AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 112–941

THE DREAM ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND BORDER SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JUNE 28, 2011

Serial No. J–112–30

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PUBLISHING OFFICE

20–267 PDF WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON THE JUDICIARY

PATRICK J. LEAHY, Vermont, *Chairman*

HERB KOHL, Wisconsin
DIANNE FEINSTEIN, California
CHUCK SCHUMER, New York
DICK DURBIN, Illinois
SHELDON WHITEHOUSE, Rhode Island
AMY KLOBUCHAR, Minnesota
AL FRANKEN, Minnesota
CHRISTOPHER A. COONS, Delaware
RICHARD BLUMENTHAL, Connecticut

CHUCK GRASSLEY, Iowa, *Ranking Member*
ORRIN G. HATCH, Utah
JON KYL, Arizona
JEFF SESSIONS, Alabama
LINDSEY GRAHAM, South Carolina
JOHN CORNYN, Texas
MICHAEL S. LEE, Utah
TOM COBURN, Oklahoma

BRUCE A. COHEN, *Chief Counsel and Staff Director*
KOLAN DAVIS, *Republican Chief Counsel and Staff Director*

SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND BORDER SECURITY

CHUCK SCHUMER, New York, *Chairman*

PATRICK J. LEAHY, Vermont
DIANNE FEINSTEIN, California
DICK DURBIN, Illinois
AL FRANKEN, Minnesota
RICHARD BLUMENTHAL, Connecticut

JOHN CORNYN, Texas, *Ranking Member*
CHUCK GRASSLEY, Iowa
ORRIN G. HATCH, Utah
JON KYL, Arizona
JEFF SESSIONS, Alabama

STEPHANIE MARTZ, *Democratic Chief Counsel*
MATTHEW JOHNSON, *Republican Chief Counsel*

CONTENTS

JUNE 28, 2011, 10:01 A.M.

STATEMENTS OF COMMITTEE MEMBERS

	Page
Cornyn, Hon. John, a U.S. Senator from the State of Texas	3
Durbin, Hon. Dick, a U.S. Senator from the State of Illinois	1
prepared statement	100
Feinstein, Hon. Dianne, a U.S. Senator from the State of California	6
Grassley, Hon. Chuck, a U.S. Senator from the State of Iowa	7
prepared statement	96
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont	16
prepared statement	95
Schumer, Hon. Chuck, a U.S. Senator from the State of New York	10

WITNESSES

Witness List	45
Camarota, Steven A., Ph.D., Director of Research, Center for Immigration Studies, Washington, DC	38
prepared statement	88
Duncan, Hon. Arne, Secretary, U.S. Department of Education, Washington, DC	8
prepared statement	60
Kaso, Ola, Warren, Michigan	32
prepared statement	72
Napolitano, Hon. Janet, Secretary, U.S. Department of Homeland Security, Washington, DC	13
prepared statement	46
Stanley, Clifford L., Ph.D., Under Secretary of Defense for Personnel and Readiness, U.S. Department of Defense, Washington, DC	15
prepared statement	66
Stock, Margaret D., Lieutenant Colonel, USAR, Retired, Anchorage, Alaska	34
prepared statement	78

QUESTIONS

Questions submitted to Steven A. Camarota by Senator Grassley	108
Questions submitted to Hon. Arne Duncan by Senator Grassley	106
Questions submitted to Hon. Janet Napolitano by Senator Grassley	103
Questions submitted to Clifford L. Stanley by Senator Grassley	107

ANSWERS

Responses of Steven A. Camarota to questions submitted by Senator Grassley	122
Responses of Hon. Arne Duncan to questions submitted by Senator Grassley	118
Responses of Hon. Janet Napolitano to questions submitted by Senator Grassley	109

[Note: At the time of printing, the Committee had not received responses from Clifford L. Stanley.]

Page

MISCELLANEOUS SUBMISSIONS FOR THE RECORD

American Civil Liberties Union (ACLU), Laura W. Murphy, Director, Washington Legislative Office, and Joanne Lin, Legislative Counsel, statement ... 125
Federation for American Immigration Reform (FAIR), Dan Stein, President, statement 129

THE DREAM ACT

TUESDAY, JUNE 28, 2011

UNITED STATES SENATE,
SUBCOMMITTEE ON IMMIGRATION, REFUGEES
AND BORDER SECURITY,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:01 a.m., in Room SH–216, Hart Senate Office Building, Hon. Dick Durbin, presiding.

Present: Senators Durbin, Schumer, Leahy, Feinstein, Franken, Blumenthal, Cornyn, and Grassley.

OPENING STATEMENT OF HON. DICK DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator DURBIN. Good morning. This hearing of the Subcommittee on Immigration, Refugees and Border Security will come to order. Today's hearing is on the DREAM Act, legislation that would allow a select group of immigrant students to earn legal status.

Before I begin, I want to especially thank the Chairman of the full Committee, Senator Leahy, and Senator Schumer, who chairs the Immigration Subcommittee and who will join us shortly, for their long-standing support of this legislation and for giving me the opportunity to hold the first-ever Senate hearing on this bill.

This bill has been introduced and considered for almost 10 years. The first hearing was scheduled for September 12, 2001, and was canceled for obvious reasons. The bill has gone through numerous markups, a lot of floor debate, and been considered in various forms, but this is the first official Committee hearing on the bill.

Thousands of immigrant students in the United States were brought here as children. It was not their decision to come to this country, but they grew up here pledging allegiance to our flag and singing our national anthem. They are Americans through and through.

The DREAM Act would give these young people a chance to earn legal status if they have good moral character and go to college or serve in the military.

The DREAM Act would make America a stronger country by giving these talented immigrants the chance to fulfill their potential.

The young people who would be eligible for the DREAM Act call themselves "Dreamers," and over the years I have met a lot of them, and hundreds of them are here today. I want to introduce a few of them.

The first one is Tereza Lee. Tereza, would you please stand up?

Ten years ago, I was contacted by Ann Monaco, a teacher at the Merit School of Music in Chicago. One of her students—Tereza—was an extraordinary musical talent who had played as a soloist with the Chicago Symphony Orchestra. She had been accepted at several of the country's most prestigious music schools: the Juilliard School of Music and the Manhattan School of Music. As they were filling out the application form for her to go to school, the question came up about her nationality. Her parents had brought Tereza to the United States when she was 2 years old; they had never filed any papers, and she was undocumented.

So we contacted the INS, and they told us that she had an option: Tereza would have to leave the United States for 10 years. And that is when I started to work on the DREAM Act.

Let me tell you, the story has a very happy ending. Tereza went on to obtain her B.A. and Masters from the Manhattan School of Music. In 2009, she played her debut at Carnegie Hall. Today she is pursuing her doctorate at the Manhattan School of Music.

Tereza, you got me started. Thank you for being here.

[Applause.]

Senator DURBIN. No politician ever wants to stop the applause, but we have Committee rules, and we ask you to please hold your reactions, positive or negative, to yourself. Thank you.

Nelson and Jhon Magdaleno, would you please stand?

Nelson and Jhon were brought to this country from Venezuela. Nelson was 11, Jhon was 9. In high school Jhon was the fourth highest ranking officer and commander of the Air Honor Society in Junior ROTC. Nelson and Jhon are now honor students at Georgia Tech University, one of the best engineering schools in America. Nelson is a computer engineering major, and Jhon is a biomedical engineering major. Thank you for being here.

Tolu Olabunmi, please stand. Brought to the United States from Nigeria as a child, in 2002 she graduated from a prestigious university in Virginia with a degree in chemical engineering. It has been 9 years since she graduated. She has yet to work a day as a chemical engineer because she is undocumented. She has been waiting for Durbin to pass the DREAM Act for 9 years, and she is now over the age of 30, and that is why the eligible age in our law that we have before us today is 35, because she should not be held responsible for the fact that we have not done what we need to do in passing the law. Tolu, thank you for being here.

Monji Dolon, please stand up if you are here, Monji. His parents brought him here from Bangladesh in 1991 when he was 5 years old. In 2008, he graduated from the University of North Carolina at Chapel Hill. Now he is being courted by the technology industry. He has even been offered a job as a lead engineer for a start-up in Silicon Valley. He cannot accept the job offers he has received because he is undocumented. Thank you.

Benita Veliz. Benita was brought here in 1993 at the age of 8. She graduated as valedictorian of her high school class at the age of 16, graduated from the honors program at St. Mary's University in Texas, with a double major in biology and sociology. Thank you, Benita, for being here.

Angelica Hernandez, please stand. Thank you, Angelica. Brought here from Mexico when she was 9 years old, in high school she served in the Junior ROTC and was president of the National Honor Society. This spring she graduated from Arizona State University as the Outstanding Senior in the Mechanical Engineering Department. Angelica, thank you.

There are many others here today who I would like to introduce, but I do not have the time to do it. Let me ask everyone here today who is a DREAM Act student to stand and be recognized. Thank you so much for being here, for the sacrifice you made to come. You can be seated.

When I look around this room, I see America's future—our doctors, our teachers, our nurses, our engineers, our scientists, our soldiers, our Congressmen, our Senators, and maybe our President.

I ask my colleagues to consider the plight of these young people who find themselves in a legal twilight zone through no fault of their own. They are willing to serve the country they love. All they are asking for is a chance.

Opponents of this bill say they sympathize with DREAM Act students. But they criticize the bill and offer no alternative. Do they want these young people to leave, to go back to countries where they may never have lived or do not remember? Or to continue living in the shadows and in doubt about their future?

These Dreamers would happily go to the back of any line and wait their turn for citizenship, but there is no line for them to get into.

I urge my colleagues to support the DREAM Act. It is, I think, one of the most compelling human rights issues of our time in America.

[The prepared statement of Senator Durbin appears as a submission for the record.]

I would like to recognize Senator Cornyn, the Ranking Member of the Subcommittee.

OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator CORNYN. Thank you, Mr. Chairman. I have anticipated today's hearing with decidedly mixed emotions, on the one hand with compassion and sympathy for these young students who so earnestly want a brighter future for themselves; but on the other hand, with a sense of frustration at the way this issue has been wielded as a political weapon.

You know I have supported a version of the DREAM Act for many years, and I know you have been a champion of this. I admire your typical persistence, and I know you care deeply about these young people whose parents were illegal immigrants, or are, and who brought them to the country in violation of our law, but who themselves have no culpability for being here in violation of our immigration laws.

It has been too long—since 2007, in fact—when Senator Reid, the Majority Leader, brought an immigration reform bill to the Senate floor. As a matter of fact, I remember reading in President Bush's book, "Decision Points," he said Senator Teddy Kennedy called him and asked him to call Senator Reid and ask him to keep the Senate

in session over the weekend in 2007 so that the Senate could finish its work on that bill in 2007. But Senator Reid declined to do so, and as you know, that bill was pulled.

I had no reason to doubt also the President of the United States' promise to make immigration reform a priority. As a matter of fact, he said he would do so within his first year in office. But we know now that he did not keep that promise, and I have been disappointed by the President's failure to lead on immigration reform.

I know I am not alone. Having pushed controversial legislation through the United States Senate when Democrats controlled both the Congress and the White House—the stimulus package, the health care bill, the Dodd-Frank bill—there is no reason why the President of the United States could not have delivered on his immigration reform promise during his first 2 years as President if it was really the priority that he claimed.

I am also disappointed that the Senate Majority Leader has refused to place immigration reform on the Senate agenda since 2007 but, nevertheless, last December used once again the DREAM Act as a political football in a political stunt. He refused to allow any amendments to the bill when it was brought to the floor that might have addressed bipartisan concerns about it and would have, in fact, improved it, in my view. And he refused to allow enough floor time for the Senate to debate the bill. It was hardly a recipe for success. Instead, it had all of the hallmarks of a cynical effort to use the hopes and dreams of these young people as a political wedge in the run-up to the 2012 election. I believe we can and that we should do better.

Of course, Mr. Chairman, we all have compassion for these young people, many of whom live in my State, the State of Texas. We know how the broken immigration system has failed them, and we know how Washington's failure to deliver credible immigration reform has failed the country.

It is important, though, to get the details right, and that is why the process by which this bill is considered in this Judiciary Committee and on the floor is very important. Unfortunately, the version of the DREAM Act we have got before us has several well-known problems that have never been satisfactorily addressed.

Under this version of the DREAM Act, a 35-year-old illegal immigrant with only 2 years of post-high school education would be eligible for a green card, regardless of whether they ever earn a degree. In fact, the bill allows the Secretary of the Department of Homeland Security to waive the educational requirement entirely so that all that is required for a pathway to citizenship is a GED.

Under this version of the DREAM Act, a 35-year-old illegal immigrant who has been convicted of two misdemeanors would be eligible for a green card. And let us remind ourselves that many misdemeanors are not minor offenses. In many States, they include driving while under the influence of alcohol, drug possession, burglary, theft, assault, and many other serious crimes. In New York, sexual assault of a minor in the third degree is a misdemeanor. Someone with two convictions for any of these crimes could eventually be eligible for a path to American citizenship under this legislation, and that does not include people who are actually charged

with felonies but who later pled guilty to a reduced charge of a misdemeanor.

This version of the DREAM Act also has, in my opinion, very weak protections against fraud. As we saw in 1986, anytime we expand eligibility for an immigration benefit, we create a whole new opportunity for fraud if we are not careful. Yet this bill actually protects the confidentiality of the DREAM Act application even if it contains false information. And this bill does not acknowledge the impact of chain migration by hundreds of thousands of family members in a fragile economy that we have now.

Mr. Chairman, these concerns, as you know, are not new. I have raised them time and time again over the years. But I want to make clear that the biggest obstacle to the passage of the DREAM Act is not the specific issues I have mentioned. It is the failure of the Federal Government to keep its promise when it comes to immigration reform. Moreover, were we to pass this bill as a standalone bill without addressing the rest of our broken immigration system, I believe it is far less likely that we would ever get to the other issues in our broken system, this being the most sympathetic of any of those.

The issue we are addressing today is, in fact, the engine that could help pull the train for credible immigration reform. Once it leaves the station, what are we to tell our constituents who care deeply about the rest of our broken immigration system?

But I think it is important also to recall and remind ourselves that America is a welcoming Nation to immigrants who play by the rules and do it the right way. Last year more than 600,000 people became naturalized U.S. citizens. I think that is something we should be proud of. Nearly 50,000 of these new Americans are Texans, and on Memorial Day this last year, I had the honor of attending a ceremony where young men and women who have green cards were the beneficiaries of an expedited path to citizenship as a result of legislation that I cosponsored with Senator Teddy Kennedy. It was one of the first bills that I cosponsored in the Senate.

The American people have been compassionate and generous to illegal immigrants and their families. In 1986, President Reagan signed an amnesty for about 3 million people. It was supposed to be the last mass legalization that America would ever need because the trade-off was increased and enhanced enforcement. But the enforcement never happened.

So the problem is not that America is an unwelcoming Nation or that America is not a compassionate Nation or that America will not continue to be welcoming and compassionate if we handle this issue correctly. The problem is that the Federal Government is still not doing what it promised to do in 1986: to secure our borders, to enforce our immigration laws, especially at the workplace, adequately, and encourage large numbers of people from systematically—discourage large numbers of people from systematically violating the law of the land.

I believe sincerely that our policy should be pro-legal immigration and anti-illegal immigration. This bill, sadly, does nothing to fix our broken immigration system. It is a Band-aid. And maybe worse, it will provide an incentive for future illegal immigration. This bill does nothing for border security, workplace enforcement,

visa overstays that account for about 40 percent of illegal immigration in this country. In other words, it does nothing to reduce the likelihood of further illegal immigration.

What parent would not be tempted to immigrate illegally on the hope that if not they but maybe their children would be given the gift of American citizenship? And after these children are citizens, under current law how many millions of their immediate family members would eventually become eligible for citizenship?

I think millions of Americans would support the DREAM Act, Mr. Chairman, if they could get their questions answered, like: Will this bill solve the problem of our broken immigration system or will it make it worse by incentivizing illegal entry? What is the impact on sky-high unemployment rates for current citizens and legal residents? In fact, the unemployment rate for Hispanics in America is roughly 2 percentage points higher than for the general population. And, finally, how will we pay for this when 43 cents out of every dollar the Federal Government currently spends is borrowed money and we have a $14.3 trillion national debt?

What message are we sending to those on the other side of the borders who are thinking about entering the country illegally with a minor child? If we pass this bill, will we be back here in 5 years, 10 years, 20 years, with the same concerns that these young people are bringing to us today? In other words, is this the kind of dream that will reoccur indefinitely?

Respectfully, Mr. Chairman, these are some of the questions that I have today and some of the questions I will have for the panelists. Thank you very much.

Senator DURBIN. Senator Feinstein.

OPENING STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman. I wish I could stay for the whole hearing. The Appropriations Committee is hearing the intelligence budget at 10:30, so I will need to go. But I want to thank you for your leadership on this. I know it has been difficult. You have been resolute and steadfast, and it is very much appreciated.

I am one that believes that the time really has come to pass this bill. I listened very carefully to what Senator Cornyn said. We serve together on this Committee. I have come to appreciate him over the years. I think the one thing that I really agree with that he said is that these youngsters bear no culpability. And in my mind, that means a great deal. These youngsters did not institute the act to come here. Their parents did. They took part of our education system, and the youngsters that I see are the valedictorians—I know several—the student body presidents, some fighting our wars, some getting master's degrees, some getting Ph.D.s, working on the side, helping out their families, trying to get scholarship wherever they can to better themselves so that they can be part of the American dream.

Some of the youngsters in this room came in at 6 months old. They did not know. And our education system essentially they have made great use of, and I think that is important.

UCLA has just finished a study that says that undocumented youth who would obtain legal status under the DREAM Act could contribute an estimated $1.4 trillion to the United States economy over a 40-year period. That is pretty compelling evidence that these students work hard, that they care, and that they want to be part of the American dream. And to the best of my knowledge, the American dream has never been an exclusive dream that only some people could share.

I want to make one last comment about the borders. The borders are more secure today than they have been in 10 years, and I know Secretary Napolitano will comment eloquently on that. But to the best of my knowledge, we have doubled Border Patrol from 10,000 to 20,000 people; we have completed 600 miles plus of border fence; we have avionics, we have all kinds of technology on the border. And what took place in the early 1990s, which was people coming over by the thousands, no longer come over.

