rules and regulations relating to the method of calculation of the amount

⁷ Education Code Section 22839, added by Chapter 1100, Statutes of 1972,
Section 2:

"The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. Such rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges."

⁸ Education Code Section 22840, amended by Chapter 206, Statutes of 1973:

"A student classified as a nonresident shall be required, except as otherwise provided in this chapter, to pay, in addition to other fees required by the institution, nonresident tuition."

⁹ Education Code Section 22841, added by Chapter 1100, Statutes of 1972,
Section 2:

"Unless otherwise provided by law, the governing board shall adopt rules and regulations relating to the method of calculation of the amount of nonresident tuition, the method of payment, and the method and amount of refund."

1 of the nonresident tuition, the method of payment, and the method and amount of
2 refund.

3 Education Code Section 22853¹⁰ required residence classification for a student
4 who is a dependent child, stepchild, or spouse of a member of the armed forces of the
5 United States stationed in this state on active duty until that student has resided in the
6 state the minimum time necessary to become a resident. If the member of the military,
7 on whom the student is a dependent, is thereafter transferred outside the continental
8 United States, continues to serve in the armed forces of the United States, the student
9 dependent shall not lose his resident classification until he or she has resided in the
10 state the minimum time necessary to become a resident.

11 Education Code Section 22854¹¹ required residency classification for a student

¹⁰ Education Code Section 22853, amended by Chapter 388, Statutes of 1974,
Section 2:

“A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he has resided in the state the minimum time necessary to become a resident.

Should that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, be thereafter transferred on military orders to a place outside the continental United States where the member continues to serve in the armed forces of the United States, the student dependent shall not lose his resident classification until he has resided in the state the minimum time necessary to become a resident.”

¹¹ Education Code Section 22854, added by Chapter 1100, Statutes of 1972,
Section 2:

“A student who is a member of the armed forces of the United States stationed in this

1 who is a member of the armed forces of the United States stationed in California on
2 active duty, other than for attendance at an educational institution, until the student has
3 resided in the state for the minimum time necessary to become a resident.

4 Education Code Section 22857¹² required residence classification for students
5 who were employed full-time by a California school district provided the student held
6 certain credentials and was enrolled in courses necessary to fulfill further credential
7 requirements.

state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, shall be entitled to resident classification until he has resided in the state the minimum time necessary to become a resident.”

¹² Education Code Section 22857, amended by Chapter 206, Statutes of 1973, Section 9, effective July 11, 1973:

“A student holding a valid credential authorizing service in the public schools of this state who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution shall be entitled to resident classification if such student meets any of the following requirements:

(a) Holding of a provisional credential and enrollment at an institution in courses necessary to obtain another type of credential authorizing service in the public schools.

(b) Holding a credential issued pursuant to Section 13125 and enrollment at an institution in courses necessary to fulfill credential requirements.

(c) Enrollment at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Section 13130.”

1 Education Code Section 22860¹³ allowed, but did not require, the governing
2 boards and district governing boards to waive nonresident tuition in whole or in part
3 upon a showing of (1) severe financial hardship to encourage the exchange of
4 students¹⁴, (2) financial need of students with exceptional scholastic ability and
5 achievement¹⁵, (3) reciprocity agreements with other California universities and
6 colleges¹⁶, (4) a student taking 6 units or less, or (5) those who are both citizens and
7 residents of a foreign country if made to all nonresidents and not on an individual
8 basis¹⁷.

9 Education Code Section 23754¹⁸ required the rate of nonresident tuition to be not

¹³ Education Code Section 22860, amended by Chapter 1108, Statutes of 1973,
Section 1:

“The governing boards and district governing boards may waive nonresident tuition in
whole or in part pursuant to Sections 89705, 89707, 68126 and 76140.”

¹⁴ Education Code Section 23754

¹⁵ Education Code Section 23754.3

¹⁶ Education Code Section 68126 (sic - 68123)

¹⁷ Education Code Section 22505.8

¹⁸ Education Code Section 23754, amended by Chapter 1100, Statutes of 1972:

“(a) Except as otherwise specially provided, an admission fee and rate of tuition
fixed by the trustees shall be required of each nonresident student. The rate of tuition
to be paid by each nonresident student, as defined in Section 22813, shall not be less
than three hundred sixty dollars (\$360) per year. The rate of tuition paid by each
nonresident student who is a citizen and resident of a foreign country and not a citizen
of the United States, except as otherwise specifically provided, shall be fixed by the
trustees and shall not be less than three hundred sixty dollars (\$360) per year. The

1 less than \$360 per year.

2 Education Code Section 25505.8¹⁹ permitted a community college district to

tuition fee for a nonresident student who is a citizen and resident of a foreign country and who was in attendance at a state university or college during the fall term of 1969, may be waived by the trustees if they determine that the increased tuition fee will cause a severe financial hardship on the student. Such waivers may be granted through the spring term of 1973 or until the student receives a baccalaureate degree, whichever occurs first.

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

¹⁹ Education Code Section 25505.8, added by Chapter 209, Statutes of 1973, Section 23, amended by Chapter 209, Statutes of 1973, Section 23:

“A district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee nonresidents who (a) enroll for six units or less or (b) are both citizens and residents of a foreign country. Any exemptions shall be made with regard to all nonresidents described in (a) or (b), and shall not be made on an individual basis.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student’s tuition fee.

The nonresident tuition fee shall be paid in two equal installments at the beginning of each semester, or three equal installments at the beginning of each quarter and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in grades 13 and 14.

1 admit, and required them to charge a tuition fee to, nonresident students.

2 Prior to January 1, 1975, there was no requirement that community college
3 districts use specific classification and qualification procedures to determine residence
4 for tuition purposes; to give advance notice of impending nonresident tuition changes;
5 or to develop and implement policies and procedures for the waiver of, and to waive,
6 nonresident tuition.

7 SECTION 2. LEGISLATIVE HISTORY AFTER JANUARY 1, 1975

8 Chapter 78, Statutes of 1975, Section 1 and Chapter 1254, Statutes of 1975,

Each governing board shall compute the amount per student enrolled in the district.

The amount per student enrolled shall be derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in grades 13 and 14. The same fee shall be charged irrespective of the type of class in which the student is enrolled.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units). The same per-unit rate shall be charged all nonresident students attending any summer sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the summer session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district in which during the school year 1962-63 more than 15 percent of the students enrolled were residents of another state; except that the provisions of this section shall apply to such districts beginning with the school year 1975-1976 and except that the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.”

1 Section 2 made non-substantive technical changes to Education Code Section
2 25505.8.

3 Chapter 990, Statutes of 1976, Section 1, amended Education Code Section
4 25505.8²⁰, subparagraph (a), to preclude community college districts from making
5 exemption decisions for nonresidents enrolled in six units or less on an individual basis.
6 The first paragraph of subdivision (b) was amended to require students exempted from
7 fees to demonstrate a financial need for the exemption and that such exemptions
8 cannot apply to more than ten percent of nonresident foreign students. Exemptions
9 under subdivision (b) could now be made on an individual basis.

10 Chapter 1010, Statutes of 1976, Section 2 (operative April 30, 1977) recodified
11 and renumbered the Education Code. Relevant code sections before and after the

²⁰ Education Code Section 25505.8, added by Chapter 209, Statutes of 1973, Section 23, amended by Chapter 990, Statutes of 1976, Section 1:

“A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee ~~nonresidents who:~~

(a) All nonresidents who enroll for six units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is are both a citizens and residents of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Any eExemptions shall be made with regard to all nonresidents described in (a) or (b) and pursuant to this subdivision shall not may be made on an individual basis. In the same manner as other nonresident students, pursuant to subdivision (c) of Section 17666.2, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.”

Test Claim of Contra Costa Community College
Chapter 450/02 Tuition Fee Waivers

1 recodification and renumbering are as follows:

2	<u>Former Code Section</u>	<u>New Code Section</u>
3	22812	68017
4	22813	68018
5	22816	68021
6	22835	68040
7	22836	68041
8	22839	68044
9	22840	68050
10	22841	68051
11	22853	68074
12	22854	68075
13	22857	68078
14	22860	68130
15	23754	89705
16	25505.8	76140

17 Chapter 36, Statutes of 1977, Section 293, effective April 29, 1977, amended
18 Education Code Section 76140 to make technical changes.

19 Chapter 36, Statutes of 1977, Section 502, added Education Code Section

1 68082²¹, to provide, for the first time, resident classification to native Americans who are
2 in attendance at a community college if the student is also attending a school
3 administered by the Bureau of Indian Affairs located within the community college
4 district.

5 Chapter 242, Statutes of 1977, Section 43, and Chapter 797, Statutes of 1979,
6 Section 78, amended Education Code Section 76140 to make technical changes.

7 Chapter 580, Statutes of 1980, Section 1, effective July 18, 1980, amended
8 Education Code Section 68074²² to require resident classification, for the first time, for

²¹ Education Code Section 68082, added by Chapter 36, Statutes of 1977, Section 502, effective April 29, 1977, operative April 30, 1977:

“A student who is a native American is entitled to resident classification for attendance at a community college if the student is also attending a school administered by the Bureau of Indian Affairs located within the community college district.

As used in this section, "native American" means an American Indian.”

²² Education Code Section 68074 (formerly 22853), recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2, as amended by Chapter 580, Statutes of 1980, Section 1:

“A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

Should that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) be thereafter transferred on military orders to a place outside ~~the continental United States, this state~~ where the member continues to serve in the armed forces of the United States or (2) be thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a

1 dependents of active members of the armed forces serving outside of California. The
2 Section previously allowed resident classification only for dependents of those active
3 members of the armed forces serving outside of the continental United States. The
4 amendment further requires resident classification, for the first time, for students
5 attending a community college who are dependents of a retired member of the armed
6 forces of the United States, until the student has resided in the state for the minimum
7 time necessary to become a resident.

8 Chapter 789, Statutes of 1980, Section 1, effective July 28, 1980, amended
9 Education Code Section 76140²³ to redefine the governing board procedure to set

resident.”

²³ Education Code Section 76140 (recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2), as amended by Chapter 789, Statutes of 1980, Section 1, effective July 28, 1980:

“A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis. ~~In the same manner as other nonresident students, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.~~

A district may contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student’s tuition fee.

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in

1

which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. Such fee may be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in a community college.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United State Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in a community college, or (b) the statewide average current expenditure per unit of average daily attendance in a community college during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee per unit of credit for nonresidents students enrolled in more or less than

1 nonresident student tuition fees and made other technical changes.

2 Chapter 102, Statutes of 1981, Section 38, effective June 28, 1981, amended

3 Education Code Section 68044²⁴ to require, for the first time, that the district rules and

15 units of credit per term on less than a full-time basis by dividing the fee in the preceding paragraph for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system and rounding to the nearest whole dollar. The same per-unit rate shall be uniformly charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.”

²⁴ Education Code Section 68044 (formerly 22839), recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2, effective April 30, 1976, as amended by Chapter 102, Statutes of 1981, Section 38:

“The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, (b) has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, and (c) has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

1 regulations pertaining to reclassification include provisions requiring that the financial
2 independence of a student be considered among other factors in determination of
3 residence classification. The amendment also establishes requirements for a student
4 to be considered financially independent.

5 Chapter 1070, Statutes of 1982, Section 1, amended Education Code Section
6 68044²⁵ to exempt, for the first time, graduate student teaching assistants, research

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted Such rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges.”

²⁵ Education Code Section 68044 (formerly 22839), recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2, effective April 30, 1976, as amended by Chapter 1070, Statutes of 1982, Section 1:

“The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

The adopted rules and regulations shall, beginning the 1983-84 school year, exempt nonresident students who have been appointed to serve as graduate student teaching assistants, graduate student research assistants, or graduate student teaching associates on any campus of the University of California or the California State University, and who have been employed on a 0.49 or more time basis, from the requirement of demonstrating his or her financial independence under this section for purposes of reclassification as a resident.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the

1 assistants, and teaching associates from the requirements to prove financial
2 independence for residence classification.

3 Chapter 317, Statutes of 1983, Section 1, effective July 19, 1983, amended
4 Education Code Section 76140 to make technical changes.

5 Chapter 753, Statutes of 1988, Section 1, added Education Code Section
6 68076²⁶ to require resident classification, for the first time, to a student who has not

calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, (b) has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, and (c) has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges.”

²⁶ Education Code Section 68076, added by Chapter 753, Statutes of 1988, Section 1:

“(a) Notwithstanding Section 68062, a student who (1) has not been an adult resident of California for more than one year and (2) is the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a resolution to that effect.”

1 been an adult resident for more than one year but who is the dependent child of a
2 California resident who has had residence for more than one year prior to the residence
3 determination date. The exception continues until the student resides in the state the
4 minimum time necessary to become a resident, so long as continuous attendance is
5 maintained.

6 Chapter 424, Statutes of 1989, Section 1, added Education Code Section
7 68077²⁷ to require resident classification, for the first time, to students who have
8 graduated from any school located in California that is operated by the United States
9 Bureau of Indian Affairs.

10 Chapter 900, Statutes of 1989, Section 1, amended Education Code Section
11 68074 to make technical changes.

12 Chapter 900, Statutes of 1989, Section 3, amended Education Code Section
13 68075 to make technical changes.

14 Chapter 985, Statutes of 1989, Section 1, amended Education Code Section

²⁷ Education Code Section 68077, added by Chapter 424, Statutes of 1989,
Section 1:

“(a) Notwithstanding Section 68062, a student who is a graduate of any school located in California that is operated by the United States Bureau of Indian Affairs, including, but not limited to, the Sherman Indian High School, shall be entitled to resident classification. This exception shall continue so long as continuous attendance is maintained by the student at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a resolution to that effect.”

1 76140²⁸ to require the governing board of each community college district to provide

²⁸ Education Code Section 76140 (recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2), as amended by Chapter 985, Statutes of 1989, Section 1:

“A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

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

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. ~~The~~ Such fee may be paid in installments as determined by the governing board of the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United State Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during

1 nonresident students with notice of nonresident tuition fee changes during the spring
2 term before the fall term in which the change will take effect. Therefore, for the first
3 time, community college districts were required to give advance notice of impending
4 nonresident tuition fee changes to nonresident students.

5 Chapter 1372, Statutes of 1990, Section 238, amended Education Code Section

the preceding fiscal year, or (c) an amount not to exceed the fee established by the governing board of any contiguous district, or (d) an amount not to exceed the amount which was expended by the district for the current expense of education but in no case less than the statewide average as set forth in subdivision (b) of this chapter. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The governing board of each community college district shall also adopt a tuition fee per unit of credit for nonresidents students enrolled in more or less than 15 units of credit per term by dividing the fee determined in the preceding paragraph by 30 for colleges operating on the semester system, and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

In adopting a tuition fee for nonresidents students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district that which borders on another state and has fewer than 500 average daily attendance."

1 68051²⁹ to require district governing boards, for the first time, to adopt rules and
2 regulations relating to the method of calculation of the amount of nonresident tuition,
3 the method of payment, and the method and amount of refund. This section previously
4 required only the Board of Governors of the California Community Colleges to make
5 such determinations.

6 Chapter 455, Statutes of 1991, Section 1, amended Education Code Section
7 68076³⁰ to require resident classification, for the first time, to students who have a
8 parent who contributes court-ordered support for the student on a continuous basis and
9 who has been a resident of California for more than one year preceding the residence

²⁹ Education Code Section 68051 (recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2), as amended by Chapter 1372, Statutes of 1990, Section 238:

“Unless otherwise provided by law, the governing board or district governing board shall adopt rules and regulations relating to the method of calculation of the amount of nonresident tuition, the method of payment, and the method and amount of refund.”

³⁰ Education Code Section 68076, added by Chapter 753, Statutes of 1988, Section 1, as amended by Chapter 455, Statutes of 1991, Section 1:

“(a) Notwithstanding Section 68062, a student who (1) has not been an adult resident of California for more than one year and (2) is the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, or has a parent who has both contributed court-ordered support for the student on a continuous basis and has been a California resident for a minimum of one year, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a resolution to that effect.”

1 determination date.

2 Chapter 170, Statutes of 1992, Section 1, amended Education Code Section

3 76140³¹ to subdivide the paragraphs, lettering them (a) thru (i), and to make

³¹ Education Code Section 76140 (recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2), as amended by Chapter 170, Statutes of 1992, Section 1:

“(a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or (2):

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

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

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

(c) ~~Attendance of n~~Nonresident students shall not be reported as resident average daily attendance full-time equivalent students (FTES) for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

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

(e) The fee established by the governing board pursuant to ~~the preceding paragraph subdivision (d)~~ shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount which was expended by the district for the ~~current~~ expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal

1 technical changes.

2 Chapter 1236, Statutes of 1992, Section 1, amended Education Code Section

year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the ~~average daily attendance of all students~~ FTES (including nonresident students) attending in the district in the preceding fiscal year, or (2) the ~~current~~ expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United State Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the ~~average daily attendance of all students~~ FTES (including nonresident students) attending all districts during the preceding fiscal year, or (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount ~~which that~~ was expended by the district for the ~~current~~ expense of education but in no case less than the statewide average as set forth in ~~subdivision (b) of this chapter paragraph (2)~~. However, ~~should if~~ the district's preceding fiscal year ~~average daily attendance~~ FTES of all students attending in the district in noncredit courses ~~be is~~ equal to or greater than 10 percent of the district's total ~~average daily attendance of all students~~ FTES attending in the district, the district in calculating ~~(a) above the amount in paragraph (1)~~ may substitute instead the data for ~~current~~ expense of education in grades 13 and 14 and ~~average daily attendance~~ FTES in grades 13 and 14 ~~of all students~~ attending in the district.

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

(g) In adopting a tuition fee for nonresidents students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

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

(i) The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district that borders on another state and has fewer than 500 ~~average daily attendance~~ FTES."

1 76140³² to delete former subdivision (i) and add new subdivisions (i), (j) and (k), which
2 governs enrollment fee waivers for districts within 10 miles of reciprocal states.

3 Chapter 8, Statutes of 1993, Section 15, effective April 15, 1993, amended
4 Education Code Section 68076 to make technical changes.

5 Chapter 8, Statutes of 1993, Section 16, amended Education Code Section
6 68077 to make technical changes.

7 Chapter 389, Statutes of 1995, Section 1, added Education Code Section

³² Education Code Section 76140 (formerly Section 22505.8, recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2), as amended by Chapter 1236, Statutes of 1992, Section 1:

~~“(i) The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district that borders on another state and has fewer than 500 FTES.~~

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

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

(k) The attendance of nonresident students who are exempted pursuant to subdivision (i) or (j) from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (i) or (j) shall pay a fee of forty-two dollars (\$42) per course unit. That fee is to be included in the FTES adjustments described in Section 72252 for purposes of computing apportionments.

1 68075.5³³ to require resident classification, for the first time, to a student who was a
2 member of the armed forces in this state on active duty for one year immediately prior
3 to being discharged from the armed forces up until that student has resided in California
4 for the minimum time necessary to become a resident.

5 Chapter 758, Statutes of 1995, Section 89, amended Education Code Section
6 76140 to make technical changes.

7 Chapter 438, Statutes of 1997, Section 1, added Education Code Section
8 68083³⁴ to require resident classification, for the first time, to amateur student athletes
9 training at the United States Olympic Training Center in Chula Vista until he or she has
10 resided in the state the minimum time required to become a resident.

11 Chapter 952, Statutes of 1998, Section 3, effective September 29, 1998, added

³³ Education Code Section 68075.5, added by Chapter 389, Statutes of 1995,
Section 1:

"A student who was a member of the armed forces of the United States stationed in this state on active duty for more than one year immediately prior to being discharged from the armed forces is entitled to resident classification for the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident."

³⁴ Education Code Section 68083, added by Chapter 438, Statutes of 1997,
Section 1:

"(a) Any amateur student athlete in training at the United States Olympic Training Center in Chula Vista is entitled to resident classification for tuition purposes until he or she has resided in the state the minimum time necessary to become a resident.

(b) "Amateur student athlete," for purposes of this section, means any student athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes."

1 Education Code Section 68084³⁵ to require resident classification, for the first time, to a
2 parent who is a federal civil service employee and to his or her dependent children if the
3 parent has moved to this state as a result of a military mission realignment action that
4 involves the relocation of at least 100 employees. This classification shall continue until
5 the student has resided in California for the minimum time necessary to become a
6 resident.

7 Chapter 571, Statutes of 2000, Section 1, amended Education Code Section
8 68074³⁶ to limit armed forces dependents seeking resident classification to receive

³⁵ Education Code Section 68084, added by Chapter 952, Statutes of 1998, Section 3, effective September 29, 1998:

“A parent who is a federal civil service employee and his or her natural or adopted dependent children are entitled to resident classification at the California State University, the University of California, or a California community college if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident pursuant to Section 68017, so long as the student continuously attends an institution of public higher education. The Trade and Commerce Agency shall certify qualifying military mission realignment actions under this section and provide this information to the California Community Colleges, the California State University, and the University of California.”

³⁶ Education Code Section 68074 (formerly 22853), recodified and renumbered by Chapter 1010, Statutes of 1976, Section 2, as amended by Chapter 571, Statutes of 2000, Section 1:

~~“Except as otherwise provided in Section 68074.1, a (a)(1) An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident only for the purpose of determining the amount of tuition and fees.~~

1 resident classification for the purpose of tuition and fees only. The amendment further
2 limits resident classification for graduate students who are dependents of active military
3 members to one year and thereafter subjects him or her to residence classification
4 pursuant to Article 5 (commencing with Section 68060).

5 Chapter 571, Statutes of 2000, Section 3, amended Education Code Section
6 68075 to limit a member of the armed forces seeking resident classification to receive
7 resident classification for the purpose of tuition and fees only. The amendment further
8 limits resident classification to one year and thereafter subjects him or her to residence
9 classification pursuant to Article 5 (commencing with Section 68060).

10 Chapter 949, Statutes of 2000, Section 1, amended Education Code Section
11 68078³⁷ to add subdivision (b), which requires resident classification, for the first time, to

(2) A student seeking a graduate degree who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

(b) If that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States, or (2) is thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.”

³⁷ Education Code Section 68078 (formerly 22858), recodified and renumbered by Statutes of 1976, Section 2, as amended by Chapter 949, Statutes of 2000, Section 1, effective September 30, 2000:

1 a student holding a valid emergency permit authorizing service in the public schools of
2 this state, who is employed by a school district in a full-time position requiring
3 certification qualifications, for the academic year in which the student enrolls at an
4 institution in courses necessary to fulfill teacher credential requirements.

5 Chapter 814, Statutes of 2001, Section 2, added Education Code Section
6 68130.5³⁸ to require, for the first time, in subdivision (a), that community college districts

“(a) A student holding a valid credential authorizing service in the public schools of this state who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution ~~shall be~~ is entitled to resident classification if ~~such~~ that student meets any of the following requirements:

(a) ~~Holding of (1) He or she holds~~ a provisional credential and ~~enrollment is enrolled~~ at an institution in courses necessary to obtain another type of credential authorizing service in the public schools.

(b) ~~Holding (2) He or she holds~~ a credential issued pursuant to Section 4312544250 and ~~enrollment is enrolled~~ at an institution in courses necessary to fulfill credential requirements.

(c) ~~Enrollment (3) He or she is enrolled~~ at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Section 4313044259.

(b) Notwithstanding any other provision of law, a student holding a valid emergency permit authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year. Thereafter, the student shall be subject to Article 5 (commencing with Section 68060).

(c) This section shall not be construed to affect the admissions policies of any teacher preparation program.”

³⁸ Education Code Section 68130.5, added by Chapter 814, Statutes of 2001, Section 2:

“Notwithstanding any other provision of law:

1 exempt nonresidents from nonresident tuition when (1) they have attended a California
2 high school for three or more years, (2) they have graduated from a California high
3 school or attained the equivalent thereof, (3) they are registered as an entering student
4 at, or currently enrolled at, a California community college not earlier than the fall
5 semester or quarter of the 2001-02 academic year and, (4) in the case of a person
6 without lawful immigration status, when he or she has filed an application to legalize his
7 or her immigration status, or will file as soon as he or she is eligible to do so.
8 Subdivision (c) requires the Board of Governors of the California Community Colleges
9 to prescribe rules and regulations for the implementation of this section. Subdivision (d)

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

- (1) High school attendance in California for three or more years.
- (2) Graduation from a California high school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.”

1 requires all student information obtained in the implementation of this section be kept
2 confidential. Therefore, for the first time, community college districts are required to
3 make a determination at enrollment, or at any time a nonresident student makes
4 application for exemption, whether that student qualifies for an exemption from
5 nonresident tuition, and if so exempt, to waive nonresident tuition for that student.

6 Chapter 450, Statutes of 2002, Section 2, added Education Code Section
7 68121³⁹ which, in subdivision (a), prohibits the Regents of the University of California or

³⁹ Education Code Section 68121, added by Chapter 450, Statutes of 2002,
Section 2:

“(a) Notwithstanding any other provision of law, no mandatory systemwide fees or tuition of any kind shall be required or collected by the Regents of the University of California or the Trustees of the California State University, from a student who is in an undergraduate program and who is the surviving dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if he or she meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following apply:

(1) The surviving dependent was resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(b) (1) The California Victim Compensation and Government Claims Board shall identify all persons who are eligible for tuition and fee waivers pursuant to this section or subdivision (j) of Section 76300. That board shall notify these persons or, in the case of minors, the parents or guardians of these persons, of their eligibility for tuition and fee waivers under these provisions. This notification shall be in writing, and shall be received by all of the appropriate persons no later than July 1, 2003.

(2) The Trustees of the California State University, the Regents of the University of California and the governing board of each community college district in the state shall waive tuition and fees, as specified in this section and in subdivision (j) of Section 76300, for any person who can demonstrate eligibility.

