

# DREAM Act: Summary

*Updated May 2011*

**T**he DREAM Act is bipartisan legislation that addresses the tragedy of young people who grew up in the United States and have graduated from our high schools, but whose future is circumscribed by our current immigration laws. Under current law, these young people generally derive their immigration status solely from their parents, and if their parents are undocumented or in immigration limbo, most have no mechanism to obtain legal residency, even if they have lived most of their lives in the U.S. The DREAM Act would provide such a mechanism for those who are able to meet certain conditions.

The latest version of the DREAM Act, also known as the Development, Relief, and Education for Alien Minors Act, was introduced on May 11, 2011, in the Senate (S. 952) by Sen. Dick Durbin (D-IL) and 32 fellow senators, and in the House of Representatives (H.R. 1842) by Reps. Howard Berman (D-CA), Ileana Ros-Lehtinen (R-FL), and Lucille Roybal-Allard.

The DREAM Act would enact two major changes in current law:

- The DREAM Act would permit certain immigrant students who have grown up in the U.S. to apply for temporary legal status and to eventually obtain permanent legal status and become eligible for U.S. citizenship if they go to college or serve in the U.S. military; and
- The DREAM Act would eliminate a federal provision that penalizes states that provide in-state tuition without regard to immigration status.

If enacted, the DREAM Act would have a life-changing impact on the students who qualify, dramatically increasing their average future earnings—and consequently the amount of taxes they would pay—while significantly reducing criminal justice and social services costs to taxpayers.

## KEY FEATURES OF THE DREAM ACT OF 2011

### ■ Path to legal residency: Who would qualify?

Under the DREAM Act, most students who came to the U.S. at age 15 or younger at least five years before the date of the bill's enactment and who have maintained good moral character since entering the U.S. would qualify for *conditional permanent resident status* upon acceptance to college, graduation from a U.S. high school, or being awarded a GED in the U.S. Students would not qualify for this relief if they had committed crimes, were a security risk, or were inadmissible or removable on certain other grounds. Under the Senate bill qualifying students must be under age 35, whereas under the House bill they must be under age 32.

### ■ Conditional permanent resident status

Conditional permanent resident status would be similar to lawful permanent resident status, except that it would be awarded for a limited duration—six years under normal circumstances—instead of indefinitely.



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Students with conditional permanent resident status would be able to work, drive, go to school, and otherwise participate normally in day-to-day activities on the same terms as other Americans, except that generally they would not be able to travel abroad for lengthy periods and they would not be eligible for Pell Grants or certain other federal financial aid grants. They would, however, be eligible for federal work study and student loans, and states would not be restricted from providing their own financial aid to these students. Time spent by young people in conditional permanent resident status would count towards the residency requirements for naturalization.

#### ■ Requirements to lift the condition and obtain regular lawful permanent resident status

At the end of the conditional period, unrestricted lawful permanent resident status would be granted if, during the conditional period, the immigrant had maintained good moral character, avoided lengthy trips abroad, and met at least one of the following criteria:

- Graduated from a two-year college or certain vocational colleges, or studied for at least two years toward a B.A. or higher degree, or
- Served in the U.S. armed forces for at least two years.

The six-year time period for meeting these requirements would be extendable upon a showing of good cause, and the U.S. Department of Homeland Security would be empowered to waive the requirements altogether if compelling reasons, such as disability, prevent their completion and if removal of the student would result in exceptional and extremely unusual hardship to the student or to the student's spouse, parent, or child.

#### ■ In-state tuition: Restore state option

The DREAM Act would also repeal section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which currently discourages states from providing in-state tuition or other higher education benefits without regard to immigration status. Under section 505, states that provide a higher education benefit based on residency to undocumented immigrants must provide the same benefit to U.S. citizens in the same circumstances, regardless of their state of residence.

