

STATE BOARD OF EDUCATION

HEARING TYPE: X INFORMATION/NO ACTION

DATE: **July 19-20, 2007**

SUBJECT: **Dream Act**

SERVICE UNIT: Edie Harding, Executive Director
State Board of Education

PRESENTERS: Dr. Bernal Baca, Board Member

BACKGROUND:

Dr. Baca has asked to present information on the Dream Act which would permit certain immigrant students who grew up the United States to apply for temporary legal status, obtain permanent status and become eligible for citizenship if they went to college or served in the U.S. military. The law would also enable these students to obtain in-state tuition without regard to immigration status.

DREAM Act Summary

The DREAM Act is bipartisan legislation that addresses the tragedy of young people who grew up in the U.S. 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 here. The DREAM Act provides such a mechanism for those who are able to meet certain conditions.

In the Senate the DREAM Act is also known as the Development, Relief, and Education for Alien Minors Act (S. 2075). It was introduced in late 2005 by Richard Durbin (D-IL), Chuck Hagel (R-NE), and Richard Lugar (R-IN). In the House it is called the American Dream Act (H.R. 5131), and it was introduced earlier this year by Lincoln Diaz-Balart (R-FL), Howard Berman (D-CA) and Lucille Roybal-Allard (D-CA).

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

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

The DREAM Act enjoys broad support in Congress. It has twice passed the Senate Judiciary Committee: first in 2003 when it was approved by a 16-3 margin including 7 of the Committee Republicans and all Democrats; then again in March of this year when it was added as an amendment to a broader comprehensive immigration reform bill by a voice vote. In the last Congress, 48 Senators of both parties signed onto the DREAM Act as sponsor or cosponsors, as did more than 1/3 of the House. In the past, a minority of each house who oppose the DREAM Act has succeeded in preventing it from coming to the floor for a vote.

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.

The following are some of the key features of the DREAM Act of 2006:

Path to legal residency: Who would qualify?

Under the DREAM Act, most students with good moral character who came to the U.S. at age 15 or younger at least 5 years before the date of the bill's enactment 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 have committed crimes, are a security risk, or are inadmissible or removable on certain other grounds.



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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—6 years under normal circumstances—instead of indefinitely.

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 they generally 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 has maintained good moral character, avoided lengthy trips abroad, and met at least one of the following criteria:

1. Graduated from a 2-year college or certain vocational colleges or studied for at least 2 years towards a B.A. or higher degree, or
2. Served in the U.S. armed forces for at least 2 years.

The 6-year time period for meeting these requirements would be extendable upon a showing of good cause, and the Dept. 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, ten 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 ten states are Texas, California, Utah, Washington, New York, Oklahoma, Illinois, Kansas, New Mexico, and Nebraska. 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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FOR MORE INFORMATION, CONTACT

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