1 the Trustees of the California State University from requiring or collecting any fees or
2 tuition of any kind from an undergraduate student who is the surviving dependent of any
3 individual killed in the September 11, 2001, terrorist attacks if he or she meets the
4 financial need requirements for the Cal Grant A Program and he or she was a resident
5 of California on September 11, 2001, or the individual killed in the attacks was a
6 resident of California on September 11, 2001. Subdivision (b)(1) requires the California
7 Victim Compensation and Government Claim Board to identify all persons who are
8 eligible for tuition and fee waivers pursuant to this section.

If requested by the California State University, the University of California, Hastings College of Law, or a California Community College, the California Victim Compensation and Government Claims Board, on a case-by-case basis, shall confirm the eligibility of persons requesting the waiver of tuition and fees, as provided for in this section.

(c) A determination of whether a person is a resident of California on September 11, 2001, shall be based on the criteria set forth in this Chapter for determining nonresident and resident tuition.

(d)(1) "Dependent," for purposes of this section, is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the fee waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under this section until that person obtains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided by this section until January 1, 2013.

1 Subdivision (b)(2) of new Section 68121 requires the governing board of each
2 community college district in the state to waive tuition and fees as specified in the
3 Section for any person who can demonstrate eligibility. Therefore, for the first time,
4 community college districts are required to determine if a student is a surviving
5 dependent of any individual killed in the September 11, 2001, terrorist attacks and, if so,
6 if that person also meets the financial need requirements of the Cal Grant A Program.
7 Also, for the first time, community colleges, when necessary, are required to request
8 verification of eligibility from the California Victim Compensation and Government
9 Claims Board on a case-by-case basis. Subdivision (d)(2) limits the waiver provisions
10 to surviving spouses until January 1, 2013. Subdivision (d)(3) limits the waiver
11 provisions to surviving dependent children until that child obtains the age of 30 years.

12 **SECTION 3. CALIFORNIA CODE OF REGULATIONS - NONRESIDENT TUITION**
13 **WAIVERS**

14 The Regulations for the residency classification of students and the waiver of
15 nonresident tuition are found in Title 5, California Code of Regulations, Sections 54000
16 through 54072 (not inclusive).

17 Section 54002⁴⁰ defines "Residence determination date" as that day immediately

⁴⁰ Title 5, California Code of Regulations, Section 54002, as amended and operative April 5, 1991:

"Residence determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college."

1 preceding the opening day of instruction of the quarter, semester, or other session as
2 set by the district governing board, during which the student proposes to attend a
3 college.

4 Section 54010⁴¹, at subdivision (a), requires residence classification procedures
5 to be made for each student at the time applications for admission are accepted and
6 whenever a student has not been in attendance for more than one semester or quarter.
7 Students previously classified as nonresidents may be reclassified as of any residence
8 determination date. Classification procedures require that:

9 (1) Students present evidence of physical presence in California, intent to

⁴¹ Title 5, California Code of Regulations, Section 54010, as amended and
operative April 5, 1991:

“(a) Residence classification shall be made for each student at the time
applications for admission are accepted and whenever a student has not been in
attendance for more than one semester or quarter. A student previously classified as a
nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in
California, intent to make California the home for other than a temporary purpose and, if
the student was classified as a nonresident in the preceding term, financial
independence.

(c) Community college districts shall require applicants to supply information as
specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine
whether the student has clearly established that he or she has been a resident of
California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath
or penalty of perjury.

(f) Pursuant to Section 54300, the district may authorize any information required
by this section to be submitted electronically using encrypted digital signatures as
specified in Section 54300.”

1 make California the home for other than a temporary purpose, and, if the
2 student was classified as a nonresident in the preceding term, financial
3 independence [subdivision (b)];

4 (2) Community College districts require applicants to supply information as
5 specified in this chapter and may require additional information as
6 deemed necessary [subdivision (c)];

7 (3) Districts weigh the information provided by the student and determine
8 whether the student has clearly established that he or she has been a
9 resident of California for one year prior to the residence determination
10 date [subdivision (d)];

11 (4) Applicants certify their answers on residence questionnaires under oath or
12 penalty of perjury [subdivision (e)]; and

13 (5) The district may authorize any information required by this section to be
14 submitted electronically using encrypted signatures as specified in 54300
15 [subdivision (f)].

16 Therefore, for the first time, Community College District schools are required, at
17 time of first admission and whenever a student has not been in attendance for more
18 than one semester or quarter, to receive and weigh specific information bearing upon a
19 student's classification as a resident or nonresident.

1 Section 54012⁴² requires Community College Districts to use a residence
2 questionnaire in making residence classifications. The residence questionnaire shall
3 ask each student questions regarding his or her time of residence, parent's time of or
4 continued residence, described activities and intent to reside in California. Therefore,
5 for the first time, Community College District schools are required to obtain residence
6 questionnaires from students which ask specific questions, the answers to which will
7 assist in determining residence classification.

8 Section 54020⁴³ requires students who wish to establish residence, to

⁴² Title 5, California Code of Regulations, Section 54012, as amended and operative April 5, 1991:

“(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.”

⁴³ Title 5, California Code of Regulations, Section 54020, as amended and operative April 5, 1991:

“In order to establish a residence, it is necessary that there be a union of act and intent.

1 demonstrate a union of act and intent. Therefore, for the first time, California
2 Community District schools are required to obtain objective evidence that physical
3 presence is with the intent to make California the home for other than a temporary
4 purpose.

5 Section 54022⁴⁴ requires Community College District schools to verify that a
6 person establishing residence in California has been physically present in California for
7 one year prior to the residence determination date to be classified as a resident
8 student. Physical presence within the state solely for educational purposes does not
9 constitute establishing residence regardless of the length of that presence. Therefore,
10 for the first time, Community College Districts are required to verify that all students
11 have been physically present in California for one year prior to the residence
12 determination date to be classified as a resident student.

To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.”

⁴⁴ Title 5, California Code of Regulations, Section 54022, as amended and operative April 5, 1991:

“(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.”

1

Section 54024⁴⁵ requires Community College Districts, for the first time, to obtain

⁴⁵ Title 5, California Code of Regulations, Section 54024, as amended and operative April 5, 1991:

"(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

(1) Ownership of residential property or continuous occupancy of rented or leased property in California.

(2) Registering to vote and voting in California.

(3) Licensing from California for professional practice.

(4) Active membership in service or social clubs.

(5) Presence of spouse, children or other close relatives in the state.

(6) Showing California as home address on federal income tax form.

(7) Payment of California state income tax as a resident.

(8) Possessing California motor vehicle license plates.

(9) Possessing a California driver's license.

(10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

(1) Maintaining voter registration and voting in another state.

1 evidence of intent to make California home for other than a temporary purpose. When
2 a student or a student and his parent are unable to create a presumption of intent by
3 maintaining a home in California for the prior two years, subdivision (e) sets forth
4 factors indicating an intent to establish California residence. Subdivision (f) sets forth
5 factors indicating a lack of intent to establish California residence. Therefore, for the
6 first time, Community College Districts are required to balance and weigh factors in
7 subdivision (e) against those in subdivision (f) when making residence determinations.

8 Section 54030⁴⁶ requires one full year of physical presence coupled with one full
9 year of demonstrated intent to reestablish residence for tuition purposes after a student
10 or parents relinquish California residence. Therefore, for the first time, when a student
11 attempts to reestablish residence for tuition purposes, a Community College District is
12 required to obtain proof of one full year of physical presence and one full year of
13 demonstrated intent before classifying the student as a resident for tuition purposes.

-
- (2) Being the petitioner for a divorce in another state.
 - (3) Attending an out-of-state institution as a resident of that other state.
 - (4) Declaring nonresidence for state income tax purposes.

⁴⁶ Title 5, California Code of Regulations, Section 54030, as amended and operative April 5, 1991:

“If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.”

1 Section 54032⁴⁷ requires that a student seeking reclassification as a resident,
2 who was classified as a nonresident in the preceding term, shall be determined
3 financially independent or dependent in accordance with Education Code Section
4 68044. A student who has established financial independence may be reclassified as a
5 resident if the student meets the requirements of section 54020 for one year prior to the
6 residence determination date. Financial independence shall weigh in favor of finding
7 California residence and financial dependence shall weigh against finding California
8 residence. Financial dependence in the current or preceding calendar year shall be
9 overcome only if the parent on whom the student is dependent is a California resident

⁴⁷ Title 5, California Code of Regulations, Section 54032, as amended and operative April 5, 1991:

“(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

(1) the parent on whom the student is dependent is a California resident,

or

(2) there is no evidence of the student's continuing residence in another state.”

1 or there is no evidence of the student's continuing residence in another state.
2 Therefore, for the first time, when a nonresident student seeks reclassification as a
3 resident, Community College Districts are required to determine if that student is
4 financially dependent or independent and, when the student is found to be financially
5 dependent in the current or preceding year, Community College Districts are required to
6 determine his or her parents place of residence or a showing that there is no evidence
7 of the student's continuing residence in another state.

8 Section 54041⁴⁸ requires a dependent natural or adopted child, stepchild or
9 spouse of a member of the armed forces of the United States claiming residence status
10 pursuant to Section 68074 of the Education code to provide a statement from the
11 military person's commanding officer or personnel officer that the military person's duty
12 station is in California on active duty as of the residence determination date. A
13 statement is also required from such an officer if the military person is outside California

⁴⁸ Title 5, California Code of Regulations, Section 54041, as amended and operative April 5, 1991:

"A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided."

1 on active duty after having been transferred immediately and directly from a California
2 duty station after the residence determination date; or if the military person has, after
3 the residence determination date, retired as an active member of the armed forces of
4 the United States. A statement that the student is a dependent of the military person
5 for an exemption on federal taxes shall also be provided. Therefore, for the first time,
6 Community College Districts are required to obtain from a student claiming residency as
7 a spouse, child or stepchild of a member of the armed forces a statement from the
8 military spouse, parent or step-parent's commanding officer that the military person's
9 duty station is in California as of the residence determination date; or that the military
10 person is outside of California on active duty after having been directly transferred from
11 a California duty station after the residence determination date; or that the military
12 person, after the residence determination date, has retired as an active member of the
13 armed forces of the United States. Community College Districts are also required to
14 obtain a statement that the student is a dependent for an exemption on federal taxes.

15 Section 54042⁴⁹ requires that a student claiming residency under Section 68075
16 of the Education Code as a member of the armed forces stationed in California on

⁴⁹ Title 5, California Code of Regulations, Section 54042, as amended and operative April 5, 1991:

"A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California."

1 active duty provide a statement from his or her commanding officer or personnel officer
2 that the assignment to active duty in this state is not for educational purposes. The
3 student shall also produce evidence of the date of assignment to California. Therefore,
4 for the first time, Community College Districts are required to obtain a statement from
5 active duty military members requesting resident student status a statement from his or
6 her commanding officer or personnel officer that the assignment to active duty in
7 California is not for educational purposes.

8 Section 54045⁵⁰ provides that an alien not precluded from establishing domicile

⁵⁰ Title 5, California Code of Regulations, Section 54045, filed January 16, 1992,
and operative on February 18, 1992:

“(a) An alien not precluded from establishing domicile in the United States by the
Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish
residency pursuant to the provisions of this subchapter.

(b) An alien is precluded from establishing domicile in the United States if the
alien:

- (1) entered the United States illegally (undocumented aliens);
- (2) entered the United States under a visa which requires that the alien
have a residence outside of the United States; or
- (3) entered the United States under a visa which permits entry solely for
some temporary purpose.

(c) An alien described in paragraph (b) shall not be classified as a resident
unless and until he or she has taken appropriate steps to obtain a change of status
from the Immigration and Naturalization Service to a classification which does not
preclude establishing domicile, and has met the requirements of Sections 54020-54024
related to physical presence and the intent to make California home for other than a
temporary purpose. The Chancellor shall, after consultation with the University of
California and the California State University, issue guidelines for the implementation of
this section.

(d) Notwithstanding any other provision of this subchapter, an alien who was
classified as a California resident by any college in a district as of September 30, 1991,
or during the Fall 1991 term, shall not be subject to reclassification unless the student

1 in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.)
2 shall be eligible to establish residency pursuant to the provisions of this subchapter. An
3 alien is precluded from establishing domicile in the United States if the alien entered the
4 United States illegally, entered the United States under a visa that requires that the
5 alien have a residence outside the United States, or entered the United States under a
6 visa that permits entry solely for some temporary purpose. Any such precluded alien
7 shall not be classified as a resident unless or until he or she has taken the appropriate
8 steps to obtain a change of status from the Immigration and Naturalization Service to a
9 classification which does not preclude establishing domicile, and has met the
10 requirements of Sections 54020-54024 related to physical presence and the intent to
11 make California home for other than a temporary purpose. Therefore, for the first time,
12 Community College Districts are required to determine if an enrolling student is
13 precluded from establishing domicile in the United States and shall not classify him or
14 her as a resident for tuition purposes until he or she has taken the appropriate steps to
15 obtain a change of status from the Immigration and Naturalization Service and has met
16 the requirements of Sections 54020 through 54024.

17 Section 54045.5⁵¹ regulates nonresident tuition exemptions. Subdivision (a) of

has not been in attendance at any college in the district for more than one semester or
quarter.”

⁵¹ Title 5, California Code of Regulations, Section 54045.5, filed May 3, 2002,
operative June 2, 2002:

1 Section 54045.5 provides that a student who is a nonimmigrant alien under 8 U.S.C.
2 1101(a)(15) shall be exempt from paying nonresident tuition at any community college
3 district if he or she (1) attended high school in California for three or more years, (2)
4 graduated from a California High School, or attained the equivalent of such graduation,
5 and (3) registers for or is enrolled in a course offered by any college in the district for
6 any term commencing on or after January 1, 2002.

7 Subdivision (b) of Section 54045.5 requires the student seeking the exemption to

“(a) In accordance with Education Code section 68130.5, any student, other than a student who is a nonimmigrant alien under 8 U.S.C. 1101(a)(15), shall be exempt from paying nonresident tuition at any community college district if he or she:

(1) Attended high school in California for three or more years;

(2) Graduated from a California high school or attained the equivalent of such graduation; and

(3) Registers for or is enrolled in a course offered by any college in the district for any term commencing on or after January 1, 2002.

(b) Any student seeking an exemption under subdivision (a) shall complete a questionnaire form prescribed by the Chancellor and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic student information so provided shall be confidential and shall not be disclosed unless required by law.

(c) Any student without lawful immigration status who is seeking an exemption under subdivision (a), shall, in the questionnaire described in (b), affirm that he or she has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(d) A student seeking this tuition exemption has the burden of providing evidence of compliance with the requirements of this section.

(e) Nothing herein modifies eligibility standards for any form of student financial aid, including but not limited to, those contained in Subchapter 7 of Chapter 9 of this Division.

(f) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2002.

1 complete a questionnaire form prescribed by the Chancellor and furnished by the
2 district of enrollment verifying eligibility for the nonresident tuition exemption. He or she
3 may also be required to provide documentation in addition to the information required
4 by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic
5 information is required to be kept confidential and not disclosed unless required by law.
6 Therefore, for the first time, community college districts are required to obtain from
7 students seeking an exemption from nonresident tuition a completed questionnaire, on
8 a form prescribed by the Chancellor, verifying eligibility for an exemption. For the first
9 time, Community College District, when necessary, are required to obtain and review
10 additional documentation to verify eligibility. And, for the first time, Community College
11 District Schools are required to establish and maintain procedures to preserve the
12 confidentiality of the questionnaires and additional documentation.

13 Subdivision (c) of Section 54045.5 provides that any student without lawful
14 immigration status who is seeking an exemption under subdivision (a) shall, in the
15 questionnaire described in subdivision (b), affirm that he or she has filed an application
16 to legalize his or her immigration status, or will file such an application as soon as he or
17 she is eligible to do so. Therefore, for the first time, community college districts are
18 required to verify that students without lawful immigration status who are applying for an
19 exemption from nonresident tuition have affirmed that they have filed an application to
20 legalize his or her immigration status or will file such an application as soon as he or
21 she is eligible to do so.

1 Section 54046⁵² requires that Community College Districts obtain a statement
2 from any student claiming residence status pursuant to Education Code Section 68078
3 from the employer showing employment by a public school in a full time position
4 requiring certification qualifications for the college year in which the student enrolls.
5 The Community College District is also required to verify that the student holds a
6 credential and will enroll in courses necessary to obtain another type of credential
7 authorizing service in the public schools; or verify that the student holds a credential
8 issued by the Board of Governors and is enrolled in courses necessary to fulfill
9 credential requirements. Therefore, for the first time, Community College Districts are
10 required to obtain a statement from students claiming residence status pursuant to
11 Education Code Section 68078 verifying full time employment by a public school
12 requiring certification qualifications; to verify an existing credential and that the student
13 will enroll in courses necessary to obtain another type of credential; or verify that the
14 student holds a credential issued by the Board of Governors and is enrolled in courses
15 necessary to fulfill credential requirements.

⁵² Title 5, California Code of Regulations, Section 54046, as amended and operative April 5, 1991:

“A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.”

1 Section 54050⁵³ requires Community College Districts to obtain from students
2 seeking exception from payment of nonresident tuition provided by Education Code
3 sections 68074 (military dependents) or 68075 (military members) proof that they are
4 still in their first year of current physical presence in California.

5 Section 54060⁵⁴ requires that each community college notify each student of his
6 or her resident classification not later than 14 calendar days after the beginning of the
7 session for which the student has applied, or 14 calendar days after the student's
8 application for admission, whichever is later. Therefore, for the first time, Community
9 College Districts are required to notify students of their residence status within 14
10 calendar days after the beginning of the session for which the student has applied or

⁵³ Title 5, California Code of Regulations, Section 54050, as amended and operative on April 5, 1991:

"Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California."

⁵⁴ Title 5, California Code of Regulations, Section 54060, as amended and operative April 5, 1991:

"(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors."

1 the date of application, whichever is later.

2 Section 54070⁵⁵ requires, for the first time, that the governing board of each
3 Community College District adopt and implement rules providing for a refund for fees
4 collected in error, fees refundable as a result of a reduction of the education program,
5 and fees refundable as a result of the student's reduction in units if the reduction or
6 withdrawal is for reasons deemed sufficient.

7 SECTION 4. CHANCELLOR'S REVISED GUIDELINES AND INFORMATION

8 The Chancellor of the California Community Colleges has also promulgated
9 Revised Guidelines and Information dated May 2002, entitled "Exemption From
10 Nonresident Tuition", a copy of which is attached hereto as Exhibit 5 and is
11 incorporated herein by reference. The questionnaire required by subdivision (b) of Title
12 5, California Code of Regulations, Section 54045.5, is attached to the Chancellor's
13 revised guidelines as Attachment Four.

14 Paragraph 3 of the Chancellor's Revised Guidelines and Information dated May,

⁵⁵ Title 5, California Code of Regulations, Section 54070, as amended and operative April 5, 1991:

"The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board."

1 2002, provides that the new nonresident tuition exemption is available to all U.S.
2 citizens, permanent residents of the U.S., and aliens who are not nonimmigrants who
3 meet all other eligibility requirements.

4 Paragraph 8 of the Chancellor's Revised Guidelines and Information dated May,
5 2002, requires the refund of nonresident tuition if a student is determined to be eligible
6 for the exemption subsequent to his or her payment of nonresident tuition.

7 Paragraph 12 of the Chancellor's Revised Guidelines and Information dated
8 May, 2002, provides that an intersegmental form has been developed to meet the
9 requirements of the California Code of Regulations Section 54012 (residence
10 questionnaires).

11 Paragraph 13 of the Chancellor's Revised Guidelines and Information dated
12 May, 2002, requires that districts use the prescribed form immediately wherever
13 possible and to ensure that the prescribed form is contained in any publications printed
14 after June 1, 2002. This form shall be used for all exemptions granted for terms
15 subsequent to Fall 2002.

16 Paragraph 14 of the Chancellor's Revised Guidelines and Information dated
17 May, 2002, requires that individually printed questionnaires be discarded and replaced
18 with new ones but allows use of forms included as enclosures in printed materials for
19 Summer 2002 and/or Fall 2002, provided that the forms include all elements required
20 by law and provided that the forms are part of a major preprinted document such as a
21 Schedule of Classes.

1 Paragraph 17 of the Chancellor's Revised Guidelines and Information dated
2 May, 2002, requires community college districts to pursue additional verification to
3 resolve discrepancies prior to granting the exemption when the district is in possession
4 of conflicting information regarding any aspect of the student's eligibility for the
5 exemption.

6 Paragraph 20 of the Chancellor's Revised Guidelines and Information dated May
7 2002, requires community college districts to consider the original certified student
8 affidavit and other materials used by the district in meeting the certification
9 requirements as Class 1, Permanent Records, and retain them indefinitely, unless
10 copied or reproduced as specified.

11 Paragraph 38 of the Chancellor's Revised Guidelines and Information dated May
12 2002, requires community college districts to seek reimbursement from students for
13 nonresident fees that have been waived when the original certification is subsequently
14 determined to be false.

15 Paragraph 40 of the Chancellor's Revised Guidelines and Information dated
16 May, 2002, requires community college districts to participate in surveys conducted by
17 the Chancellor's office concerning students receiving exemptions from nonresident
18 tuition, when requested.

19 PART III. STATEMENT OF THE CLAIM

20 SECTION 1. COSTS MANDATED BY THE STATE

21 The Guidelines and Information of the Chancellor of the California Community

1 Colleges are "Executive Orders" as defined in Government Code Section 17516⁵⁶ and
2 together with the Education Code Sections and the Title 5 Regulations referenced in
3 this test claim result in community college districts incurring costs mandated by the
4 state, as defined in Government Code section 17514⁵⁷, by creating new state-mandated
5 duties related to the uniquely governmental function of providing public education and

⁵⁶ Government Code Section 17516, added by Chapter 1459, Statutes of 1984, Section 1:

"Executive order" means any order, plan, requirement, rule, or regulation issued by any of the following:

- (a) The Governor.
- (b) Any officer or official serving at the pleasure of the Governor.
- (c) Any agency, department, board, or commission of state government.

"Executive order" does not include any order, plan, requirement, rule, or regulation issued by the State Water Resources Control Board or by any regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code. It is the intent of the Legislature that the State Water Resources Control Board and regional water quality control boards will not adopt enforcement orders against publicly owned dischargers which mandate major waste water treatment facility construction costs unless federal financial assistance and state financial assistance pursuant to the Clean Water Bond Act of 1970 and 1974, is simultaneously made available. "Major" means either a new treatment facility or an addition to an existing facility, the cost of which is in excess of 20 percent of the cost of replacing the facility."

⁵⁷ Government Code section 17514, as added by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIB of the California Constitution.

1 services to students and these statutes, regulations and guidelines apply to community
2 college districts and do not apply generally to all residents and entities in the state.⁵⁸

3 The new duties mandated by the state upon community college districts require
4 state reimbursement of the direct and indirect costs of labor, materials and supplies,
5 data processing services and software, contracted services and consultants, equipment
6 and capital assets, staff training and travel to implement the following activities:

7 A) Establishing and implementing policies and procedures, and to
8 periodically revising and updating those policies and procedures, to
9 provide for the classification of students as residents or nonresidents,
10 pursuant to Education Code Section 68044.

11 (1) Residence classification, or reclassification, for each student at the
12 time applications for admissions are accepted and whenever a
13 student has not been in attendance for more than one semester or
14 quarter, pursuant to Title 5, California Code of Regulations, Section
15 54010, subdivision (a).

⁵⁸ Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. V. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

- 1 (2) Receiving and reviewing evidence supplied by students showing
2 physical presence in California and intent to make California their
3 home for other than a temporary purpose and, if the student was
4 classified as a nonresident in the preceding term, evidence of
5 financial independence, pursuant to Title 5, California Code of
6 Regulations, Section 54010, subdivision (b).
- 7 (3) Weighing the information received from each student and making a
8 determination whether the student has clearly established that he
9 or she has been a resident for one year prior to the residency
10 determination date, pursuant to Title 5, California Code of
11 Regulations, Section 54010, subdivision (d).
- 12 (4) Verifying that residence questionnaires that have been submitted
13 by the student under oath or penalty of perjury, pursuant to Title 5,
14 California Code of Regulations, Section 54010, subdivision (e).
- 15 (5) Verifying that the student has been physically present in California
16 for one year prior to the residence determination date, pursuant to
17 Title 5, California Code of Regulations, Section 54022.
- 18 (6) For those students who are unable to establish a presumption of
19 residency pursuant to either subdivision (b) or (c), requiring them to
20 provide evidence of residency, such as: ownership of residential
21 property or continuous occupancy of rented or leased property in

1 California; registering to vote and voting in California; professional
2 licensing in California; active membership in service or social clubs;
3 presence of spouse, children or other close relatives in the state;
4 showing a California address on a federal tax return; paying
5 California income tax as a resident; possessing a California motor
6 vehicle license plates; possessing a California driver's license;
7 maintaining a permanent military address; establishing and
8 maintaining active California bank accounts; and/or being the
9 petitioner for a divorce in California, pursuant to Title 5, California
10 Code of Regulations, Section 54024, subdivision (d).

11 (7) If a student, or the parents of a minor student, relinquishes
12 California residence, requiring evidence of one full year of physical
13 presence coupled with one full year of demonstrated intent,
14 pursuant to Title 5, California Code of Regulations, Section 54030.

15 (8) If a student previously classified as a nonresident seeks
16 reclassification as a residence, requiring and verifying the student's
17 financial independence, pursuant to Title 5, California Code of
18 Regulations, Section 54032.

19 (9) Notifying each student of his or her resident classification not later
20 than 14 calendar days after the beginning of the session for which
21 the student has applied, or 14 calendar days after the student's

1 application for admission, whichever is later, pursuant to Title 5,
2 California Code of Regulations, Section 54060, subdivision (a).

3 B) Using residence questionnaires in making residence classifications,
4 pursuant to Title 5, California Code of Regulations, Section 54012,
5 subdivision (a). The questionnaire shall ask each student:

6 (1) Where the student has maintained his or her home for the past two
7 years and whether the student has maintained voter registration or
8 voted in another state, has been a petitioner for a divorce in
9 another state, attended an out-of-state institution as a resident of
10 that other state and whether he or she has declared nonresidence
11 for state income tax purposes, pursuant to Title 5, California Code
12 of Regulations, Section 54012, subdivision (b).