So I just want to say that to use border security as a reason not to give these young people a chance makes no sense to me. I mean, here is somebody that has a graduate degree who cannot find a job. It is wrong.

So I do not want to get wound up, but I want to thank you for what you are doing, and I want to support it in any way, shape, or form I can. Thank you very much.

Senator DURBIN. Senator, you can get wound up anytime.

Thank you very much.

Senator Grassley.

OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. I appreciate the opportunity to speak, but I am going to put my statement in the record so we can get on with it.

Senator DURBIN. Thank you.

[The prepared statement of Ranking Member Chuck Grassley appears as a submission for the record.]

Senator DURBIN. Senator Franken.

Senator FRANKEN. I will not put my statement in the record, but when we get to the questions I will probably say a thing or two. Thank you.

Senator DURBIN. We are expecting Senator Schumer to join us, and he may have a chance to make an opening statement. But let me turn to our first panel of witnesses for opening statements. Each witness will have 5 minutes. The complete written statements will be made part of the official record. And if the witnesses will please stand and raise your right hands to be sworn.

Do you affirm the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Secretary NAPOLITANO. I do.

Secretary DUNCAN. I do.

Mr. STANLEY. I do.

Senator DURBIN. Thank you very much, and let the record reflect that the witnesses answered in the affirmative.

At the outset I want to say how pleased I am we have two members of the President's Cabinet here today. It is unusual for Cabinet Secretaries to appear before a Subcommittee and unusual for them to testify in support of legislation. I think it is a measure of this administration's commitment to the DREAM Act that you are here.

Our first witness is Secretary of Education Arne Duncan. Previously, he was chief executive officer of the Chicago Public Schools from 2001 until 2008, the longest-serving big-city education superintendent in the country. Prior to this he ran the nonprofit foundation Ariel Education Initiative and played professional basketball in Australia. Secretary Duncan graduated magna cum laude from Harvard University.

Thank you for being here today, and the floor is yours.

STATEMENT OF HON. ARNE DUNCAN, SECRETARY, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC

Secretary DUNCAN. Chairman Durbin, Ranking Member Cornyn, and Members of the Subcommittee, thank you for the opportunity to come before you today and talk about the DREAM Act.

As you know, the Obama administration strongly supports this legislation which historically has enjoyed support from both sides of the aisle. Through it, a generation of Americans will have the opportunity to earn a college degree and serve our country in the military. Without it, these young people, who have been here for most if not almost all of their lives will miss out on the American dream, and our country's long-term economic prosperity will suffer as they fail to fulfill their true economic potential.

In the few moments that I have today, I want to explain two reasons why it is critically important to pass the DREAM Act.

First, it is an issue of fairness. Thousands of young people have worked hard, but they are being denied the chance to build a better future for themselves and to contribute their skills, talents, and creativity to our country.

Second, it is an issue of economic prosperity. By offering these young people the chance to earn a college degree, we are helping them establish their own economic security, and in the process they will help sustain America's economic competitiveness into the future.

The students who will benefit from the DREAM Act deserve a fair chance to succeed. They are some of our country's best and brightest, and as we saw here today, they come from across the globe. But they were raised and educated here in America. They have deep roots here and are loyal to our country because for many of them it is the only home they have ever known. And we should not punish these students because they are brought here by their parents.

Some of them first learned that their families are undocumented when they applied for college at 17 or 18 years old. And it goes against the basic American sense of fairness to deny them opportunities because of the choices made by their parents.

It also goes against our national interests to deny these young people, these students, a chance to get a college education. By creating opportunities for these bright and talented youth to attend

college, they will contribute much, much more than they ever could as struggling workers moving from one under-the-table job to another. With a college education, they can fill important jobs in fields today facing critical shortages, such as engineers and nurses and teachers. And today it is important for folks to really understand this. In this very tough economic times, our country still has about 3 million unfilled jobs open today. By 2018 we will need to fill 2.6 million job openings in the fields of science, technology, engineering, and mathematics.

Let me say that again: 2.6 million openings in the STEM fields alone.

The students who will benefit from the DREAM Act will absolutely help to fill those jobs. By working in these fields, they can contribute to our country's economic growth. With a bachelor's degree, their earnings will be up to 80 percent higher than if their education ends in high school.

According to a 2010 study from UCLA, those who would benefit from the DREAM Act could generate between $1.4 trillion and $3.6 trillion in income over their careers. With those extra earnings, they will purchase homes and cars and other goods to drive our economic growth. And we know that these students are hungry. They are hungry to go to college. Right now 13 States offer in-State tuition for undocumented students. In these States that offer a promise of low-cost tuition, the high school dropout rate for noncitizen Latinos has fallen by 14 percent.

Texas was actually the first State to create tuition benefits for these students. Today undocumented students in Texas are almost 5 times more likely to enroll in postsecondary education as opposed to undocumented students in nearby States that do not offer them that same in-State tuition.

But for far too many of these young students, the benefit of in-State tuition is not enough. Even with the reduced costs, college remains unaffordable for them. For those who cannot afford it, their choices are actually limited. Eventually the earning power of a college degree is limited because they are unable to legally work and become full participants in our economy. And that is why the Federal Government needs to offer low-cost loans and work-study opportunities and the potential for permanent resident status to our young people.

Before I close, it is important to be clear about what the DREAM Act will do and what it will not do and to dispel two important myths.

First, the DREAM Act will not provide amnesty to students. It will offer a conditional, lawful, permanent resident status only for students who meet a rigorous set of criteria. They must have entered this country before the age of 15, and they must have lived in this country for 5 years before the bill's enactment. They must have graduated from high school or have earned admission into an institution of higher education. They must pass a rigorous background check to show they are not a security threat and demonstrate good, moral character.

Students would not be eligible if they have a criminal record that would make them inadmissible to this country or result in impris-

onment that exceeds certain amounts of time. The students will earn their permanent resident status after a 6-year process.

The second myth about the DREAM Act is that it would restrict the availability of Federal student aid for U.S. citizens. Simply put, that is not true. It would not happen. By statute, student loans are available to all students who are eligible to receive them. And because DREAM Act students would be ineligible for Pell grants, passing this bill would not have costs associated with the program.

All told, the Congressional Budget Office, the CBO, estimates that the DREAM Act would generate $1.4 billion more in revenue than it would add in costs over the next decade. And, collectively, as we strive to reduce the deficit, we simply cannot afford to leave that kind of money, those kinds of resources on the table.

Chairman Durbin, you and I have worked together on so many issues both here in Washington and back home in Chicago. I just have tremendous admiration for your courage, for your tenacity, and for your integrity. We have done many things together, but nothing—nothing—we could do together would be more important for our Nation's young people and ultimately for our country than passing this DREAM Act, and I thank you so much for your personal leadership on this issue.

This is common-sense legislation that will open the doors of post-secondary education to thousands of deserving young people. Millions of our ancestors, yours and mine, have come to America to be free, to work hard, and to pursue their dreams. They have fueled our economy for generations and made America the most prosperous Nation in the world. By passing the DREAM Act, we will offer a new generation of immigrants the opportunity to go to college, help our economy prosper, and live their own American dreams.

Thank you.

[The prepared statement of Hon. Arne Duncan appears as a submission for the record.]

Senator DURBIN. Secretary Duncan, thank you very much.

We are going to go slightly out of order here because Senator Schumer, who chairs the Immigration Subcommittee and was kind enough to allow me to have this special hearing, has to go to another important meeting, and he has asked if he could make a brief opening statement before Secretary Napolitano and Dr. Stanley. So since he has the important Subcommittee for your homeland security agency, I think we ought to let him do it.

Secretary NAPOLITANO. Absolutely.

[Laughter.]

Senator DURBIN. Senator Schumer.

OPENING STATEMENT OF HON. CHUCK SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. Thank you. First I want to thank you, Senator Durbin, for holding this hearing. I want to thank Chairman Leahy as well as Ranking Member Cornyn. And I am honored to be here today for this first Senate hearing on the DREAM Act, and I am glad that everyone here worked hard to make this a reality.

When Senator Durbin asked me if he could chair a hearing on the DREAM Act in the Immigration Subcommittee, I could not

have been happier to let him do it, and I want to salute his leadership on this issue, which has been passionate, intelligent, effective, and never-ending—and will not end, I am sure, until the DREAM Act is enacted into law.

The American people have heard a lot about the DREAM Act today, and I just wanted to make three simple points.

First, the DREAM Act comports with basic American traditions of enforcing the rule of law and holding individuals accountable for their actions. Unlike other individuals who might fall under the category of being an illegal immigrant, the DREAM Act only applies to young persons who made no decision to come to America. None of the young people who would benefit from the DREAM Act broke the law when they came here. They had no intent to break the law, and there is no law they can be prosecuted for breaking. This is an undisputed fact.

The best thing about America, the thing I am proudest of, is that we each stand on our own two feet. We are not judged by who our parents are, what our parents did for a living, or when, why, or how our parents came to this country. We are judged by our own actions, and the deal we all abide by is that if we work hard and play by the rules, the American dream is available to each and every one of us.

But too many still say we should punish people not for their own actions but for actions of their parents. Well, that is un-American, and it violates the very spirit of our Constitution, which specifically says that there shall be no corruption of blood, meaning our Founding Fathers specifically endorsed the concept that children should not be punished for the sins of their parents.

Second, the DREAM Act only serves to eliminate a nonsensical distinction that currently exists within our immigration system, a distinction where foreign students with no ties to America are actually treated much better than children who have grown up their whole lives in this country and have graduated from American high schools. Here is what I mean.

Under our current system, if a young person living in Mexico, England, China, or Egypt is accepted for study at an American university, that child is welcome to come here to America with a student visa so long as they do not pose a threat to the country. Then if that same young person can find a job in the United States upon graduating, he or she can often earn citizenship if their employer agrees to sponsor that person for a green card. But the DREAM Act kids, who are educated in our public schools and who are Americans in their hearts and in their souls, cannot go to college if they are accepted into our schools without subjecting themselves to the risk of deportation.

This distinction simply makes no sense. I would much rather give a slot at one of our universities to a young person who wants to stay here and contribute than to an individual who might want to use their education to return home and compete against our companies.

Third, the DREAM Act does not even come close to giving legal status to every young person who entered the United States without legal status. It only legalizes the few young people that can keep their nose clean for 10 years, earn a college degree, or serve

military honorably and with distinction. Many would say that those are among the best of people that we want to become citizens. I cannot think of anyone who embodies the rugged American spirit more than these young folks who will succeed and earn legal status under this program.

And I want to think of individuals like Cesar Vargas. He is a graduate of my alma mater, James Madison High School. I played basketball at James Madison, and our team's motto was, "We may be small but we are slow."

[Laughter.]

Senator SCHUMER. I hope the team was better when Cesar went there.

Anyway, he was brought to the United States by his parents when he was 5. He is here today. I know you had all the DREAM kids rise, but maybe if he is not embarrassed, Cesar would rise so I could just wave and say hello. Hi, Cesar. He is wearing the American flag on his lapel, I might note. Right? Did I see that correctly?

We do not have to sing the Madison alma mater together, Cesar, for the sake of keeping the rest of the audience in the room.

When Cesar was in college, he tried to enlist in the military but was turned away because he did not have legal status. Today Cesar is a student at City University of New York of Law. He has a GPA of 3.8. He is fluent in Spanish, Italian, and French, and he is close to mastering Cantonese and Russian. Cesar obviously is a talented individual. He has received lucrative offers to work for corporate law firms outside the United States, but his dream—his dream, and the dream of many of us—is for him to stay in the United States and serve our country. He wants to serve as a military lawyer. And, by the way, we need military lawyers who speak all those many languages. Without the DREAM Act, Cesar will not be able to enlist in the military.

Haven't young people like Cesar proven that they are worthy of the opportunity to live their dreams?

So I thank everyone for coming to this hearing, and I hope we can pass the DREAM Act as part of tough, fair, and practical, bipartisan immigration reform legislation as soon as possible. And I tell my good friend from Texas, we are continuing to work on a bipartisan comprehensive bill. We are making decent progress, and I hope he will join us in trying to make that happen.

I thank Secretary Napolitano and Dr. Stanley for indulging me here, and I certainly thank Chairman Durbin for leading this hearing and leading this drive for the DREAM Act.

Senator DURBIN. Senator Schumer, thank you for that strong statement, and we are looking forward to working together.

Our next witness, Janet Napolitano, is Secretary of Homeland Security. Previously Secretary Napolitano was Governor of Arizona. She was the first woman to chair the National Governors Association and named one of the top five Governors in the country by Time Magazine. Secretary Napolitano was also the first female Attorney General of Arizona and served as U.S. Attorney for the district of Arizona. Secretary Napolitano graduated from Santa Clara University where she was the university's first female valedictorian, received her J.D. from the University of Virginia School of Law.

Secretary Napolitano, we look forward to your testimony.

STATEMENT OF HON. JANET NAPOLITANO, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Secretary NAPOLITANO. Thank you, Chairman Durbin, and thank you, Ranking Member Cornyn, and it is also a pleasure to see Ranking Member Grassley, and we appreciate your work with the Department on all of the range of matters before the Department of Homeland Security.

I appreciate the opportunity to testify today in favor of the DREAM Act, which is a priority for this administration. It is important to the Nation as a whole. It is important to the mission of the Department of Homeland Security. The President and the administration strongly support this bill, and I would echo everything that Secretary Duncan said before me.

Now, last December I joined the President and many members of the Cabinet in urging the Congress to pass the DREAM Act. In fact, that effort included not only the Departments of Defense and Education, who are here today, but also Secretaries Salazar, Locke, Solis, Vilsack, and a host of others who worked for the bill's passage.

We were disappointed that this important legislation did not overcome the filibuster against it, but we did not view that as a terminal point for the DREAM Act. And for that reason I commend you, Senator Durbin, and the numerous cosponsors of the DREAM Act for continuing to work to pass this bill.

The case for the DREAM Act is strong, and there are many ways in which this legislation is important for our country. President Obama has called the DREAM Act, "the right thing to do for the people it would affect and the right thing to do for the country." And not only is it the right thing, it is the smart thing. Both Democrats and Republicans have voiced support for this common-sense bill because it is important to our economic competitiveness, as Secretary Duncan said; our military readiness, as you will hear; and there is, quite frankly, no reason not to pass this important legislation.

It is also important to our law enforcement efforts, and as the member of the Cabinet responsible for enforcement of immigration laws, I would like to focus on how the DREAM Act would strengthen our ability to enforce and administer our Nation's immigration laws.

The DREAM Act should be seen in the broader context of this administration's comprehensive approach to border security and to immigration enforcement which has achieved important and historic results. Over the past 2 years, our approach has focused on identifying criminal aliens and those who pose the greatest security and public safety threats to our communities. This is what any good law enforcement agency does. It sets priorities to make sure we maximize the impact of each enforcement dollar.

The DREAM Act supports these important priorities because only young people who are poised to contribute to our country and have met strict requirements regarding moral character and criminal history would be eligible. These individuals do not pose a risk to public safety. They do not pose a risk to national security. Yet,

as long as there are no legal options available for them to adjust their immigration status, they will be part of the population subject to immigration enforcement.

It simply does not make sense from a law enforcement perspective to expend limited law enforcement resources on young people who pose no threat to public safety, have grown up here and want to contribute to our country by serving in the military or going to college.

The reality is that we have a significant population of people who are in this country illegally, some 11 million, and Congress simply does not appropriate the resources to remove such a large number. So that is why it has been important to develop a clear strategy with clear priorities to guide our enforcement efforts. That is why it is so important that we utilize programs that focus our enforcement efforts on the populations that are most likely to pose a threat to security or public safety.

Our Department has focused on identifying criminal aliens and those who pose the greatest threats to our communities, and we have prioritized them for removal from our country. We have also worked to ensure that employers have the tools they need to maintain a legal workforce and face penalties if they knowingly and repeatedly violate the law.

Through the establishment of clear priorities, our interior enforcement efforts are also achieving unprecedented results. More than half of those removed last year were convicted criminals, the most ever removed from our country in a single year. And between October of 2008 and October of 2010, the number of convicted criminals that were removed from the United States increased 71 percent while the number of non-criminals removed dropped by 23 percent.

Indeed, the priorities we have set are strengthened by the DREAM Act. It is simple. Passage of the DREAM Act would allow us to focus even more attention on true security and public safety threats by providing a firm but fair way for individuals brought into our country as children through no fault of their own to obtain legal status by pursuing higher education or by serving in the United States Armed Forces.

As introduced, the DREAM Act establishes a rigorous process for those who enter the United States illegally as children, but allows them to obtain conditional permanent resident status by proving that they meet several strict requirements. Those individuals who would qualify under the DREAM Act do not fall within our enforcement priorities, and passage of the DREAM Act would completely eliminate them from the population that is subject to immigration enforcement.

Passage of the DREAM Act will neither resolve nor substitute for the need for comprehensive immigration reform. But while the broader immigration debate continues, I urge the Congress to address the DREAM Act now. It is common-sense legislation. It has been supported, at least in the past, by Democrats, Republicans, and Independents, and it will assist the Department of Homeland Security in fulfilling our security, our public safety, and our immigration enforcement missions.

Thank you for the opportunity to testify. I look forward to your questions.

[The prepared statement of Hon. Janet Napolitano appears as a submission for the record.]

Senator DURBIN. Thank you, Madam Secretary.

Our next witness is Dr. Clifford Stanley, Under Secretary of Defense for Personnel and Readiness. Previously, Dr. Stanley was president of Scholarship America, the Nation's largest nonprofit private sector scholarship organization; prior to this, executive vice president, University of Pennsylvania. Under Secretary Stanley, a retired United States Marine Corps infantry officer, served 33 years in uniform, retiring as a major general. He received his B.A. from South Carolina State University, his Master's of Science degree from Johns Hopkins, and a doctorate from the University of Pennsylvania.

Under Secretary Stanley, please proceed with your testimony.

STATEMENT OF CLIFFORD L. STANLEY, PH.D., UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS, U.S. DEPARTMENT OF DEFENSE, WASHINGTON, DC

Mr. STANLEY. Thank you, Chairman Durbin and Ranking Member Cornyn and other Members. I am pleased to be here today to discuss S. 952, the Development, Relief, and Education for Alien Minors Act of 2011, the DREAM Act, and its impact on our Armed Forces. The DREAM Act would provide a path to legal permanent residence for individuals who have come to the United States at 15 years of age or younger and have lived here for at least 5 years. These young people must also meet several additional requirements before they receive lawful permanent resident status. They include completing 2 years of honorable military service or 2 years of college, demonstrating good moral character, and remaining in a conditional status for a period of 6 years.

