

1-1 By: Middleton, et al. S.B. No. 1798
1-2 (In the Senate - Filed March 3, 2025; March 13, 2025, read
1-3 first time and referred to Committee on Education K-16;
1-4 May 14, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 2; May 14, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Creighton	X			
1-10	Campbell	X			
1-11	Bettencourt	X			
1-12	Hagenbuch	X			
1-13	Hinojosa of Nueces	X			
1-14	King	X			
1-15	Menéndez		X		
1-16	Middleton	X			
1-17	Parker	X			
1-18	Paxton	X			
1-19	West		X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1798 By: Bettencourt

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the resident status, tuition rates, certain financial
1-24 support, and certain documentation requirements for students
1-25 enrolled at public institutions of higher education, including
1-26 students not lawfully present in the United States.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-28 SECTION 1. Subchapter G, Chapter 51, Education Code, is
1-29 amended by adding Section 51.3526 to read as follows:

1-30 Sec. 51.3526. RESPONSIBILITY OF GOVERNING BOARDS REGARDING
1-31 CERTAIN FINANCIAL SUPPORT PROVIDED TO PERSONS NOT LAWFULLY PRESENT.

1-32 (a) The governing board of an institution of higher education shall
1-33 ensure that each unit of the institution does not award or provide
1-34 to a person who is not authorized under federal statute to be
1-35 present in the United States any financial support using money
1-36 appropriated or otherwise provided by the state to the institution
1-37 or unit, including a scholarship, grant, or other financial aid.

1-38 (b) An institution of higher education may not spend money
1-39 appropriated to the institution for a state fiscal year until the
1-40 governing board of the institution submits to the legislature and
1-41 the Texas Higher Education Coordinating Board a report certifying
1-42 the board's compliance with this section during the preceding state
1-43 fiscal year.

1-44 (c) In the interim between each regular session of the
1-45 legislature, the governing board of each institution of higher
1-46 education, or the board's designee, shall testify before the
1-47 standing legislative committees with primary jurisdiction over
1-48 higher education at a public hearing of the committee regarding the
1-49 board's compliance with this section.

1-50 (d) The state auditor shall periodically conduct a
1-51 compliance audit of each institution of higher education to
1-52 determine whether the institution has spent state money in
1-53 violation of this section. The state auditor shall adopt a schedule
1-54 by which the state auditor will conduct compliance audits under
1-55 this subsection. The schedule must ensure that each institution of
1-56 higher education is audited at least once during each four-year
1-57 period.

1-58 (e) If the state auditor determines pursuant to a compliance
1-59 audit conducted under Subsection (d) that an institution of higher
1-60 education has spent state money in violation of this section, the

institution:

(1) must 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. Subchapter 2, Chapter 51, Education Code, is amended by adding Section 51.9244 to read as follows:

Sec. 51.9244. VERIFICATION OF CITIZENSHIP OR IMMIGRATION STATUS INFORMATION AS PART OF ADMISSION PROCEDURE. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) To the extent allowed by state or federal law, each institution of higher education shall verify the citizenship or immigration status of each applicant who:

(1) is 18 years of age or older;

(2) has accepted an offer of admission and confirmed the applicant's intent to enroll at the institution; and

(3) has:

(A) indicated that the applicant is a resident of this state for purposes of Subchapter B, Chapter 54;

(B) applied to receive a scholarship, grant, loan, tuition or fee waiver, or other financial assistance that is paid wholly or partly with state money; or

(C) submitted a completed Free Application for Federal Student Aid (FAFSA) as proof of the applicant's citizenship or immigration status.

(c) If the applicant for whom a determination is being made under Subsection (b) indicates that:

(1) the applicant is a citizen of the United States, the applicant must submit to the institution of higher education one of the following documents or its replacement:

(A) a birth certificate issued by:

(i) an agency of the United States; or

(ii) a state or territory of the United States, or the District of Columbia;

(B) a Certificate of United States Citizenship;

(C) a Consular Report of Birth Abroad of a Citizen of the United States or Certificate of Report of Birth issued by the United States Department of State;

(D) an unexpired United States passport;

(E) a Certificate of United States Naturalization; or

(F) a United States Citizen Identification Card;

(2) the applicant is not a citizen of the United States, the applicant may submit a completed Free Application for Federal Student Aid (FAFSA) as evidence that the applicant is lawfully present in the United States only if the applicant:

(A) is a legal permanent resident;