13 (2) If the student is under age 19, where his or her parent has lived for
14 the past two years and whether the parent has maintained voter
15 registration or voted in another state, has been a petitioner for a
16 divorce in another state, attended an out-of-state institution as a
17 resident of that other state and whether he or she has declared
18 nonresidence for state income tax purposes, pursuant to Title 5,
19 California Code of Regulations, Section 54012, subdivision (c).

20 (3) When the student is under age 19, if the student or the parent
21 has either maintained a home outside of California at any time

1 during the past two years or maintained voter registration or voted
2 in another state, or has been a petitioner for a divorce in another
3 state, or attended an out-of-state institution as a resident of that
4 other state, or whether he or she has declared nonresidence for
5 state income tax purposes, the student shall be asked to supply
6 additional evidence of intent to reside in California, such as
7 ownership of residential property or continuous occupancy of
8 rented or leased property in California; registering to vote and
9 voting in California; professional licensing in California; active
10 membership in service or social clubs; presence of spouse,
11 children or other close relatives in the state; showing a California
12 address on a federal tax return; paying California income tax as a
13 resident; possession of California motor vehicle license plates;
14 possession of a California driver's license; maintaining a
15 permanent military address; establishing and maintaining active
16 California bank accounts; and/or being the petitioner for a divorce
17 in California, pursuant to Title 5, California Code of Regulations,
18 Section 54012, subdivision (d).

19 C) Granting or limiting residency classification for tuition purposes:

- 20 (1) For no more than one academic year for undergraduate students
21 who are dependent children or spouses of a member of the armed

1 forces of the United States stationed in California on active duty
2 when thereafter transferred on military orders to a place outside of
3 California, or thereafter retires from the armed forces, pursuant to
4 Education Code Section 68074, and

5 (a) Requiring from those seeking an exemption as provided in
6 paragraph (1), to obtain a statement from the military
7 person's commanding officer or personnel officer that the
8 military person's duty station is in California, pursuant to Title
9 5, California Code of Regulations, Section 54041.

10 (b) Obtaining from those seeking an exemption, as provided in
11 paragraph (1), proof that they are still in their first year of
12 current physical presence in California, pursuant to Title 5,
13 California Code of Regulations, Section 54050.

14 (2) Limiting residency classification for tuition purposes for members of
15 the armed forces of the United States stationed in this state on
16 active duty for other than educational purposes to only
17 undergraduates and for no more than one academic year, pursuant
18 to Education Code Section 68075.

19 (a) Requiring from those seeking an exemption pursuant to
20 paragraph (2), to obtain a statement from the student's
21 commanding officer or personnel officer that the assignment

1 to California is nor for educational purposes and evidence of
2 the date of assignment to California, pursuant to Title 5,
3 California Code of Regulations, Section 54042.

4 (b) Obtaining from those seeking an exemption, as provided in
5 paragraph (2), proof that they are still in their first year of
6 current physical presence in California, pursuant to Title 5,
7 California Code of Regulations, Section 54050.

8 (3) Students who were members of the armed forces of the United
9 States stationed in California on active duty for more than one year
10 immediately prior to being discharged, pursuant to Education Code
11 Section 68075.5.

12 (4) For students who have not been adult residents of California for
13 more than one year and are either a dependent child of a California
14 resident for more than one year prior to residence determination, or
15 a student who has a parent who is a California resident for a
16 minimum of one year and who has contributed court-ordered
17 support for the student on a continuous basis, pursuant to
18 Education Code Section 68076.

19 (5) For students who are graduates of any school located in California
20 and operated by the United States Bureau of Indian Affairs
21 including, but not limited to, the Sherman Indian High School,

1 pursuant to Education Code Section 68077.

2 (6) For no more than one year to students holding valid emergency
3 permits authorizing service in California public schools who are
4 employed by a school district in a full-time position requiring
5 certification qualifications to fulfill teacher credential requirements,
6 pursuant to Education Code Section 68078, subdivision (b).

7 (a) For those students applying for resident status
8 pursuant to paragraph (6), obtaining a statement from
9 the student's employer showing full time employment
10 in a public school, pursuant to Title 5, California Code
11 of Regulations, Section 54046, and

12 (b) Obtaining evidence that the student holds a credential
13 and will enroll in courses necessary to obtain another
14 type of credential, pursuant to Title 5, California Code
15 of Regulations, Section 54046, or

16 (c) Obtaining evidence that the student holds a credential
17 issued by the Board of Governors and is enrolled in
18 courses necessary to fulfill credential requirements,
19 pursuant to Title 5, California Code of Regulations,
20 Section 54046.

21 (7) For students who are native Americans if also attending a school

1 administered by the Bureau of Indian Affairs located within the
2 community college district, pursuant to Education Code Section
3 68082.

4 (8) For students who are amateur athletes in training at the United
5 States Olympic Training Center in Chula Vista, pursuant to
6 Education Code Section 68083.

7 (9) For students, and their dependent children, who are federal civil
8 service employees if transferred to California as a result of a
9 military mission realignment action that involves the relocation of at
10 least 100 employees, pursuant to Education Code Section 68084.

11 (10) For alien students claiming they are not precluded from
12 establishing domicile in the United States are required to show that
13 they did not enter the United States illegally, that they did not enter
14 under a visa which requires residency outside of the United States,
15 and that they did not enter the United States under a visa which
16 permits entry solely for some temporary purpose, pursuant to Title
17 5, California Code of Regulations, Section 54045, subdivision (b).

18 (11) For an alien precluded from establishing domicile in the United
19 States, requiring evidence that he or she has taken appropriate
20 steps to obtain a change of status from the Immigration and
21 Naturalization Service, pursuant to Title 5, California Code of

1 Regulations, Section 54045, subdivision (c).

2 C) Exempting from the payment of nonresident tuition, students, other than
3 nonimmigrant aliens, who meet the following requirements, pursuant to
4 Education Code Section 68130.5, subdivision (a), Title 5, California Code
5 of Regulations, Section 54045.5, subdivision (a) and Chancellor's Revised
6 Guidelines and Information dated May 2002, paragraph 3:

7 (1) High school attendance in California for three or more years,

8 (2) Graduation from a California high school or attainment of the
9 equivalent thereof,

10 (3) Registration as an entering student at, or current enrollment
11 at, the community college not earlier than the fall semester
12 or quarter of the 2001-2002 academic year, and

13 (4) In the case of a person without lawful immigration status, the
14 filing of an affidavit with the community college stating that
15 the student has filed an application to legalize his or her
16 immigration status, or will file an application as soon as her
17 or she is eligible to do so.

18 (5) Obtaining, from students applying for an exemption from the
19 requirement to pay nonresident tuition, a completed
20 questionnaire, on a form prescribed by the Chancellor,
21 verifying their eligibility for the exemption, pursuant to Title 5,

1 California Code of Regulations, Section 54045.5, subdivision
2 (b) and the Chancellor's Revised Guidelines and Information
3 dated May 2002, paragraphs 12, 13 and 14 and attachment
4 four.

5 (6) Obtaining, from students applying for an exemption from the
6 requirement to pay nonresident tuition, additional
7 documentation or evidence, as necessary or when the
8 district is in possession of conflicting information, to verify
9 eligibility for the exemption, pursuant to Title 5, California
10 Code of Regulations, Section 54045.5, subdivision (b) and
11 Chancellor's Revised Guidelines and Information dated May
12 2002, paragraph 17.

13 (7) Obtaining, from students without lawful immigration status
14 applying for an exemption from the requirement to pay
15 nonresident tuition, an affirmation by the student that he or
16 she has filed an application to legalize his or her immigration
17 status, pursuant to Title 5, California Code of Regulations,
18 Section 54045.5, subdivision (c).

19 D) Exempting from the payment of all fees and tuition, undergraduate
20 students who meet the following requirements, pursuant to Education
21 Code Section 68121, subdivision (b)(2):

- 1 (1) They meet the financial need requirements of the Cal Grant A
2 Program, and
- 3 (2) Until January 1, 2013, he or she is a dependent surviving spouse of
4 an individual killed in the September 11, 2001, terrorist attacks and
5 either he or she, or the individual killed, was a resident of California
6 on September 11, 2001, or
- 7 (3) Until he or she obtains the age of 30 years, for a dependent
8 child of an individual killed in the September 11, 2001, terrorist
9 attacks and either he or she, or the individual killed, was a resident
10 of California on September 11, 2001, and
- 11 (4) When necessary verifying an individual's eligibility from the
12 California Victim Compensation and Government Claims Board on
13 a case-by-case basis.
- 14 E) Establishing and implementing policies and procedures, and from time to
15 revising and updating those policies and procedures, for the calculation of
16 the amount of nonresident tuition, the method of payment of nonresident
17 tuition, and the method and amount of refunds of nonresident tuition,
18 pursuant to Education Code Section 68051. This includes:
- 19 (1) Providing advance notice of nonresident tuition changes during the
20 spring term before the fall term in which the changes will take
21 effect, pursuant to Education Code Section 76140, subdivision (d).

1 students receiving exemptions for nonresident tuition, when requested,
2 pursuant to the Chancellor's Revised Guidelines and Information dated
3 May 2002, paragraph 40.

4 H) The loss of nonresident tuition fees when students are classified as
5 residents for purposes tuition purposes, pursuant to Education Code
6 Sections 58074, 68075.5, 68076, 68077, 68078(b), 68082, 68083, 68084,
7 and California Code of Regulations, Section 54045, subdivisions (b) and
8 (c).

9 I) The loss of nonresident tuition fees when nonresident students are
10 exempted from the payment of nonresident tuition pursuant to Education
11 Code Section 68130.5 and California Code Regulations 54045.5.

12 SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

13 None of the Government Code Section 17556⁵⁹ statutory exceptions to a finding

⁵⁹ Government Code section 17556, as last amended by Chapter 589, Statutes of 1989:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been

1 of costs mandated by the state apply to this test claim. To the extent that school
2 districts may have previously performed functions similar to those mandated by the
3 referenced code sections, regulations and executive orders, such efforts did not
4 establish a preexisting duty that would relieve the state of its constitutional requirement
5 to later reimburse school districts when these activities became mandated.⁶⁰

6 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

7 No funds are appropriated by the state for reimbursement of these costs
8 mandated by the state and there is no other provision of law for recovery of costs from

declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.”

⁶⁰ Government Code section 17565, added by Chapter 879, Statutes of 1986:

“If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.”

1 any other source.

2 PART IV. ADDITIONAL CLAIM REQUIREMENTS

3 The following elements of this claim are provided pursuant to Section 1183, Title
4 2, California Code of Regulations:

5 Exhibit 1: Declaration of Jeanette Moore
6 Director of Admissions and Records
7 Contra Costa Community College District
8

9 Exhibit 2: Copies of Statutes Cited

10 Chapter 450, Statutes of 2002
11 Chapter 814, Statutes of 2001
12 Chapter 949, Statutes of 2000
13 Chapter 571, Statutes of 2000
14 Chapter 952, Statutes of 1998
15 Chapter 438, Statutes of 1997
16 Chapter 758, Statutes of 1995
17 Chapter 389, Statutes of 1995
18 Chapter 8, Statutes of 1993
19 Chapter 1236, Statutes of 1992
20 Chapter 170, Statutes of 1992
21 Chapter 455, Statutes of 1991
22 Chapter 1372, Statutes of 1990
23 Chapter 985, Statutes of 1989
24 Chapter 900, Statutes of 1989
25 Chapter 424, Statutes of 1989
26 Chapter 753, Statutes of 1988
27 Chapter 317, Statutes of 1983
28 Chapter 1070, Statutes of 1982
29 Chapter 102, Statutes of 1981
30 Chapter 789, Statutes of 1980
31 Chapter 580, Statutes of 1980
32 Chapter 797, Statutes of 1979
33 Chapter 242, Statutes of 1977
34 Chapter 36, Statutes of 1977
35 Chapter 990, Statutes of 1976
36 Chapter 78, Statutes of 1975
37

Test Claim of Santa Monica Community College
Chapter 814/01 Non-resident Classification and Fee Waivers

1
2 Exhibit 3: Copies of Code Sections Cited
3 Education Code Section 68044
4 Education Code Section 68051
5 Education Code Section 68074
6 Education Code Section 68075
7 Education Code Section 68075.5
8 Education Code Section 68076
9 Education Code Section 68077
10 Education Code Section 68078
11 Education Code Section 68082
12 Education Code Section 68083
13 Education Code Section 68084
14 Education Code Section 68121
15 Education Code Section 68130.5
16 Education Code Section 76140

17 Exhibit 4: Title 5, California Code of Regulations,

18 Section 54002
19 Section 54010
20 Section 54012
21 Section 54020
22 Section 54022
23 Section 54024
24 Section 54030
25 Section 54032
26 Section 54041
27 Section 54042
28 Section 54045
29 Section 54045.5
30 Section 54046
31 Section 54050
32 Section 54060
33 Section 54070

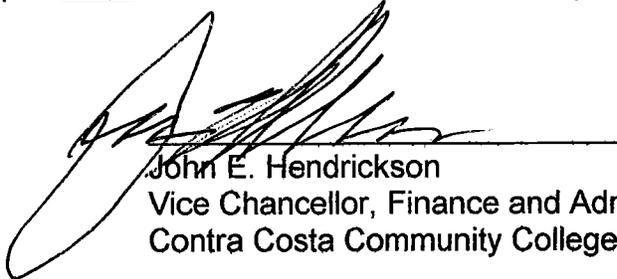
34
35 Exhibit 5: "Revised Guidelines and Information"
36 "Exemption From Nonresident Tuition - May 2002"
37 Chancellor's Office of the California Community Colleges

38
39 /
40 /
41 /

PART V. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information and belief.

Executed on April 30, 2003, at Martinez, California by:

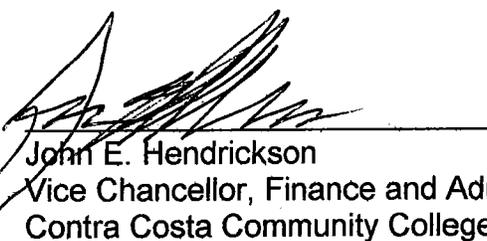


John E. Hendrickson
Vice Chancellor, Finance and Administration
Contra Costa Community College District

Voice: (925) 229-1000 Ext. 1214
Fax: (925) 370-7512

PART VI. APPOINTMENT OF REPRESENTATIVE

Contra Costa Community College District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.



John E. Hendrickson
Vice Chancellor, Finance and Administration
Contra Costa Community College District

4-30-03
Date

EXHIBIT 1
DECLARATION OF JEANETTE MOORE

DECLARATION OF JEANETTE MOORE

Contra Costa Community College District

Test Claim of Contra Costa Community College District

COSM No. _____

Chapter 540, Statutes of 2002
Chapter 814, Statutes of 2001
Chapter 949, Statutes of 2000
Chapter 571, Statutes of 2000
Chapter 952, Statutes of 1998
Chapter 438, Statutes of 1997
Chapter 758, Statutes of 1995
Chapter 389, Statutes of 1995
Chapter 8, Statutes of 1993
Chapter 1236, Statutes of 1992
Chapter 170, Statutes of 1992
Chapter 455, Statutes of 1991
Chapter 1372, Statutes of 1990
Chapter 985, Statutes of 1989

Chapter 900, Statutes of 1989
Chapter 424, Statutes of 1989
Chapter 753, Statutes of 1988
Chapter 317, Statutes of 1983
Chapter 1070, Statutes of 1982
Chapter 102, Statutes of 1981
Chapter 789, Statutes of 1980
Chapter 580, Statutes of 1980
Chapter 797, Statutes of 1979
Chapter 242, Statutes of 1977
Chapter 36, Statutes of 1977
Chapter 990, Statutes of 1976
Chapter 78, Statutes of 1975

Education Code Sections 68044, 68051, 68074, 68075, 68075.5, 68076, 68077, 68078, 68082, 68083, 68084, 68121, 68130.5 and 76140

Title 5, California Code of Regulations, Sections 54002, 54010, 54012, 54020, 54022, 54024, 54045, 54045.5, 54046, 54050, 54060 and 54070

Revised Guidelines and Information (May 2002)
"Exemption From Nonresident Tuition"
Chancellor of the California Community Colleges

Tuition Fee Waivers

I, Jeanette Moore, Director of Admissions and Records, Contra Costa Community College District, make the following declaration and statement.

In my capacity as Director of Admissions and Records, I am responsible for the enrollment of students and collection or waiver of student tuition fees. I am familiar with the provisions and requirements of the Education Code Sections, California Code of Regulations Sections and the Revised Guidelines and Information of the Chancellor set

forth above.

Those Education Code sections, regulations and executive orders require the State Center Community College District to:

- A) Establishing and implementing policies and procedures, and periodically revising and updating those policies and procedures, to provide for the classification of students as residents or nonresidents, pursuant to Education Code Section 68044.
- (1) Residence classification, or reclassification, for each student at the time applications for admissions are accepted and whenever a student has not been in attendance for more than one semester or quarter, pursuant to Title 5, California Code of Regulations, Section 54010, subdivision (a).
 - (2) Receiving and reviewing evidence supplied by students showing physical presence in California and intent to make California their home for other than a temporary purpose and, if the student was classified as a nonresident in the preceding term, evidence of financial independence, pursuant to Title 5, California Code of Regulations, Section 54010, subdivision (b).
 - (3) Weighing the information received from each student and making a determination whether the student has clearly established that he or she has been a resident for one year prior to the residency

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Chapter 540/02 Tuition Fee Waivers

determination date, pursuant to Title 5, California Code of Regulations, Section 54010, subdivision (d).

- (4) Verifying that residence questionnaires that have been submitted by the student under oath or penalty of perjury, pursuant to Title 5, California Code of Regulations, Section 54010, subdivision (e).
- (5) Verifying that the student has been physically present in California for one year prior to the residence determination date, pursuant to Title 5, California Code of Regulations, Section 54022.
- (6) For those students who are unable to establish a presumption of residency pursuant to either subdivision (b) or (c), requiring them to provide evidence of residency, such as: ownership of residential property or continuous occupancy of rented or leased property in California; registering to vote and voting in California; professional licensing in California; active membership in service or social clubs; presence of spouse, children or other close relatives in the state; showing a California address on a federal tax return; paying California income tax as a resident; possessing a California motor vehicle license plates; possessing a California driver's license; maintaining a permanent military address; establishing and maintaining active California bank accounts; and/or being the petitioner for a divorce in California, pursuant to Title 5, California

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Chapter 540/02 Tuition Fee Waivers

Code of Regulations, Section 54024, subdivision (d).

- (7) If a student, or the parents of a minor student, relinquishes California residence, requiring evidence of one full year of physical presence coupled with one full year of demonstrated intent, pursuant to Title 5, California Code of Regulations, Section 54030.
 - (8) If a student previously classified as a nonresident seeks reclassification as a residence, requiring and verifying the student's financial independence, pursuant to Title 5, California Code of Regulations, Section 54032.
 - (9) Notifying each student of his or her resident classification not later than 14 calendar days after the beginning of the session for which the student has applied, or 14 calendar days after the student's application for admission, whichever is later, pursuant to Title 5, California Code of Regulations, Section 54060, subdivision (a).
- B) Using residence questionnaires in making residence classifications, pursuant to Title 5, California Code of Regulations, Section 54012, subdivision (a). The questionnaire shall ask each student:
- (1) Where the student has maintained his or her home for the past two years and whether the student has maintained voter registration or voted in another state, has been a petitioner for a divorce in another state, attended an out-of-state institution as a resident of that other

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Chapter 540/02 Tuition Fee Waivers

state and whether he or she has declared nonresidence for state income tax purposes, pursuant to Title 5, California Code of Regulations, Section 54012, subdivision (b).

- (2) If the student is under age 19, where his or her parent has lived for the past two years and whether the parent has maintained voter registration or voted in another state, has been a petitioner for a divorce in another state, attended an out-of-state institution as a resident of that other state and whether he or she has declared nonresidence for state income tax purposes, pursuant to Title 5, California Code of Regulations, Section 54012, subdivision (c).
- (3) When the student is under age 19, if the student or the parent has either maintained a home outside of California at any time during the past two years or maintained voter registration or voted in another state, or has been a petitioner for a divorce in another state, or attended an out-of-state institution as a resident of that other state, or whether he or she has declared nonresidence for state income tax purposes, the student shall be asked to supply additional evidence of intent to reside in California, such as ownership of residential property or continuous occupancy of rented or leased property in California; registering to vote and voting in California; professional licensing in California; active membership in

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Chapter 540/02 Tuition Fee Waivers

service or social clubs; presence of spouse, children or other close relatives in the state; showing a California address on a federal tax return; paying California income tax as a resident; possession of California motor vehicle license plates; possession of a California driver's license; maintaining a permanent military address; establishing and maintaining active California bank accounts; and/or being the petitioner for a divorce in California, pursuant to Title 5, California Code of Regulations, Section 54012, subdivision (d).

- C) Granting or limiting residency classification for tuition purposes:
- (1) For no more than one academic year for undergraduate students who are dependent children or spouses of a member of the armed forces of the United States stationed in California on active duty when thereafter transferred on military orders to a place outside of California, or thereafter retires from the armed forces, pursuant to Education Code Section 68074, and
 - (a) Requiring from those seeking an exemption as provided in paragraph (1), to obtain a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California, pursuant to Title 5, California Code of Regulations, Section 54041.
 - (b) Obtaining from those seeking an exemption, as provided in

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Chapter 540/02 Tuition Fee Waivers

- paragraph (1), proof that they are still in their first year of current physical presence in California, pursuant to Title 5, California Code of Regulations, Section 54050.
- (2) Limiting residency classification for tuition purposes for members of the armed forces of the United States stationed in this state on active duty for other than educational purposes to only undergraduates and for no more than one academic year, pursuant to Education Code Section 68075.
- (a) Requiring from those seeking an exemption pursuant to paragraph (2), to obtain a statement from the student's commanding officer or personnel officer that the assignment to California is not for educational purposes and evidence of the date of assignment to California, pursuant to Title 5, California Code of Regulations, Section 54042.
- (b) Obtaining from those seeking an exemption, as provided in paragraph (2), proof that they are still in their first year of current physical presence in California, pursuant to Title 5, California Code of Regulations, Section 54050.
- (3) Students who were members of the armed forces of the United States stationed in California on active duty for more than one year immediately prior to being discharged, pursuant to Education Code

Section 68075.5.

- (4) For students who have not been adult residents of California for more than one year and are either a dependent child of a California resident for more than one year prior to residence determination, or a student who has a parent who is a California resident for a minimum of one year and who has contributed court-ordered support for the student on a continuous basis, pursuant to Education Code Section 68076.
- (5) For students who are graduates of any school located in California and operated by the United States Bureau of Indian Affairs including, but not limited to, the Sherman Indian High School, pursuant to Education Code Section 68077.
- (6) For no more than one year to students holding valid emergency permits authorizing service in California public schools who are employed by a school district in a full-time position requiring certification qualifications to fulfill teacher credential requirements, pursuant to Education Code Section 68078, subdivision (b).
 - (a) For those students applying for resident status pursuant to paragraph (6), obtaining a statement from the student's employer showing full time employment in a public school, pursuant to Title 5, California Code

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Chapter 540/02 Tuition Fee Waivers

- of Regulations, Section 54046, and
- (b) Obtaining evidence that the student holds a credential and will enroll in courses necessary to obtain another type of credential, pursuant to Title 5, California Code of Regulations, Section 54046, or
 - (c) Obtaining evidence that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements, pursuant to Title 5, California Code of Regulations, Section 54046.
- (7) For students who are native Americans if also attending a school administered by the Bureau of Indian Affairs located within the community college district, pursuant to Education Code Section 68082.
- (8) For students who are amateur athletes in training at the United States Olympic Training Center in Chula Vista, pursuant to Education Code Section 68083.
- (9) For students, and their dependent children, who are federal civil service employees if transferred to California as a result of a military mission realignment action that involves the relocation of at least 100 employees, pursuant to Education Code Section 68084.

- (10) For alien students claiming they are not precluded from establishing domicile in the United States are required to show that they did not enter the United States illegally, that they did not enter under a visa which requires residency outside of the United States, and that they did not enter the United States under a visa which permits entry solely for some temporary purpose, pursuant to Title 5, California Code of Regulations, Section 54045, subdivision (b).
- (11) For an alien precluded from establishing domicile in the United States, requiring evidence that he or she has taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service, pursuant to Title 5, California Code of Regulations, Section 54045, subdivision (c).
- C) Exempting from the payment of nonresident tuition, students, other than nonimmigrant aliens, who meet the following requirements, pursuant to Education Code Section 68130.5, subdivision (a), Title 5, California Code of Regulations, Section 54045.5, subdivision (a) and Chancellor's Revised Guidelines and Information dated May 2002, paragraph 3:
- (1) High school attendance in California for three or more years,
 - (2) Graduation from a California high school or attainment of the equivalent thereof,
 - (3) Registration as an entering student at, or current enrollment

at, the community college not earlier than the fall semester or quarter of the 2001-2002 academic year, and

- (4) In the case of a person without lawful immigration status, the filing of an affidavit with the community college stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as her or she is eligible to do so.
- (5) Obtaining, from students applying for an exemption from the requirement to pay nonresident tuition, a completed questionnaire, on a form prescribed by the Chancellor, verifying their eligibility for the exemption, pursuant to Title 5, California Code of Regulations, Section 54045.5, subdivision (b) and the Chancellor's Revised Guidelines and Information dated May 2002, paragraphs 12, 13 and 14 and attachment four.
- (6) Obtaining, from students applying for an exemption from the requirement to pay nonresident tuition, additional documentation or evidence, as necessary or when the district is in possession of conflicting information, to verify eligibility for the exemption, pursuant to Title 5, California Code of Regulations, Section 54045.5, subdivision (b) and

Chancellor's Revised Guidelines and Information dated May 2002, paragraph 17.