As I am joined on this panel by the Secretary of the Department of Homeland Security who will discuss and who has already discussed some parts of the DREAM Act and immigration and naturalization, the Secretary of the Department of Education who will focus on the impact of postsecondary education, my remarks today will be limited to the impact of the DREAM Act on the military force and force management.

The Department of Defense strongly supports the DREAM Act. This targeted legislation will allow the best and the brightest young people to contribute to our country's well-being by serving their country in the United States Armed Forces or pursuing a higher education. In my three decades of service as a Marine officer, I served with many people who immigrated to our Nation looking for a better life. Since the Civil War, we have embraced the role of immigrants in our Armed Services. This is nothing new. Regardless of their backgrounds, they had and continue to have one core mission in life: to serve our Nation.

Today more than 25,000 non-citizens serve in uniform, and approximately 9,000 legal permanent resident aliens enlist each year. They serve worldwide in all services and in a variety of jobs. They represent the United States both at home and abroad—even on the front lines of our current overseas contingency operations. Since

September 11, 2001, over 69,000 have earned citizenship while serving, and over 125 of those who entered military service after that date have made the ultimate sacrifice in war and have given their lives for our Nation.

The DREAM Act expands the opportunity for service to an entirely new group of non-citizens—those who are in an undocumented status through no fault of their own. The young men and women who would be covered under this legislation would further expand the prime recruiting market for the services and allow us to selectively manage against the highest recruiting standards. They are scholars, student leaders, and athletes. In fact, some have participated in high school Junior ROTC programs.

These students are culturally American, having grown up in the United States, often having little, if any, attachment to their country of birth. They are functionally without citizenship anywhere in the world, and passage of the DREAM Act would offer this very specific subset of young people the opportunity to serve the Nation in which they grew up and provide a path to becoming productive citizens and contributing members of our society.

Candidates enlisting under the DREAM Act would be subject to the same rigorous entrance standards as all other applicants, maintaining the highest quality and integrity of the force. They would also be expected to complete the existing terms of service required of all members of the Armed Services.

The Department strongly endorses and supports the passage of the DREAM Act and believes it will have a positive impact on military recruiting and readiness. I thank you for this opportunity to appear before you today and look forward to your questions.

[The prepared statement of Clifford L. Stanley appears as a submission for the record.]

Senator DURBIN. Thank you, Dr. Stanley.

We are honored to have the Chairman of the full Senate Judiciary Committee, Senator Leahy, here, and I would like to invite him to make some opening remarks.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. Thank you very much. I was able to schedule two different things at the same time because I knew this was in the hands of Senator Durbin and Senator Cornyn and the others. But I watched, Secretary Napolitano, your statement, and, Secretary Duncan, I agree with what you have said.

Dr. Stanley, as the proud father of a young Marine, I am delighted to see you here and hear what you said. I know that my son, who is now finished with all of his Marine Corps duties, agrees completely with the support of the DREAM Act.

I have been a supporter of this bill and a cosponsor since it was first introduced in the 107th Congress. I was disappointed when it did not pass last year, but Senator Durbin has been the strongest proponent of this. It is just remarkable. I do not want to embarrass him, but if you knew the hours he spends in cornering and collaring Senators pushing for this bill, the passion is very, very real.

I think of all the young men and women who have worked so hard to support this legislation. They find themselves in an impos-

sible situation. They have come out to speak for the legislation. They wish nothing more than to become lawful, patriotic full participants in the country they call home, and they actually risk their position in this country in speaking out. I think those are some of the bravest things I have seen.

The DREAM Act serves the interests of the United States. It certainly encourages and rewards military service. I agree with Secretary Gates and General Powell that our Armed Services will be stronger for encouraging greater participation by those who want to serve the United States. Allowing these young people to serve America in their journey to become Americans is something we should all support. Remember, it is a long journey for them. But they want to become Americans. As Americans, we ought to be so proud to see these young people wanting to serve and embrace our Nation.

Just think how extraordinary it is, as you have already pointed out, that men and women who are not U.S. citizens fight in service of the United States and its citizens, and let us not forget they die in the service of the United States and our citizens. That says a lot about America, but it also says a lot about the character of those who serve in our military who want to become Americans.

The bill also promotes educational opportunities for America's young people. I can see no purpose that is served by deporting talented young people who find themselves in a situation not of their own making, especially for those who wish for nothing more than to contribute to the country they call home.

Military readiness and higher education are not Democratic or Republican ideals. They are American ideals. They are the kind of ideals that attracted my grandparents, my maternal grandparents, when they immigrated to this country from Italy, or my wife's parents when they immigrated to Vermont.

To disparage this legislation by calling it "amnesty" ignores our fundamental values of fairness and justice. Almost 30 years ago, in the landmark Supreme Court case *Plyler v. Doe*, the Supreme Court held that children may not be punished for the actions of their parents. I find it hard to believe that anyone would disagree with that principle. But if you deny these deserving students a chance to gain lawful status and an opportunity to realize their potential, you do just that.

I know I preach to the converted with a lot in this room. We just have to convert 50 percent plus one of the House and the Senate. Or, I guess now we have to go 60. When I came here, you only needed 51 votes to pass something, but now we need 60. But whatever it takes, it is a matter of honesty and fairness and what we stand for as Americans. Every one of us has immigrant parents, grandparents, or great-grandparents somewhere down the line. We enjoy being Americans. Let people who have worked hard to be Americans enjoy it, too.

Senator DURBIN. Thanks, Chairman Leahy. You have been a stalwart champion and friend on this issue.

We are now going to ask questions—and I will be first, and then we will go through the panel here—of the first witness panel that we have before us. And before asking my first question, I would

like to take a moment to respond to my friend Senator Cornyn from Texas.

To my knowledge, the only perfect law ever written was written on stone tablets and carried down a mountain by Senator Moses. [Laughter.]

Senator DURBIN. Otherwise, we are doing our best, and sometimes we do need to improve legislation that is before us. I am always open to that, and I have always been open to good-faith efforts to amend the DREAM Act to achieve our goals, which I think are fairly simply stated.

I would also say that I have been faulted, maybe even today, for looking for every single opportunity to bring this matter before the United States Senate. I brought it as an amendment to a bill, and I was criticized because they said you did not bring it as a free-standing bill. Then I brought it as a free-standing bill, and they said, well, it is the wrong time.

It seems like if people are looking for a reason to vote no, they are always going to find one. But I do want to invite those who are genuinely interested in working on this legislation to work with me. Let me say a few things about the criticisms that have been leveled.

One, this notion that this is an unlimited opportunity for people to qualify under the DREAM Act ignores the obvious. Under the DREAM Act no one will be eligible unless they arrived in the United States at least 5 years before the bill became law, so it is not a completely open-ended opportunity.

Secondly, Senator Cornyn has gone through a long list of very serious misdemeanors, and I do not diminish them in any way. I will tell you, though, there is a specific requirement in the DREAM Act that the person who is applying be of good moral character, which means at the end of the day they will be judged in the entirety of their life experience, and they have to pass that judgment.

Third, there are questions as to whether or not there is going to be fraud involved in applications by people under the DREAM Act. This bill establishes a criminal penalty for fraud of 5 years in prison. This is not a light slap on the wrist. We are serious. If you want to be serious about becoming an American, at least legally an American and become an American citizen, we want to make sure that you are honest with us all the way.

So let me speak to questions to the panel. Secretary Napolitano, I listened carefully to what you had to say, and as I understand it, with 11 million undocumented estimated in our country and your responsibility to deport those whom you consider to be a threat to our country, you have established a priority, as you have said, where those who have some criminal background or otherwise some character defect that might be a threat to America.

What I am asking you is, there was a recent memo by John Morton in your Department which established some standards and guidelines for deportation. What are you doing to ensure that the Morton memo is fully implemented and DREAM Act students are not unjustly deported?

Secretary NAPOLITANO. Well, you are right, Senator Durbin. We simply do not receive the appropriation necessary to remove everyone who is technically removable from the United States, and so

we have to set priorities. That is what good leaders do. That is what good law enforcement requires. Those priorities have been set forth in the Morton memo, and they focus upon those who are the greatest risk to public safety or to security.

One of the things we are working on now is to design a process that would allow us as early as possible to identify people who are caught up in the removal system who in the end really do not fit our priorities or in the end an immigration judge would not find them removable. We have not perfected such a process, but we certainly are working on the design of one.

Senator DURBIN. I hope you can and I hope we can work together because I honestly believe that you have an important and serious responsibility to keep America safe, and I believe the overwhelming majority of young people I have met who would qualify under the DREAM Act are not only no threat to America, they are, in fact, something good for the future of America, and we want to make sure that we do our part in the Senate and in Congress, but to work with this administration so that they are not caught up in deportation when, in fact, it is not in the best interests of our country.

I would also like to go to this question that has been raised repeatedly about so-called misdemeanor offenses. As this bill is written, an applicant under the DREAM Act must establish by a preponderance of the evidence that they are of good moral character, going beyond whether or not there has been a misdemeanor on their record. Can you tell me what that standard means in light of some of the questions that have been raised earlier?

Secretary NAPOLITANO. Well, I think you said it very well in your original response to Senator Cornyn. It is looking at the totality of circumstances and the totality of behavior of the individual who is the applicant for DREAM status. And so there are gray areas: Offenses in some States may be misdemeanors; in others they may be felonies. But that can all be taken into account by the immigration officer who is processing the application.

Senator DURBIN. Secretary Duncan, the argument has been made here today that we cannot afford these students, they are just too darn expensive, they are going to cost us too much money to educate them, and we have to acknowledge the fact we are in a deficit situation. So are the DREAM Act kids too expensive for the future of America?

Secretary DUNCAN. Quite to the contrary, the opposite is true. Again, whether it is CBO numbers or you look at lifetime earnings, Senator, you and I both know we have to educate our way to a better economy. That is the only way we are going to get there. And when we have a couple million unfilled high-skill, high-wage jobs available today, even in this tough economy, we need the workers who can fill those jobs, who have those skills. The only way we get there is if we have many more people graduating from college. If we want to maintain our economic competitiveness relative to other nations, we have to increase those numbers pretty significantly.

This is a huge number of young people passionately committed to their education who are going to make a lot of money, who are going to pay taxes, who are going to buy homes, who are going to buy cars. They are going to contribute. And, again, according to

CBO's numbers, this will lead to deficit reduction. To not take advantage of this as a country is simply nonsensical to me. This is an investment, not an expense.

Senator DURBIN. And isn't it also true that most of these students have been beneficiaries of public education to this point in their lives?

Secretary DUNCAN. They would basically be the only students who could qualify. Again, going back to your point, they would have to have been here and been in this country for at least 5 years beforehand. They would have to have graduated from school. These are young people committed to getting an education, committed to contributing.

We have a devastating dropout rate in this country. Years ago it was okay to drop out. You could go get a good job. There are none of those jobs available today. We have to get that dropout rate down to zero. It is far too high in our home State of Illinois. It is far too high in Texas and other States around the country. By giving that dream, making that dream a reality, that young people know they can go to college, we will keep many more people engaged; we will keep them moving in the right direction. And if we do that, they are going to give so much more to the country than they can by working a bunch of dead-end, small-time cash jobs.

Senator DURBIN. Secretary Duncan, a few years ago I spoke at the Illinois Institute of Technology commencement in Chicago and watched as master's degrees and Ph.D.s were awarded and saw all of the students, primarily from Asia, as they filed across the stage. And someone said to me later, "Why don't we staple a green card on every one of those diplomas? We need this talent. We need these people." And I think the point was made earlier by Senator Schumer.

Do you see some inconsistency in welcoming those born in another land who come to the United States for an education and saying to those who have gathered here with engineering degrees and the like, "Leave, we do not need you"?

Secretary DUNCAN. Again, that makes no sense whatsoever, and we need people who are going to be the creators, the entrepreneurs, the innovators who are going to create the next generation of jobs, the next Google, the next Facebook. I have seen numbers that show that of all the start-up companies that come out of Silicon Valley, about a fourth are started by immigrants.

We need that talent. We need them to drive our country forward. They can be the field to our economic engine. So not to give them opportunity, we hurt our country, and that is what I simply cannot get past. I cannot understand that.

Senator DURBIN. Dr. Stanley, I have heard a lot of suggestions about the DREAM Act over the years, and one of them I have heard more than once said let us just make this for military. If they will enlist in the military, then we will give them a chance to be legal. In other words, if they are willing to die for our country and wear our uniform, we ought to give them a chance to be citizens, but under no other circumstances.

What is wrong with that position?

Mr. STANLEY. Well, Senator, that is a very narrow focus. I believe and the Department believes that that should be a much

broader focus. That way we have—we are looking at increasing the pool, those eligible. We do not want to narrowly scope this so it is just the military. In fact, that would be the opposite of it. I think the unintended consequences of doing that would not achieve what you want to do.

We also would be actually discriminating against those who were not able to actually be able to serve. We have people, for example, who are disabled, who may have other disqualifying characteristics through no fault of their own that could not serve in the military but who are just as qualified.

Again, the pool is the most important thing for us in having a talented pool to choose from.

Senator DURBIN. And we speak with some pride of the fact that we have an all-volunteer military force. In this situation, if this became the only avenue for legalization, it really, I think, runs afoul or in the face of that whole concept of a volunteer military force, does it not?

Mr. STANLEY. It does, yes.

Senator DURBIN. Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

Madam Secretary, in your testimony you assert that only individuals of good moral character who have not committed any crime that would make them inadmissible to the United States would be eligible for the DREAM Act. Later in your written testimony you clarify that to mean that no one convicted of a felony or more than three or more misdemeanors could be eligible.

Does it concern you that we have a loophole for people with multiple criminal convictions in a bill that is advertised as helping non-culpable students who have lived lives on the straight and narrow path?

Secretary NAPOLITANO. Senator, first, I think that, again, we have to look at the totality, and the bill allows the totality of the circumstances to be taken into account in terms of the character of the individual involved. But the criteria as set forth in the bill are far more strict than the normal criteria used in the naturalization or the legalization process.

Senator CORNYN. Well, let me ask, do you support the bill as currently written?

Secretary NAPOLITANO. I do.

Senator CORNYN. And you speak on behalf of the administration, correct?

Secretary NAPOLITANO. I do.

Senator CORNYN. Would you support an amendment that would specify that certain misdemeanor offenses for which a single conviction of those offenses would make someone ineligible? For example, an amendment that would strike eligibility for driving under the influence of alcohol or possession of drugs or burglary or theft or assault, would the administration support an amendment to Senator Durbin's bill that would make people guilty of those offenses ineligible?

Secretary NAPOLITANO. I think, Senator, that if you wish to offer some language to actually examine, we would certainly be open to looking at that.

Senator CORNYN. Well, that is not particularly reassuring given the track history of Senator Reid bringing the bill to the floor and not allowing any amendments. Last December was the last time. But this bill also as written gives you discretion, as Secretary of Homeland Security, to waive certain ineligibility requirements. For example, someone who has committed voter fraud, you could in your discretion waive that ineligibility requirement.

Under what circumstances would you see yourselves using that waiver authority for somebody who has been convicted of voter fraud?

Secretary NAPOLITANO. Well, again, I think this is not the hearing to go into some of the actual details of the bill in that sense, and I would suggest——

Senator CORNYN. Of course it is.

Secretary NAPOLITANO [continuing]. Senator Cornyn, that if you have amendments, we would be happy to consider them, and this is the time to see that language.

Senator CORNYN. Well, Madam Secretary, you are here under oath speaking on behalf of the administration on a piece of important legislation that bears—and you say you support it as written and the administration supports it as written. I think it is appropriate to be able to ask you questions about it. And, in fact, isn't it true under this legislation that you as the Secretary of the Department of Homeland Security would have the authority to waive entirely the education or military requirements and put someone on a path to citizenship? Are you aware of that?

Secretary NAPOLITANO. Senator, I think that the criteria as listed in the bill are very specific, and that would be the path that we would adopt.

Senator CORNYN. So you would not use the waiver authority that is put in the bill?

Secretary NAPOLITANO. Not necessarily.

Senator CORNYN. Well, that is not very comforting, "not necessarily." For an administration that has already granted 1,433 waivers of the health care bill that has passed, 3.2 million people are not required to comply with the health care law that passed, the controversial health care bill that passed this Congress. And to give you or any other non-elected, non-accountable individual complete discretion to waive the requirements of the law, I will have to tell you, is not comforting to me.

But let me ask you, Senator Durbin I believe asked you about the so-called Morton memo, and, in fact, on Monday, the Houston Chronicle broke a story that uncovered what they said was an apparent attempt by the Department of Homeland Security to mislead the public and the Congress with regard to selective enforcement of certain immigration offenses. In fact, one spread sheet that was produced indicates that ICE attorneys in Houston alone sought the dismissal of deportation proceedings against 78 aliens convicted of offenses including sexual assault, kidnapping, assault with a deadly weapon, solicitation of murder, burglary, delivery of drugs, theft, forgery, and DWI, to name just a few.

In fact, in 2010, I wrote you a letter and asked you for details with regard to this program. In response, the Department of Homeland Security assured me that a directive instructive ICE attorneys

to seek dismissals of immigration proceedings involving certain classes of criminal aliens "does not exist." But indeed now as the Houston Chronicle reports, it did exist, it does exist.

Could you explain the apparent discrepancy between your response to a question about the existence of this memo and what the Houston Chronicle reported on Monday?

Secretary NAPOLITANO. I would be happy to. The Director has responsibility for immigration enforcement across the entire country, many field offices across the land, all dealing with different circumstances all the time. And his job—and I have asked him to do this—is to make sure that there are clear priorities that are set and enforced.

Unfortunately, one of the 26 field offices conflated two different memos that had come out and misconstrued what he directed. That has since been clarified, cleared up, and fixed, and I would be happy to provide your office with a side briefing on that. But the plain fact of the matter is that a miscommunication occurred at the regional level in one of 26 offices.

Now, that does not really, I think, pertain here, and I will tell you why. What we are talking about here——

Senator CORNYN. Well, Senator Durbin asked you about it—I beg your pardon—and so you answered questions about the Morton memo and about your policy for selectively enforcing immigration laws based on what you say are scarce resources. Have you ever requested Congress to provide the appropriations necessary for you to enforce the law as Congress has written?