(B) has an Arrival-Departure Record Form I-94 with "Asylee," "Parolee or Parole," "Refugee," "Asylum," "Conditional Permanent Resident," "Conditional Entrant," "Cuban-Haitian Entrant," "HP-Humanitarian Parolee," or "PIP-Public Interest Parolee" stamp; or

(C) holds an unexpired visa issued by the federal government in category T-1 (victim of human trafficking); or

(3) the applicant is not a citizen of the United States described by Subdivision (2), the applicant must submit to the institution of higher education two documents issued by the appropriate United States agency that authorize the applicant to be present in the United States, including:

(A) a Permanent Resident Card;

(B) an unexpired passport issued by another country with a "Processed for I-551" stamp or with an expired visa;

(C) a Re-entry Permit or other travel document issued to Permanent Residents;

(D) an Arrival-Departure Record Form I-94 that bears the holder's photograph with "Temporary I-551" stamp;

(E) a Notice of Approval Status with the bottom I-94 portion attached;

(F) a refugee travel document;

(G) an Employment Authorization Document;

(H) a Certificate of Eligibility for Nonimmigrant Student Status (Form I-20);

(I) a form DS-2019 or IAP-66 for J-1 visa holders;

(J) a Nonresident Alien Canadian Border Crossing Identification Card; or

(K) any other document determined by the United States Department of Homeland Security to be acceptable through the federal Systematic Alien Verification for Entitlements (SAVE) program, or a successor program.

(c-1) An applicant described by Subsection (c)(3) who is unable to submit two documents described by that subdivision may only be required to submit one document if the applicable institution of higher education is able to verify that document and the applicant's immigration status using the federal Systematic Alien Verification for Entitlements (SAVE) program, the federal Student and Exchange Visitor Information System (SEVIS), or successor programs.

(d) An institution of higher education may not require additional verification under Subsection (c) for an applicant who:

(1) is employed by the institution and has had the applicant's citizenship or immigration status verified through the E-verify program, as described by Section 673.001, Government Code; or

(2) has had the applicant's immigration status verified through the federal Student and Exchange Visitor Information System (SEVIS) or a successor program.

(e) All applications, other than an application for employment, that indicate that the applicant is a resident of this state for purposes of Subchapter B, Chapter 54, or that are for a scholarship, grant, loan, tuition or fee waiver, or other financial assistance that is paid wholly or partly with state money must include the following text:

"State law requires an applicant for resident tuition or for financial assistance funded by state money to complete and sign the following statement:

I, [NAME], swear or affirm under penalty of perjury under the laws of this state that: (check one)

I am a citizen of the United States; or

I am an alien lawfully present in the United States.

I understand that this statement is required under state law because I have applied for a public benefit. I understand that state law requires me to provide documentation verifying the status indicated above before receiving any public benefit. I understand that knowingly and willingly making a false, fictitious, or fraudulent statement or representation will subject me to investigation by the attorney general. I understand that if I am found to have made a false or misleading statement, my admission may be rescinded or I may be disciplined by [UNIVERSITY NAME].

[SIGNATURE/DATE]"

(f) On receipt of final verification that an applicant or student, as applicable, is not a citizen of the United States or lawfully present in the United States, an institution of higher education must terminate any recurring financial aid or other benefit. An administrator at the institution must notify the attorney general in writing if the administrator has a good faith belief that:

(1) an applicant has knowingly and willingly made a false, fictitious, or fraudulent statement or representation concerning the applicant's citizenship or immigration status; or

(2) any person has conspired to defraud the institution by securing a false claim allowed or paid to the applicant.

(g) Each institution of higher education shall retain each record containing documentation submitted for purposes of this section for the same period as the institution would retain a similarly dated record related to resident tuition and financial aid.

(h) This section may not be construed to permit an institution of higher education to:

(1) consider the citizenship or immigration status of an applicant for purposes of admission to the institution; or

(2) delay the award of financial aid or other benefit to an applicant or student.