Since section 505 became law, twelve states have enacted laws permitting anyone, including undocumented immigrants, who attended and graduated from high school in the state to pay the in-state rate at public colleges and universities. The twelve states are California, Illinois, Kansas, Maryland, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, Washington, and Wisconsin. These states all pay the section 505 penalty by providing the same in-state discount rate to current residents of other states who previously went to high school and graduated in the state. The DREAM Act would repeal this penalty. This would not require states to provide in-state tuition to undocumented immigrants, but rather would restore this decision to the states without encumbrance.

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# United States Senate

WASHINGTON, DC 20510

April 13, 2011

President Barack Obama  
The White House  
Washington, DC 20500

Dear Mr. President:

We write to discuss our mutual interest in a talented group of responsible young people with the potential to further enrich our great nation: individuals eligible for immigration relief under the DREAM Act.

We know that you share our desire to enact comprehensive immigration reform legislation as soon as possible, and we appreciate your support for our efforts to find solutions to this critical problem facing our nation. While we continue to work toward enactment of comprehensive reform of our immigration system, we have also fought to enact the DREAM Act. This legislation would give a select group of students the chance to earn legal status if they arrived in the United States when they were 15 or younger, have lived in this country for at least five years, have good moral character, are not inadmissible or removable under a number of specified grounds, have graduated from high school or obtained a GED, and attend college or serve in the military for two years.

As you know, the DREAM Act passed the U.S. House of Representatives and received a bipartisan majority vote in the U.S. Senate in December. Unfortunately, the support of 55 senators was not enough to overcome a filibuster by the bill's opponents. We greatly appreciated your strong support for the DREAM Act last year and look forward to working with you to enact it into law in the 112<sup>th</sup> Congress.

You are the nation's chief law enforcement officer and are, of course, obligated to enforce the law. However, the exercise of prosecutorial discretion in light of law enforcement priorities and limited resources has a long history in this nation and is fully consistent with our strong interest in the rule of law. Your Administration has a strong record of enforcement, having deported a record number of undocumented immigrants last year. At the same time, you have granted deferred action to a small number of DREAM Act students on a case-by-case basis, just as the Bush Administration did. Granting deferred action to DREAM Act students, who are not an enforcement priority for DHS, helps to conserve limited enforcement resources.

We would support a grant of deferred action to all young people who meet the rigorous requirements necessary to be eligible for cancellation of removal or a stay of removal under the DREAM Act, as requested on a bipartisan basis by Senators Durbin and Lugar last April. We strongly believe that DREAM Act students should not be removed from the United States, because they have great potential to contribute to our country and children should not be punished for their parents' mistakes. As you said in your State of the Union Address, "let's stop expelling talented, responsible young people who could be staffing our research labs or starting a new business, who could be further enriching this nation."

We would also support steps short of this that you can take to establish a more orderly and consistent process for handling individual DREAM Act cases.

For example, your administration could establish and publicize a process for DREAM Act students to apply for deferred action. Currently, there is no formal process for applying for deferred action, and many DREAM Act students are unaware of this option. Indeed, the Bush Administration's U.S. Citizenship and Immigration Services Ombudsmen recommended establishing a process for applying for deferred action.

Your administration could also require reporting and tracking of DREAM Act cases. It is our understanding that the Department of Homeland Security (DHS) does not have a process for reporting and tracking DREAM Act cases. As a result, there is no mechanism for ensuring consistent handling of cases by different field offices around the country; no one knows how many DREAM Act eligible individuals are in removal proceedings, how many have applied for deferred action, and how many have been removed. Immigration and Customs Enforcement (ICE) field offices frequently deny requests for deferred action in DREAM Act cases without ICE headquarters' knowledge. Headquarters often only learns about DREAM Act cases from Congressional offices, immigration advocates, or the media, and often requires a private bill or other Congressional action prior to granting deferred action. The Bush Administration's USCIS Ombudsmen also recommended tracking and headquarters review of deferred action requests to help ensure that there is no geographic disparity in approvals or denials of deferred action requests and that like cases are decided in like manner.