Secretary NAPOLITANO. We certainly have provided Congress with the information about what it would take to remove 11 million people from the country.

Senator CORNYN. That is not the question, Madam Secretary. My question is: Have you requested the Congress the appropriations to enable the Department of Homeland Security, which is committed with enforcement of our immigration laws, with the ability to do its job?

Secretary NAPOLITANO. Senator, as you know, because this dialogue has gone on for quite some time in the Congress, we have provided the information about what it would take to do removal of everyone in the country. It is obvious that those resources are not available. And when you are talking about DREAM Act students, it really does not make sense. We really need to take our resource——

Senator CORNYN. Madam Secretary, you are not answering my question. And let me close with——

Secretary NAPOLITANO. Well, perhaps I am not understanding your question. I thought I was answering it.

Senator CORNYN. Well, you are not. Maybe we need to continue the dialogue.

Secretary NAPOLITANO. I would be happy to.

Senator CORNYN. Secretary Duncan, let me just ask, since my time is quickly escaping us, you talk about the importance of being able to retain in this country highly educated people who hail from other countries who are educated in our institutions of higher education, and I actually agree with you. That is why I have been the principal Senate sponsor of something called "the skill bill," which

would actually raise the cap on the H–1B visas to enable people who graduate with math, science, engineering, and other degrees at the graduate or postgraduate level to enable us on a selected basis to retain them here in this country so they do not simply take the education that taxpayers have subsidized here and go back home and then compete with us and create jobs there. Do you and the administration support lifting the cap on the number of H–1B visas here so we can retain more of these students that are highly educated and whose educations are subsidized by taxpayers here in America?

Secretary DUNCAN. I will just speak personally that I think in this country we need as much talent as we can get, and we need, again, the innovators, the entrepreneurs, the folks who are going to create jobs. And I think you have a room full of young people here who have those skills, who have that capacity. I want to give them those kinds of opportunities.

Senator CORNYN. Well, do you know for a fact that the young men and women here in this room who seek passage of this authority would, in fact, qualify for those 3 million jobs that are unmet right now?

Secretary DUNCAN. I do not know all these young people intimately here. I saw them here today. But I will tell you there are many young people in this room and around the country, in your home State and mine, whom, when we talk about almost 2 million unfilled STEM jobs—and we know that is the future economic engine of our country. Could many of the young people in this room and around the country help to fill those jobs and drive the economy? No question in my mind. Absolutely. I have worked with many of them in the Chicago public schools, extraordinarily talented.

Senator CORNYN. Mr. Chairman, I wonder if you would permit me one last question. This is for Dr. Stanley.

Dr. Stanley, you are aware, are you not, that under the current law the Secretary of Defense can waive certain ineligibility requirements for somebody who is not a green card holder or an American citizen and allow them to serve in the United States military? Are you aware of that, sir?

Mr. STANLEY. I believe you are referring to the Military Accessions Vital to the National Interest.

Senator CORNYN. Yes, it is 10 U.S.C. Section 504, and it provides discretion to the Department of Defense Secretary to allow the enlistment of somebody who meets perhaps the situation of Cesar Vargas, who is not a green card holder, but it gives that discretion. Are you aware that there is discretion under current law to allow certain individuals on a selected basis to serve in our military who are not green card holders or American citizens?

Mr. STANLEY. I am, Senator. It is a very narrowly focused program. It is actually for very specific skills like medicine or language.

Senator CORNYN. In fact, it has never been used, right?

Mr. STANLEY. It has been used.

Senator CORNYN. It has been?

Mr. STANLEY. It has, yes, Senator. It has been used, in fact, as a pilot program that is actually being used now, and we use that for very specific skills.

Senator CORNYN. Well, I would love to get—the information that my staff was provided or provided to me said that it had never been used, so I would love to get that information from you and your office.

Mr. STANLEY. We will do that.

Senator CORNYN. Thank you very much.

Thank you, Mr. Chairman.

Senator DURBIN. Thanks, Senator Cornyn. Our information says it has never been used for undocumented immigrants. It might have been some other immigration status.

Mr. STANLEY. That is correct.

Senator DURBIN. I believe later in the hearing Lieutenant Colonel Margaret Stock is going to testify about the challenge that would present.

Senator Leahy.

Chairman LEAHY. Thank you, Mr. Chairman.

Dr. Stanley, I am not going to be able to stay for Colonel Stock's testimony, but her testimony points out that the DREAM Act beneficiaries would be subject to all the statutory and contractual obligations of a U.S. citizen, but would still be ineligible for officer commissions and ROTC scholarships and other opportunities. They have to wait longer to become eligible to be naturalized than other non-citizens who serve in our military. That really does not sound like amnesty.

Given the higher demands on the DREAM Act beneficiaries, do you think that we will still find them joining our military?

Mr. STANLEY. Yes, Senator, we do. We believe that we will find—because the standards for enlistment will not be relaxed, and we have to have qualified people who not only pass the physical but the mental and obviously have the moral background and all the things that go into being good citizens in order to be able to enlist into the military.

Chairman LEAHY. You talked about the historical contribution immigrants have made throughout history in our military. I remember a person in our military who was an immigrant in an area of conflict in this country who fortunately had language skills that were exactly helpful to others in the military and to our intelligence people.

Aren't we better off with diversity within our military, and not just in race or place of origin but languages and all the rest?

Mr. STANLEY. Yes, that is correct, Senator. The issue of having language and cultural diversity within the military is very important, and, in fact, just the other day we met with some of our combatant commanders who actually emphasize that need as we go into different geographical regions in the world and preparing for actually what we may be doing tomorrow as well as executing what we do today.

Chairman LEAHY. Secretary Napolitano, I appreciate your being here. Can we assume, though, that you will come to testify before the full Committee in your capacity as Secretary before the year is out?

Secretary NAPOLITANO. Yes.

Chairman LEAHY. Thank you.

Let me ask you this: You were a Governor of a southern border State and before that you were a prosecutor. Some have argued that if we have the DREAM Act, it is going to encourage more illegal immigrants to come to the United States in the future. That assumes that foreign nationals would come to the United States unlawfully in anticipation that some future act of Congress would provide relief. Do you agree with that argument?

Secretary NAPOLITANO. No. I think as the bill is drafted, there would be a time period set during which an individual would be eligible, but outside that period, there would not be eligibility. So it is not an unending process. This is really dealing with the young people the likes of which we see in the room this afternoon.

Chairman LEAHY. The current estimates are that approximately 2 million individuals currently in the United States could qualify for the DREAM Act if it was enacted. If it was enacted and the steps were being followed, would that free up some of your personnel in Homeland Security to do what most of us would consider regular law enforcement actions, in identifying and removing criminal aliens?

Secretary NAPOLITANO. Yes, it would, and that is the whole point of having clear guidelines, clear priorities. But what we would urge the Congress to do is to take this group of young people who are no risk to public safety, no risk to security, who have no individual culpability, and take them out of the universe of those against whom any enforcement action should be taken so that we can focus on others who are more serious risks to our Nation.

Chairman LEAHY. Secretary Duncan, I believe you have probably answered this, but I just want to make sure. Obviously, I am a supporter of the DREAM Act, but some have argued that it could impose higher costs on public colleges and universities through increased enrollment, people eligible for in-State tuition and so on. In my own State of Vermont, we have public universities; we have State universities.

How do you react to a criticism like that?

Secretary DUNCAN. I just look at CBO's numbers that showed this reduces the deficit. This is a budget saver, not an expense. And I have never seen a study in my life that said that investment in getting more young people college educated would somehow hurt the economy. It is just absolutely counterintuitive. We desperately, frankly, need many more young people in this country not just going to college but graduating, and we have so much talent here, so much potential to leave them on the sidelines, it sickens me.

Chairman LEAHY. Well, I am not going to disagree with that. There were some statistics in the paper the other day, the number of States with aging populations. We ought to be getting well-educated young people into our workforce, not the other way around.

Secretary DUNCAN. We have gone from first in the world in college graduates to ninth, and I think we are paying a real price for that economically. And the President has challenged us to again lead the world in college graduates by 2020, and we have so many people who can contribute to us again leading the world. To not give them that opportunity is nonsensical.

Chairman LEAHY. Secretary Duncan, you have been to my State. I still think of the day when both you and my wife received honorary degrees from St. Michael's College. You came to a very diverse school in the area where a lot of immigrants have come and a lot of refugees have come. There are dozens of languages spoken there. But our State as a whole is not a diverse State. I think we are 97-percent white. But I have got to tell you, in my State of Vermont there is strong, strong support for the DREAM Act, strong support for it because Vermonters believe in fairness. It certainly is not something that will affect a lot of those young children you had school lunch with that day. But we Vermonters believe it is simply a matter of fairness, and an awful lot of Vermonters are only a generation or two away from immigrant status. We believe it is a matter of fairness. I believe it is a matter of fairness. And for whatever time I have left in the Senate, I will fight, along with Senator Durbin, for it.

Senator DURBIN. I need your help. Thank you.

Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

I also want to thank you, Secretary Napolitano, Secretary Duncan, and Dr. Stanley, and I especially want to thank all the students who are in the audience today. I think what you are doing is important and I think it is brave, and I commend you for it.

Now, before I begin my questioning, I want to take a moment to explain why I support the DREAM Act. Since coming to office, I have learned a lot about so many Minnesotans—so many students like yourselves. I learned about a student whose parents brought him to the United States—to the suburbs of the Twin Cities of Minneapolis-St. Paul—when he was 8 years old, and he saves up all his money every year just to take one class at the University of Minnesota because that is all he can afford.

I learned about a young woman who cleans bathrooms in a dental clinic in Apple Valley in Dakota County who wants to start her own design business.

I learned about a young man who is student body president of his Minnesota college and wants to become an educator for kids who are poor like him.

Each of those students is just like you. Each of those students is so smart and so capable and so good. And each one of those students has a dream, but because of this injustice in our law, those students are stuck. I applaud you, Mr. Chairman, for drafting a bill that would end that injustice, and I am a proud supporter of this bill.

Dr. Stanley, I sincerely believe that the day after it passes there will be lines out the doors of college registrars and military recruiters, across this country.

I did a lot of USO tours, and the USO asked me to go to Walter Reed. I had the same experience that I think everybody who goes to Walter Reed has, which is: You go there thinking, "How am I going to cheer up a guy who has lost some limbs?" And you always end up getting cheered up yourself. I am sure you have had that. It is everyone's first experience.

So I go there, and they have to go in and ask each wounded soldier whether they want a visitor. I remember—it was Specialist

Melendez—I saw his name on the door—and they went in, came out and said, "Okay, Al, go in." I was nervous. I saw Specialist Melendez, and he was grinning ear to ear, not because I was coming in—I thought it was because he was watching something on TV. And his dad was there grinning ear to ear. I started talking to him. He had lost one leg right up to his hip and the other leg above the knee. He was grinning because he had just become a citizen. I asked him how many guys in his unit were immigrants, and he said five, back in Iraq. I guess none of them had become citizens yet.

I also learned on those tours that there are undocumenteds serving in our military. Is that the case, Dr. Stanley? I mean, there are not supposed to be, but there are, right?

Mr. STANLEY. Senator, I have to take it for the record. That I do not know. About undocumented?

Senator FRANKEN. Yes. I have seen reports that they manage to do it.

Let me ask a question. Say an undocumented managed to get into the military, which they do, from reports I have read, and they got wounded, say, after this was passed, but they had committed a couple of misdemeanors. If this person had lost a leg while fighting and serving in our military, would you be able to give them a waiver, Madam Secretary?

Secretary NAPOLITANO. Well, you present a compelling case, and every exercise of waiver authority needs to be narrowly construed because we want to follow the words of the statute. But the case you described, depending on what the misdemeanors were, if they were truly minor misdemeanors and someone had sacrificed limbs for their country and they otherwise met every other criteria, of which there is a long laundry list of in this bill, that would be something that would be considered for a waiver, yes.

Senator FRANKEN. So maybe that waiver is a good thing.

Mr. Chairman, 2 months ago you sent a letter with 21 other Senators to President Obama asking him to grant deferred action to DREAM Act-eligible students while we work on passing this legislation. I would like to let everyone know that today I will be sending my own letter to the President in support of deferred action. I think it is the least that we can do to stop this injustice from getting any worse.

Secretary Duncan, you talked about the CBO report on how passing the DREAM Act would affect our deficit. We are now in the middle of talks about budget, and about deficits, and about the long-term sustainability of our debt. Can you talk about what this would do in terms of bringing down our debt?

Secretary DUNCAN. These are the CBO's numbers, not mine, and CBO, as you know, is nonpartisan. Their numbers are very simple. They estimate that if the DREAM Act would pass, it would generate $1.4 billion more in revenue——

Senator FRANKEN. Trillion.

Secretary DUNCAN. Billion, $1.4 billion more in revenue than it would add in costs over the next decade. So this is a deficit reducer.

Senator FRANKEN. I am sorry, $1.4 trillion is the amount of income they would have, but $1.4 billion——

Secretary DUNCAN. That is the deficit reduction. The $1.4 trillion, that is the bottom number in terms of income. It was a range between $1.4 trillion and $3.6 trillion. So these are huge numbers. And, again, you know all the buying power, purchasing power, and what that would mean for our country to have that happening rather than, again, a bunch of people working for peanuts under the table.

Senator FRANKEN. Thank you very much.

Thank you, Mr. Chairman.

Senator DURBIN. Thank you, Senator Franken.

Senator Grassley.

Senator GRASSLEY. In light of the figures that were just given, I have to ask—based upon what the Congressional Budget Office assessed a version of the DREAM Act this past December—so I am going to ask Secretary Napolitano: Their estimate of a $5 billion increase to the deficit, while a huge burden, does not come close, in my opinion, to the actual cost of implementation of the bill, so a simple question to you: What is the Department's estimate of the implementation of this bill? And where will the money come from?

Secretary NAPOLITANO. Well, we think we could handle the implementation of this bill in CIS, and if I am not mistaken, I believe there is also a fee mechanism in the bill as well, as there are for many of the citizenship programs that we administer. This is a budget-neutral bill, in other words.

Senator GRASSLEY. Okay. So your opinion is a lot different than what the Congressional Budget Office had.

Let me go on to another point. On May 10, 2011, President Obama addressed an El Paso, Texas, crowd on immigration. In that speech he stated, "And sometimes when I talk to immigration advocates, they wish I could just bypass Congress and change the law myself. But that is not how our democracy works."

On June 17th, a memo was released giving ICE officers, agents, and attorneys prosecutorial discretion, for instance, as involving undocumented immigrants on a case-by-case basis. Does this change in course reflect an administrative bypass of Congress?

Secretary NAPOLITANO. I believe, Senator Grassley, you are referring to the memo from the ICE Director to the field?

Senator GRASSLEY. Yes.

Secretary NAPOLITANO. Okay. No, it does not bypass Congress at all. It recognizes that we have sworn to uphold the existing immigration law, which we will. But we are in essence in many respects a prosecution office, and prosecution offices have priorities. The Department of Justice, the United States Attorneys offices have priorities. There is the U.S. Attorney's manual that governs priorities. It is about allocating properly, and with the public safety of the country number one in mind, the resources that we are given by the Congress.

Senator GRASSLEY. Secretary Napolitano, again, if the Congress fails to enact a version of the DREAM Act, will the President and/or the Department bypass Congress and implement it administratively? Can you give this Committee assurances a mass amnesty will not be done administratively under President Obama?

Secretary NAPOLITANO. Yes, and the President has been very firm on this. In meeting with groups that very much want him to

accomplish a DREAM Act administratively, he has said no. This is for the Congress to debate and to decide. But what is within the Executive prerogative is to set prosecution priorities, which is what we have done.

Senator GRASSLEY. You used the words "prosecution priorities." I was asking about would there be any mass amnesty done.

Secretary NAPOLITANO. Perhaps we are just thinking about the same thing and using different words. There is no mass amnesty here.

Senator GRASSLEY. Okay. Are you aware of any discussions within the Department to extend deferred action or humanitarian parole on a categorical basis such as those who would benefit under the DREAM Act?

Secretary NAPOLITANO. I am aware that there were some lower-level discussions, but the policy of the Department is that there can be no categorical amnesty, and there will not be, which is why the Congress needs to act. There is some urgency here with these young people.

Senator GRASSLEY. Would you be willing to give the Committee notification of every instance the Department grants deferred action to a DREAM Act-eligible person so that we know that you are truly doing this on a case-by-case basis?

Secretary NAPOLITANO. We would be willing to discuss that with you, a process for that, yes.

Senator GRASSLEY. We have had so much correspondence here over the last year on this issue. I am not sure we have not already asked you that, so I am not sure I want to discuss it anymore.

Secretary NAPOLITANO. Senator, we have had an awful lot of correspondence with the Committee on various issues, but I think the point of the question is would we agree to some oversight of how the deferred action process is being administered, and the answer is we want to be very transparent about how we are exercising the authorities the statutes give us.

Senator GRASSLEY. Okay. In response to the discretionary memo of June 23, 2011, Chris Crane, president of the National ICE Council, stated, "Any American concerned about immigration needs to brace themselves for what is coming. This is just one of many new ICE policies aimed at stopping the enforcement of U.S. immigration laws in the United States. Unable to pass its immigration agenda through legislation, the administration is now implementing it through agency policy."

I would like to have you rebut this assertion that the Department is bypassing Congress.

Secretary NAPOLITANO. I think it could not be more wrong, and I do not know where he gets his information, but the enforcement record of this administration is unparalleled. We have enforced the law. We have improved the removal of criminal aliens. We have removed more people from the country. And we get criticized for that. In fact, I suspect we have been criticized by some of the people attending in this room in support of the DREAM Act. But it is our belief that enforcement of the immigration law is very important, and must be done smartly intelligently, effectively, and fairly.

We also believe, however, that the DREAM Act-eligible students or applicants for the military are not those against whom the full

force of the immigration law and removal from the country is appropriate. That is why we believe that Congress should address this and provide a legislative fix for this problem.

Senator GRASSLEY. Unrelated to the DREAM Act, because I promised—I am not going to ask you a question for answer orally, but I would like to have an answer in writing. This is because I promised the Brian Terry family that every time I got an opportunity to ask somebody that had anything to do with Fast and Furious or immigration, I would ask this question.