SECTION 3. Section 54.052, Education Code, is amended to read as follows:

Sec. 54.052. DETERMINATION OF RESIDENT STATUS. (a) Subject to the other applicable provisions of this subchapter governing the determination of resident status, the following persons are considered residents of this state for purposes of this title:

(1) a person who:

(A) established a domicile in this state not later than one year before the census date of the academic term in which the person is enrolled in an institution of higher education; and

(B) maintained that domicile continuously for the year preceding that census date; and

(2) a dependent whose parent:

(A) established a domicile in this state not later than one year before the census date of the academic term in which the dependent is enrolled in an institution of higher education; and

(B) maintained that domicile continuously for the year preceding that census date; and

~~[(3) a person who:~~

~~[(A) graduated from a public or private high school in this state or received the equivalent of a high school diploma in this state; and~~

~~[(B) maintained a residence continuously in this state for:~~

~~[(i) the three years preceding the date of graduation or receipt of the diploma equivalent, as applicable; and~~

~~[(ii) the year preceding the census date of the academic term in which the person is enrolled in an institution of higher education].~~

(b) 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)].~~

(c) A person who is not authorized under federal statute to be present in the United States may not be considered a resident of this state for purposes of this title.

SECTION 4. Section 54.053, Education Code, is amended to read as follows:

Sec. 54.053. INFORMATION REQUIRED TO ESTABLISH RESIDENT STATUS. A person shall submit the following information to an institution of higher education to establish resident status under this subchapter:

(1) if the person applies for resident status under Section 54.052(a)(1):

(A) 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

(B) a statement by the person that the person's presence in this state for that period was for a purpose of establishing and maintaining a domicile; or

(2) if the person applies for resident status under Section 54.052(a)(2):

(A) a statement of the dates and length of time any parent of the person has resided in this state, as relevant to establish resident status under this subchapter; and

(B) a statement by the parent or, if the parent is unable or unwilling to provide the statement, a statement by the person that the parent's presence in this state for that period was for a purpose of establishing and maintaining a domicile~~[, or~~

~~[(3) if the person applies for resident status under Section 54.052(a)(3):~~

~~[(A) 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~~

~~[(B) 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].~~

SECTION 5. Section 54.055(a), Education Code, is amended to read as follows:

(a) As appropriate based on ~~[On the basis of]~~ additional or changed information affecting the determination of the person's status, an institution of higher education shall ~~[may]~~ 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 6. Section 54.056(a), Education Code, is amended to read as follows:

(a) If an 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, the institution of higher education shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Not earlier than the first day of that term, regardless of whether the person is still enrolled at the institution, the institution shall ~~[may]~~ request the person to pay the difference between resident and nonresident tuition for an earlier term as permitted by Section 54.057. For nonpayment of the amount owed, the institution may impose sanctions only as provided by that section. The institution may not require payment as a condition for any subsequent enrollment by the person in the institution.

SECTION 7. Section 54.057, Education Code, is amended to read as follows:

Sec. 54.057. LIABILITY FOR UNPAID NONRESIDENT TUITION. (a) The following 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:

(1) a person who, in a timely manner after the information becomes available or on request by the institution of higher education, fails to provide to the institution information that the person reasonably should know would be relevant to an accurate classification by the institution under this subchapter; ~~[or]~~

(2) a person who provides false information to the institution that the person reasonably should know could lead to an erroneous classification by the institution under this subchapter; or

(3) a person who is not authorized under federal statute to be present in the United States.

(b) A [The] person who is liable under this section for the difference between resident and nonresident tuition shall 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. After receiving the notice and until the amount is paid in full, the person is not entitled to receive from the institution a certificate or diploma, if not yet awarded on the date of the notice, or official transcript that is based at least partially on or includes credit for courses taken while the person was erroneously classified or misclassified as a resident of this state.

(c) A person who is erroneously classified or misclassified as a resident of this state under this subchapter but who is entitled or permitted to pay resident tuition under this subchapter is not liable for the difference between resident and nonresident tuition under this section.

SECTION 8. Section 54.0601, Education Code, is amended to read as follows:

Sec. 54.0601. NONRESIDENT TUITION RATES AT CERTAIN INSTITUTIONS. (a) On the written request of the governing board of a general academic teaching institution located not more than 100 miles from the boundary of this state with another state, the Texas Higher Education Coordinating Board may set a nonresident tuition rate that is lower than the nonresident tuition rate otherwise provided by this chapter if the coordinating board determines that the lower rate is in the best interest of the institution and will not cause unreasonable harm to any other institution of higher education.

(b) 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).

SECTION 9. (a) 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) 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 10. Section 51.9244, Education Code, as added by this Act, applies beginning with admissions to public institutions of higher education for the 2026-2027 academic year. Admissions to public institutions of higher education for an academic period before that academic year are governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 11. Notwithstanding Subchapter B, Chapter 54, Education Code, as amended by this Act, a public institution of higher education in this state may, for any semester or academic term, before the beginning of that semester or academic term, 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 12. 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. 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 13. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

* * * * *