Finally, your administration could decide whether to grant deferred action as early as possible in the process of each individual case. Under current practice, DHS typically will not grant deferred action in a DREAM Act case until an individual receives a final order of deportation and frequently not until days or hours before the removal date. This is an inefficient use of limited resources and is inconsistent with long-standing DHS policy. As then-INS Commissioner Doris Meissner explained in "Exercising Prosecutorial Discretion," a November 17, 2000 memorandum that is still official DHS policy: "As a general matter, it is better to exercise favorable discretion as early in the process as possible, once the relevant facts have been determined, in order to conserve the Service's resources and in recognition of the alien's interest in avoiding unnecessary legal proceedings."

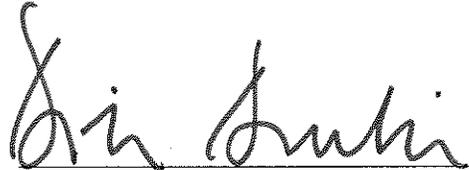
Thank you for considering these and other measures that would help to provide a more orderly process for handling the cases of young people who would be eligible for relief under

the DREAM Act. We look forward to working with you on ways we can enable this talented group of young people to contribute to this nation they call home.

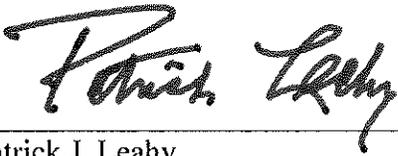
Sincerely,



Harry Reid  
Majority Leader



Dick Durbin  
Assistant Majority Leader



Patrick J. Leahy  
Chairman, Judiciary Committee



Carl Levin  
Chairman, Armed Services Committee



Daniel K. Akaka  
U.S. Senator



Mark Begich  
U.S. Senator



Michael F. Bennet  
U.S. Senator



Jeff Bingaman  
U.S. Senator



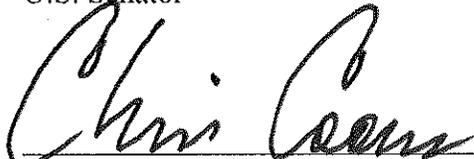
Richard Blumenthal  
U.S. Senator



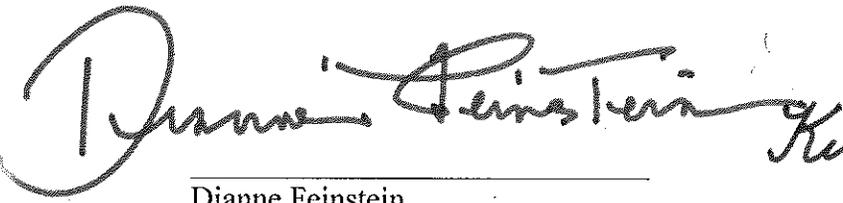
Barbara Boxer  
U.S. Senator



Maria Cantwell  
U.S. Senator



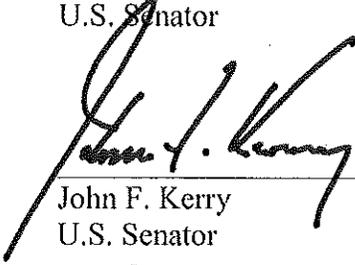
Christopher A. Coons  
U.S. Senator



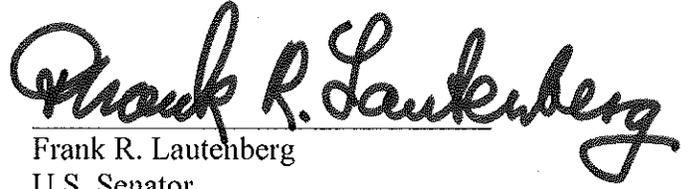
Dianne Feinstein  
U.S. Senator



Kirsten E. Gillibrand  
U.S. Senator



John F. Kerry  
U.S. Senator



Frank R. Lautenberg  
U.S. Senator



Joseph I. Lieberman  
U.S. Senator



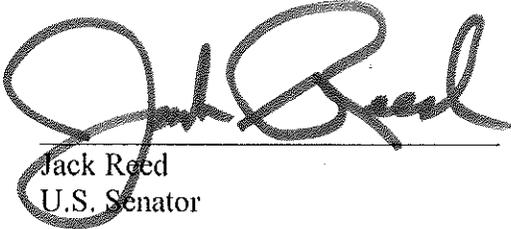
Barbara A. Mikulski  
U.S. Senator



Patty Murray  
U.S. Senator



Bill Nelson  
U.S. Senator



Jack Reed  
U.S. Senator



Sheldon Whitehouse  
U.S. Senator



Homeland  
Security

August 18, 2011

The Honorable Dick Durbin  
United States Senate  
Washington, DC 20510

Dear Senator Durbin:

Thank you for your letter to President Obama regarding the Administration's immigration enforcement policies and the Development, Relief, and Education for Alien Minors (DREAM) Act. The President has asked me to respond on his behalf.

Over the past two years, the Department of Homeland Security (DHS) has established clear and well-reasoned priorities that govern how DHS uses its immigration enforcement resources. These priorities focus our resources on enhancing border security and identifying and removing criminal aliens, those who pose a threat to public safety and national security, repeat immigration law violators and other individuals prioritized for removal. Initially set forth in a March 2010 memorandum from U.S. Immigration and Customs Enforcement (ICE) Director John Morton, these priorities were recently reiterated and clarified in Director Morton's June 17, 2011 memorandum regarding the exercise of prosecutorial discretion by ICE personnel.

While additional work remains, we have made tremendous progress in our effort to focus DHS resources on these enforcement priorities. Our FY 2010 statistics are illustrative. In FY 2010, ICE removed 79,000 more aliens who had been convicted of a crime than it did in FY 2008. As a result, for the first time ever and due to the expansion of the Secure Communities program, over 50 percent of the aliens removed by ICE in a fiscal year were convicted criminals. Of those removed with no confirmed criminal conviction, more than two-thirds were either apprehended at the border or were repeat violators of our immigration laws. As enforcement directives continue to be implemented, we anticipate that these trends will increase in FY 2011.

The President has said on numerous occasions that it makes no sense to expend our enforcement resources on low-priority cases, such as individuals like those you reference in your letter, who were brought to this country as young children and know no other home. From a law enforcement and public safety perspective, DHS enforcement resources must continue to be focused on our highest priorities. Doing otherwise hinders our public safety mission—clogging immigration court dockets and diverting DHS enforcement resources away from individuals who pose a threat to public safety.

Accordingly, the June 17, 2011 prosecutorial discretion memorandum is being implemented to ensure that resources are uniformly focused on our highest priorities. Together

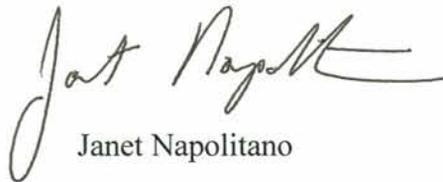
with the Department of Justice (DOJ), we have initiated an interagency working group to execute a case-by-case review of all individuals currently in removal proceedings to ensure that they constitute our highest priorities. The working group will also initiate a case-by-case review to ensure that new cases placed in removal proceedings similarly meet such priorities. In addition, the working group will issue guidance on how to provide for appropriate discretionary consideration to be given to compelling cases involving a final order of removal. Finally, we will work to ensure that the resources saved as a result of the efficiencies generated through this process are dedicated to further enhancing the identification and removal of aliens who pose a threat to public safety.

This case-by-case approach will enhance public safety. Immigration judges will be able to more swiftly adjudicate high priority cases, such as those involving convicted felons. This process will also allow additional federal enforcement resources to be focused on border security and the removal of public safety threats.

Although the process for implementing the June 17 memorandum will focus the Administration's immigration enforcement efforts on high priority cases, it will not provide categorical relief for any group. Thus, this process will not alleviate the need for passage of the DREAM Act or for larger reforms to our immigration laws. President Obama has called the DREAM Act the right thing to do for the young people it would affect, and the right thing to do for the country. Last December, I joined the President and several members of his Cabinet in urging the Congress to pass this important legislation. Earlier this year I was fortunate to be able to testify in favor of the Act. I continue to urge the 112<sup>th</sup> Congress to pass the DREAM Act as well as other necessary immigration reforms.

