



# In-State Tuition For Undocumented Students Is An Issue For States, Not Washington

LAURA COLLINS | MARCH 21, 2014

Senator David Vitter (R-LA) recently introduced S. 1990, legislation that would prevent undocumented immigrants from receiving any postsecondary education benefit. This legislation is aimed squarely at so-called state DREAM Acts: state laws that grant in-state tuition at public colleges and universities to undocumented students.

Vitter's bill sets a bad precedent when it comes to federalism. Public colleges and universities are funded by state tax dollars, and state governments have the responsibility of determining who should be admitted and how much they should pay in tuition. States that grant in-state tuition to undocumented students do so because it is a smart investment in their residents. The federal government should not prevent them from doing so.

Nineteen states currently offer in-state tuition to undocumented students who meet certain requirements. Only eight states give undocumented students access to state-based financial aid. An often overlooked fact is that undocumented students participating in these state based programs do not receive federal student aid.

Opponents of these laws argue that state tax dollars should not be used for undocumented students and those undocumented students who receive these benefits do so at the expense of U.S. citizens. Texas provides a helpful illustration that these allegations are false.

Texas has had some form of the law granting in-state tuition for undocumented students since 2001.<sup>[1]</sup> In 2011, the number of students who qualified for in-state tuition under this law was 18,623, a mere one percent of total enrollment at Texas's public higher education institutions.<sup>[2]</sup> These students paid nearly \$37 million in tuition and fees.<sup>[3]</sup> Texas general revenue funds expended on these students was approximately \$25 million in fiscal year 2011.<sup>[4]</sup> In context, the amount of general revenue expended on undocumented students is quite small: the Texas legislature appropriated over \$182 billion for the 2010-11 biennium.<sup>[5]</sup>

As the Texas example shows, this policy is not a budgetary hardship. Instead, it is a smart continuation of the investment already made in these students. The Supreme Court's decision in *Plyler v. Doe* guaranteed that states must invest in undocumented students by prohibiting discrimination against them in public primary and secondary schools.<sup>[6]</sup> By the time an undocumented student is applying to college, the state has already invested in his education for 13 years. Reducing the cost of attending college, and therefore reducing a barrier to enrolling, is a smart, relatively cheap investment in a state's future workforce. A college education is even more important now than it used to be—the earnings gap between college-educated and less-educated Millennials is wider than in previous generations.<sup>[7]</sup>

Perhaps more importantly, this legislation is unduly intrusive on state governments. While the federal government has primary responsibility for immigration matters and controlling our borders, states have primary responsibility for their residents, tax dollars, and public institutions of higher education.

The Constitution is silent on education, leaving those matters to the states. The federal government's involvement in higher education mostly is limited to federal student aid. Public colleges and universities fundamentally are an area of state concern. Their funding, oversight, and more derive from state government action, and rightfully so: public higher education institutions are founded to educate the state's residents. They should be governed by the elected officials who are closest to those residents, who know what is best for that state, and who are more responsive to the wants and needs of the state's population.

This is the beauty of federalism—states can enact policies that are optimal for their residents without burdening the rest of the U.S. Imposing a one-size-fits-all policy, as S. 1990 would do, flies in the face of our constitutional construct. A state that determines it is in its interest to offer undocumented students in-state tuition should not be precluded from doing so.

The state governments that allow their public colleges and universities to charge undocumented students in-state tuition do so because the benefits outweigh the costs. This is the type of good policy that should be encouraged, rather than squashed by Washington.

---

[1] Texas Higher Education Coordinating Board, Overview: Eligibility for In-State Tuition and State Financial Aid Programs, (September 2012).

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*

[5] Legislative Budget Board, Fiscal Size-Up: 2010-11 Biennium, (December 2009), *available at* [http://www.lbb.state.tx.us/Documents/Publications/Fiscal\\_SizeUp/Fiscal\\_SizeUp\\_2010-11.pdf](http://www.lbb.state.tx.us/Documents/Publications/Fiscal_SizeUp/Fiscal_SizeUp_2010-11.pdf).

[6] *Plyler v. Doe*, 457 U.S. 202 (1982).

[7] Pew Research Center, “The Rising Cost of Not Going to College,” (February 2014) *available at* <http://www.pewsocialtrends.org/2014/02/11/the-rising-cost-of-not-going-to-college/>.