- (7) Obtaining, from students without lawful immigration status applying for an exemption from the requirement to pay nonresident tuition, an affirmation by the student that he or she has filed an application to legalize his or her immigration status, pursuant to Title 5, California Code of Regulations, Section 54045.5, subdivision (c).
- D) Exempting from the payment of all fees and tuition, undergraduate students who meet the following requirements, pursuant to Education Code Section 68121, subdivision (b)(2):
- (1) They meet the financial need requirements of the Cal Grant A Program, and
 - (2) Until January 1, 2013, he or she is a dependent surviving spouse of an individual killed in the September 11, 2001, terrorist attacks and either he or she, or the individual killed, was a resident of California on September 11, 2001, or
 - (3) Until he or she obtains the age of 30 years, for a dependent child of an individual killed in the September 11, 2001, terrorist attacks and either he or she, or the individual killed, was a resident of California on September 11, 2001, and

- (4) When necessary verifying an individual's eligibility from the California Victim Compensation and Government Claims Board on a case-by-case basis.

- E) Establishing and implementing policies and procedures, and from time to time revising and updating those policies and procedures, for the calculation of the amount of nonresident tuition, the method of payment of nonresident tuition, and the method and amount of refunds of nonresident tuition, pursuant to Education Code Section 68051. This includes:
 - (1) Providing advance notice of nonresident tuition changes during the spring term before the fall term in which the changes will take effect, pursuant to Education Code Section 76140, subdivision (d).
 - (2) Adopting and implementing rules for refunds of fees collected in error, fees refundable due to a reduction of the education program, and/or fees refundable as a result of the student's reduction in units, pursuant to Title 5, California Code of Regulations, Section 54070. However, no refund of nonresident tuition paid for any term prior to January 1, 2002 is authorized, pursuant to Title 5, California Code of Regulations, Section 54045.5, subdivision (f).
 - (3) Refunding nonresident tuition collected when the student is subsequently determined to be eligible for the exemption, pursuant to Chancellor's Revised Guidelines and Information dated May

2002, paragraph 8.

- (4) Seeking reimbursement from students for nonresident fees that have been waived when the original certification is subsequently determined to be false, pursuant to the Chancellor's Revised Guidelines and Information dated May 2002 , paragraph 38.
- F) Considering the student's original certified affidavit and other materials used by the district as Class 1, Permanent Records, and retaining them indefinitely, unless copied or reproduced as specified, pursuant to the Chancellor's Revised Guidelines and Information dated May 2002, paragraph 20.
- G) Participating in surveys conducted by the Chancellor's office concerning students receiving exemptions for nonresident tuition, when requested, pursuant to the Chancellor's Revised Guidelines and Information dated May 2002, paragraph 40.
- H) The loss of nonresident tuition fees when students are classified as residents for purposes tuition purposes, pursuant to Education Code Sections 58074, 68075.5, 68076, 68077, 68078(b), 68082, 68083, 68084, and California Code of Regulations, Section 54045, subdivisions (b) and (c).
- I) The loss of nonresident tuition fees when nonresident students are exempted from the payment of nonresident tuition pursuant to Education

Declaration of Jeanette Moore
Test Claim of Contra Costa Community College
Chapter 540/02 Tuition Fee Waivers

Code Section 68130.5 and California Code Regulations 54045.5.

It is estimated that Contra Costa Community College District has incurred \$1000, or more, in staffing and other costs in excess of any funding provided to school districts and the state for the period from July 1, 2001, through June 30, 2002, to implement these new duties mandated by the state for which the school district has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED this 7th day of May, 2003, at Martinez, California



Jeanette Moore
Director of Admissions and Records
Contra Costa Community College District

EXHIBIT 2
COPIES OF STATUTES CITED

CHAPTER 78

An act to amend Section 25505.8 of the Education Code, relating to community colleges.

[Approved by Governor May 16, 1975. Filed with Secretary of State May 16, 1975.]

SECTION 1. Section 25505.8 of the Education Code is amended to read:

25505.8. A district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee nonresidents who (a) enroll for six units or less or (b) are both citizens and residents of a foreign country. Any exemptions shall be made with regard to all nonresidents described in (a) or (b), and shall not be made on an individual basis.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in two equal installments at the beginning of each semester, or three equal installments at the beginning of each quarter and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in grades 13 and 14.

Each governing board shall compute the amount per student enrolled in the district.

The amount per student enrolled shall be derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in grades 13 and 14. The same fee shall be charged irrespective of the type of class in which the student is enrolled.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system and 45 (units) for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any summer sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the summer session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance, except that the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.

CHAPTER 990

An act to amend Section 25505.8 of the Education Code, relating to community colleges.

[Approved by Governor September 15, 1976. Filed with Secretary of State September 16, 1976.]

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

SECTION 1. Section 25505.8 of the Education Code is amended to read:

25505.8. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis. In the same manner as other nonresident students, pursuant to subdivision (c) of Section 17666.2, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of

education as defined by the California Accounting Manual for students enrolled in grades 13 and 14.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in grades 13 and 14, or (b) the statewide average current expenditure per unit of average daily attendance in grades 13 and 14 during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance, except that the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.

CHAPTER 36

An act to amend Sections 40, 1042, 1330, 1891, 1904, 1908, 2104, 2502, 4200, 4210, 4321, 4364, 5012, 5016, 5018, 5204, 5454, 8203, 8210, 8211, 8212, 8240, 8242, 8245, 8246, 8248, 8250, 8250.1, 8251, 8252, 8254, 8321, 8326, 8327, 8329, 8330, 8360, 8361, 8362, 8363, 8364, 8365, 8366, 8367, 8368, 8369, 8383, 8395, 8500, 10101, 10103, 10104, 10106, 10601, 10602, 10603, 10604, 10606, 12516, 14002, 14003, 14020, 15104, 16035, 16040, 16044, 16057, 16058, 16063, 16192, 16250, 16310, 16343, 18383, 18535, 19422, 19423, 19424, 19510, 19511, 19512, 19515, 19521, 19522, 21107, 21108, 21110, 21111, 21112, 21180, 21183, 21189, 21192, 22112, 22114, 22122, 22127, 22142, 22401, 22716, 22802, 22809, 23006, 23100, 23108, 23401, 23506, 23702, 23703, 23704, 23800, 23803, 23804, 23811, 23900, 23903, 23909, 23910, 23918, 23919, 23920, 23921, 24100, 24200, 24203, 24600, 33332, 35041.5, 35101, 35174, 35214, 35300, 35330, 35511, 35512, 35515, 35518, 35704, 35705, 37220, 37228, 39002, 39140, 39143, 39149, 39210, 39214, 39227, 39230, 39321, 39363.5, 39440, 39602, 39651, 39674, 39830, 40000, 40013, 41015, 41020, 41201, 41301, 41372, 41601, 41700, 41718, 41761, 41762, 41840, 41856, 41857, 41859, 41863, 41886, 41888, 41915, 42238, 42244, 42245, 42603, 42631, 42633, 42635, 42636, 42639, 42643, 42831, 44008, 44009, 44228, 44263, 44274, 44335, 44346, 44853, 44909, 45023.5, 45057, 45203, 45205, 45207, 45250, 46010, 46111, 46300, 48011, 48200, 48265, 48412, 48414, 48938, 48980, 49061, 49063, 49065, 49068, 49069, 49070, 49075, 49076, 49077, 51226, 51767, 51872, 52002, 52012, 52015, 52113, 52309, 52315, 52317, 52321, 52324, 52372, 52500, 52506, 52517, 52570, 52612, 54002, 54006, 54123, 54125, 54665, 54666, 54669, 56336, 56601, 56717, 56811, 56829, 60014, 60101, 60201, 60202, 60204, 60222, 60223, 60261, 60640, 60643, 60664, 66602, 68014, 69273, 69274, 69511, 69532, 69536, 69538, 69565, 69566, 69582, 69583, 69584,

petition it shall determine whether all or only a part of the territory shall be transferred. If the board requires an election to be held it shall determine whether the election shall be held in the whole community college district from which the territory would be transferred or whether the election shall be held only in the territory proposed to be transferred. The county superintendent of schools shall call, hold, and conduct any election required by this section.

SEC. 292. Section 76066 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

76066. In schools or classes for adults, regional occupational centers or programs, or in elementary schools in which the student body is not organized, the governing board may appoint an employee or official to act as trustee for student body funds and to receive said funds in accordance with procedures established by the board. These funds shall be deposited in a bank or a savings and loan association, or both approved by the board and shall be expended subject to the approval of said appointed employee or official and also subject to such procedure as may be established by the board.

SEC. 293. Section 76140 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis. In the same manner as other nonresident students, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in grades 13 and 14.

The district governing board shall establish the nonresident tuition

on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in grades 13 and 14, or (b) the statewide average current expenditure per unit of average daily attendance in grades 13 and 14 during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 units for colleges operating on the semester system, and 45 units for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance, except that the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.

SEC. 294. Section 76143 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

76143. For purposes of the nonresident tuition fee, a community college district shall disregard the time during which a student living in the district resided outside the state, if:

(1) The change of residence to a place outside the state was due to a job transfer and was made at the request of the employer of the student or the employer of the student's spouse or, in the case of a student who resided with, and was a dependent of, the student's parents, the change of residence was made at the request of an employer of either of the student's parents.

(2) Such absence from the state was for a period of not more than four years.

(3) At the time of application for admission to a college maintained by the district, the student would qualify as a resident if the period of the student's absence from the state was disregarded.

A nonresident tuition fee shall not be charged to a student who meets each of the conditions specified in subdivisions (1) to (3),

incorporate the changes made in the Education Code, in 1976, into the Education Code as enacted by Chapter 1010 of the Statutes of 1976. It is not the intent of the Legislature to make any substantive change in the law.

SEC. 1136. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The new reorganized Education Code, enacted by Chapter 1010 of the Statutes of 1976, will become operative on April 30, 1977, which is long before the effective date of ordinary statutes enacted in 1977 in the 1977-78 Regular Session of the Legislature. Other 1976 education legislation was directed to the Education Code as enacted by Chapter 2 of the Statutes of 1959. This bill would adapt such other education legislation enacted in 1976 to the reorganized Education Code as enacted by Chapter 1010 of the Statutes of 1976. In order that statutory continuity may be maintained and that administrative confusion may be avoided, such adaptation must become operative on the operative date of the new Education Code. It is, therefore, necessary that this act take effect immediately as an urgency statute.

CHAPTER 242

An act to amend Sections 10550, 16084, 16320, 16323, 22603.3, 35146, 45259, 52302, 52343, 54483, 68130, 69642, 72122, 72332, 72340, 72425, 76001, 76002, 76004, 76403, 76425, 84500, and 87660 of the Education Code, to amend Sections 8203, 8330, 8367, 16044, 21189, 39002.5, 39602, 41201, 41856, 49063, 52327.5, 69532, 76140, 78452, 78601, 81165, 81602, 84520, 85233, 85235, 85237.5, 85243, 87009, and 89546 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, to amend the heading of Article 6 (commencing with Section 76110), Chapter 1, Part 47 of, to amend and renumber the second Section 48607 of, to add Sections 39016, 39017, 39170.5, 41841.5, 52302.5, and 89758 to, to repeal Sections 72335 and 74370 of, and to repeal Chapter 21 (commencing with Section 17600) of Part 10 of, and to repeal and add Article 5 (commencing with Section 51260), Chapter 2 of Part 28 of, the Education Code, and to amend Section 41 of Chapter 1011 of Statutes of 1976, relating to education and recodification of the laws pertaining thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 1977. Filed with Secretary of State July 7, 1977.]

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

SECTION 1. Section 8203 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

8203. It is the intent of the Legislature that in providing child development programs the Superintendent of Public Instruction will give priority to children of families who qualify under applicable federal statutes or regulations as recipients of public assistance and other low-income and disadvantaged families. Federal reimbursement shall be claimed for any child receiving services under this division for whom federal funds are available.

It is further the intent of the Legislature to maximize the Department of Education's capacity to stimulate and coordinate resources, provide technical assistance, monitor program implementation, generate maximum federal reimbursement wherever possible for the federally eligible children, and to provide alternative funding from state and local agencies for those children for whom federal reimbursement may not be available.

SEC. 2. Section 8330 of the Education Code, as amended by the 1977 Education Code Supplemental Act, is amended to read:

8330. The county superintendent of schools maintaining a child development program may include in its budget the amount necessary to carry out its program pursuant to this chapter. The county board of supervisors shall levy a county tax necessary to raise such amount in only those school districts, or community college districts for which the county superintendent of schools is providing

concentrations of low-income children and with the lowest records of academic achievement. Funds not fully utilized in one designated area may be reallocated to the other designated areas. Upon the request of a school district, the Director of Compensatory Education may authorize funds to be used outside the designated areas to serve children from the designated areas.

SEC. 29. Section 68130 of the Education Code is amended to read:

68130. The governing boards and district governing boards may waive nonresident tuition in whole or in part pursuant to Sections 68123, 76140, 89705, and 89707.

SEC. 30. Section 69532 of the Education Code, as amended by the 1977 Education Code Supplemental Act, is amended to read:

69532. There shall be 23,062 new Cal Grant awards for first-time recipients for the 1977-1978 fiscal year and each year thereafter, except that new scholarships in subdivision (a) in excess of 4.25 percent of the number of high school graduates of the previous fiscal year, in subdivision (b) in excess of 5,375, and in subdivision (c) in excess of 1,062 shall not be awarded unless there are federal student financial aids funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards or unless the Legislature acts in the future to fund such awards or unless for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal. Such grants shall be allocated as follows:

(a) 14,900 awards for the 1977-1978 fiscal year, and each fiscal year thereafter, to be utilized for tuition and student fees pursuant to Section 69536.

(b) 6,825 awards for the 1977-1978 fiscal year and each fiscal year thereafter, to be utilized for tuition, student fees, and subsistence costs pursuant to Section 69538.

(c) 1,337 awards for the 1977-1978 fiscal year and each fiscal year thereafter, to be utilized for occupational or technical training pursuant to Sections 69539 through 69543.

SEC. 31. Section 69642 of the Education Code is amended to read:

69642. Definitions:

(a) "Board" means the Board of Governors of the California Community Colleges.

(b) "District" means any community college district in California that maintains one or more community colleges.

(c) "College" means a community college established by the governing board of a community college district authorized to provide community college instruction.

(d) "Extended opportunity program" means a special program or method of instruction designed to facilitate the language, educational or social development of a student and increase his potential for success in the college.

(e) "Extended opportunity services" means a program of

assistance designed to aid students with socioeconomic handicaps to permit them to enroll in and participate in the educational activities of the college.

SEC. 32. Section 72122 of the Education Code is amended to read:

72122. Notwithstanding the provisions of Section 72121 of this code and Section 54950 of the Government Code, the governing body of a community college district shall, unless a request by the parent has been made pursuant to this section, hold executive sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any student of the community college district, if a public hearing upon such question would lead to the giving out of information concerning students which would be in violation of Article 5 (commencing with Section 76240) of Chapter 1.5 of Part 47 of this code.

Before calling such executive session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the student is a minor, notify the student and his parent or guardian, or the student if the student is an adult, of the intent of the governing board of the district to call and hold such executive session. Unless the student, or his parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in executive session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any student other than the student requesting the public meeting or on behalf of whom such meeting is requested, shall be in executive session. Whether the matter is considered at an executive session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

SEC. 33. Section 72332 of the Education Code is amended to read:

72332. The governing board of a community college district which establishes a police department may provide and maintain motor vehicles for the use of the police. Any vehicle, when operated in the performance of his duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

SEC. 34. Section 72335 of the Education Code is repealed.

SEC. 35. Section 72340 of the Education Code is amended to read:

72340. The governing board of a community college district, except a district having a city board of education, may, and upon a petition signed by a majority of the electors resident in the district

shall, call meetings of the qualified electors of the district for consultation in regard to any affairs in the district. A meeting so called shall be competent to instruct the governing board, and the board shall, in all cases, be bound by such instructions upon the following subjects:

(a) The location or change of location of the schoolhouse, if the proposal to instruct the board in regard to changing the location of the schoolhouse is passed by a vote of two-thirds of all the electors voting at the meeting upon the proposition.

(b) The use of the community college for other than school purposes, but in no case shall the community college be used for purposes which necessitate the removal of any school desks or other school furniture.

(c) The sale and purchase of school sites.

(d) The prosecution, settlement, or compromise of any litigation in which the district is engaged, or is likely to become engaged.

The meeting may vote money not exceeding one hundred dollars (\$100) in any one year, for any of these purposes in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire, except that the proceeds of the insurance of the library and apparatus shall be paid into the library fund. All funds raised by the sale of school property may be disposed of by direction of a district meeting.

SEC. 36. Section 72425 of the Education Code is amended to read:

72425. (a) In any community college district in which the average daily attendance exceeds 60,000, and which is not located in a city and county, or in any community college district in which the average daily attendance exceeded 60,000 in the 1963-64 school year and was less than 60,000 in the 1972-73 school year or any subsequent school year, and which is not located in a city and county, the governing board may prescribe, as compensation for the services of each member of the board, the sum of seventy-five dollars (\$75) for each meeting of the board actually attended, not to exceed seven hundred fifty dollars (\$750) in any month. In any community college district in which the average daily attendance for the school year 1972-1973 was less than 60,000, except a district which also comes within the terms of the preceding sentence, but more than 25,000, each member of the governing board of the district may receive as compensation for his services not to exceed forty dollars (\$40) for each meeting of the board actually attended, not to exceed three hundred dollars (\$300) in any month. In any community college district in which the average daily attendance for the school year 1972-1973 was 25,000 or less but more than 10,000, each member of the governing board of the district may receive as compensation for his services not to exceed thirty dollars (\$30) for each meeting of the board actually attended, but not to exceed two hundred dollars (\$200) in any month. In any community college district in which the average daily attendance for the school year 1972-1973 was 10,000 or

less but more than 1,000, each member of the governing board of the district may receive as compensation for his services not to exceed twenty dollars (\$20) for each meeting of the board actually attended, not to exceed one hundred twenty dollars (\$120) in any month. In any community college district in which the average daily attendance for the 1972-1973 school year was 1,000 or less but more than 150, each member of the governing board of the district may receive as compensation for his services not to exceed ten dollars (\$10) for each meeting of the board actually attended, but not to exceed sixty dollars (\$60) in any month.

(b) The compensation of members of the governing board of a community college district newly organized or reorganized after June 30, 1973, shall be governed by subdivision (a). For such purposes the total average daily attendance in all of the community colleges of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the school year 1972-73.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and spread upon its minutes finds that at the time of the meeting he is performing services outside the meeting for the community college district. The compensation shall be a charge against the funds of the district.

SEC. 38. Section 74370 of the Education Code is repealed.

SEC. 39. Section 76001 of the Education Code is amended to read:

76001. The president of any community college may admit to the community college as a special part-time student any 11th- or 12th-grade high school student whose admission is recommended by his high school principal. A principal of a high school may recommend a high school student as a special part-time student pursuant to rules and regulations which may be adopted by the governing board of the district maintaining the high school. A principal of a high school shall not recommend a number of high school students in excess of 15 percent of the total number of 11th- and 12th-grade students enrolled in the high school at the time of recommendation.

The attendance of a student at community college as a special part-time student pursuant to this section is authorized attendance and the student shall receive credit for community college courses which he completes in the same manner as if he were a regularly enrolled community college student unless, upon agreement between the two districts, the student receives high school credit for the course completed.

Each special part-time student shall attend high school classes for at least the minimum schoolday.

SEC. 40. Section 76002 of the Education Code is amended to read:

76002. The president of any community college may admit to the

summer session of the community college as a special student any high school student who has completed the 11th grade and whose admission to summer session is recommended by the principal of the high school in which the student completed the 11th grade. A principal of a high school may recommend such a student as a special student pursuant to rules and regulations which may be adopted by the governing board of the district maintaining the high school. A principal of a high school shall not recommend a number of students who have completed the 11th grade in excess of 5 percent of the total number of students in the high school who have completed the 11th grade immediately prior to the time of recommendation.

The attendance of a student at community college as a special summer session student pursuant to this section shall be credited to the district maintaining the community college for the purposes of allowances and apportionments from the State School Fund, and the student shall receive credit for community college courses which he completes, in the same manner as if he were a regularly enrolled community college student.

Sections 76001 and 48800 to 48802, inclusive, do not apply to the special students authorized to be admitted to a community college summer session pursuant to this section.

SEC. 41. Section 76004 of the Education Code is amended to read:

76004. Any person, otherwise eligible for admission to any class or community college of a community college district of this state, whose parents are or are not citizens of the United States, whose actual and legal residence is in a foreign country adjacent to this state, and who regularly returns within a 24-hour period to said foreign country may be admitted to the class or community college of the district by the governing board of the district.

SEC. 42. The heading of Article 6 (commencing with Section 76110) of Chapter 1 of Part 47 of the Education Code is amended to read:

Article 6. Meals and Lodging for Students

SEC. 43. Section 76140 of the Education Code, as amended by the 1977 Education Code Supplemental Act, is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this

subdivision may be made on an individual basis. In the same manner as other nonresident students, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in a community college.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in a community college, or (b) the statewide average current expenditure per unit of average daily attendance in a community college during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance, except that the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.

CHAPTER 797

An act to amend Sections 1243, 1244, 1245, 1604, 1710, 4312, 4320, 8007, 8100, 14042, 15701, 15704, 15705, 15706, 15711, 15712, 15713, 15719, 15721, 15723, 15724, 15727, 15737, 15746, 15749, 16002, 16003, 16007, 16009, 16014, 16022, 16023, 16029, 16034, 16036, 16042, 16044, 16051, 16051.5, 16067, 16082, 16314, 16319, 16330.5, 16331, 16335, 16336, 66804, 71001, 71026, 71027, 71041, 71091, 71092, 72233, 72409, 72640, 74015, 76140, 76160, 76320, 76321, 78005, 78010, 78011, 78409, 78442, 78920, 79010, 79013, 81005, 81363, 81400, 81820, 81831, 81833, 84327, 84330, 84384, 84385, 85241, 85260, 87200, 87214, 87228, 87408, 87412, 87422, and 87768 of, to amend and renumber Section 85264 of, to add Sections 81800.1 and 81831.5 to, to repeal Sections 8035, 10405, 16055, 71029, 71030, 71031, 71032, 71035, 71036, 71037, 71043, 71065, 71067, 71074, 71077, 72293, 72305, 76310, 76332, 76342, 76442, 76455, 78220, 78221, 78270, 81004, 81101, 81102, 81145, 84032, 84321, 84323, 84326, 84333, 84341, 84503, 84532, 85261, 85262, 85263, 87216, 87270, 87294, 87332, 87425, 87433, 87434, 87710, and 87713 of, and to repeal Chapter 3 (commencing with Section 10200) of Part 7 of, Article 10 (commencing with Section 16380) of Chapter 8 of Part 10 of, Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of, Chapter 4 (commencing with Section 78600) of Part 48 of, Chapter 5 (commencing with Section 78700) of Part 48 of, Chapter 6 (commencing with Section 78800) of Part 48 of, Article 3 (commencing with Section 79140) of Chapter 9 of Part 48 of, Article 4 (commencing with Section 79150) of Chapter 9 of Part 48 of, Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of, Chapter 6 (commencing with Section 82100) of Part 49 of, Article 4 (commencing with Section 84560) of Chapter 4 of Part 50 of, Article 6 (commencing with Section 84781) of Chapter 5 of Part 50 of, Article 9 (commencing with Section 84810) of Chapter 5 of Part 50 of, Article 10 (commencing with Section 84830) of Chapter 5 of Part 50 of, Article 12 (commencing with Section 84860) of Chapter 5 of Part 50 of, and Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of, the Education Code, relating to community colleges.

[Approved by Governor September 19, 1979. Filed with
Secretary of State September 19, 1979.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to update and technically clarify provisions of law which establish powers and duties of the Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges. This act repeals numerous Education Code provisions relating to the board of governors and the chancellor's office which are outdated or redundant. It also repeals certain Education Code provisions which were mistakenly made applicable

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

SEC. 77. Section 74015 of the Education Code is amended to read: 74015. Notwithstanding the provision of Section 74011, the Board of Governors of the California Community Colleges may grant an extension of time for submitting plans and recommendations upon request of the county committee on school district organization and the executive officer of the board of governors.

The Board of Governors of the California Community Colleges may grant a further extension of time for the submitting of plans and recommendations where such submission is its responsibility.

SEC. 78. Section 76140 of the Education Code is amended to read: 76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis. In the same manner as other nonresident students, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.

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

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year. The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in a community college.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in a community college, or

(b) the statewide average current expenditure per unit of average daily attendance in a community college during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

SEC. 79. Section 76160 of the Education Code is amended to read:

76160. Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service with the armed forces of the United States, who resides in this state and more than ninety (90) miles from the nearest public community college attendance center where grades 13 and 14 are maintained, measured by the usual vehicular route between his home and such attendance center, may at his request attend grades 13 and 14 at any public community college in the state, whether or not his residence is in a district maintaining a community college. The governing board of the district maintaining such community college designated by the student shall admit the student provided he otherwise qualifies for admission.

The provisions of the preceding paragraph of this section shall be inapplicable to any student residing in a district maintaining a community college if such district maintains adequate dormitories or housing facilities or provides adequate transportation for such student between his home and the community college attendance center.