Last week Chairman Issa and I sent a letter regarding your Department's involvement in that. It is a follow-up letter that I sent in March that Customs and Border Protection refused to answer. I would like to have you give a complete and thorough, timely response to that letter. In addition to what is in that letter, I would like to ask you to comment, not now but in writing. The U.S. Attorney in Arizona, Dennis Burke, is your former chief of staff. Have you had any communications with him about Operation Fast and Furious or about Agent Terry's death at the time? And if so, I would like to have you describe that communication.

[The information appears as a submission for the record.]

Senator GRASSLEY. Now, I have got an opportunity for one more question. The legislation broadly allows the Secretary to set forth the manner in which those seeking benefits under the DREAM Act to apply. This concerns me. One requirement is the undocumented person must initially enter the U.S. before the age of 16. As you know, many countries do not keep accurate records of birth, and fraudulent documents are rampant. What documents would you require to determine age? And how will you determine when the undocumented person actually entered the United States? And what steps will you take to ensure this legislation does not exacerbate the black market for fraudulent documents?

Secretary NAPOLITANO. We will obviously take up administratively, but one of the things we have done in the last 2 years is greatly increase our anti-fraud efforts in the entire immigration benefit process. So, for example, we now have anti-fraud officers in all of 184 field offices. We have special anti-fraud units that are in some of the highest-use offices. We have a lot better way of checking records and verifying records, in part because of the greater use of biometrics, biometric passports and the like.

So we have a number of different ways to address that particular issue to make sure that the DREAM Act is not used as a vehicle for fraud.

Senator GRASSLEY. Thank you, Mr. Chairman. Thank you, Madam Secretary.

Senator DURBIN. Thank you very much, Senator Grassley.

I know Senator Blumenthal was trying to join us, so if he arrives in a minute or two, I am going to give him a chance to ask questions.

At the end of the hearing, I am going to be entering into the record 141 statements of support for the DREAM Act, and I would like to just say to this panel, because we have had a number of questions related to the impact of the DREAM Act on education, and I want to make it clear that we have statements of endorsement of this legislation from a long, long list of colleges and univer-

sities across the United States, including the American Association of Community Colleges, the American Association of State Colleges and Universities, the American Council of Education, the Association of Jesuit Colleges—the list goes on and on. If these organizations thought the DREAM Act was a threat to the future of education, they certainly would not endorse it. They have, and we are honored to have their support.

I am also happy to have the support of so many different religious organizations who have weighed in on behalf of this, from Christian and Jewish and different organizations including the Association of Catholic Colleges, the National Association of Evangelicals, the Southern Baptist Convention. It is just a broad array of people who are supporting this in principle.

Senator Blumenthal cannot make it in time, so I am going to thank this panel for their testimony. We appreciate so much your being here. There may be some written questions coming from other Members of the Committee, and I hope you can respond to them in a timely way. I appreciate very much your testimony. Thank you.

Senator DURBIN. I am now going to invite the second panel to come before us, and as they do, I am going to read their introductions in the interest of time.

Our first testimony is going to come from Ola Kaso, who is sitting down at the table now. We welcome you. We have a statement from Senator Carl Levin, who was honored to bring her to this hearing this morning. He called me because he was so excited about her testimony. He is stuck in another Committee hearing, but strongly supports the DREAM Act and is standing behind Ola Kaso's testimony. She graduated from high school in Warren, Michigan, earlier this month with a 4.4 grade point average. She is enrolled in the honors program at the University of Michigan, where she will be a pre-med student.

Senator Carl Levin is a cosponsor and strong supporter of the DREAM Act, as I mentioned. Earlier this year he intervened with the Department of Homeland Security to stop Ms. Kaso's deportation. Senator Levin submitted a statement for the record, and here is what it says:

"We need for Ola Kaso to be able to stay in this country. We need her and the people like her in our communities and our schools and universities and our businesses. This is a matter not of Democrats and Republicans, left and right, but of right and wrong, and I encourage this Subcommittee and my colleagues in the Senate to embrace Ola Kaso and young Americans like her who will make our country stronger, if only we allow them to."

Ms. Kaso, thank you for being here today, fresh out of your high school graduation, and we would like to give you a chance now to make an opening statement.

STATEMENT OF OLA KASO, WARREN, MICHIGAN

Ms. KASO. Thank you. Chairman Durbin and Members of the Subcommittee, thank you for the opportunity to submit this testimony.

I was 5 years old, but I remember it like it was yesterday. Apprehensively, I teetered into the perplexing classroom. Students spoke

in a language completely foreign to me. The teacher, too, spoke and pointed a certain direction. What did she want me to do? Where did she want me to go? I stood there, frozen still and silent like a statue. The children stared and they laughed. After a week of my unremitting silence, I was directed into the principal's office. My mother was there, too, seated to the right of the translator that had helped her enroll me in school. The teacher spoke, and the translator began speaking too.

"She says Ola might need special attention. She barely socializes with the other kids and she is not learning anything. She suggests that Ola be taken out of the general class and be placed into the ELL program so she can get the extra assistance she needs."

I have come a long way since that day 13 years ago. I have become proficient in the English language, and I have excelled in my studies.

Since the third grade, I have been placed in advanced programs, all of which I have fully utilized. I have taken every Advanced Placement course my high school has offered, and I have earned a 4.4 GPA doing so. I earned a 30 on my ACT with English being my highest score. In high school I was a varsity athlete. I ran cross country in the fall, and I played tennis in the spring. I was the treasurer of the Student Council, and I was the treasurer of the National Honor Society at my school. Furthermore, I tutor students that are still struggling to become proficient in English, and I have received numerous scholarship offers, and I have been accepted to several universities.

I commit countless hours to community service and charity events because I feel that big change comes through little steps. I juggle all my school work, after-school activities, and community service projects while also having a job. I have completely immersed myself within the American culture, of which I so strongly desire to become a citizen.

I am currently enrolled at the University of Michigan, one of the most prestigious public universities in the Nation, where this fall I will be majoring in brain, behavioral, and cognitive science with a concentration in pre-med.

I ultimately aspire to become a surgical oncologist, but more importantly, despite seemingly endless obstacles, I intend to work for patients that cannot afford the astronomical fees accompanying life-saving surgeries, patients that are denied the medical treatment they deserve. My goal is not to increase my bank account; my goal is to decrease the amount of preventable deaths. How can I go to a lucrative job every day knowing that there are mothers wasting away in front of their children because they cannot afford surgery? I cannot and I will not. I wish to remain in this country to make a difference. I wish to remain in this country to help American citizens.

On March 28th, I was spontaneously told that I would be deported in less than a week despite the fact that my family has complied with all immigration laws for the last 13 years. I was 2 months short of obtaining my high school diploma. I was shocked. How could I be sent to a place I did not even remember, a culture that is completely foreign to me? I am not even fluent in Albanian, so if I were to be sent back, I could not pursue a college education.

My hard work, my dreams, and my future were at risk of being eradicated. I have considered one country, and one country only, to be my home. America is my home, not Albania.

My community rallied behind me. They asked for my deportation to be suspended, and the Department of Homeland Security responded and granted me deferred action for 1 year so I can continue my studies.

My family came here legally, and we followed the law every step of the way. Despite my compliance with the law, there is no way I can obtain citizenship under the current law; despite all my hard work and contributions, I face removal from the only country I have ever considered home. Despite my aspirations and good intentions for my country, I face deportation in less than a year.

I am a DREAM Act student. I was brought to this country when I was 5 years old. I grew up here. I am an American at heart.

There are thousands of other Dreamers just like me. Look around the room and you will see hundreds of them today. All we are asking for is a chance to contribute to the country that we love. Please support the DREAM Act.

Thank you again for the opportunity to testify today on behalf of all of the Dreamers.

[The prepared statement of Ola Kaso appears as a submission for the record.]

Senator DURBIN. Ola, thank you. You were speaking for thousands just like you all across America, and you were very effective. Thank you for doing that.

Our next witness is Margaret Stock, a retired Lieutenant Colonel in the U.S. Army Reserve. Lieutenant Colonel Stock is counsel at the law firm of Lane Powell. Previously, she was a professor at the U.S. Military Academy at West Point, a partner at the law firm of Stock and Mueller and an associate at the law firm of Atkinson, Conway & Gagnon. Lieutenant Colonel Stock received a bachelor's from Harvard and Radcliffe Colleges, a J.D. from Harvard Law School, a master's in public affairs from Harvard's Kennedy School of Government, and a master's of strategic studies from the U.S. Army War College.

Lieutenant Colonel Stock, we look forward to your testimony.

STATEMENT OF LIEUTENANT COLONEL MARGARET D. STOCK, U.S. ARMY RESERVE, RETIRED, ANCHORAGE, ALASKA

Ms. STOCK. Thank you, Senator Durbin. I appreciate the opportunity to testify before you today regarding the DREAM Act.

In addition to the qualifications that you mentioned, I earlier heard a question from Senator Cornyn regarding the MAVNI Program, and I would like to mention that I was the original project officer for the MAVNI program under the Bush administration, so I am prepared to answer questions about that issue, although that is not the subject of the hearing today.

I would also like to mention that among my professional affiliations I have membership in the American Bar Association where I am a commissioner of the Commission on Immigration, the American Immigration Lawyers Association, the Federalist Society for Law and Public Policy, and the Republican National Lawyers Asso-

ciation. I am mentioning those only to reveal my potential biases at this hearing.

Over the years, as an attorney I have represented hundreds of businesses, immigrants, and citizens who seek to navigate the difficult maze of U.S. immigration law, and I am prepared at this hearing to address some of the specific questions that Senator Cornyn and others raised earlier about, for example, the effect of the provision in the new version of the DREAM Act with regard to good moral character, from which there is no waiver authority granted to the Secretary of the Department of Homeland Security. So I would like to mention that I would like to address that later.

I am honored to be appearing before you this morning to discuss the DREAM Act because the DREAM Act is essential to our national security, our economy, and it is necessary to end the colossal waste of human talent that is going on right now with the status of these American-educated young people.

The DREAM Act is part of a comprehensive solution to our Nation's immigration problems, but as others have noted, it is perfectly reasonable to pass it as a stand-alone bill, and I applaud you for holding a hearing to address that issue in hopes that this can be passed.

As the Council on Foreign Relations Independent Task Force on U.S. Immigration Policy explained recently—and I also should reveal that I served on that task force under Jeb Bush and Mack McLarty—the Independent Task Force endorsed the DREAM Act saying, "The DREAM Act is no amnesty. It offers to young people who had no responsibility for their parents' initial decision to bring them into the United States the opportunity to earn their way to remain here." And more particularly, the DREAM Act will enhance America's ability to obtain future high-quality recruits for the United States Armed Forces.

The reality of our Nation's broken immigration system has been that we now have in the United States today a very large population of persons who have no means of obtaining lawful permanent residence here, even if they have lived in America for decades, gone to school here, paid their taxes, and committed no crimes. Many of these individuals are legally in the U.S. in some status that falls short of lawful permanent residence, but some 12 million are unauthorized, including an estimated 2.1 million youth and young adults.

Despite the fact that many of these undocumented young people have grown up in the U.S., attended our schools, and demonstrated a sustained commitment to this country by learning English and succeeding in our educational system, U.S. immigration laws provide no avenue for them to obtain any legal status.

The DREAM Act would allow those young people who have grown up in this country, graduated from high school, been acculturated as Americans, and have no serious criminal record and meet the good moral character requirements to go to college or serve in the military and thereby legalize their immigration status.

Those who oppose the DREAM Act often mistakenly repeat the popular misconception that these young people should just "get in line like everyone else." But without the DREAM Act, there is no line for them to stand in.

The inability of this large group of young people to obtain any legal status has far-ranging social and economic impacts, not least of which is an obvious impact on the qualified manpower available for the U.S. Armed Forces. Currently, unauthorized young people are barred from enlisting in the U.S. military. And I would just note for the record that the suggestion that the Department of Defense should be hiring undocumented persons who are not authorized to work in the United States is interesting in light of the fact that every other U.S. employer is barred from employing people who are not authorized to work in the United States.

Persons lacking familiarity with today's enlistment process might believe it is possible for the services to enlist undocumented immigrants, but in reality the services do not have the legal or administrative authority to enlist somebody who has no record with the Department of Homeland Security and is not authorized to work in the United States and who has no valid Social Security number. So the services cannot use their 10 United States Code 504 enlistment authority to enlist undocumented immigrants.

In contrast, the Department of Homeland Security has the institutional expertise and processing systems required to take applications from unauthorized immigrants, fingerprint them, collect their filing fees, vet them against complex inadmissibility and removability criteria, create "alien files" on them, assign them alien numbers, and otherwise process them for conditional permanent residence status. And under the DREAM Act, this process will happen before these young people appear at a recruiting station and try to enlist. So they will be legal when they approach a military recruiter. The Department of Defense will not be in the position of trying to hire people who are unauthorized to work.

The DHS process will be a first gate to screen out persons who are unsuitable for military service as a result of having serious criminal or immigration violations or who lack good moral character. And the DREAM Act appropriately assigns to DHS the role of accepting these applications and conducting this immigration law vetting before any of them are given the conditional lawful residence status.

Under the DREAM Act, all DREAM Act beneficiaries who attempt to enlist will have conditional lawful permanent residence, a status that is already recognized in existing enlistment statutes and military regulations. Some people have suggested that the Department of Defense create a "military only" DREAM Act, but such a program would present a greater security risk to DOD, would flood military recruiters with unqualified applicants for enlistment, and would require significant changes in military enlistment regulations and recruiting resources. A "military only" DREAM Act would also contradict the fundamental premise of the all-volunteer force, as many DREAM Act beneficiaries would be motivated to join the military out of a desperate desire to legalize their status and not because they are truly interested in military service.

It is important to note—and other witnesses stated this earlier—that DREAM Act beneficiaries will have the same statutory or contractual enlistment obligations as all other military personnel. The only difference is that they will be unable to naturalize through military service until they have lifted the conditions on their lawful

permanent residence status, a process that is likely to take about 7 years in most cases. So they will not be eligible to become citizens immediately under military naturalization statutes.

Some have opined that the DREAM Act is unnecessary because the Armed Forces are currently meeting their enlistment goals, but this is also a misinformed opinion. The current beneficial recruiting environment is a direct result of the poor state of the United States economy. As the U.S. economy recovers from the current recession and our population continues to age, the Armed Forces will face a very difficult recruiting climate.

Now, we know that DREAM Act beneficiaries are going to help meet our Nation's future need for individuals who are highly qualified and are interested in joining the Armed Forces because this population highly propensed to serve. I want to mention not only the fact that the DREAM Act creates a strong incentive for military service, but that past DOD studies have shown that this particular population comes from a demographic group that is already heavily predisposed to military service.

A 2004 survey by the Rand Corporation found that 45 percent of Hispanic males and 31 percent of Hispanic females between ages 16 and 21 were very likely to serve in the U.S. Armed Forces compared to 24 percent of white men and 10 percent of white women.

Senator DURBIN. Colonel Stock, I am sorry. We have a vote in just a few moment, and I want to make sure we can wrap up this Committee hearing. So if you could conclude, I would appreciate it.

Ms. STOCK. Absolutely.

As mentioned above, Senator, I am a member of the retired Reserve of the U.S. Army Reserve, and I served in the U.S. Army Reserve for 28 years. During that time I learned of many undocumented immigrants who wanted to serve America by joining the all-volunteer force. I often had the unpleasant task of explaining to these eager, patriotic, and energetic young people that they were barred from enlisting because of their lack of legal status.

I also talked to many military members who were trying to get promising young people to enlist. They would approach me, and I would have to give them the same bad news. And over and over again I would hear the comment, "Ma'am, this makes no sense. All they want to do is serve the United States. Why don't we let them?"

In my written testimony, I have given you anecdotes from several of our Junior ROTC instructors who were in public schools in America that have large numbers of undocumented people in them. These anecdotes illustrate the propensity of these young people to serve America and the propensity of these young people to perform well through military service.

It makes little sense to deport these American-educated youth. It is expensive to locate, arrest, imprison, and deport them. The DREAM Act would help to fix our dysfunctional immigration system. It is good for our national security, and it is good for our economy. Pass the DREAM Act and let these promising young people serve America.

Thank you.

[The prepared statement of Margaret D. Stock appears as a submission for the record.]

Senator DURBIN. Thank you, Colonel Stock.

Dr. Camarota is the director of research for the Center for Immigration Studies, holds a Ph.D. from the University of Virginia in public policy analysis and a master's degree in political science from the University of Pennsylvania.

Dr. Camarota, thanks for being here today. The floor is yours.

STATEMENT OF STEVEN A. CAMAROTA, PH.D., DIRECTOR OF RESEARCH, CENTER FOR IMMIGRATION STUDIES, WASHINGTON, DC

Mr. CAMAROTA. I would like to thank the Committee for inviting me to speak here today.

The recently introduced or reintroduced DREAM Act attempts to deal with one of the more vexing issues in immigration. The Act offers permanent legal status to illegal immigrants, up to age 35, who arrived in the United States before age 16. These individuals are one of the most compelling groups of illegal immigrants because in almost every case their parents are to blame for their situation, not them.

However, as currently written, the law has a number of significant problems. In my oral testimony I will highlight four main problems, and I will suggest possible solutions. My written testimony has a more extensive list.

First, there is the issue of cost. The DREAM Act requires 2 years of college but no degree is necessary. Given the low income of illegal immigrants, most can be expected to attend State- and county-supported colleges. Not including illegal immigrants already enrolled, the cost to taxpayers in tuition subsidies for these State-supported schools for the roughly 1 million students we think will attend is about $12 billion for the State schools and the community colleges.

In addition to the cost to taxpayers, there is the related issue of crowding-out U.S. citizens and legal immigrants in these public institutions that are already reeling from budget cuts at the State and local level. It is important to remember that the illegal immigrant population is concentrated in only about a dozen States, and enrollment slots are not unlimited in those States. There is a limit to how many people can attend, at least in the short term.

Now, advocates of the DREAM Act argue that it will significantly increase tax revenue because once they have a college education recipients will earn more and pay more in taxes. Whether that is true or not, it is important to understand that any hoped-for tax benefit will come only in the long term and will not help public institutions deal with the large influx of students the Act creates in a relatively short period of time.

Further Census Bureau data show that the income gains for having some college, but no degree of any kind, are quite modest. So the resulting income gains in tax revenue will be small, at least as currently written.

