**BILL ANALYSIS**

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| Senate Research Center | S.B. 1798 |
| 89R7952 MM-D | By: Middleton; Schwertner |
|  | Education K-16 |
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|  | As Filed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2001, Texas enacted H.B. 1403, allowing certain undocumented students to qualify for in-state tuition rates at public colleges and universities. While intended to provide educational opportunities, this policy has led to significant financial implications for Texas taxpayers by subsidizing tuition for individuals residing in the state unlawfully. The continued allocation of state resources to support the education of undocumented students has raised concerns about the use of taxpayer funds and the prioritization of lawful residents.

As proposed, S.B. 1798 amends current law relating to the resident status, tuition rates, and certain financial support for students enrolled at public institutions of higher education, including students not lawfully present in the United States.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter G, Chapter 51, Education Code, by adding Section 51.3526, as follows:

Sec. 51.3526. RESPONSIBILITY OF GOVERNING BOARDS REGARDING CERTAIN FINANCIAL SUPPORT PROVIDED TO PERSONS NOT LAWFULLY PRESENT. (a) Requires the governing board of an institution of higher education to ensure that each unit of the institution does not award or provide to a person who is not authorized under federal statute to be present in the United States any financial support using money appropriated or otherwise provided by the state to the institution or unit, including a scholarship, grant, or other financial aid.

(b) Prohibits an institution of higher education from spending money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Texas Higher Education Coordinating Board (THECB) a report certifying the board's compliance with this section during the preceding state fiscal year.

(c) Requires the governing board of each institution of higher education, or the board's designee, in the interim between each regular session of the legislature, to testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with this section.

(d) Requires the state auditor to periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of this section. Requires the state auditor to adopt a schedule by which the state auditor will conduct compliance audits under this subsection. Requires that the schedule ensure that each institution of higher education is audited at least once during each four-year period.

(e) Provides that, if the state auditor determines pursuant to a compliance audit conducted under Subsection (d) that an institution of higher education has spent state money in violation of this section, the institution:

(1) is required to cure the violation not later than the 180th day after the date on which the determination is made; and

(2) if the institution fails to cure the violation during the period described by Subdivision (1), is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

SECTION 2. Amends Section 54.052, Education Code, as follows:

Sec. 54.052. DETERMINATION OF RESIDENT STATUS. (a) Deletes existing text providing that, subject to the other applicable provisions of Subchapter B (Tuition Rates) governing the determination of resident status, certain persons are considered residents of this state for purposes of Title 3 (Higher Education), including a person who graduated from a public or private high school in this state or received the equivalent of a high school diploma in this state and maintained a residence continuously in this state for the three years preceding the date of graduation or receipt of the diploma equivalent, as applicable, and the year preceding the census date of the academic term in which the person is enrolled in an institution of higher education. Makes nonsubstantive changes.

(b) Deletes existing text providing that, for purposes of this section, the domicile of a dependent's parent is presumed to be the domicile of the dependent unless the person establishes eligibility for resident status under Subsection (a)(3) (relating to the resident status of a person who graduated from a public or private high school in this state or received the equivalent of a high school diploma in this state).

(c) Prohibits a person who is not authorized under federal statute to be present in the United States from being considered a resident of this state for purposes of Title 3 (Higher Education).

SECTION 3. Amends Section 54.053, Education Code, as follows:

Sec. 54.053. INFORMATION REQUIRED TO ESTABLISH RESIDENT STATUS. Deletes existing text requiring a person to submit certain information to an institution of higher education to establish resident status under this subchapter, including if the person applies for resident status under Section 54.052(a)(3), a statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter and if the person is not a citizen or permanent resident of the United States, an affidavit stating that the person will apply to become a permanent resident of the United States as soon as the person becomes eligible to apply. Makes nonsubstantive changes.

SECTION 4. Amends Section 54.055(a), Education Code, to require, rather than authorize, an institution of higher education, as appropriate based on, rather than on the basis of, additional or changed information affecting the determination of the person's status, to reclassify as a resident or nonresident of this state under this subchapter a person who has previously been classified as a resident or nonresident under this subchapter.

SECTION 5. Amends Section 54.056(a), Education Code, as follows:

(a) Requires an institution of higher education, if the institution of higher education erroneously classifies or misclassifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition under this subchapter, to charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Requires, rather than authorizes, the institution, not earlier than the first day of that term, regardless of whether the person is still enrolled at the institution, to request the person to pay the difference between resident and nonresident tuition for an earlier term as permitted by Section 54.057.

SECTION 6. Amends Section 54.057, Education Code, as follows:

Sec. 54.057. LIABILITY FOR UNPAID NONRESIDENT TUITION. (a) Provides that certain persons are liable to the institution of higher education the person attends for the difference between resident and nonresident tuition for each academic term in which the person pays resident tuition to the institution as the result of an erroneous classification or other misclassification under this subchapter, including a person who is not authorized under federal statute to be present in the United States. Makes nonsubstantive changes.

(b) Requires a person who is liable under this section for the difference between resident and nonresident tuition to pay the applicable amount to the institution not later than the 30th day after the date the person is notified of the person's liability for the amount owed. Makes a conforming change.

(c) Makes a conforming change to this subsection.

SECTION 7. Amends Section 54.0601, Education Code, to provide that a person who is not authorized under federal statute to be present in the United States is not eligible for the nonresident tuition rate authorized by Subsection (a) (relating to authorizing THECB to set a resident tuition rate that is lower than the nonresident tuition rate otherwise provided by Chapter 54 (Tuition and Fees) if certain conditions are met), and to make nonsubstantive changes.

SECTION 8. (a) Provides that, except as provided by Subsection (b) of this section, Section 51.3526, Education Code, as added by this Act, applies beginning with the 2025–2026 academic year.

(b) Provides that Section 51.3526(b), Education Code, as added by this Act, applies beginning with money appropriated to a public institution of higher education for the state fiscal year beginning September 1, 2026.

SECTION 9. Authorizes a public institution of higher education in this state, notwithstanding Subchapter B, Chapter 54, Education Code, as amended by this Act, for any semester or academic term, before the beginning of that semester or academic term, to reclassify as a nonresident a student previously classified as a resident of this state by the institution or another public institution of higher education in this state:

(1) under Section 54.052(a)(3), Education Code, as that section existed before amendment by this Act, if the student is not otherwise eligible to be classified as a resident of this state under Subchapter B, Chapter 54, Education Code; or

(2) before the enactment of Section 54.052(c), Education Code, as added by this Act, if the student is not authorized under federal statute to be present in the United States.

SECTION 10. Provides that the changes in law made by this Act to Chapter 54, Education Code, apply beginning with tuition charged by a public institution of higher education for the 2025 fall semester. Provides that tuition charged by a public institution of higher education for an academic period before that semester is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 11. Effective date: upon passage or September 1, 2025.