Thank you again for your letter. My office would be pleased to provide you with a briefing to discuss this process in greater detail. Identical responses have been sent to the Senators that co-signed your letter. Should you wish additional assistance, please do not hesitate to contact me at (202) 282-8203.

Yours very truly,



Janet Napolitano

Enclosure

## **Background: Implementing an Effective Immigration Enforcement Strategy**

*The Department of Homeland Security (DHS) is focused on smart and effective enforcement of U.S. immigration laws in a manner that best promotes public safety, border security, and the integrity of the immigration system. U.S. Immigration and Customs Enforcement (ICE) has made a number of improvements to better advance its efforts to focus ICE's resources on the removal of individuals who fit within their highest priorities, such as those who pose a threat to public safety or who have flagrantly violated the nation's immigration laws, and to do so in a way that respects civil rights and civil liberties.*

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- In June 2010, ICE Director John Morton issued a Memorandum entitled “Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens” articulating ICE’s commitment to prioritizing the use of its enforcement personnel, detention space, and removal resources to ensure that the removals conducted by the agency promote national security, public safety, and border security—with the removal of aliens who pose a danger to national security or a risk to public safety constituting the highest enforcement priority.
- In August 2010, ICE issued a Memorandum entitled “Guidance Regarding the Handling of Removal Proceedings of Aliens with Pending or Approved Applications or Petitions”—outlining a framework for ICE to request expedited adjudication of an application or petition (I-130) for an alien in removal proceedings that is pending before U.S. Citizenship and Immigration Services (USCIS) if the approval of such an application or petition would provide an immediate basis for relief for the alien.
- On June 17, 2011, ICE Director Morton issued [a new memorandum that provides guidance for ICE law enforcement personnel and attorneys](#) regarding their authority to exercise prosecutorial discretion when appropriate – authority designed to help ICE better focus on meeting the priorities of both the agency and the Secure Communities program to use limited resources to target criminals and those that put public safety at risk. This memorandum also directs the exercise of prosecutorial discretion where appropriate to ensure greater consistency in the treatment of individuals who do not fit within ICE’s enforcement priorities. Finally, it clarifies that the exercise of discretion is inappropriate in cases involving threats to public safety, national security and other agency priorities.
- On June 17, 2011, ICE announced key improvements to the Secure Communities program. Secure Communities has proven to be a critical tool for carrying out ICE’s enforcement priorities. To continue to improve the program, DHS and ICE are committed to addressing concerns that have been raised about its operation, including the following reforms:
  - **Advisory Task Force:** ICE created a new advisory task force that will advise on ways to improve Secure Communities, including making recommendations on how to best focus on individuals who pose a true public safety or national security threat. This panel is composed of chiefs of police, sheriffs, ICE agents from the field, immigration advocates, and leading academics. The report of this advisory group will provide recommendations on how ICE can adjust the Secure Communities program to mitigate potential impacts on community policing practices and better effectuate ICE priorities. Currently, the Task Force is conducting field hearings to obtain feedback from communities across the country. DHS anticipates that their report will be issued in early September. For a full list of committee members, visit: <http://www.dhs.gov/files/committees/task-force-on-secure-communities-membership.shtm>.