Now, one way to deal with this situation is for Congress simply to provide additional funds to State universities and community colleges. If the idea behind the DREAM Act has merit—which I think it does—then acknowledging these costs and being honest

with the public and including these costs in the law is clearly necessary.

Now, a second major issue with the bill is that any legalization for illegal immigrants unavoidably encourages more illegal immigration. We have seen that in the past, and that is always an issue.

Now, the best remedy would be to include some important enforcement mechanisms in the law, such as full implementation of the US-VISIT program, which tracks the arrival and departure of visitors to our country. Also including mandatory e-Verify, which verifies the legal status of workers would make sense. A more rapid implementation of the Secure Communities program and adding funding for the 287g program—Secure Communities and 287g, as you all know, deals with criminal aliens. If we take these simple steps, we can help discourage future illegal immigration.

Now, a third issue with the Act is that it is an invitation to fraud in many ways. First off, the confidentiality means that if somebody commits fraud, the bureaucracy is in kind of a box because they cannot use the information that they learn in the application process against that individual, as I read the Act. Also, the Act does not have a clear list of documents that will be acceptable for identification. This happened also in 1986 in the IRCA amnesty. Most estimates show that about 700,000 illegal immigrants who were not qualified for that legalization got legalization because at the time the bureaucracy was overwhelmed, as it is now. There was no clear list of documents. They could not do all the investigations. We are setting ourselves up for a repeat of that situation.

The most obvious way to fix this problem is to give the immigration bureaucracy a lot more money, let it hire the staff and train up, so it could process all these applications, also change the fraud situation. If somebody provides fraudulent information, you have to be able to use the information in the application against that person, so you can go to the address, for example, that they might give you.

Now, the fourth problem—and I will just touch on it—with the DREAM Act is that a person convicted of two serious misdemeanors could still qualify. We have heard a lot of talk about this, and we know that some misdemeanors are pretty serious. There is a very simple solution. Just put in the law that people convicted of drunk driving or a sexual offense or a violent offense, even if it is a misdemeanor, are ineligible. It is a pretty obvious and quick thing to do, and I think it would reassure the public.

In conclusion, while illegal immigrants raised in the United States do not have a right to stay in our country, they certainly have a claim on our conscience. We should act on that claim. But we should do so in a manner that limits unintended consequences.

Thank you.

[The prepared statement of Steven A. Camarota appears as a submission for the record.]

Senator DURBIN. Thank you, Dr. Camarota.

In 2007, when I was bringing the DREAM Act up, you were interviewed by C–SPAN, and you said something a little different than your testimony today. You said, "Children pay the penalty for their parents' misdeeds. If a parent does not pay the mortgage and the house gets foreclosed, sometimes the children suffer. We incar-

cerate hundreds of thousands of parents each year and deprive those children of their parents."

Then when I brought several Dreamers to a press conference which I had, you also said, "U.S. Congressmen should not be harboring and giving a podium to people who knowingly and willfully violate our laws. I hope they would not do it with tax cheats, I hope they would not do it with robbers, and I hope they would not do it with illegal aliens."

You have given a much more moderate statement today. Have you had a change of heart?

Mr. CAMAROTA. Well, I certainly agree with the second part completely. I do not think that you should give a podium to people who are in our country illegally, just like I do not think you should give a podium to anyone who is currently and admittedly violating our law. Now, that is my opinion. You are the Senator. You will ultimately make that determination.

On the question of whether children pay the penalty for their parents' misdeeds is undoubtedly true, both philosophically and just as a matter of fact. Bad parents abuse their children. Bad parents do all kinds of things. In this case it is the bad act of the parent that is causing injury to the child.

But I never said that I was completely opposed to the idea of the DREAM Act. I am not completely opposed.

Senator DURBIN. So when you talk about educational costs, we talked about that earlier, and it appears that there are some people who disagree with you—the Secretary of Education as well as the Association of Colleges and Universities and a long, long list of schools who do not believe the DREAM Act would be a burden but, rather, an opportunity.

I might also add that among those hundreds who are here today are many who are going to school right now, paying out of their own pockets to go to school. So to think that this is a possibility of 50,000 new students arriving on the scene, many of them are already making extraordinary sacrifices to go to school. They are enrolled currently. So how do you respond to that?

Mr. CAMAROTA. I think you misunderstood me. The CBO estimate, as I understand it, dealt with the Federal budget, and we could talk about that and whether it is right or wrong. But we are talking here about costs at the State and local level only. And so most people, the average subsidy for a State school is, like $12,000. For a community college it is a few thousand. I assume in my research that about 80 percent of DREAM Act recipients would go to community college, which is a lot cheaper. Now, if they go to State school, it will be a lot more, but I do not think that is what is going to happen.

On the question of whether it is a burden because there are already people here, we think that about 60,000 students currently attend in-State school at in-State prices who are here illegally based on some research. Your bill is looking to add about a million people to that system, 500,000 of whom, given their age and soon graduation or have already graduated, about half a million, like I said, 500,000, will be enrolling in a very short time. That is why I would urge you to provide the billions of dollars necessary for these schools to take in those kids.

Senator DURBIN. So you would disagree with the conclusion of the Secretary of Education that ultimately America will be a stronger Nation once these students have graduated from school and are taxpaying citizens, providing assistance for their children and for other families? You disagree with that conclusion?

Mr. CAMAROTA. Well, let us be clear. It only requires 2 years of college. The income gains for 2 years of college is not very great if you do not get any degree. So maybe if you wanted to ensure you could have it so that it gets a degree, and I cite the research on how much income gains you would get. But the bigger question is if you hope that this will be a tax gain for the taxpayers—let us assume that this is a good deal for taxpayers—that is in the long run. You are still looking at adding hundreds of thousands of new students who are currently not enrolled to say our community college system in only about 12 States.

So if you think it is going to be a benefit in the long run—and that is a fascinating and interesting discussion we could have. But if you think that is the case, provide the money to these schools so there is not this crush given the limited resources.

Senator DURBIN. It sounds very rational and logical, but for one important fact. Even the State of Texas has decided that these students will be given in-State tuition. They have decided these students are worth keeping in Texas. We think they are worth keeping in America. And so every State should be offering at least an opportunity for them. So this notion that somehow these are just a drain on the system, I just do not buy your premise on that.

One last point. Colonel Stock, I want to get back to the point that Dr. Camarota raised again. I think the ultimate test of these students is going to be the question of good moral character and whether or not we specify which misdemeanors are acceptable, which are not, it comes down to that final—as Secretary Napolitano said—evaluation of their total life experience as to whether or not they ultimately will have a chance.

Do you see this the same way, that this is the last stop in the most important comprehensive look at their lives?

Ms. STOCK. I do not see it the same way as Dr. Camarota, Senator Durbin, because I have a background in immigration law, and I know what good moral character means. And I know that you have put that in the law, and you have not provided the opportunity for the Secretary to waive that requirement. She has no ability to waive that.

I believe that some people may be unfamiliar with the Immigration and Nationality Act Section 101(f), which provides a statutory bar to showing good moral character for certain offenses, and there is a laundry list of those offenses. Any person who has committed any violation of the law that would bar good moral character under 101(f) would be barred from applying for DREAM Act benefits.

So this business of, well, we have to name the specific offenses, I think the Immigration and Nationality Act provides an answer to that, which is simply that this good moral character requirement is a nice, neat way to encapsulate a whole bunch of offenses, including every single one that Senator Cornyn mentioned earlier before he had to leave the hearing.

So I think this is a red herring that is distracting us from the actual necessity to solve our Nation's problem here, which is this colossal waste of educated person power that is going on here.

Senator DURBIN. Thank you.

Senator Franken.

Senator FRANKEN. Since Senator Blumenthal was not able to ask questions of the first panel, I would like to give him the opportunity to speak and ask questions.

Senator BLUMENTHAL. Thank you. I really appreciate that, Senator Franken, and I will not take the full time.

I just want to thank Senator Durbin for his very passionate and persevering commitment to this cause. As a new United States Senator, I want to join him in his strong advocacy for this measure. We have just given a face to it in Connecticut with a young man named Mariano Cardoso, who was brought to this country when he was 22 months old. He just graduated from community college. He is 23 now, and he is going to be a civil engineer in Connecticut. He has had the courage to become a face and a voice for this measure, and it takes real courage to do it, and I want to thank whoever is here today to join us, because many of them across the country I think have been the most effective advocates for this cause. When people see the young people who are actually involved, they really put aside all of the—excuse me, all of the somewhat more abstract points in favor, some against, because they are such an enormous potential asset to this country, as Senator Durbin and Senator Franken have expressed so powerfully in what they have said so far.

So I just want to join the advocates who are here today in this cause and say to the folks who have come to testify and to be here today, thank you for enlightening us further. And I know we have a vote, so I am going to defer to Senator Franken, if I may, Mr. Chairman.

Senator FRANKEN. Thank you, Senator, and I associate myself with all your remarks.

Ms. Kaso, I think you are very brave to be here, and I thank you for being here. Let me ask you a question. Did you make the decision to come to the United States? Was it you?

Ms. KASO. I did not, no.

Senator FRANKEN. Okay. How old were you when you came to the United States?

Ms. KASO. I was 5 years old.

Senator FRANKEN. I was 4 when I came to Minnesota. I consider myself a Minnesotan, but I had a year on you there. But you consider yourself an American, right?

[Laughter.]

Ms. KASO. Yes.

Senator FRANKEN. Okay, great. Now, tell me again what you want to do for a living. It sounded like you wanted to be a doctor.

Ms. KASO. A surgical oncologist. I want to remove cancer tumors.

Senator FRANKEN. Okay. And you want to be able to help people who cannot afford health care?

Ms. KASO. That is correct, yes.

Senator FRANKEN. Okay. Well, hopefully we will have taken care of that, too.

[Laughter.]

Senator FRANKEN. Thank you for being here.

Ms. KASO. Thank you for the opportunity.

Senator FRANKEN. Lieutenant Colonel Stock, let me just ask you this: I talked about doing USO tours before. During 2005 and 2006, you talked in your testimony about how right now we are able to be in a recruiting—okay, I guess I have to go to vote, but what I am going to do is ask a question, and then I am going to leave, and you are going to answer to——

Ms. STOCK. Can I also answer your question about undocumented immigrants while you leave, too?

Senator FRANKEN. Yes, sure. Say anything you want after I leave.

[Laughter.]

Senator FRANKEN. And I will hear it later. But what I know is that in 2005 and 2006 especially, we were not meeting our recruiting numbers, and we had moral waivers, right? And we had cognitive waivers. We really needed to be able to recruit. It would have been great to have this group of people to recruit, wouldn't it have?

Ms. STOCK. It would have absolutely been great. We would not have had to give morals waivers to some of the people who came into the service and later engaged in misbehavior.

I would like to address the question regarding undocumented immigrants. I read occasionally that there are lots of these undocumented immigrants allegedly in the military. But, in fact, that is not the case. I know this because I work with the American Immigration Lawyers' Military Assistance Program, and the few undocumented immigrants who serve in the military come forward to that program often seeking help. And I can tell you, Senator Durbin, the outcome for these people is not rosy. Occasionally some of them are able to get United States citizenship through their military service, but in other cases, the outcome is not a pretty one, and I will just offer the example of a young man who was DREAM Act eligible, or would have been if the DREAM Act had been passed. He tried to join the U.S. Marine Corps a few months ago. He was processed by an unscrupulous recruiter and brought into the Marine Corps, whereupon, the Marine Corps turned him over to Immigration and Customs Enforcement and had him deported to Mexico when he reported for basic training. So this idea that there are lots of undocumented immigrants in the military is a misguided myth. The few that we have found in the military are people who have come in through the use of bad documents or by mistake, and most of them would be ineligible under the strict good moral character requirement that you have in the current version of the DREAM Act. They would not be eligible to get status through the DREAM Act.

Senator DURBIN. Thank you. As you can see, I have been abandoned by my colleagues who are off to vote, which I have to do myself in just a few moments. But, in conclusion, thank you to Dr. Camarota, Lieutenant Colonel Stock—and, Ola, how is your last name pronounced?

Ms. KASO. "Kass-o."

Senator DURBIN. So we all got it wrong. Ola Kaso, thank you so much for your great story, compelling story that you gave us.

I am going to ask unanimous consent—and since there is no one here to object, I am going to get it—to enter into the record 141 statements of support for the DREAM Act included here, and I mentioned earlier the wide array of organizations that support this.

I am discouraged that after 10 years this law has not passed, but I am not so discouraged as to give up the effort. I believe in all of you, and I want you to believe in this country. Sometimes it takes us a long time to get to the right conclusion and to reach fairness and justice. But we do get there. And those of you who are waiting patiently with your lives on hold and with real uncertainty, know I hope from some of the statements made by my colleagues today the deep feelings we have that this is a cause of justice and once that we are going to continue to pursue. Our day will come. This dream will come true.

The Subcommittee stands adjourned.

[Applause.]

[Whereupon, at 12:18 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

APPENDIX

Additional Material Submitted for the Record

Witness List

Hearing before the
Senate Committee on the Judiciary
Subcommittee on Immigration, Refugees and Border Security

On

"The DREAM Act"

Tuesday, June 28, 2011
Hart Senate Office Building, Room 216
10:00 a.m.

Panel I

The Honorable Janet Napolitano
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
Washington, DC

Dr. Clifford Stanley
Under Secretary of Defense for Personnel and Readiness
U.S. Department of Defense
Washington, DC

Panel II

Ola Kaso
Warren, MI

Lieutenant Colonel Margaret Stock
U.S. Army Reserves Retired
Anchorage, AK

Steven A. Camarota
Director of Research
Center for Immigration Studies
Washington, DC

PREPARED STATEMENT OF HON. JANET NAPOLITANO

Testimony of

Secretary Janet Napolitano

U.S. Department of Homeland Security

Before the

United States Senate Committee on the Judiciary

Subcommittee on Immigration, Refugees, and Border Security

June 28, 2011

Dream Act Testimony before the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security, June 28, 2011

Chairman Durbin, Ranking Member Cornyn, and members of the Subcommittee: Thank you for this opportunity to testify about how the Development, Relief, and Education for Alien Minors Act, or "DREAM Act," would promote the Department of Homeland Security's (DHS) security mission. The Administration strongly supports the DREAM Act.

Last year, in the closing days of the 111th Congress, the President and I, along with several members of the Cabinet, urged Congress to pass the DREAM Act. It passed the House with bipartisan support, and fell just a few votes short in the Senate despite receiving support from both Democrats and Republicans. In his statement following the Senate's vote, the President stated that passage of the DREAM Act "is not only the right thing to do for talented young people who seek to serve a country they know as their own, it is the right thing for the United States of America. Our nation is enriched by their talents and would benefit from the success of their efforts." I am pleased that the Senate has not given up on this important bill. I commend Senator Durbin for reintroducing the DREAM Act last month, and those 34 co-sponsors who have signed onto the bill thus far.

Passage of this bill is important for our country in many regards, including the ways that it would benefit our economy and our Armed Forces. However, from the perspective of DHS, I can also add to those important arguments, the important ways that the DREAM Act would further our mission to enforce and administer our Nation's immigration laws.

The DREAM Act should be seen in the broader context of this Administration's comprehensive approach to border security and immigration enforcement, which has achieved important and historic results.

Over the past two years, we have focused enforcement resources on identifying criminal aliens and those who pose the greatest security threats to our communities. The DREAM Act supports these important priorities because only individuals of good moral character who have not committed any crime that would make them inadmissible to the United States would be eligible for DREAM Act relief. Only young people who have met requirements regarding moral character and criminal records, and who are poised to contribute to our country, would be eligible. These individuals do not represent a risk to public safety or security. Yet as long as there are no legal options available for them to adjust their immigration status, they will be part of the population subject to immigration enforcement under the law. As a result, even though they pose no threat to public safety and do not meet our enforcement priorities, ICE resources may still be expended processing their cases. As the President has said, it makes no sense to be using our enforcement resources against young people who have known no other country but this one, and who have shown their desire to study and serve.

This is a major reason I urge Congress to pass the DREAM Act: to allow the Department to devote a greater portion of limited DHS resources to removing individuals who actually pose a risk to public safety or security.

Though the focus of this hearing is the DREAM Act , it is important that the record reflect the unprecedented resources this Administration has devoted to Southwest border security and immigration enforcement, and the historic results that have been achieved. My statement will illustrate these efforts, and then discuss how the DREAM Act supports DHS' public safety and security missions.

Southwest Border Enforcement

In March 2009, the Obama Administration launched the Southwest Border Initiative to bring focus and intensity to Southwest border security, coupled with a reinvigorated, smart and effective approach to enforcing immigration laws in the interior of our country. We are now more than two years into this strategy, and based on previous benchmarks set by Congress, it is clear that this approach is working.

Under the Initiative, DHS has increased the size of the Border Patrol to more than 20,700 agents, which is more than double the size it was in 2004. We have doubled personnel assigned to Border Enforcement Security Task Forces, which work to dismantle criminal organizations along the border. We have increased the number of ICE intelligence analysts along the border focused on cartel violence. In all, a quarter of ICE's personnel are now in the region, the most ever. We have quintupled deployments of Border Liaison Officers to work with their Mexican counterparts, and we are now screening all southbound rail traffic and a random number of other vehicles for illegal weapons and cash that are helping fuel the cartel violence in Mexico.

In terms of border infrastructure, we have constructed a total of 650 miles of fencing out of nearly 652 miles where Border Patrol field commanders determined it was operationally required, including 299 miles of vehicle barrier and 351 miles of pedestrian fence. The remaining two miles will be completed by this fall. With $600 million provided in the 2010 Emergency Border Security Supplemental Appropriation Act, we are adding more technology, manpower, and infrastructure including 1,000 new Border Patrol Agents by the end of FY 2011; 250 new CBP officers at ports of entry; and 250 new ICE special agents investigating transnational crimes.

We are also improving our tactical communications systems, adding two new forward operating bases and two more CBP unmanned aircraft systems. For the first time, we now have

Predator Unmanned Aircraft System coverage along the Southwest border from California to Texas. These investments are augmenting the additional non-intrusive inspection systems, Remote Video Surveillance Systems, thermal imaging systems, radiation portal monitors, mobile license plate readers, and other technologies that we have deployed to the Southwest border over the past two years along with the mobile surveillance equipment that will be purchased with FY 2011 funding.