If the student resides in a district maintaining a community college, the district of the student's residence shall pay to the district of the student's attendance an amount on account of such attendance computed pursuant to Section 2100. The computation shall be made and other procedures shall be undertaken in accordance with such requirements as may be prescribed by the board of governors, by or under authority of the governing board of the community college district of attendance, and shall be approved by the county superintendent of schools having jurisdiction of such district with the certification of the amount owing to be transmitted by him to the district of the student's residence. The governing board of the

teaching position who has rendered service to the district for at least six consecutive years preceding the granting of the leave, but not more than one such leave of absence shall be granted in each six-year period. The governing board granting the leave of absence may prescribe the standards of service which shall entitle the employee to the leave of absence. No absence from the service of the district under a leave of absence, other than a leave of absence granted pursuant to Section 87767, granted by the governing board of the district shall be deemed a break in the continuity of service required by this section, and the period of such absence shall not be included as service in computing the six consecutive years of service required by this section. Service under a national recognized fellowship or foundation approved by the board of governors, for a period of not more than one year, for research, teaching or lecturing shall not be deemed a break in continuity of service, and the period of such absence shall be included in computing the six consecutive years of service required by this section.

SEC. 157. Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of the Education Code is repealed.

SEC. 158. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 580

An act to amend Section 68074 of the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1980. Filed with
Secretary of State July 18, 1980.]

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

SECTION 1. Section 68074 of the Education Code is amended to read:

68074. A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

Should that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) be thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States or (2) be thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may become operative as early as possible in the 1980-81 academic year, and so facilitate the orderly administration of student residency requirements, it is necessary that this act take effect immediately.

2386

STATUTES OF 1980

[Ch. 789

CHAPTER 789

An act to amend Section 76140 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1980. Filed with
Secretary of State July 28, 1980.]

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

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

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

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. Such fee may be paid in installments, as determined by the governing board of the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year. However,

should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

The governing board of each community college district shall also adopt a tuition fee per unit of credit for nonresidents students enrolled in more or less than 15 units of credit per term by dividing the fee determined in the preceding paragraph by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

SEC. 2. For the fall and spring semester of the 1980-81 academic year and for the fall, winter, and spring quarters of the 1980-81 academic year, the fee established by the governing board of a community college district prior to January 1, 1980, shall be increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for fiscal years 1979-80 and 1980-81.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to relieve the cost to the state and local taxpayer for the education of the nonresident student at the earliest possible time, it is necessary that this act become effective immediately.

CHAPTER 102

An act to amend Sections 8020, 8021, 8022, 8023, 8221, 17764, 41902, 48412, 49531, 49552, 68044, and 90500 of, and to add Chapter 4 (commencing with Section 59300) to Part 32 of, the Education Code, to amend Sections 12016, 12412.1, 13300, 13337, 13338, and 13339 of, to amend and repeal Section 13967 (as amended by Section 3 of Chapter 530 of the Statutes of 1980) of, to amend Sections 13967 (as added by Section 3.5 of chapter 530 of the Statutes of 1980), 16113,

and 68203 of, to add Sections 6517, 11712, and 11713 to, and to repeal Sections 12016, 13339 and 13967 (as amended by Section 3.1 of Chapter 530 of the Statutes of 1980) of the Government Code, to amend and repeal Sections 1505 (as amended by Section 157 of Chapter 676 of the Statutes of 1980), and 1505 (as amended by Section 157.5 of Chapter 676 of the Statutes of 1980) of, to amend Sections 1529 and 50740 of, to add Sections 1505, 1528.1, 1528.3, 1529.1, and 50740.7 to, to add Chapter 3.6 (commencing with Section 1597.50) to Division 2 of, and to repeal Section 1528.5 of, the Health and Safety Code, to amend Sections 7314, 7316, and 7721 of, and to add Section 7722 to, the Labor Code, to amend and repeal Sections 1464 (as amended by Section 1 of Chapter 1047 of the Statutes of 1980), 1464 (as amended by Section 2 of Chapter 1047 of the Statutes of 1980), and 1464 (as added by Section 3 of Chapter 1047 of the Statutes of 1980) of the Penal Code, to add Section 700.1 to the Probate Code, to add Section 25008 to the Public Resources Code, to amend Section 97.1 of the Revenue and Taxation Code, as added by Senate Bill No. 102 of the 1981-82 Regular Session, to amend Sections 406, 409, 411, 412, 413, 4201, 4227, 4250, 4327, 4357, and 4405 of the Water Code, to amend and repeal Sections 5075 (as amended by Section 5 of Chapter 1133 of the Statutes of 1979), to amend Sections 10020, 14005.12, 14005.8, 14005.9, 14017, 14023, 14050.1, 14132, 14171, 14172, 16700, 16701, 16702, 16703, 16704, 16705, 16707, 16708, 16710, 16712, and 16715 of, to add Sections 14009.5, 14016.2, 14016.3, 14016.4, 14016.9, 14017.5, 14018.2, 14101.7, 14105.1, 14109.5, 14124.80, 14124.81, 14124.82, 14124.83, 14124.84, 14124.85, 14124.86, 14124.87, 14124.88, 14134, 14134.2, 14172.5, and 16716 to, to add Chapter 8.8 (commencing with Section 14600) to Part 3 of Division 9 of, to repeal and add Sections 12306 and 14016 of, to repeal Sections 14018.4 and 16709 of, and to repeal Article 2 (commencing with Section 12525) of Chapter 4 of Part 3 of Division 9 of, Article 4 (commencing with Section 14640), and Article 5 (commencing with Section 14660) of Chapter 8.8 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1981. Filed with
Secretary of State June 28, 1981.]

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

SECTION 1. Section 8020 of the Education Code is amended to read:

8020. There shall be created within the state, regional adult and vocational education councils, which shall have boundaries as may be determined by local school districts, and approved by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges. Regional boundaries shall be coterminous with the boundaries of community college districts, and

year the reclassification application is made and in any of the three calendar years prior to the reclassification application, (b) has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, and (c) has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges.

SEC. 43. Section 90500 of the Education Code is amended to read:

90500. Notwithstanding Chapter 7 (commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of the Government Code, or any other provision of law to the contrary, printing and binding required by the trustees shall be performed by the Department of General Services in the form and manner, and at the prices of other state printing, and be paid for in like manner, except that binding of library volumes required by the trustees may be performed by binders selected on the basis of competitive bidding when the trustees determine that greater efficiency, quality, or economy will result. The trustees may fix the price for the sale of any bulletin or publication of the trustees or any state university or college, and may specify the class of persons or institutions that may receive copies of any publication free of charge.

Any county, or any school district, or community college district in this state may purchase from the trustees any publications of the trustees or any state university or college.

SEC. 45. Section 6517 is added to the Government Code, to read:

6517. (a) Notwithstanding any other provision of this chapter, the Department of General Services may enter into a joint powers agreement with any other public agency for the purpose of creating an agency or entity to finance the acquisition of land and the design and construction of state office buildings and parking facilities thereon. The joint powers agency or entity shall have the power to acquire land and construct office and parking facilities and to issue revenue bonds for these purposes.

(b) The department may lease state property to, and enter into a lease-purchase agreement with, the joint powers agency or entity on behalf of the State of California for terms not exceeding 50 years. The lease may contain any other terms and conditions which the

and parochial schools and to children receiving child development services. The State Board of Education shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity which receives state funds pursuant to this article, shall provide breakfasts and lunches in accordance with state and federal guidelines.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which qualifies for reimbursement under the federal child nutrition program regulations.

State reimbursement for meals provided pursuant to this article shall be limited to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations which prescribe eligibility for free and reduced price meals and children eligible for aid or services under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 16. Section 49552 of the Education Code is amended to read: 49552. For the purposes of this article, the State Board of Education shall adopt regulations which define needy children, within the permissible limitations prescribed by the relevant federal statutes and regulations, as children who are within the category of children eligible for aid or services under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 17. Chapter 4 (commencing with Section 59300) is added to Part 32 of the Education Code, to read:

CHAPTER 4. FINANCE

Article 1. Local Contribution

59300. Notwithstanding any provision of this part to the contrary, the district of residence of the parent or guardian of any pupil attending a state-operated school pursuant to this part, excluding day pupils, shall pay the school of attendance for each pupil an amount equal to 10 percent of the average annual cost of education of pupils attending a state-operated school pursuant to this part.

SEC. 38. Section 68044 of the Education Code is amended to read:

68044. The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the calendar

CHAPTER 1070

An act to amend Section 68044 of the Education Code, relating to postsecondary education.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 68044 of the Education Code is amended to read:

68044. The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

The adopted rules and regulations shall, beginning the 1983-84 school year, exempt nonresident students who have been appointed to serve as graduate student teaching assistants, graduate student research assistants, or graduate student teaching associates on any campus of the University of California or the California State University, and who have been employed on a 0.49 or more time basis, from the requirement of demonstrating his or her financial independence under this section for purposes of reclassification as a resident.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, (b) has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, and (c) has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are

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not inconsistent with those adopted by the Board of Governors of the
California Community Colleges.

CHAPTER 317

An act to amend Section 76140 of the Education Code, relating to community college districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1983. Filed with Secretary of State July 19, 1983.]

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

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

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

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. Such fee may be paid in installments, as determined by the governing board of the district.

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the

preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year, or (c) an amount not to exceed the fee established by the governing board of any contiguous district. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

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

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

SEC. 2. Notwithstanding the February 1 deadline imposed by subdivision (b) of Section 76140 of the Education Code, the governing board of a community college district may increase the nonresident tuition fee established on or before February 1, 1983, for the 1983-84 fiscal year by setting a new fee for that fiscal year on or before August 1, 1983, pursuant to the other provisions of Section 76140.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit this act to become operative as early as possible in the 1983-84 fiscal year, and, by so doing, facilitate the orderly administration of the California Community Colleges, it is necessary that this act take effect immediately.

CHAPTER 753

An act to add Section 68076 to the Education Code, relating to education.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988.]

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

SECTION 1. Section 68076 is added to the Education Code, to read:

68076. (a) Notwithstanding Section 68062, a student who (1) has not been an adult resident of California for more than one year and (2) is the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a resolution to that effect.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2

of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 424

An act to add Section 68077 to the Education Code, relating to postsecondary education.

[Approved by Governor September 13, 1989. Filed with Secretary of State September 13, 1989.]

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

SECTION 1. Section 68077 is added to the Education Code, to read:

68077. (a) Notwithstanding Section 68062, a student who is a graduate of any school located in California that is operated by the United States Bureau of Indian Affairs, including, but not limited to, the Sherman Indian High School, shall be entitled to resident classification. This exception shall continue so long as continuous attendance is maintained by the student at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a resolution to that effect.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act

contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 900

An act to amend Sections 68074 and 68075 of, and to add Sections 68074.1 and 68075.1 to, the Education Code, relating to postsecondary education.

[Approved by Governor September 25, 1989. Filed with Secretary of State September 27, 1989.]

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

SECTION 1. Section 68074 of the Education Code is amended to read:

68074. Except as otherwise provided in Section 68074.1, a student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

If that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States or (2) is thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 2. Section 68074.1 is added to the Education Code, to read:

68074.1. Notwithstanding Section 68074, a student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification at a campus of the California State University.

SEC. 3. Section 68075 of the Education Code is amended to read:
68075. Except as otherwise provided in Section 68075.1, a student

who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, is entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 4. Section 68075.1 is added to the Education Code, to read:
68075.1. Notwithstanding Section 68075, a student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, is entitled to resident classification at a campus of the California State University.

CHAPTER 985

An act to amend Section 76140 of the Education Code, relating to education.

[Approved by Governor September 29, 1989. Filed with Secretary of State September 29, 1989.]

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

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college

district may be so exempted. Exemptions made pursuant to this subdivision may be made on an individual basis.

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

Attendance of nonresident students shall not be reported as resident average daily attendance for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

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

The fee established by the governing board pursuant to the preceding paragraph shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (a) the amount which was expended by the district for the current expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending in the district in the preceding fiscal year, or (b) the current expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the average daily attendance of all students (including nonresident students) attending all districts during the preceding fiscal year, or (c) an amount not to exceed the fee established by the governing board of any contiguous district, or (d) an amount not to exceed the amount which was expended by the district for the current expense of education but in no case less than the statewide average as set forth in subdivision (b) of this chapter. However, should the district's preceding fiscal year average daily attendance of all students attending in the district in noncredit courses be equal to or greater than 10 percent of the district's total average daily attendance of all students attending in the district, the district in calculating (a) above may substitute instead the data for current expense of education in grades 13 and 14 and average daily attendance in grades 13 and 14 of all students attending in the district.

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

In adopting a tuition fee for nonresident students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

The provisions of this section that require a mandatory fee for nonresidents shall not apply to any district that borders on another state and has fewer than 500 average daily attendance.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1372

An act to amend Sections 40, 41, 52, 92, 262.3, 1043, 1240, 1245, 1246, 1250, 1252, 1253, 1260, 1262, 1271, 1294, 1297, 1298, 1330, 1340, 1400, 1500, 1510, 1602, 1606, 1700, 1721, 1831, 1946, 4002, 4003, 7000, 8006, 8008, 8070, 8080, 8081, 8084, 8092, 8207, 8225, 8285.5, 8320, 8322, 8328, 8329, 8362, 8394, 8510, 8534, 8760, 8761, 8762, 8763, 8764, 8765, 8771, 10407, 10504, 10900, 10901, 10907, 10910, 10912, 10913, 10914, 11001, 12020, 12220, 12302, 12400, 12401, 12402, 12405, 14000, 15100, 15106, 15140, 15141, 15142, 15147, 15252, 15254, 15502, 15520, 15527, 15528, 15541, 15551, 15570, 15574, 15701, 15718, 15735, 15745, 15752, 15794, 16042, 16045, 16080, 16100, 16105, 16165, 16195, 16197, 16200, 16214, 17302, 17313, 17900, 17901, 17902, 17903, 18100, 18101, 18102, 18103, 18110, 18111, 18120, 18121, 18122, 18131, 18132, 18134, 18137, 18138, 18139, 18170, 18171, 18172, 19901, 22200, 22504, 24806, 24923, 24924, 32033, 32300, 32371, 32372, 33031, 33113, 33117, 33117.5, 35501, 39214.5, 39308, 39383, 39830, 41303, 41332, 44849, 44850, 44854, 51875.7, 52152, 52154, 52302.3, 52342, 52512, 62001, 66010, 66011, 66017, 66021, 66700, 68011, 68012, 68016, 68022, 68023, 68040, 68041, 68051, 68070, 68071, 68072, 68073, 68100, 69510, 69511.5, 69537, 69640, 69641, 69641.5, 69642, 69643, 69648, 69648.5, 69649, 69653, 69655, 71004, 71020, 71040, 71046, 71050, 71090, 71092, 71093, 72000, 72023.5, 72027, 72031, 72102, 72122, 72241, 72247, 72423, 72500, 72506, 72530, 74000, 74001, 74104, 74105, 74106, 74107, 74109, 74110, 74132, 74134, 74135, 74136, 74139, 74140, 74153, 74154, 74155, 74158, 74159, 74202, 74270, 74290, 76000, 76001, 76020, 76403, 76407, 78031, 78032, 78211.5, 78213, 78216, 78217, 78230, 78249, 78300, 78401, 78900, 78907, 79020, 79021, 79154, 79155, 81033, 81130, 81130.5, 81133, 81160, 81177, 81179, 81805, 81807, 81820, 81822, 81836, 81837, 81901, 81908, 81947, 82321, 82537, 82542, 84030, 84040.6, 84207, 84320, 84328, 84362, 84381, 84382, 84383, 84384, 84660, 84890, and 85230 of, to amend and repeal Section 32033 of, to add Sections 8323, 71025, 71028, 72013, 72014, 72015, 72243, 72249, 72253.3, 72253.5, 72253.7, 78034, 84001, 84700.3, 85266.5, 87448, and 88020.5 to, to add Chapter 1.5 (commencing with Section 78100) to Part 48 of, to repeal Sections 91, 265, 1255, 7001, 7002, 8085, 8329.5, 8511, 8513, 8514, 8515, 8516, 12210, 12404, 14020, 14021, 15000, 32200, 44971, 66101, 66102, 66200, 66700.5, 66902.5, 67007, 68010, 68013, 68019, 68020, 68021, 68090, 69644, 69645, 69646, 69647, 69648.7, 69657, 71005, 71027.5, 71033, 71034, 71038, 71039, 71041, 71042, 71047, 71048, 71095, 71096, 71097, 72001, 72002, 72020, 72021, 72023.7, 72024, 72025, 72028, 72029, 72030, 72032, 72033, 72035, 72120, 72125, 72126, 72132, 72200, 72202, 72203, 72204, 72208, 72231, 72237, 72241.5, 72244, 72247.1, 72248, 72255, 72256, 72408, 72409, 72412, 72413, 72419, 72419.5, 72420, 72421, 72422, 72531, 72532, 74010, 74011, 74271, 74282, 74283, 74291, 74292, 74293, 74294, 74295, 76001.5, 76002, 76006, 76021, 76142, 76160, 76400, 76405, 76408, 76409, 76470, 78001, 78002, 78003, 78004, 78005, 78006, 78007, 78010, 78011, 78012, 78220, 78221, 78222, 78240, 78241, 78242, 78243, 78244, 78245, 78246, 78247, 78248, 78250, 78270, 78272, 78301, 78302, 78303, 78304, 78305, 78402, 78403, 78405, 78407, 78409, 78412, 78440, 78440.5, 78441,

and the Regents of the University of California.

SEC. 210. Section 66017 of the Education Code is amended to read:

66017. The respective governing boards of the California Community Colleges, the California State University, or the University of California shall adopt appropriate procedures and designate appropriate persons to take disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of the community college, state college, or state university who, after a prompt hearing by a campus body, has been found to have willfully disrupted the orderly operation of the campus. Nothing in this section shall be construed to prohibit, where an immediate suspension is required in order to protect lives or property and to ensure the maintenance of order, interim suspension pending a hearing; provided that a reasonable opportunity be afforded the suspended person for a hearing within 10 days. The disciplinary action may include, but need not be limited to, suspension, dismissal, or expulsion. Sections 89538 to 89540, inclusive, shall be applicable to any state university or college employee dismissed pursuant to this section.

SEC. 211. Section 66021 of the Education Code is amended to read:

66021. It is the intent of the Legislature that the Budget Act for each fiscal year provide sufficient funding for financial aid for students with demonstrated financial need at the University of California, the California State University, and the California Community Colleges to offset increases in student charges at those institutions. The Legislature intends that funds for increased student financial aid be provided from sources other than student fees.

SEC. 213. Section 66101 of the Education Code is repealed.

SEC. 214. Section 66102 of the Education Code is repealed.

SEC. 215. Section 66200 of the Education Code is repealed.

SEC. 219. Section 66700 of the Education Code is amended to read:

66700. The California Community Colleges are postsecondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of the California Community Colleges and exercise general supervision over the California Community Colleges.

SEC. 220. Section 66700.5 of the Education Code is repealed.

SEC. 222. Section 66902.5 of the Education Code is repealed.

SEC. 224. Section 67007 of the Education Code is repealed.

SEC. 225. Section 68010 of the Education Code is repealed.

SEC. 226. Section 68011 of the Education Code is amended to read:

68011. "Institution" means the University of California, the California State University, the California Maritime Academy, or a college of the California Community Colleges.

SEC. 227. Section 68012 of the Education Code is amended to read:

68012. (a) "District" means a community college district maintaining one or more community colleges.

(b) "District governing board" means the governing board of a district maintaining one or more community colleges.

(c) "Governing board" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, or the Board of Governors of the California Community Colleges.

SEC. 228. Section 68013 of the Education Code is repealed.

SEC. 229. Section 68016 of the Education Code is amended to read:

68016. "Continuous attendance," as it refers to attendance at an institution, means a student claiming continuous attendance who has been enrolled full time, as determined by the governing board or district governing board, as appropriate, for a normal academic year at the institution since the beginning of the period for which continuous attendance is claimed. Nothing in this section shall require a student to attend summer sessions or other terms beyond the normal academic year in order to render his or her attendance "continuous."

SEC. 230. Section 68019 of the Education Code is repealed.

SEC. 231. Section 68020 of the Education Code is repealed.

SEC. 232. Section 68021 of the Education Code is repealed.

SEC. 233. Section 68022 of the Education Code is amended to read:

68022. "Resident classification" means classification as a resident, pursuant to Section 68017, at the University of California, the California State University, the California Maritime Academy, or a California community college.

SEC. 234. Section 68023 of the Education Code is amended to read:

68023. "Residence determination date" is a date or day established by the governing boards or district governing boards, as appropriate, for each semester, quarter, or term to determine a student's residence.

SEC. 235. Section 68040 of the Education Code is amended to read:

68040. Each student shall be classified as a resident or nonresident at the University of California, the California State University, or the California Maritime Academy or at a California community college.

SEC. 236. Section 68041 of the Education Code is amended to read:

68041. Each student enrolled or applying for admission to an institution shall provide the information and evidence of residence as deemed necessary by the governing board or district governing board, as appropriate, to determine his or her classification. An oath

or affirmation may be required in connection with taking testimony necessary to ascertain a student's classification. The determination of a student's classification shall be made in accordance with this part and the residence determination date for the semester, quarter, or term for which the student proposes to attend an institution.

SEC. 238. Section 68051 of the Education Code is amended to read:

68051. Unless otherwise provided by law, the governing board or district governing board shall adopt rules and regulations relating to the method of calculation of the amount of nonresident tuition, the method of payment, and the method and amount of refund.

SEC. 238.2. Section 68070 of the Education Code is amended to read:

68070. A student who remains in this state after his or her parent, who was theretofore domiciled in California for at least one year immediately prior to leaving and has, during the student's minority and within one year immediately prior to the residency determination date, established residence elsewhere, shall be entitled to resident classification until he or she has attained the age of majority and has resided in the state the minimum time necessary to become a resident, so long as, once enrolled, he or she maintains continuous attendance at an institution.

SEC. 238.4. Section 68071 of the Education Code is amended to read:

68071. A student who has been entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date, with the intention of acquiring a residence therein, shall be entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 238.6. Section 68072 of the Education Code is amended to read:

68072. A student who has not been an adult for more than one year immediately preceding the residence determination date for the semester, quarter, or term for which he or she proposes to attend an institution shall have his or her immediate premajority derived California residence, if any, added to his or her postmajority residence to obtain the one year of California residence required by Section 68017.

SEC. 238.8. Section 68073 of the Education Code is amended to read:

68073. A student shall be entitled to resident classification if, immediately prior to enrolling at an institution, he or she has lived with and been under the continuous direct care and control of any adult or adults, other than a parent, for a period of not less than two years, provided that the adult or adults having control have been domiciled in California during the year immediately prior to the residence determination date. This exception shall continue until the student has attained the age of majority and has resided in the state

the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

SEC. 240. Section 68090 of the Education Code is repealed.

SEC. 240.3. Section 68100 of the Education Code is amended to read:

68100. (a) A district may classify a student as a district resident if he or she lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states and the parent has performed this labor in this state for at least two months per year in each of the two preceding years, the parent lives within the district which maintains the community college attended by the student, and the parent claims the student as a dependent on his or her state or federal personal income tax returns if he or she has sufficient income to have a personal income tax liability.

(b) A district may also classify a student as a district resident if he or she earns a livelihood primarily by performing agricultural labor for hire in California and other states and he or she has performed this labor in this state for at least two months per year in each of the two preceding years.

(c) The Board of Governors of the California Community Colleges shall prescribe rules and regulations for the implementation of this section.

SEC. 243. Section 69510 of the Education Code is amended to read:

69510. The Student Aid Commission shall be composed of the following 15 members:

(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.

(b) One representative from a California independent college or university.

(c) One representative each from the University of California, the California State University, and the California Community Colleges.

(d) Two members each of whom shall be a student enrolled in a California postsecondary educational institution at the time of appointment, and shall be enrolled in a California postsecondary educational institution for the duration of the term.

(e) Three public members.

(f) One representative from a California secondary school.

(g) Two representatives appointed by the Senate Rules Committee.

(h) Two representatives appointed by the Speaker of the Assembly.

SEC. 244. Section 69511.5 of the Education Code is amended to read:

69511.5. (a) Notwithstanding Section 69511, the Governor shall appoint each student member of the Student Aid Commission pursuant to subdivision (d) of Section 69510 from the persons nominated in accordance with the provisions of subdivision (b).

(b) For each student member of the commission, the appropriate

Accordingly, the Board of Governors of the California Community Colleges shall continue its review of the Education Code related to the administration and operation of the California Community Colleges and shall recommend to the Legislature the amendment or repeal of those provisions affected by Chapter 973 of the Statutes of 1988 which have not been accomplished in this act.

SEC. 714.. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 455

An act to amend Section 68076 of the Education Code, relating to postsecondary education.

[Approved by Governor September 26, 1991. Filed with Secretary of State September 27, 1991.]

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

SECTION 1. Section 68076 of the Education Code is amended to read:

68076. (a) Notwithstanding Section 68062, a student who (1) has not been an adult resident of California for more than one year and (2) is either the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, or has a parent who has both contributed court-ordered support for the student on a continuous basis and has been a California resident for a minimum of one year, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a

resolution to that effect.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 170

An act to amend Section 76140 of, and to add Section 76142 to, the Education Code, relating to community colleges.

[Approved by Governor July 11, 1992. Filed with Secretary of State July 13, 1992.]

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

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or

(2):

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

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

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

(c) Nonresident students shall not be reported as full-time

equivalent students (FTES) for state apportionment purposes, except as provided by statute in which case a nonresident tuition fee may not be charged.

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

(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of education but in no case less than the statewide average as set forth in paragraph (2). However, if the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to or greater than 10 percent of the district's total FTES attending in the district, the district in calculating the amount in paragraph (1) may substitute instead the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

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

(g) In adopting a tuition fee for nonresident students, the

governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

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

(i) The provisions of this section that require a mandatory fee for nonresidents shall not apply to any district that borders on another state and has fewer than 500 FTES.

SEC. 2. Section 76142 is added to the Education Code, to read:
76142. A community college district may charge nonresident applicants who are both citizens and residents of a foreign country a processing fee not to exceed the lesser of (1) the actual cost of processing an application and other documentation required by the federal government, or (2) one hundred dollars (\$100), which may be deducted from the tuition fee at the time of enrollment. No processing fee shall be charged to an applicant who would be eligible for an exemption from nonresident tuition pursuant to Section 76140 or who can demonstrate economic hardship. For purposes of this section, the governing board of each community college district that chooses to impose the fee authorized by this section shall adopt a definition of economic hardship that includes the financial circumstances of a person who is a victim of persecution or discrimination in the foreign country in which the applicant is a citizen and resident, or who is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Income/State Supplementary Program, or a general assistance program.