- **Training for States:** ICE and the DHS Office for Civil Rights and Civil Liberties (CRCL) developed new training programs for state and local law enforcement agencies to provide more information about how Secure Communities works and how it relates to civil rights and aliens' rights in the criminal justice system. [The first set of training materials can be accessed here.](#)
- **Protecting Victims & Witnesses of Crimes:** At the direction of Secretary of Homeland Security Janet Napolitano, ICE, in consultation with CRCL, developed [a new policy specifically to protect victims of domestic violence and other crimes](#) and to ensure that these crimes continue to be reported and prosecuted. This policy directs all ICE officers and attorneys to exercise appropriate discretion to ensure that immediate victims of and witnesses to crimes are not penalized by removal. ICE is also working to develop additional tools that will help identify people who may be victims, witnesses, or members of a vulnerable class so officers can exercise appropriate discretion.
- **Detainer Form:** ICE [revised the detainer form](#) that it sends to local jurisdictions to request that an alien be held for ICE to interview, to emphasize the longstanding guidance that state and local authorities are not to detain an individual for more than 48 hours (excluding weekends and holidays). Once implemented (likely in September 2011) the form will also require local law enforcement to provide arrestees with a copy, which includes an explanation of how to make a complaint in six languages and a number to call if the arrestee believes his or her civil rights have been violated in a manner connected to immigration enforcement.
- **Civil Rights Complaints:** ICE and CRCL created a [new complaint system](#) whereby individuals or organizations who believe civil rights violations connected to Secure Communities have occurred can [file a complaint](#). For example, CRCL will investigate complaints of racial or ethnic discrimination by policing jurisdictions for which Secure Communities has been activated, and DHS will take steps to ensure that bias or other abuses do not affect immigration enforcement.
- **Data Collection and Monitoring:** ICE and CRCL created an ongoing quarterly [statistical review](#) of the program to examine data for each jurisdiction where Secure Communities is activated to identify effectiveness and any indications of potentially improper use of the program. Statistical outliers in local jurisdictions will be subject to an in-depth analysis, and DHS and ICE will take appropriate steps to resolve any issues.
- On August 18, 2011, DHS unveiled a new interagency process to ensure that resources are focused on the Administration's highest enforcement priorities. As part of this process, an interagency team of DHS and Department of Justice (DOJ) officers and attorneys, including representatives from throughout DHS and from the Executive Office for Immigration Review (EOIR) and the Office of Immigration Litigation at DOJ, will identify low-priority removal cases that should be considered for an exercise of discretion. This review will be conducted on a case-by-case basis and will consider cases that are at the various stages of enforcement proceedings, including charging, hearing, and after a final order of removal. The interagency working group will also issue guidance to prevent low priority cases from entering the system on a case-by-case basis. Resources that are saved as a result of this process will be used to accelerate the removal of high priority cases.

# Basic Facts about In-State Tuition for Undocumented Immigrant Students

REVISED: July 2011

## ■ Background

Twelve states currently have laws permitting certain undocumented students who have attended and graduated from their primary and secondary schools to pay the same tuition as their classmates at public institutions of higher education. The states are California, Connecticut, Illinois, Kansas, Maryland, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah, and Washington.

A majority of America's undocumented immigrants live in these states, and several other states are considering a similar change. In many of the states that have already done so, support has been strongly bipartisan and the vote lopsided in favor of the bill. For example, in the Illinois General Assembly, the vote in the House was 112 to 4 and, in the Senate, 55 to 1.

## ■ Requirements of These Laws

To qualify, the states that have such laws generally require the students to have:

1. attended a school in the state for a certain number of years;
2. graduated from high school in the state; and
3. signed an affidavit stating that they have either applied to legalize their status or will do so as soon as eligible.

These laws generally provide that U.S. citizens and lawful permanent residents who meet these requirements but no longer live in the state are able to qualify for the same tuition rate.

## ■ Intent and Impact of These Laws

These bills are primarily intended to help children of immigrants who were brought to the U.S. by their parents and work hard in school with the hope of going to college but then discover that they face insurmountable obstacles. Currently, public colleges and universities are inconsistent in their treatment of such students. A few schools deny them admission. If they are admitted, students in most states are charged out-of-state tuition, which is several times the in-state tuition rate. They are not eligible for federal financial aid, and the average income of parents of such children is low. Even those who are eligible for in-state tuition almost always have to work at full-time jobs throughout their college careers.

In the current context, very few of these students attend college. Experience in the states that have passed in-state tuition bills suggests that such legislation does not deprive the states of the revenue from large numbers of students who would otherwise pay out-of-state tuition. Rather, it raises the percentage of high school graduates who pursue a college degree.