Furthermore, President Obama authorized the temporary deployment of up to 1,200 National Guard personnel to contribute additional capabilities and capacity to CBP while additional agents were hired and trained. That support is enabling us to bridge the gap and hire the additional agents to support the Southwest Border that Congress provided through the FY 2010 Southwest Border Supplemental.

Earlier this month, the Administration extended the temporary deployment of National Guard personnel along the Southwest border through September 30, 2011. In the meantime, DHS and CPB are continuing efforts to actively hire and train new personnel and implement new technology to enhance our border security architecture.

To support jurisdictions along the border, DHS has directed a record $123 million in Operation Stonegarden funds in 2009 and 2010 to state, local and tribal law enforcement agencies in Southwest border states. Operation Stonegarden pays for overtime costs and other border-related expenses.

As we have taken all of these steps to enhance border security, we are also bringing greater fiscal discipline to our operations. The SBI*net* program began in 2005 as an attempt to provide a single one-size-fits-all technology solution for the entire Southwest border. Throughout

its existence, this program was consistently over budget, behind schedule, and simply did not provide the return on investment needed to justify it.

Last year, I directed an independent, quantitative assessment of the SBI*net* program, which combined the input of Border Patrol agents on the front lines with the Department's leading science and technology experts. This assessment made clear that SBI*net* could not meet its original objective of providing a one-size-fits-all border security technology solution. As a result, earlier this year, I directed CBP to redirect SBI*net* resources to other, proven technologies – tailored to each border sector – to better meet the operational needs of the Border Patrol. This new border security technology plan – which is already well underway – will provide faster deployment of technology, better coverage, and a more effective balance between cost and capability. It includes non-intrusive inspection equipment at the ports of entry and tested, commercially available technologies for immediate use between the ports.

Results

Taken as a whole, the additional manpower, technology and resources we have added over the past two years represent the most serious and sustained action to secure our border in our Nation's history. And it is clear from every measure we currently have that this approach is working.

Illegal immigration attempts, as measured by Border Patrol apprehensions, have decreased 36 percent in the past two years, and are less than one third of what they were at their peak. We have matched decreases in apprehensions with increases in seizures of cash, drugs, and weapons. In fiscal years 2009, 2010, and the first half of 2011, CBP and ICE have seized 75 percent more currency, 31 percent more drugs, and 64 percent more weapons along the

Southwest border as compared to the last two and a half years of the previous administration. As we have worked to combat illegal crossings, violent crime in U.S. border communities has remained flat or fallen in the past decade. Indeed, four of the biggest cities in America with the lowest rates of violent crime – San Diego, Phoenix, Austin, and El Paso – are on or near the border. Violent crimes in Southwest border counties have dropped by more than 30 percent and are currently among the lowest per capita in the Nation. Crime rates in Arizona border towns have remained essentially flat for the past decade, even as drug-related violence has dramatically increased in Mexico.

Strong, Strategic Enforcement of Our Immigration Laws

Security along our borders is inseparable from immigration enforcement in the interior of our country, and both are critical to an effective immigration system.

In this period of constrained fiscal resources, DHS – like all federal agencies – must set clear priorities. Our approach to immigration enforcement is guided by a common-sense premise based on sound prosecutorial practice: implement the measures that best protect public safety and produce the most significant results.

DHS has worked to develop enforcement strategies that focus on identifying criminal aliens and those who pose the greatest threat to our communities, and prioritizing them for removal. We also have worked to ensure that employers have the tools they need to maintain a legal workforce, and face penalties if they knowingly and repeatedly violate the law.

Our interior enforcement efforts are achieving unprecedented results. More than half of those removed last year – upwards of 195,000 – were convicted criminals, the most ever removed from our country in a single year. Between October 2008 and October 2010, the

number of convicted criminals that ICE removed from the United States increased 71 percent, while the number of non-criminals removed dropped by 23 percent.

Secure Communities is an important tool to ensure that the limited enforcement resources of the federal government are used in the most effective possible way to improve public safety. ICE receives an annual appropriation from Congress sufficient to remove a limited number of the more than 10 million individuals estimated to be in the U.S. who lack lawful status or are removable based on their criminal history. Given this reality, ICE has set clear and common-sense priorities for immigration enforcement focusing on criminal aliens and those who pose a threat to public safety. Secure Communities is a critical part of this approach.

The concept is straightforward: Secure Communities uses fingerprints taken when individuals are booked into state prisons and local jails to identify and remove criminal aliens. When an arrestee's fingerprints are checked against the FBI's criminal databases, they are also shared with ICE and checked against ICE immigration databases to determine whether someone who has been arrested is subject to removal.

Since 2008, ICE has expanded Secure Communities from 14 jurisdictions to more than 1,300 today, including every jurisdiction along the Southwest border. Through April 30, 2011, ICE has removed more than 77,000 criminal aliens — more than 28,000 of whom were convicted of aggravated felonies such as murder, rape, kidnapping and the sexual abuse of children – though Secure Communities. The percentage of removed criminals who have committed serious felonies will only increase with time, as the convicted individuals complete their actual prison sentences and are referred to ICE custody.

Secure Communities is clearly an important and valuable tool to enforce our immigration laws and promote public safety. Nonetheless, no program is perfect, and there is room to

improve Secure Communities. Earlier this month, ICE and the DHS Office of Civil Rights and Civil Liberties (CRCL) announced key improvements to the Secure Communities program designed to improve and clarify its goals to law enforcement and the public.

Moving forward, ICE and CRCL will conduct an ongoing quarterly statistical review of the program to identify effectiveness and any indications of potentially improper use of the program. Statistical outliers in local jurisdictions will be subject to in-depth analysis, and DHS and ICE will take appropriate steps to resolve any issues.

In addition, ICE and CRCL have developed a new training program for state and local law enforcement agencies in to provide information on how Secure Communities works and how it relates to the laws governing civil rights.

At my direction, ICE, in consultation with CRCL, has developed a new policy specifically to protect victims of domestic violence and other crimes and to ensure these crimes continue to be reported and prosecuted. This policy directs ICE officers to exercise appropriate discretion to ensure victims 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 a victim, witness, or member of a vulnerable class so officers can exercise appropriate discretion. This step will help to prioritize the use of ICE resources on the removal of perpetrators of crimes, rather than victims or witnesses.

ICE also issued a new memo providing guidance for ICE law enforcement personnel and attorneys regarding their authority to exercise discretions when appropriate – authority designed to help ICE better focus on meeting the priorities of the agency, by targeting criminals and those who are a threat to public safety.

ICE has also created a new advisory committee that will advise the Director of ICE on ways to improve Secure Communities. This new advisory committee will comprise chiefs of police, sheriffs, state and local prosecutors, court officials, ICE agents from the field, and community and immigration advocates. The first report will be delivered within 45 days, will provide recommendations on how to mitigate potential impacts on community policing practices, including recommendations for addressing cases where individuals are charged with, but not convicted of, minor traffic offenses but have no other criminal history or egregious immigration violations.

Given the rapid growth of Secure Communities, ICE has taken steps to clarify some matters that have not been clear in the past. For example, ICE has revised the detainer form ICE sends to local jurisdictions to emphasize the longstanding guideline that state and local authorities are not to detain an individual for more than 48 hours. The form also requires state and local law enforcement to provide arrestees with a copy, which includes a number to call if they believe their civil rights have been violated.

Furthermore, ICE and CRCL have created a new complaint system whereby individuals or organizations who believe civil rights violations connected to Secure Communities have occurred can file a complaint.

All of these steps will improve Secure Communities' achievement of important public safety goals.

Worksite Enforcement and E-Verify

In addition to our work with Secure Communities, we have also strengthened worksite enforcement. Last year, DHS arrested and sanctioned a record number of employers who

knowingly hire illegal labor. Since January 2009, ICE has audited more than 4,700 employers suspected of hiring illegal labor, debarred more than 320 companies and individuals, and imposed more than $64 million in financial sanctions — more than the total amount of audits and debarments than during the entire previous Administration. Last fiscal year, ICE also arrested 196 employers accused of criminal violations related to employment, an agency record.

As a corollary, we have strengthened the efficiency and accuracy of E-Verify – our web-based employment verification system managed by U.S. Citizenship and Immigration Services (USCIS) and designed to assist employers in abiding by the law. As of today, more than 269,000 employers are enrolled in E-Verify, representing more than 903,000 locations. More than 1,300 new employers enroll each week and the number of employers enrolled in E-Verify has more than doubled each fiscal year since 2007. In FY 2010, E-Verify processed 16.4 million employment queries.

In March of this year, USCIS launched the new E-Verify Self-Check feature, an innovative service that allows individuals in the United States to check the accuracy of government records before formally seeking employment. This voluntary, free, fast, and secure service gives users the opportunity to submit corrections of any inaccuracies in their DHS and SSA records before applying for jobs, thereby making the process more efficient for potential employees and employers.

USCIS has continued to improve E-Verify's accuracy and efficiency, enhance customer service, and reduce fraud and misuse in a number of additional ways. To improve E-Verify's accuracy, USCIS reduced mismatches for naturalized and derivative U.S. citizens by adding naturalization data and U.S. passport data to E-Verify. Because of this enhancement, in FY 2010 more than 81,000 queries that previously would have received an incorrect mismatch were

automatically verified as employment authorized. In June 2010, E-Verify launched improved navigational tools to enhance ease-of-use, minimize errors, and bolster compliance with clear terms of use. USCIS also has increased its staffing dedicated to E-Verify monitoring and compliance, adding 80 staff positions since the beginning of FY 2010. Finally, to more effectively address identity theft, USCIS now allows for the verification of passport photos through E-Verify. Other options to minimize identity fraud or theft are currently under study.

How the DREAM Act Supports the DHS Immigration Enforcement Mission

As I have previously stated, the DREAM Act is important for a variety of reasons. But as the person charged with enforcing our immigration laws, it is clear to me that the DREAM Act would also support and build upon DHS progress in achieving its enforcement priorities. Specifically, passage of the DREAM Act would allow us to focus even more attention on true security threats by providing a firm but fair way for individuals brought into our country as children – through no fault of their own – to obtain legal status by pursuing higher education, or by serving in the U.S. Armed Forces for the country where they have grown up and which they consider their home.

As introduced in the Senate, the DREAM Act establishes a rigorous process for those who entered the United States illegally as children to obtain conditional permanent resident status by proving that they meet several strict requirements. Specifically, they must prove that they came to the United States when they were 15 years of age or younger; have been continuously physically present in the United States for at least five years as of the date of enactment; have had good moral character since the date they initially entered the United States; are not inadmissible under certain specified grounds in existing immigration laws, including

criminal and security-related grounds; have graduated from a U.S. high school, obtained a GED, or been admitted to an institution of higher education; and in addition to satisfying the criminal and security-related grounds of removability, have never been convicted of any federal or state offense punishable by a term of imprisonment of more than one year, or three or more offenses where they were imprisoned for an aggregate term of 90 days or more.

Those applying for conditional permanent resident status would also need to submit biometric and biographic data and undergo security and law enforcement background checks and a medical examination. Conditional permanent resident status will be terminated if the individual becomes inadmissible based on criminal activity or other specified grounds, fails to maintain good moral character, or receives a dishonorable or other than honorable discharge from the Armed Forces.

Furthermore, within six years, those individuals with conditional permanent resident status would need to meet additional requirements in order to have the conditional basis of their status removed. Specifically, during the period of conditional permanent resident status, they must not become inadmissible under certain grounds, including criminal and security-related grounds; must acquire a degree from an institution of higher education in the United States or complete at least two years in good standing, or serve in the Armed Forces for at least two years without receiving a dishonorable or other than honorable discharge; must continue to demonstrate good moral character; and must satisfy the English language and civics requirements that apply to applicants for naturalization.

As you can see, the eligibility requirements for the DREAM Act mean that those who qualify do not fall within ICE enforcement priorities. Yet without the DREAM Act, young people will continue to be caught up in the immigration removal system, siphoning resources

away from other, more pressing needs. It does not make sense from a law enforcement or public safety perspective to devote limited enforcement resources on young people who pose no threat to public safety, who were brought to this country illegally by no fault of their own and have grown up here, and who want to contribute to our country by serving in the military or going to college.

Our agency stands ready to implement the DREAM Act. U.S. Citizenship and Immigration Services has 135 application support centers nationwide and the capacity to support the anticipated additional applications that the DREAM Act would generate. Furthermore, the Administration intends to sustain our immigration enforcement efforts for the long term. The DREAM Act will enhance our ability to focus immigration resources where most needed.

Conclusion

Passage of the DREAM Act will neither resolve nor substitute for the need for comprehensive immigration reform. But while the broader immigration debate continues, I urge Congress to pass the DREAM Act. It is common-sense legislation that has been supported by Democrats, Republicans, and Independents. It will assist the Department in fulfilling our security and public safety mission.

Chairman Durbin, Ranking Member Cornyn, and members of the Subcommittee: Thank you again for the opportunity to testify today. I am now happy to answer your questions.

Prepared Statement

of

The Honorable Arne Duncan

Secretary United States Department of Education

Before the

Senate Judiciary Committee

Subcommittee on Immigration, Refugees and Border Security

On the

DREAM Act

June 28, 2011

Mr. Chairman, distinguished members of the Committee, I am pleased to be here today to discuss the Development, Relief, and Education for Alien Minors (DREAM) Act .

Thank you for the opportunity to appear before you at the first-ever Senate hearing on S. 952, or the "DREAM Act." The Obama Administration strongly supports the DREAM Act. As the Subcommittee knows well, historically, the DREAM Act has been bipartisan legislation, and my hope is that Congress will work together again on this bill. Today, I will address the Department of Education's support for this legislation and its importance for our country's global competitiveness.

At the start of his term, President Obama established a bold goal for our nation: by 2020 the United States will again be the country with the highest proportion of college graduates. Both he and I believe that meeting this benchmark is crucial for the future success of our nation as it is a strategy for competitiveness, growth, and shared prosperity that is deeply rooted in the economic well-being of our country.

Boosting national education attainment has very real benefits. Multiple studies have shown a causal link between increases in educational attainment and economic growth.[1] And other studies have shown that increases in *high-quality* education can boost the annual Gross Domestic Product growth rate by more than 1 percentage point—equivalent to the growth gains from technological innovation.[2]

For individuals, earning a higher education credential provides substantial benefits. The unemployment rate for individuals holding a bachelor's degree or higher is just 4.5 percent, about half the rate for high school graduates and less than one-third the rate for high school dropouts.[3] Data from the Bureau of Labor Statistics (BLS) shows that the median weekly wage of bachelor's degree holders is 83 percent higher than that of high school graduates who never attended college.[4] This difference is growing over time. BLS data show that high school graduates in 1979 earned about 72 cents for every dollar that bachelor's degree holders did; today they earn just 55 cents.[5] In fact, the disparity today between weekly earnings for bachelor's degree holders and high school graduates is greater than both the gender and racial pay gaps.[6]

And, of course, education has important civic benefits, helping students broaden their horizons and engage in their communities and our democracy.

---

[1] See for example http://edpro.stanford.edu/hanushek/admin/pages/files/uploads/hanushek_woessmann%20%2020010%20international%20encyclopedia.pdf or http://www.krueger.princeton.edu/krueger.pdf.
[2] http://edpro.stanford.edu/hanushek/admin/pages/files/uploads/growth.aer.dec2000.pdf
[3] http://www.bls.gov/web/empsit/cpseea05.htm
[4] http://stats.bls.gov/webapps/legacy/cpswktab5.htm
[5] Bureau of Labor Statistics data provided by the U.S. Department of Labor.

[6] U.S. Department of Education analysis of Bureau of Labor Statistics data available at http://www.bls.gov/news.release/wkyeng.t05.htm.

In short, higher education provides significant societal and individual benefits for our country—it is an economic growth engine and a ticket to a middle-class lifestyle. The path to prosperity through higher education is particularly important to our American belief in equality of opportunity—the notion that anyone, regardless of their background or who their parents are, can thrive through hard work and ability.

That is why I am troubled to see the doors of higher education closed every year to thousands of students who were brought to this country as children, call America their home, and want to contribute to their country's well-being by pursuing higher education. These students were brought to America by their parents. Regardless of their academic abilities, they cannot access the same postsecondary opportunities as the peers they grew up with. They suffer the consequences of decisions their parents made before many of them could even walk or talk.

The DREAM Act would give them an opportunity to earn their legal status after a rigorous and lengthy process for those individuals whose parents brought them to this country when they were children.

The DREAM Act would cover those who meet a number of standards that demonstrate academic achievement and personal integrity. To qualify, individuals would need to prove that they came to this country at the age of 15 or younger, are 35 or younger at the time of enactment, and have been physically present here for a continuous period of at least 5 years before the date of enactment of the DREAM Act. They would also have to be admitted to an institution of higher education, or have obtained a high school degree or its equivalent, have demonstrated good moral character since their initial entry into the United States, and pass a rigorous background check to show that they are not a security threat and have not committed any crimes that either would make them inadmissible to this country or resulted in imprisonment or potential imprisonment that exceeds certain amounts of time. These are demanding standards.

Youth who fulfill these requirements would receive a conditional lawful permanent resident status for six years. The DREAM Act would give students a chance to earn unconditional lawful permanent resident status if they complete two years of higher education in good standing. They would need to pass additional background checks and demonstrate good moral character for the entire period of their conditional lawful permanent resident status. Only after meeting all of these requirements could they obtain lawful permanent resident status without conditions and be able to apply for citizenship; those who come up short along the way would be disqualified and could be subject to deportation.

It is important to dispel several misconceptions about the DREAM Act. First, the bill is not amnesty. The benchmarks that individuals would be required to meet to obtain conditional lawful permanent resident status are quite high. In fact, research

by the Migration Policy Institute suggests that the most promising individuals—those of the highest caliber—will be able to fulfill the DREAM Act requirements.[7]

Second, DREAM Act participation will not affect the availability of federal student loans or Pell Grants for citizens. Individuals who are in conditional lawful permanent resident status would be eligible to receive federal student loans, which they cannot access currently. Those loan funds are guaranteed by statute to be available for all studentsand do not score as a cost to the government. Students benefiting from the DREAM Act would not be eligible for Pell Grants and would not increase the shortfall we are currently facing in that program.

Students covered by the DREAM Act could also receive two other forms of federal student aid: Perkins Loans and Federal Work-Study Assistance. Both of these programs provide assistance at the school's discretion and the latter requires students to work or engage in community service activities.