CHAPTER 1236

An act to amend Section 76140 of the Education Code, relating to community colleges.

[Approved by Governor September 29, 1992. Filed with Secretary of State September 30, 1992.]

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

SECTION 1. Section 76140 of the Education Code, as amended by Chapter 170 of the Statutes of 1992, is amended to read:

76140. (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or (2):

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

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

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

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

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

(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price

Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of education but in no case less than the statewide average as set forth in paragraph (2). However, if the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to or greater than 10 percent of the district's total FTES attending in the district, the district in calculating the amount in paragraph (1) may substitute instead the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

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

(g) In adopting a tuition fee for nonresident students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

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

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

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

(k) The attendance of nonresident students who are exempted pursuant to subdivision (i) or (j) from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes.

Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (i) or (j) shall pay a fee of forty-two dollars (\$42) per course unit. That fee is to be included in the FTES adjustments described in Section 72252 for purposes of computing apportionments.

CHAPTER 8

An act to amend Sections 66602, 66606, 66901, 66904, 67143, 67380, 68052, 68076, 68077, 69513, 69612.5, 70011, 71092, 76064, 76221, 76222, 87615, 89006, 89009, 89011, 89034, 89230, 89705, 92612, 92620, 94020, 94021, 94362, 94380, and 94385 of, to amend and renumber Section 89033.1 of, to amend and renumber the heading of Chapter 15.5 (commencing with Section 67380) of Part 40 of, the heading of Chapter 9 (commencing with Section 92690) of Part 57 of, the heading of Article 6.5 (commencing with Section 69612) of Chapter 2 of Part 42 of, the heading of Article 6.6 (commencing with Section 69618) of Chapter 2 of Part 42 of, the heading of Article 6.7 (commencing with Section 69619) of Chapter 2 of Part 42 of, the heading of Article 4 (commencing with Section 71090) of Chapter 1 of Part 44 of, the heading of Article 6 (commencing with Section 72330) of Chapter 3 of Part 45 of, and the heading of Article 1.5 (commencing with Section 78210) of Chapter 2 of Part 48 of, to add Sections 72029 and 72205 to, and to add Chapter 2 (commencing with Section 76300) to Part 47 of, to repeal Sections 66907, 67381, 67382, 69506.6, 69619.3, 69702, 76300, 76330, 87356, 89010, 89033, and 92583 of, to repeal Article 2 (commencing with Section 66910) of Chapter 11 of Part 40 of, Article 2.5 (commencing with Section 66914) of Chapter 11 of Part 40 of, Article 3 (commencing with Section 66915) of Chapter 11 of Part 40 of, Article 2 (commencing with Section 72241) of Chapter 3 of Part 45 of, Article 2.5 (commencing with Section

educational program and an important instructional experience for any student enrolled in the respective program may be considered instructionally related activities.

Instructionally related activities include, but are not limited to, all of the following:

(a) Intercollegiate athletics: costs that are necessary for a basic competitive program including equipment and supplies and scheduled travel, not provided by the state. Athletic grants should not be included.

(b) Radio, television, film: costs related to the provisions of basic "hands-on" experience not provided by the state. Purchase or rental of films as instructional aids shall not be included.

(c) Music and dance performance: costs to provide experience in individual and group performance, including recitals, before audiences and in settings sufficiently varied to familiarize students with the performance facet of the field.

(d) Drama and musical productions: basic support of theatrical and operatic activities sufficient to permit experience not only in actual performance, but in production, direction, set design, and other elements considered a part of professional training in these fields.

(e) Art exhibits: support for student art shows given in connection with degree programs.

(f) Publications: the costs to support and operate basic publication programs including a periodic newspaper and other laboratory experience basic to journalism and literary training. Additional publications designed primarily to inform or entertain shall not be included.

(g) Forensics: activities designed to provide experience in debate, public speaking, and related programs, including travel required for a competitive debate program.

(h) Other activities: activities associated with other instructional areas that are consistent with purposes included in the above may be added as they are identified.

Pursuant to this section and other provisions of this code, the Chancellor of the California State University shall develop a program of fiscal support and shall consult with the California State Student Association, the Academic Senate, and the Chancellor's Council of Presidents regarding the program.

This section shall not become operative unless funds are appropriated to meet the instructionally related needs of the campuses of the California State University.

SEC. 44. Section 89705 of the Education Code is amended to read:

89705. (a) Except as otherwise specially provided, an admission fee and rate of tuition fixed by the trustees shall be required of each nonresident student. The rate of tuition to be paid by each nonresident student, as defined in Section 68018, shall not be less than three hundred sixty dollars (\$360) per year. The rate of tuition paid by each nonresident student who is a citizen and resident of a

foreign country and not a citizen of the United States, except as otherwise specifically provided, shall be fixed by the trustees and shall not be less than three hundred sixty dollars (\$360) per year.

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

SEC. 45. Article 3 (commencing with Section 89730) of Chapter 6 of Part 55 of the Education Code is repealed.

SEC. 46. Section 92583 of the Education Code is repealed.

SEC. 47. Section 92612 of the Education Code is amended to read:

92612. (a) Every individual shall have the right of access to all personal information, as defined in subdivision (a) of Section 1798.3 of the Civil Code, contained in any employee record that is maintained by the University of California that pertains to the individual.

(b) If information relating to the employment, advancement, renewal of appointment, or promotion of any individual in an academic senate position is received with the promise or understanding that the identity of the source of the information would be held in confidence, the university shall provide a copy of the text of that information to the individual to whom the information pertains with only the deletion of the name and affiliation, if any, of the source. "Information," as used in this subdivision, shall be limited to letters of recommendation, and reports of faculty review committees compiled for the purpose of determining the qualifications of members of the academic senate for employment, advancement, renewal of appointment, or promotion.

(c) Subdivisions (a) and (b) shall not apply to any personal information, as defined in subdivision (a) of Section 1798.3 of the Civil Code, received prior to January 1, 1979, with the promise or understanding that the identity of the source of the personal information would be held in confidence.

(d) Subdivisions (b) and (c) shall not be applicable to the University of California unless adopted by the regents.

SEC. 48. Section 92620 of the Education Code is amended to read:

92620. It is the intent of the Legislature that the Regents of the University of California shall eliminate all policies that detrimentally and unreasonably affect the employment status of females hired by

helping the victim deal with academic difficulties that may arise because of the victimization and its impact.

(7) Procedures for guaranteeing confidentiality and appropriately handling requests for information from the press, concerned students, and parents.

(8) Each victim of sexual assault should receive information about the existence of at least the following options: criminal prosecutions, civil prosecutions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance alternatives.

(c) For the purposes of this section, "sexual assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

SEC. 56. Chapter 4 (commencing with Section 99170) of Part 65 of the Education Code is repealed.

SEC. 56.5. Section 50330 of the Government Code is amended to read:

50330. Whether governed under general laws or charter, a local agency may donate and grant to the Regents of the University of California, the Trustees of the California State University, or the governing board of a community college district real property that it owns as a site for university buildings and grounds, state university buildings and grounds, or community college buildings and grounds, as the case may be. A local agency may expend funds, incur indebtedness, and issue bonds for the acquisition of a site within or without its boundaries for the purposes of this section.

SEC. 57. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the technical changes made by this act to take effect as soon as possible, it is necessary that this act take effect immediately.

BILL NUMBER: AB 723 CHAPTERED 08/11/95

CHAPTER 389
FILED WITH SECRETARY OF STATE AUGUST 11, 1995
APPROVED BY GOVERNOR AUGUST 10, 1995
PASSED THE SENATE JULY 29, 1995
PASSED THE ASSEMBLY MAY 25, 1995
AMENDED IN ASSEMBLY APRIL 17, 1995

INTRODUCED BY Assembly Member Baldwin

FEBRUARY 21, 1995

An act to add Section 68075.5 to the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 723, Baldwin. Postsecondary education: residence determination.

(1) Existing law prescribes certain rules for determining the place of residence of students. Under existing law, among other things, there can only be one residence and a person's residence can be changed only by the union of act and intent.

Under existing law, a student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to state-supported institutions of higher education, is entitled to resident classification until he or she has resided in the state the minimum time necessary to become a resident.

This bill would provide that a student who was a member of the armed forces of the United States stationed in this state on active duty for more than one year immediately prior to being discharged from the armed forces is entitled to resident classification for the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident. The imposition of this new residency requirement on community college districts would create a state-mandated local program. Under existing law, these provisions would not apply to the University of California unless the Regents of the University of California make them applicable.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 68075.5 is added to the Education Code, to read:

68075.5. A student who was a member of the armed forces of the United States stationed in this state on active duty for more than

one year immediately prior to being discharged from the armed forces is entitled to resident classification for the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

BILL NUMBER: AB 446 CHAPTERED 10/11/95

CHAPTER 758
 FILED WITH SECRETARY OF STATE OCTOBER 11, 1995
 APPROVED BY GOVERNOR OCTOBER 10, 1995
 PASSED THE SENATE SEPTEMBER 15, 1995
 PASSED THE ASSEMBLY SEPTEMBER 15, 1995
 AMENDED IN SENATE SEPTEMBER 7, 1995
 AMENDED IN SENATE AUGUST 21, 1995
 AMENDED IN SENATE JULY 19, 1995
 AMENDED IN SENATE JUNE 12, 1995
 AMENDED IN ASSEMBLY MARCH 27, 1995

INTRODUCED BY Assembly Committee on Higher Education

FEBRUARY 16, 1995

An act to amend, repeal, and add Sections 28, 1247.6, 2902, 4939, 4980.40, and 18629 of the Business and Professions Code, to amend, repeal, and add Section 1812.501 of the Civil Code, to amend, repeal, and add Section 10251 of the Corporations Code, to amend Sections 1510, 8152, 12050, 12052, 12053, 12400, 66010, 66015, 66022, 66023, 66202.5, 66743, 66753.5, 66903, 66903.3, 67385, 67500, 68011, 68133, 69509, 69613, 69615.2, 69634, 69900, 69908, 71000, 71020.5, 71090.5, 72023.5, 72411.5, 72425, 72620, 74270, 76000, 76140, 76210, 76225, 76231, 76232, 76240, 76245, 76330, 76330.1, 76355, 76370, 76380, 76391, 78015, 78217, 79121, 81033, 81130.5, 81141, 81162, 81177, 81314, 81345, 81348, 81401, 81530, 81551, 81661, 81821, 84362, 84501, 84751, 84810.5, 84820, 85223, 85233, 85267, 87008, 87017, 87411, 87413, 87414, 87418, 87419, 87420, 87423, 87448, 87451, 87453, 87460, 87464, 87468, 87469, 87470, 87483, 87487, 87603, 87604, 87622, 87672, 87673, 87675, 87676, 87677, 87701, 87715, 87732, 87734, 87740, 87744, 87745, 87746, 87762, 87764, 87768.5, 87770, 87774, 87780, 87781, 87787, 87790, 87832, 88000, 88001, 88002, 88003, 88004.5, 88010, 88013, 88014, 88015, 88020, 88023, 88024, 88030, 88033, 88036, 88050, 88051, 88053, 88054, 88057, 88063.5, 88076, 88083, 88086.5, 88092, 88093, 88097, 88098, 88104, 88105, 88107, 88120, 88125, 88126, 88128, 88132, 88136, 88164, 88165, 88167, 88168, 88185, 88191, 88192, 88194, 88195, 88196, 88197, 88198, 88203, 88205, 88205.5, 88206, 88207, 88227, 88245, 88263, 89002, 89036, 89046, 89047, 89300, 89310, 89537, 92620, 99100, 99103, 99105, and 99106 of, to amend the heading of Article 1 (commencing with Section 10000) of Chapter 1 of Part 7 of, to amend the heading of Article 13 (commencing with Section 69760) of Chapter 2 of Part 42 of, to amend and renumber the heading of Part 43.5 (commencing with Section 70900) of, to amend, repeal, and add Sections 8092, 8092.5, 44227, 49073, 66170, 69509.5, 94050, and 94355 of, to add Sections 67359.9, 84756, 84757, and 84758 to, to add an article heading immediately preceding Section 92020 of, to add Article 12 (commencing with Section 44390) to Chapter 2 of Part 25 of, Article 6 (commencing with Section 66060) and Article 7 (commencing with Section 66070) to Chapter 2 of Part 40 of, and Article 6 (commencing with Section 89250) to Chapter 2 of Part 55 of, to add Chapter 11.3 (commencing with Section 66940) to Part 40 of, and Chapter 7 (commencing with Section 94700) to Part 59 of, to repeal Sections 8081, 8084, 12051, 12061, 66207, 66211, 66605.5, 66723, 66744, 66903.4, 66903.6, 67321, 67386, 67392, 69507.7, 69534, 69534.2, 69534.5, 69534.6, 69639, 69766.1, 72410, 76320, 76392, 78217, 78310, 87012, 87018, 87461, 87772, 87773, 87778, 88032, 88035.5, 88079.1, 89003, 89004, 89009, 89032, 89033, 89040, 89070.45, 89081, 89082, 89083, 89211, 89241, 89242, 89703, 92010, 92610, and

in this section shall deprive the governing board of the acquiring district from making reasonable reassignments of duties.

SEC. 88. Section 76000 of the Education Code is amended to read:

76000. The governing board of a community college district shall admit to the community college any California resident, and may admit any nonresident, possessing a high school diploma or the equivalent thereof.

The governing board may admit to the community college any apprentice, as defined in Section 3077 of the Labor Code, who, in the judgment of the governing board, is capable of profiting from the instruction offered.

The governing board may by rule determine whether there shall be admitted to the community college any other person who is over 18 years of age and who, in the judgment of the board, is capable of profiting from the instruction offered. If the governing board determines to admit other persons, those persons shall be admitted as provisional students and thereafter shall be required to comply with the rules and regulations prescribed by the board of governors pertaining to the scholastic achievement and other standards to be met by provisional or probationary students, as a condition to being readmitted in any succeeding semester. This paragraph shall not apply to persons in attendance in special classes and programs established for adults pursuant to Section 78401 or to any persons attending on a part-time basis only.

SEC. 89. Section 76140 of the Education Code is amended to read:

76140. (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or (2):

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

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

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

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

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

(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of education as defined by the California Community College Budget and

Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the fee established by the governing board of any contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of education, but in no case less than the statewide average as set forth in paragraph (2). However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district, in calculating the amount in paragraph (1), may substitute, instead, the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

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

(g) In adopting a tuition fee for nonresident students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

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

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

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

(k) The attendance of nonresident students who are exempted pursuant to subdivision (i) or (j) from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (i) or (j) shall pay a fee of forty-two dollars (\$42) per course unit. That fee is to be included in the FTES adjustments described in Section 76330 for purposes of computing apportionments.

SEC. 90. Section 76210 of the Education Code is amended to read:
76210. As used in this chapter, the following definitions shall

adjunct instructor and the employing unit enter a written contract with the following provisions:

(1) That any federal or state income tax liability shall be the responsibility of the party providing the services.

(2) That no disability insurance coverage is provided under the contract.

(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 293.5. Section 633 is added to the Unemployment Insurance Code, to read:

633. (a) For purposes of coverage under Part 2 (commencing with Section 2601) of Division 1, "employment" does not include services performed as an intermittent or adjunct instructor at a postsecondary educational institution which meets the requirements of Article 4 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code if the intermittent or adjunct instructor and the employing unit enter a written contract with the following provisions:

(1) That any federal or state income tax liability shall be the responsibility of the party providing the services.

(2) That no disability insurance coverage is provided under the contract.

(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall become operative on January 1, 1997.

SEC. 294. Section 282 of this act shall become operative on January 1, 1997.

SEC. 295. (a) Except as provided in subdivision (b), any section of any act enacted by the Legislature during the 1995 calendar year that takes effect on or before January 1, 1996, and that amends, amends and renumbers, adds, repeals and adds, or repeals a provision amended, repealed, or added by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

(b) Subdivision (a) does not apply to any of the following:

(1) Section 2902 of the Business and Professions Code, as amended by Chapter 279 of the Statutes of 1995.

(2) Section 4980.40 of the Business and Professions Code, as amended by Chapter 327 of the Statutes of 1995.

(3) Section 72023.5 of the Education Code, as amended by Chapter 82 of the Statutes of 1995.

BILL NUMBER: AB 1317 CHAPTERED 09/22/97

CHAPTER 438
FILED WITH SECRETARY OF STATE SEPTEMBER 22, 1997
APPROVED BY GOVERNOR SEPTEMBER 21, 1997
PASSED THE ASSEMBLY AUGUST 28, 1997
PASSED THE SENATE AUGUST 7, 1997
AMENDED IN SENATE JULY 25, 1997
AMENDED IN ASSEMBLY MAY 1, 1997

INTRODUCED BY Assembly Member Ducheny
(Coauthors: Assembly Members Baldwin and Davis)
(Coauthor: Senator Alpert)

FEBRUARY 28, 1997

An act to add Section 68083 to the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1317, Ducheny. Postsecondary education: resident classification.

(1) Existing law establishes uniform student resident requirements for purposes of ascertaining the amount of fees to be paid by students at public postsecondary educational institutions. Existing law entitles certain students to resident classification notwithstanding certain rules used to determine the place of residence. These provisions do not apply to the University of California unless the Regents of the University of California, by resolution, make them applicable.

This bill would entitle any amateur student athlete, as defined, in training at the United States Olympic Training Center in Chula Vista to resident classification for tuition purposes until the student athlete has resided in the state the minimum time necessary to become a resident. Under provisions of existing law summarized above, this provision would not apply to the University of California unless the regents, by resolution, make it applicable. To the extent the bill would require community colleges to change practices or procedures with respect to determining residency, the bill would impose a state-mandated local program.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 68083 is added to the Education Code, to read:

68083. (a) Any amateur student athlete in training at the United States Olympic Training Center in Chula Vista is entitled to resident

classification for tuition purposes until he or she has resided in the state the minimum time necessary to become a resident.

(b) "Amateur student athlete," for purposes of this section, means any student athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

MILITARY—DEFENSE RETENTION GRANT PROGRAM—ASSISTANCE

CHAPTER 952

A.B. No. 639

AN ACT to add Section 68084 to the Education Code, to amend Sections 15325 and 15346.1 of, and to add Section 15346.12 to, the Government Code, and to add and repeal Section 33334.27 of the Health and Safety Code, relating to defense conversion, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1998.]

[Filed with Secretary of State September 29, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 639, Alby. Defense conversion.

(1) Existing law classifies students as residents or nonresidents for purposes of paying fees at postsecondary educational institutions.

This bill would entitle a student and his or her parent to resident classification if the student's parent is a federal civil service employee who has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees.

(2) Under existing law, the Trade and Commerce Agency consists of specified offices and the California State World Trade Commission.

This bill would provide that the work of the agency includes the Office of Military Base Retention. The bill would also state the intent of the Legislature that the state role in military base reuse, conversion, and retention be consolidated in the agency.

(3) Existing law requires the council to provide a central clearinghouse for all base reuse, community assistance and training funding, regulations, application procedures, defense conversion funding, and input and information from businesses, industry representatives, labor, local government, and communities.

The bill would require the Trade and Commerce Agency to establish a Defense Retention Grant Program to assist affected communities with grants at specified levels.

(4) Existing law, known as the Community Redevelopment Law, authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in areas of those communities known as project areas. The Community Redevelopment Law requires that not less than 20% of tax increment funds that are allocated to the agency be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined, to persons and families of low or moderate income, as defined, and very low income households, as defined, unless a finding is made by the legislative body of the community, as specified. Existing law generally restricts the authority of a redevelopment agency to use moneys in its Low and Moderate Income Housing Fund outside the agency's territorial jurisdiction.

This bill would express various findings and declarations of the Legislature with regard to the need for the retention of the Travis Air Force Base within the County of Solano. The bill would authorize the redevelopment agencies for the County of Solano and the Cities of Fairfield, Suisun, and Vacaville to expend their tax increment funds, including those moneys deposited in their low- and moderate-income housing funds, as specified, outside their territorial jurisdictions, subject to prescribed findings, conditions and limitations. This bill would provide that these funds may be used, as specified, to develop housing in Fairfield, Suisun, or Vacaville, and to implement the Travis Air Force Base Retention Program through the formation of a separate joint powers entity, as specified. The bill would declare that the use of tax-increment funds for the purposes specified in these provisions shall be conclusively

deemed to be a benefit to the project area in which the funds were generated. The bill would repeal those provisions on January 1, 2001, except as specified.

(5) The California Constitution provides that a local or special statute is invalid in any case if a general statute can be made applicable.

This bill would declare that, due to the unique circumstances within the County of Solano and the Cities of Fairfield, Suisun, and Vacaville relating to the issue of the retention of the Travis Air Force Base that the bill is intended to remedy, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

(6) The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. This act shall be known and may be cited as the Defense Conversion, Reuse, and Retention Omnibus Act.

SEC. 2. Since the first base realignment and closure action by the federal government in 1988, this state has suffered the closure or major realignment of 29 military facilities reflecting a loss of over 500,000 direct and indirect jobs. In addition to the immediate economic effect of closure on a community, complex and burdensome federal and state requirements severely delay timely transfer of the property and its conversion to a viable economic entity. Action is required to directly assist communities in acquiring real property from the federal government. Similar assistance is required to assist affected communities' private sector partners in those cases where a community cannot afford or chooses to not acquire the property directly. In every situation, action is required to assist communities and state agencies in meeting the myriad of regulatory requirements of property disposal in a timely and nonconfrontational manner. Thirty-six military facilities remain open in this state and affirmative action is required to ensure that this state has a strategy to retain and grow these facilities in preparation for an inevitable future round of base realignments and closures. An important and previously undefined state role exists to assist communities in both closure and retention efforts. This act addresses that role and provides a needed state focus for reuse, conversion, and retention efforts in this state.

SEC. 3. Section 68084 is added to the Education Code, to read:

68084. A parent who is a federal civil service employee and his or her natural or adopted dependent children are entitled to resident classification at the California State University, the University of California, or a California community college if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident pursuant to Section 68017, so long as the student continuously attends an institution of public higher education. The Trade and Commerce Agency shall certify qualifying military mission realignment actions under this section and provide this information to the California Community Colleges, the California State University, and the University of California.

SEC. 4. Section 15325 of the Government Code is amended to read:

15325. The work of the agency shall be divided into at least the following:

- (a) The Office of Economic Research.
- (b) The Office of Local Development.
- (c) The Office of Business Development.
- (d) The Office of Tourism.
- (e) The Office of Small Business.
- (f) The Film Office.
- (g) The Office of Marketing and Communications.
- (h) The Office of Strategic Technology.
- (i) The Office of Foreign Investment.

Additions or changes indicated by underline; deletions by asterisks * * *

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(l) The joint powers agency established pursuant to this section shall require, as a condition precedent to the expenditure of any tax-increment moneys to carry out the Travis Air Force Base Retention Program, that the real property on which the housing is developed pursuant to that program shall be burdened with covenants running with the land for the period and with the substance required by Section 33334.3. The joint powers agency shall also require that these covenants include a mechanism that shall ensure the continued availability of the dwelling units for very low or low-income persons and families for the period required by Section 33334.3 in the event the Travis Air Force Base relocates or, for any other reason, no longer uses these housing units, or, in the absence of this continued availability, implements a procedure that protects the joint powers agency's investment of moneys from Low and Moderate Income Housing Funds and provides for the pro rata return of the sales proceeds to the Low and Moderate Income Housing Funds of those agencies expending these funds to carry out the Travis Air Force Base Retention Program.

(m) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2001, deletes or extends that date, or unless tax-increment moneys have, prior to that date, been received by the joint powers agency, in which case the date of repeal of this section shall be extended until the time that the joint powers agency shall expend these funds in accordance with this section. This repeal shall not affect any contract or covenant which shall have been entered into prior to January 1, 2001, to implement this section, and all contracts and covenants shall continue after the repeal date in full force and effect in accordance with their terms.

SEC. 8. The Legislature finds and declares that, because of the unique circumstances applicable only to the County of Solano and the Cities of Fairfield, Suisun City, and Vacaville relating to the issue of the retention of the Travis Air Force Base, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that areas of this state that have been negatively impacted due to defense base closures and reductions are able to benefit from the programs implemented by this act, it is necessary that this act take effect immediately.

POSTSECONDARY EDUCATION—STUDENT
RESIDENCY REQUIREMENTS

CHAPTER 571

A.B. No. 1346

AN ACT to amend Sections 68074 and 68075 of, and to repeal Sections 68074.1 and 68075.1 of, the Education Code, relating to public postsecondary education.

[Filed with Secretary of State September 23, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1346, Runner. Public postsecondary education: resident classification.

(1) Existing law establishes uniform student residency requirements for purposes of ascertaining the amount of fees to be paid by students. Existing law entitles a student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty to resident classification at the California Community Colleges until he or she has resided in the state the minimum time necessary to become a resident. Existing law entitles these students to resident classification at the California State University indefinitely.

Existing law also entitles a student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, to resident classification at the California State University until he or she has resided in the state the minimum time necessary to become a resident. Existing law also entitles these students to resident classification at any California community college campus.

This bill would entitle undergraduate students in these categories to resident classification, for the purposes of determining the amount of tuition and fees, indefinitely by deleting the requirement that these exceptions continue only until the student has resided in the state the minimum time necessary to become a resident. As to students in these categories seeking graduate degrees, the bill would entitle them to resident classification, for the purposes of determining the amount of tuition and fees, for no more than one academic year, as prescribed. To the extent that the bill would require community college districts to change their practices with respect to determining residency, the bill would impose a state-mandated local program. The bill would also make related changes.

The bill would request the Regents of the University of California to establish the same residency requirements as those established by this bill for students enrolled at the University of California.