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## ■ Fairness to the Young People Involved

As has been true of immigrants in the past, these students tend to be hard-working and goal-oriented, with high academic standing. Many of them do not realize until they are in the process of applying to college that they will not be able to attend. High school counselors have testified about the terrible task of breaking the news to the students that the dreams for which they have worked so hard cannot come true. Many parents are concerned that if their hard-working, earnest sons and daughters are unable to go forward, their discouragement might lead to problems.

## ■ Benefits to the State

According to experts in the states that have already passed this legislation, the cost of implementation has been negligible. In-state tuition is not the same as free tuition. It is a discount, but in fact the money paid by these students actually tends to increase school revenues because it represents income that would not otherwise be there.

The bottom line is that our economic future depends on educating these young people.

These young immigrants are key to our ability to counteract the serious demographic challenges we face. As baby boomers age, the number of retirees in the U.S. will swell. We are all aware that we can no longer compete with the rest of the world for low-wage jobs. We must raise the caliber of our workforce through higher education to have a chance to maintain a strong economy. Each person who attends college and obtains a professional job means one less drain on the social service (and possibly criminal justice) budgets of the state and an asset in terms of payment of taxes and the attraction to the state of high-wage employers seeking well-educated workers.

Currently, only about 5 to 10 percent of undocumented young people who graduate from high school go on to college, compared with about 75 percent of their classmates.

## ■ Why These Students Are Undocumented

Some people have asked why the students involved do not apply for a “green card” to legalize their status. The answer is that most of them would love to apply but that in the overwhelming majority of cases they cannot. The legal grounds for such petitions have narrowed to the point where it is almost impossible. The most likely outcome for a student who tries to apply is deportation of his entire family — sometimes to a “home” nation the student cannot remember.

## ■ Fully Complies with Federal Law

Contrary to the claims of immigration restrictionists, federal law does *not* prohibit states from providing in-state tuition to undocumented immigrants. Such a prohibition would have been simple to write, but Congress declined to do so.

Rather, section 505 of the Illegal Immigrant Reform and Immigrant Reconciliation Act of 1996 (IIRIRA) prohibits states from providing any higher education benefit based on residence to undocumented immigrants unless they provide the same benefit to U.S. citizens in the same circumstances, regardless of their residence.

As discussed above, the states that provide in-state tuition to students regardless of status have fully complied with this provision.

## ■ Not a Loophole

It is often stated that these states are “getting around” the federal law, or that they are taking advantage of a “loophole” in the federal law. This is slanted language. The law is very specific. It does not preclude states from providing in-state tuition to undocumented residents of the state so long as nonresidents in similar circumstances also qualify. The states that have passed in-state tuition laws are complying with this law, not getting around it.

## ■ What about U.S. Citizens Who Want to Go to College?

Where state proposals have been defeated, anti-immigrant forces have scored rhetorical points by highlighting the competition between immigrants and other applicants for scarce higher education dollars. It should be remembered that the numerical impact of in-state tuition is minimal: Less than 2 percent of this year’s graduating class are undocumented immigrants, and only a fraction of these will attend college even if they are able to pay the in-state rate. In most states, we are talking about only a few dozen or a few hundred particularly talented students.

The shortage of education dollars is real, but it is patently unfair to burden motivated and high-achieving immigrant youth with this responsibility. Education quickly pays for itself. It is a benefit to society, not just to those who go to school. And it strongly behooves us to fund education sufficiently so that all who are qualified may complete their education.

Holding back immigrant students is the wrong way to boost the ambitions of others.

## ■ Won’t the Federal DREAM Act Solve This Problem?

Broadly supported legislation known as the DREAM Act (S.952, H.R.1842) is currently pending in the U.S. Congress. The DREAM Act would provide a path to legal status for individuals who are undocumented, even though they were brought to the U.S. years ago as children and have lived most of their lives here. It would also repeal the provision of law discussed above that limits the ways in which states that wish to provide in-state tuition to undocumented residents may structure such laws, by requiring them to provide the same benefits to eligible students who do not reside in the state.

But although the DREAM Act eliminates this barrier, it does not require states to provide in-state tuition to any undocumented immigrants. Therefore, even after the DREAM Act passes, each state will have to determine for itself whether to do so.

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