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Additions or changes indicated by underline; deletions by asterisks * * *

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

The 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.

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

SECTION 1. Section 68074 of the Education Code is amended to read:

68074. * * * (a)(1) An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification * * * only for the purpose of determining the amount of tuition and fees.

(2) A student seeking a graduate degree who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

(b) If that member of the armed forces of the United States, whose dependent, natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States, or (2) is thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 2. Section 68074.1 of the Education Code is repealed.

SEC. 3. Section 68075 of the Education Code is amended to read:

68075. * * * (a) An undergraduate student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification * * * only for the purpose of determining the amount of tuition and fees.

(b) A student seeking a graduate degree who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

SEC. 4. Section 68075.1 of the Education Code is repealed.

SEC. 5. The Legislature hereby requests the Regents of the University of California to establish the same residency classifications for students enrolled at the University of California as those enacted by this act.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Additions or changes indicated by underline; deletions by asterisks * * *

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**POSTSECONDARY EDUCATION—STUDENT RESIDENCY
REQUIREMENTS—TUITION**

CHAPTER 949

A.B. No. 632

AN ACT to amend Section 68078 of the Education Code, relating to public postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 632, Romero. Public postsecondary education: student residency requirements.

Existing law establishes the segments of public postsecondary education in the state, including the University of California, the California State University, and the California Community Colleges. Existing law prescribes requirements for the classification of the residency of the students at public institutions of postsecondary education, and generally requires that students who are classified as nonresidents of the state pay nonresident tuition.

This bill would require that, notwithstanding any other provision of law, a student holding an emergency permit authorizing service in the public schools of the state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year, as prescribed.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 68078 of the Education Code is amended to read:

68078. (a) A student holding a valid credential authorizing service in the public schools of this state who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution * * * is entitled to resident classification if that student meets any of the following requirements:

* * * (1) He or she holds a provisional credential and * * * is enrolled at an institution in courses necessary to obtain another type of credential authorizing service in the public schools.

* * * (2) He or she holds a credential issued pursuant to Section 44250 and * * * is enrolled at an institution in courses necessary to fulfill credential requirements.

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Additions or changes indicated by underline; deletions by asterisks * * *

*** (3) He or she is enrolled at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Section 44259.

(b) Notwithstanding any other provision of law, a student holding a valid emergency permit authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year. Thereafter, the student shall be subject to Article 5 (commencing with Section 68060).

(c) This section shall not be construed to affect the admissions policies of any teacher preparation program.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the serious shortage of credentialed teachers in this state as soon as possible, it is necessary that this act take effect immediately.

Additions or changes indicated by underline; deletions by asterisks ***

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POSTSECONDARY EDUCATION—NONRESIDENTS—TUITION

CHAPTER 814

A.B. No. 540

AN ACT to add Section 68130.5 to the Education Code, relating to public postsecondary education.

[Filed with Secretary of State October 13, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 540, Firebaugh. Public postsecondary education: exemption from nonresident tuition.

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state. Existing law authorizes community college districts to admit, and charge a tuition fee for, nonresident students in accordance with specified criteria.

Existing law establishes the California State University, and authorizes the operation of its various campuses under the administration of the Trustees of the California State University. Existing law authorizes the trustees, on the basis of demonstrated financial need and scholastic achievement, to waive entirely, or reduce below the minimum rate, the tuition fee of a nonresident student, as defined.

Existing law prescribes residency requirements for students at public institutions of postsecondary education, including, among others, the campuses of the California Community Colleges and the California State University. With respect to alien students, existing law specifies that an alien, including an unmarried minor alien, may establish his or her residence unless precluded by the federal Immigration and Nationality Act from establishing domicile in the United States. These provisions are applicable to the University of California only if the Regents of the University of California act to make them applicable.

This bill would require that a person, other than a nonimmigrant alien as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year, and who, if he or she is an alien without lawful immigration status, has filed an affidavit as specified, be exempted from paying nonresident tuition at the California Community Colleges and the California State University.

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Additions or changes indicated by underline; deletions by asterisks * * *

The bill would authorize a student exempt from nonresident tuition under the bill to be reported by a community college district as a full-time student for apportionment purposes. The bill would require student information obtained in the implementation of the bill to be confidential.

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

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

(1) There are high school pupils who have attended elementary and secondary schools in this state for most of their lives and who are likely to remain, but are precluded from obtaining an affordable college education because they are required to pay nonresident tuition rates.

(2) These pupils have already proven their academic eligibility and merit by being accepted into our state's colleges and universities.

(3) A fair tuition policy for all high school pupils in California ensures access to our state's colleges and universities, and thereby increases the state's collective productivity and economic growth.

(4) This act, as enacted during the 2001-02 Regular Session, allows all persons, including undocumented immigrant students who meet the requirements set forth in Section 68130.5 of the Education Code, to be exempt from nonresident tuition in California's colleges and universities.

(5) This act, as enacted during the 2001-02 Regular Session, does not confer postsecondary education benefits on the basis of residence within the meaning of Section 1623 of Title 8 of the United States Code.

(b) It is the intent of the Legislature that:

(1) A state court may award only prospective injunctive and declaratory relief to a party in any lawsuit interpreting Section 68130.5 of the Education Code, as added by this act during the 2001-02 Regular Session, or any lawsuit interpreting similar requirements adopted by the Regents of the University of California pursuant to Section 68134 of the Education Code.

(2) This act will have no impact on the ability of California's public colleges and universities to assess nonresident tuition on students who are not within the scope of this act.

SEC. 2. Section 68130.5 is added to the Education Code, to read:

68130.5. Notwithstanding any other provision of law:

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

(1) High school attendance in California for three or more years.

(2) Graduation from a California high school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.

Ch. 449

STATUTES OF 2002

COLLEGES AND UNIVERSITIES—TUITION—DEATH IN LINE OF DUTY

CHAPTER 450

A.B. No. 1746

AN ACT to amend Section 76300 of, and to add Sections 68120.5 and 68121 to, the Education Code, relating to postsecondary education.

[Filed with Secretary of State September 10, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1746, Liu. Postsecondary education: tuition and fees.

(1) Existing law requires the Regents of the University of California, the Board of Directors of the Hastings College of the Law, and the Trustees of the California State University to excuse the mandatory systemwide tuition and fees of any surviving spouse or surviving child, natural or adopted, of a deceased person who was a resident of the state, who was employed by a public agency, as defined, whose principal duties consisted of active law enforcement service or active fire suppression and prevention, and who was killed in the performance of active law enforcement or active fire suppression and prevention duties, and, until January 1, 2004, these provisions also apply to the surviving spouse or surviving child of a person who died while performing these duties, and who was employed as a contractor, or

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Additions or changes indicated by underline; deletions by asterisks * * *

as an employee of a contractor, performing services for a public agency, as defined. This provision is applicable to the Regents of the University of California only if the regents, by resolution, make it applicable.

This bill would require any determination of eligibility under those provisions to be consistent with any findings of the Workers' Compensation Appeals Board, using the same procedures as in worker's compensation hearings, as to whether the death of the described person was industrial.

(2) Existing law requires the Regents of the University of California, the Board of Directors of the Hastings College of the Law, the Trustees of the California State University, and the governing board of each community college district to collect fees from students attending those postsecondary education institutions. This provision is applicable to the Regents of the University of California only if the regents, by resolution, make it applicable.

This bill would prohibit the regents, the trustees, and the governing board of each community college district from collecting any fees or tuition of any kind from any student in an undergraduate program who is the surviving dependent, as defined, of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if the dependent meets the financial need requirements of the Cal Grant A Program and the dependent was a resident of California on September 11, 2001, or if the individual killed in the attacks was a resident of California on that date. The bill would require the California Victim Compensation and Government Claims Board to identify all persons who are eligible for tuition and fee waivers pursuant to the bill, to notify these persons or their parents or guardians of their eligibility, and if requested by the public segments of postsecondary education in the state, on a case-by-case basis, to confirm the eligibility of persons requesting the waiver of tuition and fees. This prohibition would apply to the University of California only if the regents, by resolution, make it applicable.

(3) Existing law also prohibits the Regents of the University of California, the Board of Directors of the Hastings College of the Law, and the Trustees of the California State University from requiring or collecting any statewide fees or tuition from any surviving spouse or child, natural or adopted, of any deceased person who was killed in the performance of active law enforcement or active fire suppression and prevention duties or who died as a result of an accident or injury incurred in the performance of those duties, if that deceased person was a resident of the state, had the principal duty of law enforcement service or fire suppression or prevention, and was employed by a public agency, as defined. This provision is applicable to the Regents of the University of California only if the regents, by resolution, make it applicable.

This bill would expand that prohibition by requiring the governing board of each community college district to waive fee requirements for any surviving dependent, as defined, of any person meeting those requirements. The bill would add similar waiver requirements for any student in an undergraduate program who is a dependent as described in (2).

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

SECTION 1. Section 68120.5 of the Education Code is added to read:

68120.5. Any determination of eligibility pursuant to Section 68120 shall be consistent with any findings of the Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, as to whether the death of the person described under subdivision (a) of that section was industrial.

SEC. 2. Section 68121 is added to the Education Code, to read:

68121. (a) Notwithstanding any other provision of law, no mandatory systemwide fees or tuition of any kind shall be required or collected by the Regents of the University of California or the Trustees of the California State University, from a student who is in an undergraduate program and who is the surviving dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if he or she meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following apply:

Additions or changes indicated by underline; deletions by asterisks * * *

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(1) The surviving dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(b)(1) The California Victim Compensation and Government Claims Board shall identify all persons who are eligible for tuition and fee waivers pursuant to this section or subdivision (j) of Section 76300. That board shall notify these persons or, in the case of minors, the parents or guardians of these persons, of their eligibility for tuition and fee waivers under these provisions. This notification shall be in writing, and shall be received by all of the appropriate persons no later than July 1, 2003.

(2) The Trustees of the California State University, the Regents of the University of California and the governing board of each community college district in the state shall waive tuition and fees, as specified in this section and in subdivision (j) of Section 76300, for any person who can demonstrate eligibility. If requested by the California State University, the University of California, Hastings College of the Law, or a California Community College, the California Victim Compensation and Government Claims Board, on a case-by-case basis, shall confirm the eligibility of persons requesting the waiver of tuition and fees, as provided for in this section.

(c) A determination of whether a person is a resident of California on September 11, 2001, shall be based on the criteria set forth in this chapter for determining nonresident and resident tuition.

(d)(1) "Dependent," for purposes of this section, is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under this section until that person obtains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

SEC. 3. Section 76300 of the Education Code is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b)(1) The fee prescribed by this section shall be * * * eleven dollars (\$11) per unit per semester * * *.

(2) The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the chancellor shall subtract from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the average daily attendance of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid. The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by the board of governors and contained in Section 58620 of Title 5 of the California Code of Regulations.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if he or she meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following apply:

(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 for determining nonresident and resident tuition.

(l)(1) "Dependent" for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person obtains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m)(1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to * * * (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the

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fees waived pursuant to subdivisions (g) * * * to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) * * * to (j), inclusive, for determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992-93 fiscal year.

(n) The board of governors shall adopt regulations implementing this section.

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Additions or changes indicated by underline; deletions by asterisks * * *

EXHIBIT 3
COPIES OF CODE SECTIONS CITED

STUDENT RESIDENCY REQUIREMENTS**§ 68044**

Pt. 41

§ 68044. Rules and regulations concerning student's classification

The governing boards shall adopt rules and regulations for determining a student's classification and for establishing procedures for review and appeal of that classification. The adopted rules and regulations shall include provisions requiring that the financial independence of a student classified as a nonresident seeking reclassification as a resident shall be included among the factors to be considered in the determination of residency.

The adopted rules and regulations shall, beginning the 1983-84 school year, exempt nonresident students who have been appointed to serve as graduate student teaching assistants, graduate student research assistants, or graduate student teaching associates on any campus of the University of California or the California State University, and who have been employed on a 0.49 or more time basis, from the requirement of demonstrating his or her financial independence under this section for purposes of reclassification as a resident.

A student shall be considered financially independent for purposes of this section if the applicant meets all of the following requirements: (a) has not and will not be claimed as an exemption for state and federal tax purposes by his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, (b) has not and will not receive more than seven hundred fifty dollars (\$750) per year in financial assistance from his or her parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application, and (c) has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

Other factors which may be considered in determining California residency shall be defined by the governing boards. In addition, the adopted rules and regulations shall include, but are not limited to, the evidence necessary to determine residence, procedures for obtaining residence information and procedures for administering oaths in connection with taking of testimony relative to residence. A district governing board may adopt rules and regulations which are not inconsistent with those adopted by the Board of Governors of the California Community Colleges.

(Stats.1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats.1981, c. 102, p. 703, § 38, urgency, eff. June 28, 1981; Stats.1982, c. 1070, p. 3853, § 1.)

EDUCATION CODE

§ 68051. Rules and regulations; calculation, payment, and refund

Unless otherwise provided by law, the governing board or district governing board shall adopt rules and regulations relating to the method of calculation of the amount of nonresident tuition, the method of payment, and the method and amount of refund.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 238.)

EDUCATION CODE

§ 68074. Dependent of member of the armed forces

* * * (a)(1) An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification * * * only for the purpose of determining the amount of tuition and fees.

(2) A student seeking a graduate degree who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

(b) If that member of the armed forces of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the armed forces of the United States, or (2) is thereafter retired as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

(Amended by Stats.1989, c. 900, § 1; Stats.2000, c. 571 (A.B.1346), § 1.)

EDUCATION CODE

§ 68075. Member of armed forces

* * * (a) An undergraduate student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification * * * only for the purpose of determining the amount of tuition and fees.

(b) A student seeking a graduate degree who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

(Amended by Stats.1989, c. 900, § 3; Stats.2000, c. 571 (A.B.1346), § 3.)

EDUCATION CODE

§ 68075.5. Armed forces members; remaining in state following discharge

A student who was a member of the armed forces of the United States stationed in this state on active duty for more than one year immediately prior to being discharged from the armed forces is entitled to resident classification for the length of time he or she lives in this state after being discharged up to the minimum time necessary to become a resident.

(Added by Stats.1995, c. 389 (A.B.723), § 1.)

EDUCATION CODE

§ 68076. Dependent of California resident of more than one year; parent residing in California for one year and contributing court-ordered support for student

* * * Notwithstanding Section 68062, a student who (a) has not been an adult resident of California for more than one year and (b) is either the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, or has a parent who has both contributed court-ordered support for the student on a continuous basis and has been a California resident for a minimum of one year, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(Amended by Stats.1991, c. 455 (A.B.1745), § 1; Stats.1993, c. 8 (A.B.46), § 15, eff. April 15, 1993.)

EDUCATION CODE

§ 68077. Graduate of California school operated by the United States Bureau of Indian Affairs; resident classification

*** Notwithstanding Section 68062, a student who is a graduate of any school located in California that is operated by the United States Bureau of Indian Affairs, including, but not limited to, the Sherman Indian High School, shall be entitled to resident classification. This exception shall continue so long as continuous attendance is maintained by the student at an institution.

(Added by Stats.1989, c. 424, § 1. Amended by Stats.1993, c. 8 (A.B.46), § 16, eff. April 15, 1993.)

EDUCATION CODE

§ 68078. Student holding credential; other conditions

(a) A student holding a valid credential authorizing service in the public schools of this state who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution * * * is entitled to resident classification if that student meets any of the following requirements:

* * * (1) He or she holds a provisional credential and * * * is enrolled at an institution in courses necessary to obtain another type of credential authorizing service in the public schools.

* * * (2) He or she holds a credential issued pursuant to Section 44250 and * * * is enrolled at an institution in courses necessary to fulfill credential requirements.

* * * (3) He or she is enrolled at an institution in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Section 44259.

(b) Notwithstanding any other provision of law, a student holding a valid emergency permit authorizing service in the public schools of this state, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year. Thereafter, the student shall be subject to Article 5 (commencing with Section 68060).

(c) This section shall not be construed to affect the admissions policies of any teacher preparation program.

(Amended by Stats.2000, c. 949 (A.B.692), § 1, eff. Sept. 30, 2000.)

EDUCATION CODE

§ 68082. Native American

A student who is native American is entitled to resident classification for attendance at a community college if the student is also attending a school administered by the Bureau of Indian Affairs located within the community college district.

As used in this section, "native American" means an American Indian.
(Added by Stats.1977, c. 36, § 502, eff. April 29, 1977, operative April 30, 1977.)

EDUCATION CODE

§ 68083. Resident classification for tuition; amateur student athlete in training at U.S. Olympic Training Center

(a) Any amateur student athlete in training at the United States Olympic Training Center in Chula Vista is entitled to resident classification for tuition purposes until he or she has resided in the state the minimum time necessary to become a resident.

(b) "Amateur student athlete," for purposes of this section, means any student athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes.

(Added by Stats.1997, c. 488 (A.B.1317), § 1.)

EDUCATION CODE

§ 68084. Military mission realignment actions; federal civil service employees and their dependents

A parent who is a federal civil service employee and his or her natural or adopted dependent children are entitled to resident classification at the California State University, the University of California, or a California community college if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident pursuant to Section 68017, so long as the student continuously attends an institution of public higher education. The Trade and Commerce Agency shall certify qualifying military mission realignment actions under this section and provide this information to the California Community Colleges, the California State University, and the University of California.

(Added by Stats.1998, c. 952 (A.B.639), § 3, eff. Sept. 29, 1998.)

EDUCATION CODE

§ 68121. Students who are surviving dependents of individual killed in September 11, 2001, terrorist attacks; tuition and fee waivers

(a) Notwithstanding any other provision of law, no mandatory systemwide fees or tuition of any kind shall be required or collected by the Regents of the University of California or the Trustees of the California State University, from a student who is in an undergraduate program and who is the surviving dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if he or she meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following apply:

(1) The surviving dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(b)(1) The California Victim Compensation and Government Claims Board shall identify all persons who are eligible for tuition and fee waivers pursuant to this section or subdivision (j) of Section 76300. That board shall notify these persons or, in the case of minors, the parents or guardians of these persons, of their eligibility for tuition and fee waivers under these provisions. This notification shall be in writing, and shall be received by all of the appropriate persons no later than July 1, 2003.

(2) The Trustees of the California State University, the Regents of the University of California and the governing board of each community college district in the state shall waive tuition and fees, as specified in this section and in subdivision (j) of Section 76300, for any person who can demonstrate eligibility. If requested by the California State University, the University of California, Hastings College of the Law, or a California Community College, the California Victim Compensation and Government Claims Board, on a case-by-case basis, shall confirm the eligibility of persons requesting the waiver of tuition and fees, as provided for in this section.

(c) A determination of whether a person is a resident of California on September 11, 2001, shall be based on the criteria set forth in this chapter for determining nonresident and resident tuition.

(d)(1) "Dependent," for purposes of this section, is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under this section until that person obtains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(Added by Stats.2002, c. 450 (A.B.1746), § 2.)

EDUCATION CODE

§ 68130.5. Nonresident tuition at California State University and California Community Colleges; payment exemptions; requirements

Notwithstanding any other provision of law:

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

- (1) High school attendance in California for three or more years.
 - (2) Graduation from a California high school or attainment of the equivalent thereof.
 - (3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year.
 - (4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.
- (b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.
- (c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.
- (d) Student information obtained in the implementation of this section is confidential.

(Added by Stats.2001, c. 814 (A.B.540), § 2.)

EDUCATION CODE

§ 76140. Nonresident tuition; exemptions

(a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1) or (2):

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

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

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

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

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

(e) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year (1) the amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTEs (including nonresident students) attending in the district in the preceding fiscal year, (2) the expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTEs (including nonresident students) attending all districts during the preceding fiscal year, (3) an amount not to exceed the amount that was expended by the district for the contiguous district, or (4) an amount not to exceed the amount that was expended by the district for the expense of education, but in no case less than the statewide average as set forth in paragraph (2). However, if for the district's preceding fiscal year FTEs of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTEs attending in the district, the district, in calculating the amount in paragraph (1), may substitute, instead, the data for expense of education in grades 13 and 14 and FTEs in grades 13 and 14 attending in the district.

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

(g) In adopting a tuition fee for nonresident students, the governing board of each community college district shall consider nonresident tuition fees of public community colleges in other states.

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

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

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

(k) The attendance of nonresident students who are exempted pursuant to subdivision (i) or (j) from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTEs for state apportionment purposes. Any nonresident student reported as resident FTEs for state apportionment purposes pursuant to subdivision (i) or (j) shall pay a fee of forty-two dollars (\$42) per course unit. That fee is to be included in the FTEs adjustments described in Section 76330 for purposes of computing apportionments.

(Amended by Stats.1989, c. 985, § 1; Stats.1992, c. 170 (A.B.3058), § 1; Stats.1992, c. 1236 (S.B.2000), § 1; Stats.1995, c. 758 (A.B.446), § 89.)

EXHIBIT 4
COPY OF TITLE 5 REGULATIONS CITED

3. Editorial correction of HISTORY 1 (Register 95, No. 19).

Chapter 5. Students

Subchapter 1. Student Residence Classification

§ 54000. Uniform Residency Requirements.

The provisions of this chapter implement and should be read in conjunction with the Uniform Residency Requirements contained in part 41 (commencing with section 68000) of the Education Code.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Part 41 (commencing with Section 68000), Education Code.

HISTORY

1. Repealer of chapter 1 (sections 54000, 54001, 54100, 54101) and new chapter 1 (sections 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 1 (sections 54000-54082, not consecutive) and new chapter 1 (sections 54000-54070, not consecutive) filed 11-22-82; effective thirtieth day thereafter (Register 82, No. 48). For prior history, see Registers 79, No. 46; 77, No. 45; 74, No. 45; 74, No. 10; and 73, No. 44.
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 19).

§ 54001. Adoption of Rules and Regulations; Publication; Uniformity.

The residence determination date and a summary of the rules and regulations adopted by the Board of Governors and district governing boards pursuant to chapter 1, part 41 of division 5 of the Education Code, commencing with section 68000, shall be published in the district catalogs and/or addenda thereto. The applicable Education Code provisions and the rules and regulations adopted by the Board of Governors and the district shall be made available to the students at each district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3-4-91 by the Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54002. Residence Determination Date.

"Residence determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college.

NOTE: Authority cited: Sections 66700, 68023, 68044, and 70901, Education Code. Reference: Section 68023, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54010. Residence Classification Procedures.

(a) Residence classification shall be made for each student at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester or quarter. A student previously classified as a nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a

temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.

(c) Community college districts shall require applicants to supply information as specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

(f) Pursuant to Section 54300, the district may authorize any information required by this section to be submitted electronically using encrypted digital signatures as specified in Section 54300.

NOTE: Authority cited: Sections 66700, 68044, 70901 and 70901.1, Education Code. Reference: Sections 68044, 68062 and 70901.1, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).
3. New subsection (f) and amendment of NOTE filed 5-13-99; operative 6-14-99 (Register 99, No. 20).

§ 54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68023, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

- (1) Ownership of residential property or continuous occupancy of rented or leased property in California.
- (2) Registering to vote and voting in California.
- (3) Licensing from California for professional practice.
- (4) Active membership in service or social clubs.
- (5) Presence of spouse, children or other close relatives in the state.
- (6) Showing California as home address on federal income tax form.
- (7) Payment of California state income tax as a resident.
- (8) Possessing California motor vehicle license plates.
- (9) Possessing a California driver's license.
- (10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

(1) Maintaining voter registration and voting in another state.

(2) Being the petitioner for a divorce in another state.

(3) Attending an out-of-state institution as a resident of that other state.

(4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68041, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

(1) the parent on whom the student is dependent is a California resident, or

(2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for

business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54045. Alien Students.

(a) An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish residency pursuant to the provisions of this subchapter.

(b) An alien is precluded from establishing domicile in the United States if the alien:

- (1) entered the United States illegally (undocumented aliens);
- (2) entered the United States under a visa which requires that the alien have a residence outside of the United States; or
- (3) entered the United States under a visa which permits entry solely for some temporary purpose.

(c) An alien described in paragraph (b) shall not be classified as a resident unless and until he or she has taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service to a classification which does not preclude establishing domicile, and has met the requirements of Sections 54020-54024 related to physical presence and the intent to make California home for other than a temporary purpose. The Chancellor shall, after consultation with the University of California and the California State University, issue guidelines for the implementation of this section.

(d) Notwithstanding any other provision of this subchapter, an alien who was classified as a California resident by any college in a district as of September 30, 1991, or during the Fall 1991 term, shall not be subject to reclassification unless the student has not been in attendance at any college in the district for more than one semester or quarter.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 U.S.C. 1101(a)(15); *Toll v. Moreno*, 458 U.S. 1 (1982); and *Regents of the University of California v. Bradford*, 225 Cal.App.3rd, 972, 276 Cal. Rptr. 197 (1990).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 8-30-91; operative 9-29-91 (Register 92, No. 4).
4. Editorial correction of printing error in second paragraph (Register 92, No. 12).
5. Repealer and new section filed 1-16-92; operative 2-18-92 (Register 92, No. 18).
6. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54045.5. Nonresident Tuition Exemption.

(a) In accordance with Education Code section 68130.5, any student, other than a student who is a nonimmigrant alien under 8 U.S.C. 1101(a)(15), shall be exempt from paying nonresident tuition at any community college district if he or she:

- (1) Attended high school in California for three or more years;
- (2) Graduated from a California high school or attained the equivalent of such graduation; and
- (3) Registers for or is enrolled in a course offered by any college in the district for any term commencing on or after January 1, 2002.

(b) Any student seeking an exemption under subdivision (a) shall complete a questionnaire form prescribed by the Chancellor and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic student information so provided shall be confidential and shall not be disclosed unless required by law.

(c) Any student without lawful immigration status who is seeking an exemption under subdivision (a), shall, in the questionnaire described in (b), affirm that he or she has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(d) A student seeking this tuition exemption has the burden of providing evidence of compliance with the requirements of this section.

(e) Nothing herein modifies eligibility standards for any form of student financial aid, including but not limited to, those contained in Subchapter 7 of Chapter 9 of this Division.

(f) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2002.

NOTE: Authority cited: Sections 66700, 68130.5 and 70901, Education Code. Reference: Section 68130.5, Education Code.

HISTORY

1. New section filed 5-3-2002; operative 6-2-2002. Submitted to OAL for printing only (Register 2002, No. 25).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community

college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68040, 68044 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Sections 68044 and 68051, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

- (a) The fees were not collected as a result of the district's error and not through the fault of the student, and
- (b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

Subchapter 2. Parking for Students with Disabilities

§ 54100. Parking for Students with Disabilities.

(a) Each community college district which provides parking shall, consistent with the requirements of this section and Education Code Sections 66260 and 67311.5, provide parking at each of its colleges or centers to students with disabilities and those providing transportation for such students.

(b) For purposes of this section, "students with disabilities" are those who have enrolled at the college and:

- (1) qualify as disabled persons or disabled veterans pursuant to Section 22511.5 of the Vehicle Code; or
- (2) are entitled to special parking provided through Disabled Student Programs and Services pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Students with disabilities using parking provided under this section may be required to display a distinguishing license plate or placard issued by the Department of Motor Vehicles pursuant to Section 22511.5 of the

EXHIBIT 5
REV. GUIDELINES AND INFORMATION

CALIFORNIA COMMUNITY COLLEGE CHANCELLOR'S OFFICE

**REVISED GUIDELINES AND INFORMATION ON AB540
EXEMPTION FROM NONRESIDENT TUITION**

MAY 2002

THESE GUIDELINES SUPERCEDE GUIDELINES ISSUED IN NOVEMBER 2001

The Law

On October 12, 2001, Governor Davis signed into law Assembly Bill 540 (Stats. 2001, ch.814) which adds a new section 68130.5 to the California Education Code. Section 68130.5 creates a new exemption from payment of nonresident tuition for certain nonresident students who have attended high school in California and received a high school diploma or its equivalent. The law is contained in Attachment One.

The Regulations

This law does not affect current Title 5 regulations concerning residency. Those regulations remain in effect; changes are not anticipated. The law does not grant or amend current residency rules but rather provides for an exemption from nonresident tuition for certain nonresident students. AB 540 required the Board of Governors to adopt regulations detailing the requirements for the new exemption. The regulations are contained in Attachment Two. These regulations are legally effective on June 2, 2002.

Follow-up Legislation

At the request of the University of California an additional provision was added to the Education Code to limit remedies under the law. That law (AB1543) is contained in Attachment Three.

Mandated and Optional Forms

The newly adopted regulations require the community college districts to use a "questionnaire form prescribed by the Chancellor". The Chancellor's Office, in cooperation with UC and CSU has developed such a form. Additional information is provided in the guidelines below. See Attachment Four.

In addition to the mandated form, the Chancellor's Office has adopted, in consultation with UC and CSU, a one-page "informational" flyer to assist students in understanding the law and the process for applying for the exemption. The use of this informational piece is optional. See Attachment Five.

Implementation Notes and Clarification of Provisions

General Eligibility and Residency

1. The new law does not grant residency, it requires that certain nonresident students be exempted from paying nonresident tuition.
2. Students exempted from paying nonresident tuition pursuant to section 68130.5 do not become residents for eligibility purposes for any state-funded program (e.g., EOPS, BOG Fee Waiver, Cal Grant and/or the Governor's Merit Scholar Program).
3. This benefit is available to all US citizens, permanent residents of the US, and aliens who are not nonimmigrants (including those who are undocumented), who meet all other eligibility criteria.
4. Students must meet all requirements to be eligible for the exemption.
5. Students are eligible for this exemption even if they enrolled in higher education prior to the 2001-2002 academic year. References to prior academic years in the legislation prohibit retroactive application of the exemption but do not preclude previous attendance.
6. Students do not have to demonstrate intent to become a California resident to qualify for this exemption. For example, those who live in neighboring states and cross the border to attend classes are entitled to this exemption (assuming they are otherwise eligible) despite the fact that they may have no intention of returning to live in California.

Fiscal

7. The exemption from nonresident tuition is mandatory. If a district finds that a student meets all requirements in the law, nonresident tuition may not be charged.
8. If a student is determined eligible for this exemption subsequent to the payment of nonresident tuition, the tuition paid must be refunded to the student.
9. Districts may claim apportionment for credit courses for these nonresident students who are exempted from the payment of nonresident tuition pursuant to section 68130.5.
10. Students exempted from nonresident tuition under these provisions may still have to pay a capital outlay fee under certain circumstances. There is no exemption from that fee in the law.
11. Some districts conduct pre-registration for high school seniors prior to their graduation. Such students could not sign a valid exemption request (because they have not yet graduated from high school). If district policies permit, the student payment of nonresident tuition can be deferred until the district can legally consider the student for an exemption.

Forms and Verification

12. The regulations require the community college districts to use a "questionnaire form prescribed by the Chancellor". An intersegmental form has been developed to meet this purpose.
13. Districts are asked to use the prescribed form immediately wherever possible and to ensure that the prescribed form is contained in any publications printed after June 1, 2002. The common form as prescribed by the Chancellor must be used for all exemptions granted for terms subsequent to Fall 2002.
14. In recognition that districts may have included their own form (as previously allowed) as an enclosure in printed materials for Summer 2002 or Fall 2002, and in order not to unduly inconvenience students or waste materials, campuses are permitted to use that form for Summer 2002 and/or Fall 2002, *providing the form includes all elements prescribed by law and providing the form is part of a major preprinted document such as a Schedule of Classes.* Individually printed old forms must be discarded and replaced with the newly prescribed form.
15. In addition to the mandated form, the Chancellor's Office has adopted, in consultation with UC and CSU, a one-page "informational" flyer to assist students in understanding the law and the process for applying for the exemption. Districts are encouraged to print this one-page document on the reverse of the mandated form and to include it in a convenient manner in other media. The use of this informational piece is optional.
16. The law does not specify the manner or type of verification required except in reference to an affidavit from those without lawful immigration status. Therefore it is the view of the Chancellor's Office that a district may rely on the student's self-certification of status.
17. If the district is in possession of conflicting information regarding any aspect of student eligibility, the district should pursue additional verification (e.g. high school transcript, diploma, etc.) to resolve discrepancies prior to granting this exemption.
18. Districts are free, at their discretion, to develop and implement additional documentation requirements relating to high school graduation or high school attendance in California, as long as such requirements are uniformly applied to all applicants. However, districts may not require additional documentation related to immigration status (see #31) unless the district has conflicting information which must be resolved (see #17).
19. In the view of the Chancellor's Office the district is not required to obtain a new affidavit for terms subsequent to the original exemption, however districts are free to do so if they so desire.

20. The original certified affidavit and other materials utilized by a district in meeting the certification requirements, shall be considered Class 1 - Permanent Records, under the provisions of Title 5 Section 59023. The Class 1 records shall be retained indefinitely, unless copied or reproduced by photograph, microphotograph or reproduced on film or electronically. It is suggested, for audit purposes, that the original documents should be maintained for at least five years.

Eligibility Issues Related to High School Attendance and Graduation

21. The student must have attended a California high school for three or more years. There are no provisions for partial attendance (e.g. two years and 7 months).
22. Attendance in the 9th grade in a California school is acceptable for one of the three years, even if that school was designated as a "middle" school.
23. The law does not require consecutive attendance nor require that the student attended the *last* three years in California (in the case of four-year high schools).
24. Attendance could be at multiple California high schools.
25. Attendance at continuation high schools, charter high schools, independent study at the 9th-12th grade level while enrolled in a California public school, including a charter school, and private tutoring provided by a person holding a valid California teaching credential (and meeting other state requirements) are recognized under state law as acceptable manners in which to attend high school.
26. Home schooling --- instruction by a tutor or other person (including the student's parent) who did not have a valid California teaching credential --- is not acceptable. (See #25 for acceptable alternatives.)
27. Adult schools (regardless of curriculum or administrative control) are not equivalent to high schools in the Education Code. Therefore, attendance at adult school is not acceptable for eligibility purposes.
28. The law does not distinguish between public and private high schools.
29. There is no time limit on how far in the past the student might have attended a California high school.
30. The student must have graduated from a California high school or attained the equivalent thereof (e.g., a GED or a high school proficiency exam). The GED or high school proficiency exam must be from California. There is no time limit on how far in the past the student might have attained this status.

Eligibility Issues Related to Immigration

31. All districts must use the affidavit contained on the form prescribed by the Chancellor that affirms that those students without lawful immigration status have applied for legalization or will do so as soon as they are eligible to do so. A student who files the affidavit shall not be asked to provide additional evidence of immigration status unless the district is in possession of evidence that casts doubt on the validity of the affidavit. The law does not require the district to monitor future changes in such eligibility.
32. If the student has filed an application with the INS to change his or her status to a classification which permits establishing residency, the student may already be eligible for resident fee status if the student has resided in California for more than one year since the time of the INS application. (See Title 5 Section 54045.)
33. Students who are nonimmigrant aliens (the most common being the F series student visas and B series visitor visas), are not eligible for this exemption. (A full description of nonimmigrant alien classifications may be found in paragraph 15 of subsection (a) of Section 1101 of Title 8 of the U.S. Code.)
34. People who previously held valid nonimmigrant visas but who are out of status at the time of execution of the affidavit are eligible for the exemption.

Financial Aid, Outreach and Transfer

35. The laws and regulations regarding federal and state financial aid are not affected by this new exemption from nonresident tuition. Nonresidents are ineligible for EOPS, BOG Fee Waiver and Cal Grant. Nonresidents who are US Citizens or permanent residents are eligible for federal student aid. Nonresidents who are undocumented aliens are ineligible for all federal and state financial aid. The Chancellor's Office encourages efforts to obtain private scholarship funds to help undocumented students reach their educational goals.
36. Some students may be reluctant to come forward in order to obtain this exemption. Districts may wish to research enrollment and fee records to ascertain which students graduated from California high schools but have paid nonresident tuition. Discreet inquiries would be appropriate to inform students who are potentially eligible about the availability of this exemption.
37. Both UC and CSU are implementing this exemption from nonresident tuition. Students should be advised to complete the common intersegmental form and submit it to all UC or CSU campuses under consideration. Transfer students will be required to execute a new form with the UC or CSU campus (even if a current form is on file with the community college) and will be required to submit proof of high school attendance and high school graduation.

Student Liability

38. If a student certifies that all requirements have been met and this certification is subsequently determined to be false, the student shall be liable for the repayment of the nonresident tuition that would have been applicable for all relevant terms of attendance. The student may be subject to disciplinary proceedings per district policy. The student self-certification contains a student acknowledgement of this potential liability.

Confidentiality

39. The law requires that all information obtained in the implementation of this program be held confidential. Districts should be vigilant in protecting this confidentiality. Districts must ensure that all information relating to this tuition exemption remains strictly confidential and is shared only on an absolute "need to know" basis unless disclosure is required by law. Districts are urged to be cautious in outreach, exemption notifications, business transactions, scholarship announcements and other activities to ensure confidentiality and to prevent inadvertent revelation of a student's immigration status.

Research

40. There will be no MIS data element specifically developed to identify students receiving an exemption from nonresident tuition under these rules. There will be surveys regarding these policies from time to time and districts are asked to participate in such research when requested.

Questions regarding these guidelines should be directed to the following staff at the California Community College Chancellor's Office:

Student Services: Mary Gill, Dean of Enrollment Management
mgill@cccco.edu 916.323.5951

Fiscal: Elias Regalado, Program Assistant II
eregalad@cccco.edu 916.445.1165

Legal: Virginia Riegel, Staff Counsel
vriegel@cccco.edu 916.445.6272

ATTACHMENT ONE

AB540

CHAPTER 814
FILED WITH SECRETARY OF STATE OCTOBER 13, 2001
APPROVED BY GOVERNOR OCTOBER 12, 2001
PASSED THE ASSEMBLY SEPTEMBER 14, 2001
PASSED THE SENATE SEPTEMBER 12, 2001
AMENDED IN SENATE SEPTEMBER 7, 2001
AMENDED IN SENATE JULY 3, 2001
AMENDED IN SENATE JUNE 20, 2001
AMENDED IN ASSEMBLY MAY 1, 2001

INTRODUCED BY Assembly Members Firebaugh and Maldonado
(Principal coauthor: Assembly Member Alquist)
(Coauthors: Assembly Members Aroner, Calderon, Cedillo, Chan,
Chavez, Chu, Diaz, Frommer, Keeley, Koretz, Oropeza, Reyes,
Steinberg, Strom-Martin, Vargas, and Wiggins)
(Coauthors: Senators Chesbro, Escutia, Kuehl, McPherson, Perata,
Romero Vasconcellos, and Vincent)

FEBRUARY 21, 2001

An act to add Section 68130.5 to the Education Code, relating to
public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 540, Firebaugh. Public postsecondary education: exemption
from nonresident tuition.

Existing law establishes the California Community Colleges under
the administration of the Board of Governors of the California
Community Colleges. Existing law authorizes the establishment of
community college districts under the administration of community
college governing boards, and authorizes these districts to provide
instruction at community college campuses throughout the state.
Existing law authorizes community college districts to admit, and
charge a tuition fee for, nonresident students in accordance with
specified criteria.

Existing law establishes the California State University, and
authorizes the operation of its various campuses under the
administration of the Trustees of the California State University.
Existing law authorizes the trustees, on the basis of demonstrated
financial need and scholastic achievement, to waive entirely, or
reduce below the minimum rate, the tuition fee of a nonresident
student, as defined.

Existing law prescribes residency requirements for students at
public institutions of postsecondary education, including, among
others, the campuses of the California Community Colleges and the
California State University. With respect to alien students,
existing law specifies that an alien, including an unmarried minor

alien, may establish his or her residence unless precluded by the federal Immigration and Nationality Act from establishing domicile in the United States. These provisions are applicable to the University of California only if the Regents of the University of California act to make them applicable.

This bill would require that a person, other than a nonimmigrant alien as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year, and who, if he or she is an alien without lawful immigration status, has filed an affidavit as specified, be exempted from paying nonresident tuition at the California Community Colleges and the California State University.

The bill would authorize a student exempt from nonresident tuition under the bill to be reported by a community college district as a full-time student for apportionment purposes. The bill would require student information obtained in the implementation of the bill to be confidential.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

(1) There are high school pupils who have attended elementary and secondary schools in this state for most of their lives and who are likely to remain, but are precluded from obtaining an affordable college education because they are required to pay nonresident tuition rates.

(2) These pupils have already proven their academic eligibility and merit by being accepted into our state's colleges and universities.

(3) A fair tuition policy for all high school pupils in California ensures access to our state's colleges and universities, and thereby increases the state's collective productivity and economic growth.

(4) This act, as enacted during the 2001-02 Regular Session, allows all persons, including undocumented immigrant students who meet the requirements set forth in Section 68130.5 of the Education Code, to be exempt from nonresident tuition in California's colleges and universities.

(5) This act, as enacted during the 2001-02 Regular Session, does not confer postsecondary education benefits on the basis of residence within the meaning of Section 1623 of Title 8 of the United States Code.

(b) It is the intent of the Legislature that:

(1) A state court may award only prospective injunctive and declaratory relief to a party in any lawsuit interpreting Section 68130.5 of the Education Code, as added by this act during the 2001-02 Regular Session, or any lawsuit interpreting similar requirements adopted by the Regents of the University of California pursuant to Section 68134 of the Education Code.

(2) This act will have no impact on the ability of California's public colleges and universities to assess nonresident tuition on

students who are not within the scope of this act.

SEC. 2. Section 68130.5 is added to the Education Code, to read:
68130.5. Notwithstanding any other provision of law:

(a) A student, other than a nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

(1) High school attendance in California for three or more years.

(2) Graduation from a California high school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.

ATTACHMENT TWO

Regulations Implementing Assembly Bill 540, As Amended

1. Section 54045.5 of Subchapter 1 of Chapter 5 of Division 6 of the California Code of Regulations is added to read:

54045.5. Nonresident Tuition Exemption

(a) In accordance with Education Code section 68130.5, any student, other than a student who is a nonimmigrant alien under 8 U.S.C. 1101(a)(15), shall be exempt from paying nonresident tuition at any community college district if he or she:

(1) Attended high school in California for three or more years;

(2) Graduated from a California high school or attained the equivalent of such graduation; and

(3) Registers for or is enrolled in a course offered by any college in the district for any term commencing on or after January 1, 2002.

(b) Any student seeking an exemption under subdivision (a) shall complete a questionnaire form prescribed by the Chancellor and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic student information so provided shall be confidential and shall not be disclosed unless required by law.

(c) Any student without lawful immigration status who is seeking an exemption under subdivision (a), shall, in the questionnaire described in (b), affirm that he or she has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(d) A student seeking this tuition exemption has the burden of providing evidence of compliance with the requirements of this section.

(e) Nothing herein modifies eligibility standards for any form of student financial aid, including but not limited to, those contained in Subchapter 7 of Chapter 9 of this Division.

(f) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2002.

NOTE: Authority cited: Section 66700, 70901 and 68130.5, Education Code.
Reference: Section 68130.5, Education Code.

2. Section 58003.6 of Article 2 of Subchapter 1 of Chapter 9 of Division 6 of Title 5 of the California Code of Regulations is added to read:

58003.6. Apportionment for Certain Nonresidents Attending High School in California

In accordance with section 68130.5 of the Education Code, students who are exempt from nonresident tuition pursuant to section 54045.5 may be included in calculating credit full-time equivalent student (FTES) for apportionment purposes.

NOTE: Authority cited: Section 66700, 70901 and 68130.5, Education Code.
Reference: Section 68130.5, Education Code.

ATTACHMENT THREE
AB 1543

CHAPTER 19
FILED WITH SECRETARY OF STATE APRIL 8, 2002
APPROVED BY GOVERNOR APRIL 6, 2002
PASSED THE ASSEMBLY MARCH 21, 2002
PASSED THE SENATE JANUARY 30, 2002
AMENDED IN SENATE JANUARY 24, 2002
AMENDED IN SENATE JANUARY 16, 2002
AMENDED IN ASSEMBLY MAY 1, 2001

INTRODUCED BY Assembly Member Firebaugh

FEBRUARY 23, 2001

An act to add Section 68130.7 to the Education Code, and to amend Section 1 of Chapter 814 of the Statutes of 2001, relating to public postsecondary education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1543, Firebaugh. Public postsecondary education: exemption from nonresident tuition.

Existing law requires that a person, other than a nonimmigrant alien as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year, and who, if he or she is an alien without lawful immigration status, has filed an affidavit with respect to legalizing his or her immigration status, be exempted from paying nonresident tuition at the California Community Colleges and the California State University.

This bill would authorize a state court, if it finds that the above provision, or any similar provision adopted by the Regents of the University of California, is unlawful, to order that the administering entity that is the subject of the lawsuit terminate any waiver awarded under that statute or action, as equitable relief, and would prohibit the award of money damages, tuition refund or waiver, or other retroactive relief. The bill would provide that the California Community Colleges, the California State University, and the University of California are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief in a lawsuit.

This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1 of Chapter 814 of the Statutes of 2001 is amended to read:

Sec. 1. (a) The Legislature hereby finds and declares all of the following:

(1) There are high school pupils who have attended elementary and secondary schools in this state for most of their lives and who are likely to remain, but are precluded from obtaining an affordable college education because they are required to pay nonresident tuition rates.

(2) These pupils have already proven their academic eligibility and merit by being accepted into our state's colleges and universities.

(3) A fair tuition policy for all high school pupils in California ensures access to our state's colleges and universities, and thereby increases the state's collective productivity and economic growth.

(4) This act, as enacted during the 2001-02 Regular Session, allows all persons, including undocumented immigrant students who meet the requirements set forth in Section 68130.5 of the Education Code, to be exempt from nonresident tuition in California's colleges and universities.

(5) This act, as enacted during the 2001-02 Regular Session, does not confer postsecondary education benefits on the basis of residence within the meaning of Section 1623 of Title 8 of the United States Code.

(b) It is the intent of the Legislature that this act will have no impact on the ability of California's public colleges and universities to assess nonresident tuition on students who are not within the scope of this act.

SEC. 2. Section 68130.7 is added to the Education Code, to read:

68130.7. If a state court finds that Section 68130.5, or any similar provision adopted by the Regents of the University of California, is unlawful, the court may order, as equitable relief, that the administering entity that is the subject of the lawsuit terminate any waiver awarded under that statute or provision, but no money damages, tuition refund or waiver, or other retroactive relief, may be awarded. In any action in which the court finds that Section 68130.5, or any similar provision adopted by the Regents of the University of California, is unlawful, the California Community Colleges, the California State University, and the University of California are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to take effect in time for the commencement of the 2002-03 academic year, it is necessary for it to take effect immediately.

ATTACHMENT FOUR
Questionnaire Form as Prescribed by the Chancellor

Please see the prescribed questionnaire sent in a separate electronic file (to maintain formatting) or the hard copy immediately attached.

ATTACHMENT FIVE
Optional Informational Flyer

Please see the informational flyer sent in a separate electronic file (to maintain formatting) or the hard copy immediately attached.

California Nonresident Tuition Exemption Request

For Eligible California High School Graduates

Complete and sign this form to request an exemption from Nonresident Tuition. You must submit any documentation required by the College or University (for example, proof of high school attendance in California). Contact the California Community College, University of California or California State University campus where you intend to enroll (or are enrolled) for instructions on documentation, additional procedures and applicable deadlines.

ELIGIBILITY:

I, the undersigned, am applying for a California Nonresident Tuition Exemption for eligible California high school graduates at (specify the college or university) _____ and I declare the following:

Check YES or NO boxes:

Yes No I have graduated from a California high school or have attained the equivalent thereof, such as a High School Equivalency Certificate, issued by the California State GED Office or a Certificate of Proficiency, resulting from the California High School Proficiency Examination.

Yes No I have attended high school in California for three or more years.

Provide information on all school(s) you attended in grades 9 - 12:

School	City	State	Dates:	
			From – Month/Year	To – Month/Year

Documentation of high school attendance and graduation (or its equivalent) is required by the University of California, The California State University and some California Community Colleges. Follow campus instructions.

Check the box that applies to you -- check only one box:

- I am a nonimmigrant alien as defined by federal law, [including, but not limited to, a foreign student (F visa) or exchange visitor (J visa)].
- OR
- I am NOT a nonimmigrant alien (including, but not limited to, a U.S. citizen, permanent resident, or an alien without lawful immigration status).

AFFIDAVIT:

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the information I have provided on this form is true and accurate. I understand that this information will be used to determine my eligibility for the nonresident tuition exemption for eligible California high school graduates. I hereby declare that, if I am an alien without lawful immigration status, I have filed an application to legalize my immigration status or will file an application as soon as I am eligible to do so. I further understand that if any of the above information is untrue, I will be liable for payment of all nonresident charges from which I was exempted and may be subject to disciplinary action by the College or University.

Print Full Name (as it appears on your campus student records)	Campus/Student Identification Number
Print Full Mailing Address (Number, Street, City, State, Zip Code)	Email Address (Optional)
	Phone Number (Optional)
Signature	Date

California Nonresident Tuition Exemption

*For Eligible California High School Graduates
(The law passed by the Legislature in 2001 as "AB 540")*

GENERAL INFORMATION

Any student, other than a nonimmigrant alien, who meets all of the following requirements, shall be exempt from paying nonresident tuition at the California Community Colleges, the California State University and the University of California (all public colleges and universities in California).

- Requirements:
 - The student must have attended a high school (public or private) in California for three or more years.
 - The student must have graduated from a California high school or attained the equivalent prior to the start of the term (for example, passing the GED or California High School Proficiency exam).
 - An alien student who is without lawful immigration status must file an affidavit with the college or university stating that he or she has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.
 - Students who are nonimmigrants [for example, those who hold F (student) visas, B (visitor) visas, etc.] are not eligible for this exemption.
 - The student must file an exemption request including a signed affidavit with the college that indicates the student has met all applicable conditions described above. Student information obtained in this process is strictly confidential unless disclosure is required under law.
 - Students eligible for this exemption who are transferring to another California public college or university must submit a new request (and documentation if required) to each college under consideration.
 - Nonresident students meeting the criteria will be exempted from the payment of nonresident tuition, but they will *not* be classified as California residents. They continue to be "nonresidents".
 - AB540 does not provide student financial aid eligibility for undocumented alien students. These students remain ineligible for state and federal financial aid.
-

PROCEDURES FOR REQUESTING THIS EXEMPTION FROM NONRESIDENT TUITION

California Community Colleges: Complete the form on the reverse. Submit it to the Admissions Office at the community college where you are enrolled or intend to enroll. You may be required to submit additional documentation. Call the college Admissions Office if you have questions.

University of California: Complete the form on the reverse and submit it to the Office of the Registrar at the UC campus where you are enrolled or intend to enroll. Your campus has established deadlines for submission of exemption requests; however, requests are not to be submitted until you have been admitted to a UC campus. Some students, such as transfer, graduate, and professional students, also must submit their official high school transcripts; check with your campus for specific instructions. Once you are determined to be eligible for the exemption, you will continue to receive it as long as you fulfill the eligibility requirements or until the University no longer offers this exemption. The exemption covers the Nonresident Tuition Fee and the Educational Fee differential charged to nonresident students. Applying for the exemption does not alter your responsibility to pay by the campus deadline any nonresident tuition and associated fees that may be due before your eligibility is determined. For general information, visit the following website: www.ucop.edu/sas/sfs/ppolicies/ab540faqs.htm. For campus-specific instructions regarding documentation and deadline dates, contact the campus Office of the Registrar.

California State University: Complete the form on the reverse. Contact the Office of Admission and Records at the CSU campus where you are enrolled or intend to enroll for instructions on submission, deadline information, and additional requirements. You will be required to submit final high school transcripts and appropriate records of high school graduation or the equivalent, if you have not done so already. Call the Office of Admissions and Records at the campus if you have questions.

Spring 2002