Third, the DREAM Act will not encourage new undocumented immigration. The opportunities it would provide are not prospective or unlimited. Only young people who were already here for five years before the legislation is enacted into law would be eligible for lawful permanent resident status, and the period in which they could apply for adjustment under the DREAM Act is limited. Those who arrive after that time would not be eligible.

The DREAM Act is a common-sense piece of legislation that is in keeping with core American values. It goes against our basic sense of fairness to shut the educational door to young people because of the choices of their parents. We cannot let these individuals continue to live unfulfilled lives of fear and squandered hopes. We must rise above the heated political rhetoric and embrace this common-sense approach. And we need to do it now before we lose this generation.

Though I feel very passionately about the need to pass the DREAM Act because of the opportunities it provides promising young people and the message it sends about the value of hard work, this legislation is also crucial for meeting our national goals and future workforce needs.

Opening the doors of higher education to more talented youth will generate substantial additional income, and by extension, tax revenue. According to a 2010 study from the University of California, Los Angeles, the total number of students who would benefit from the DREAM Act could generate between $1.4 and $3.6 trillion dollars over their working lifetimes.[8] Taxes paid on those earnings could result in hundreds of billions of dollars in additional tax revenue.

The President has set a 2020 goal to increase the proportion of adults who are college graduates by more than 50 percent. That's an estimated 8 million more

---

[7] http://www.migrationpolicy.org/pubs/DREAM-Insight-July2010.pdf

[8] http://www.immigrationpolicy.org/sites/default/files/docs/No%20DREAMers%20Left%20Behind.pdf

degrees beyond the additional 2 million due to growth in the college-going population. Passing the DREAM Act would improve access to institutions of higher education, which is good for students, and our nation, and will allow us to meet these important goals.

We also need more college graduates to maintain and grow our workforce. Georgetown University's Center on Education and the Workforce estimates that by 2018 we will be 3 million college graduates short of what the market demands, with the greatest shortfall occurring in high-need fields such as Science, Technology, Engineering and Mathematics (STEM).[9] Given that employers already talk about a shortage of skilled workers, failing to produce enough graduates will significantly impair our country's ability to function in the 21st century economy. This is not a matter of one group taking jobs and degrees from another; to stay globally competitive we need more individuals across the country to enroll in and graduate from college.

Students served by the DREAM Act would also help us fill our significant shortages in STEM jobs and other high-demand fields. It is estimated that we will have 1.2 million new job openings in STEM fields by 2018 on top of the 1.6 million existing positions that will become open during this timeframe.[10] And the President has called for 100,000 more STEM teachers over the next decade. But, historically, the number of science and engineering jobs has grown at a faster rate than the number of degrees we produce in those fields, with the difference only narrowing in the last few years. If we do not attract more individuals into these high-demand, high-skill fields, then we will not be able to meet our workforce demands. Having more students enter these high-demand fields as a result of the DREAM Act would put us one step closer toward filling these shortfalls.

Simply put, educating the individuals who would be eligible under the DREAM Act would benefit our country. Giving them access to an affordable postsecondary education will help these individuals reach their full potential and allow them to be a significant resource to our country. The students who will benefit from the DREAM Act were raised and educated in America. They have deep roots in America, the only home that many of them likely have ever known. They include volunteers who are committed to service in their neighborhoods. By gaining access to affordable postsecondary education, they will earn more, pay more taxes, and contribute to our country's well-being, all while exhibiting the values of hard work and perseverance that we encourage in all Americans.

Passing the DREAM Act will give promising young people an opportunity to achieve the American dream. And, in the process, we will sustain our economic competitiveness into the future. I strongly urge you to enact this solid, common-sense policy. Our nation will be better for it.

---

[9] http://cew.georgetown.edu/jobs2018/
[10] http://cew.georgetown.edu/jobs2018/

Thank you for your time and I will be happy to answer any questions.

Prepared Statement

of

The Honorable Clifford L. Stanley

Under Secretary of Defense (Personnel and Readiness)

Before the

Senate Judiciary Committee

On the

DREAM Act

June 28, 2011

Mr. Chairman, distinguished members of the Committee, I am pleased to be here today to discuss the Development, Relief, and Education for Alien Minors (DREAM) Act and its impact on our Armed Forces. The DREAM Act would provide an opportunity for individuals who came to the U.S. at 15 years of age or younger, and have lived here for the last five years to earn conditional lawful permanent resident status. These young people must meet several further requirements before the conditions on their lawful permanent resident status are removed, including completing two years of honorable military service-or two years of college, demonstrating good moral character, establishing that they have not committed certain crimes, including any that would otherwise make them inadmissible to the US, and remaining in a conditional status for a period of six years.

The Obama Administration strongly supports the DREAM Act. This targeted legislation will allow the best and the brightest young people to contribute to our country's well-being by serving their country in the U.S. Armed Forces or pursuing higher education. I am joined on this panel by the Secretary of Homeland Security, who will discuss the impact of the DREAM Act on immigration and naturalization, and the Secretary of Education, who will discuss the impact on post-secondary education. Accordingly, my remarks today will be limited to the impact of the DREAM Act on military force management.

In my three decades of service in the Marine Corps, I served with many people who have immigrated to our nation looking for a better life. Regardless of their backgrounds, they had – and still have – one core mission in life: to serve others. The Armed Forces of our great nation – a nation of immigrants – have a long and distinguished history of the valor and sacrifices made

by those who call the United States home, but are not yet citizens. The topic for today's hearing, the DREAM Act, expands this opportunity to young people brought to our country as children who are currently in an undocumented status through no fault of their own.

Although the exact size of this population is elusive, current estimates are that about 2.1 million aliens currently in the U.S. without lawful immigration status would meet the age and residency requirements of the DREAM Act. However, because of the stringent and numerous requirements, researchers estimate that a much smaller percentage of this population would eventually apply and qualify for the DREAM Act's conditional status. Additionally, according to a 2003 Pew research study, an estimated 65,000 undocumented students, who have been in the United States for at least five years, graduate from high school each year. These young men and women often mirror the kind of "high quality" youth the Services target for enlistment, but they have difficulty affording college and cannot join the military, legally work in the U. S, or apply for U.S. citizenship, permanent residence, or other legal status. They are scholars, student leaders, and athletes; in fact, many have participated in high school Junior ROTC programs. However, if their parents are undocumented, these young people may have no ready means to gain a status that might lead to U.S. citizenship. These students are culturally American, having grown up in the United States and often having little, if any, attachment to their country of birth. Passage of the DREAM Act would offer this very specific subset of young "Americans" the opportunity to serve the nation in which they grew up and a path to becoming productive citizens and contributing members of our society.

The DREAM Act's primary impact on the Armed Forces would be an increase in the pool of high quality, motivated youth with a potential for military service. This is particularly important since each of the Services seeks only the highest quality recruits from the available market. Of course, candidates enlisting under the DREAM Act would be subject to the same rigorous entrance standards as all other applicants, maintaining the quality and integrity of the force.

However, while non-citizens who currently enter military service are offered an expedited path to citizenship under section 329 of the Immigration and Nationality Act, the provisions in S. 952 limit any person who has gained lawful permanent residence on a conditional basis under the DREAM Act from applying for naturalization for at least six years. If enacted, this provision may limit the career options of DREAM Act recruits, but should not prevent them from being able to make significant contributions as other non-citizens have made and continue to make in today's military.

There is a distinguished history of non-citizens having served in the U.S. Armed Forces. Since the Revolutionary War, certain non-citizens have been eligible to enlist in the military. This continued in the War of 1812, the Civil War, and both World Wars. Almost half of Army enlistees in the 1840s were immigrants (non-citizens), and more than 660,000 military veterans became citizens through naturalization between 1862 and 2000. The Lodge Act of 1950 (and subsequent Acts in 1951, 1955, and 1957), for example, permitted non-citizen Eastern Europeans to enlist between 1950 and 1959.

Another example is the Navy's recruitment of Filipino nationals. The United States officially began recruiting Filipino nationals into the U.S. Navy in the late 1940s, when it signed the Military Bases Agreement of 1947, allowing U.S. military bases in the Philippines. In total, over 35,000 Filipinos enlisted in the Navy through the program between 1952 and 1991.

More recently the National Defense Authorization Act (NDAA) for FY 2006 established a consistent citizenship or residency requirement for enlistment in the Armed Forces of the United States.

Today, more than 25,000 non-citizens serve in the military (active and reserve) and about 9,000 lawful permanent resident aliens enlist each year. They serve worldwide in all Services and in a variety of jobs. They represent the United States both at home and abroad – even on the front lines of our current overseas contingency operations. Since September 11, 2001, over 69,000 have earned citizenship while serving, and over 125 who entered military service after that date have made the ultimate sacrifice in war and have given their lives for this nation.

As you can see, non-citizens have been and continue to be a vital part of our country's military. Those who serve are patriotic, with over 80 percent completing their initial enlistment obligation, compared with 70 percent for citizens. Non-citizen recruits continue to provide the Services with a richly diverse force in terms of race/ethnicity, language, and culture. We would expect DREAM Act enlistees to be no different.

In conclusion, since the birth of our nation, non-citizens have served and continue to serve honorably in the military. Throughout past and current conflicts, those who are not yet citizens, but call the United States of America home, have answered the call to defend their adopted nation. Passage of the DREAM Act would offer eligible youth the opportunity to serve this nation and would continue this tradition, while allowing the Department to expand the market of high-quality youth to the advantage of military recruitment and readiness. I thank you for the opportunity to appear here today and look forward to your questions.

STATEMENT OF

OLA KASO

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND BORDER SECURITY

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

AT A HEARING ENTITLED

"THE DREAM ACT"

PRESENTED

JUNE 28, 2011

Chairman Durbin, Ranking Member Cornyn, and members of the Subcommittee, thank you for the opportunity to submit this testimony.

I was 5 years old, but I remember it like it was yesterday. Apprehensively, I teetered into the perplexing classroom. Children spoke in a language completely foreign to me. The teacher, too, spoke and pointed a certain direction. What did she want me to do? Where did she want me to go? I stood there, frozen still and silent like a statue. The children stared. They laughed. After a week of my unremitting silence, I was directed into the principal's office. My mother was there too, seated to the right of the translator that had helped my mother enroll me in school. The teacher spoke and the translator began speaking too.

"She says Ola might need special attention. She barely socializes with the other kids and she's not learning anything."

My mother looked at me. She had newly developed circles beneath her eyes. The subtle light brown summer glow which she had obtained during our last month in Albania had now diminished. I looked at the clock. It was one o'clock—at this time a month ago she would have been picking me up from preschool on her lunch break. However, we had left that life, and started a new one. A new life in which my mother worked eighteen hour days and an hour off work was unthinkable.

"She suggests that Ola should be taken out of the general class and put into the ELL program so that she can get the extra assistance she needs."

My mother rose.

"I will speak to my daughter, and I will call you to inform you of our decision."

Hand in hand, we marched out to the front of the school. Even her hands had changed—although they had always been hard-working and resilient, America had molded them into calloused machinery that never seemed to stop working. Waiting for a neighbor to pick us up and take my mother back to work, we sank into one of the nearby benches facing the school.

"Ola, do you know why mommy brought you here? Why we left and came to this place?"

I shook my head—I could not understand why we now faced a life saturated with seemingly endless obstacles.

"When I was younger, I had big hopes, big ambitions, big dreams. I wanted to be someone. I wanted to change the world. As I grew older, in a culture in which women are subordinated and oppressed, those dreams were eradicated and I was told what role I would play in society's theater and who I was to become. I had no voice, no power, no freedom. I look at you and I see your potential. The thought of you not having ample opportunity to toil and rise to your fullest potential, the thought of you being oppressed into a complacent, clinical, cynical woman, the thought of you being robbed of your aspirations repulsed me. I brought you to a place where work is essential; I brought you to a place where opportunity is plentiful. Nothing will be handed you, my daughter. Everything you hope to acquire, you must earn. You determine how far you will march in life. No one can purloin your voice here, unless you let them."

My mother looked at the school.

"Your teachers think you belong in a special class, a slower class for students that can't speak quite as well as all the other kids. You know what you're capable of doing, so I'll let you decide which route you wish to take. Think carefully, though because every opportunity missed is an opportunity lost."

My mother and I have come a long way since that day, thirteen years ago. I have become proficient in the English language and have excelled in my studies. I have watched my mother purchase a business and work from four A.M. until nine P.M. so that she could afford to pay for my sister's tuition for her undergraduate and graduate degrees. I have seen her sacrifice, not refilling her prescriptions because money was tight and property taxes were due. And so, I worked harder. Since the third grade I have been placed in advanced programs, all of which I have fully utilized. I have taken every Advanced Placement course my school has offered and have earned a 4.4 grade point average. I earned a 30 on my ACT with English as my highest score. In high school I was a varsity athlete—I ran cross country in the fall and I played tennis in the spring. I was the treasurer of the Senior Class Student Council and I was the treasurer of the National Honor Society at my school. Furthermore, I tutor other students that are still struggling to become proficient in English. I received numerous scholarship offers and was accepted to several Universities, including the University of Michigan.

. I have visited Washington D.C. numerous times and still am awed by the advancements of humanity in the American culture.

I commit countless hours to community service and charity events because I feel that big change comes through little steps. I juggle all my school work, after school

activities, and community service projects while also having a job. I have completely immersed myself within the American culture, of which I so strongly desire to become a citizen.

I am currently enrolled at the University of Michigan, one of the most prestigious public universities in the nation, where this fall I will begin studying Pre Med with a concentration in Behavioral and Cognitive Science. I registered for my classes this past week and enrolled myself in a whopping seventeen credit semester.

I aspire to ultimately become a surgical oncologist, but more importantly, despite seemingly endless obstacles, I intend to work for patients that cannot afford the astronomical fees accompanying life saving surgeries, patients that are denied the medical treatment they deserve. My goal is not to increase my bank account; my goal is to decrease preventable deaths. How can I go to a lucrative job everyday knowing that there are mothers wasting away in front of their children because they cannot afford surgery? I cannot and I will not. I wish to remain in this country to make a difference, and help American citizens.

In late March, I was told I would be deported in less than a week. I was two weeks short of obtaining my high school diploma. II was shocked. How could I be sent to a place I did not remember? A culture completely foreign to me? I am not fluent in Albanian, so if I were to be sent back, I could not pursue a college education in Albania. My hard work, my dreams, and my future were at risk of being eradicated. I have considered one country, and one country only, to be my home. America is my home, not Albania.

My community rallied around me. They asked for my deportation to be suspended. The Department of Homeland Security responded and granted me deferred action for one year so I can continue my studies.

My family came here legally and we followed the law every step of the way. Despite my compliance with the law, there is no way I can obtain citizenship under current law; despite all my hard work and contributions, I face removal from the only country I have considered home. Despite my aspirations and good intentions for my country, I face deportation in less than a year.

I am a DREAM Act student. I was brought to this country when I was 4 years old. I grew up here. I am American in my heart.

There are thousands of other Dreamers just like me. All we are asking for is a chance to contribute to the country we love. Please support the DREAM Act.

Thank you again for the opportunity to testify today on behalf of all of the Dreamers.

PREPARED STATEMENT OF MARGARET D. STOCK

Prepared Statement of

Margaret D. Stock
Lieutenant Colonel (Retired), Military Police Corps, US Army Reserve;
Of Counsel, Lane Powell PC;
Adjunct Professor, University of Alaska Anchorage

On

"Development, Relief, and Education for Alien Minors (DREAM) Act of 2011"

Before the

Senate Judiciary Committee
Subcommittee on Immigration, Refugees and Border Security

June 28, 2011

Washington, D.C.

Chairman Durbin, Ranking Member Cornyn, and distinguished Members of the Subcommittee, my name is Margaret Stock. I am honored to be here to provide my testimony as an expert in the fields of national security, immigration, and citizenship law and to discuss S. 952, the Development, Relief, and Education for Alien Minors (DREAM) Act of 2011.

I am a retired Lieutenant Colonel in the Military Police Corps, US Army Reserve. I am currently Of Counsel in the Anchorage, Alaska office of the law firm Lane Powell PC. I also teach on a part-time basis in the Political Science Department at the University of Alaska Anchorage, and I previously taught at the United States Military Academy, West Point, New York, for nine years (five years on a full-time basis, four years on a part-time basis). My professional affiliations include membership in the Alaska Bar Association, American Bar Association (where I am a member of the Commission on Immigration), the American Immigration Lawyers Association, the Federalist Society for Law and Public Policy, the

Republican National Lawyers Association, and other civic and professional organizations. As an attorney and a graduate of the Harvard Law School, I have practiced in the area of immigration law for more than fifteen years. I have written and spoken extensively on the issue of immigration and national security. I have represented hundreds of businesses, immigrants, and citizens seeking to navigate the difficult maze of the US immigration system. In 2009, I concluded work as a member of the Council on Foreign Relations Independent Task Force on US Immigration Policy, which was headed by Jeb Bush and Thomas F. "Mac" McLarty III. Finally, prior to my transfer to the Retired Reserve in June 2010, I worked for several years on immigration and citizenship issues relating to military service while on temporary detail to the US Army Accessions Command, the Assistant Secretary of the Army for Manpower and Reserve Affairs, and United States Special Operations Command. The opinions I am expressing today are my own.

I am honored to be appearing before you this morning to discuss the DREAM Act and to underscore the reasons why Congress should pass this Act because it benefits America. This hearing could not be more important or timely because in the midst of an ongoing war that has pushed our nation's military to its limits, our country faces a demographic and social crisis with regard to immigration. The DREAM Act is part of a comprehensive and bipartisan solution to that crisis. As the Council on Foreign Relations Independent Task Force on US Immigration Policy explained when endorsing the DREAM Act,

> "The DREAM Act is no amnesty. It offers to young people who had no responsibility for their parents' initial decision to bring them into the United States the opportunity to earn their way to remain here." [1]

More particularly, by allowing young people to remain in the U.S., the DREAM Act will enhance America's future ability to obtain high-quality recruits for the United States Armed Forces.

---

[1] Council on Foreign Relations Independent Task Force on US Immigration Policy, Report: US Immigration Policy, Independent Task Force Report No. 63 (July 2009), page 96.

To understand why the DREAM Act is so important, one must understand the reality of our nation's broken immigration system. Today's legal immigration system is dysfunctional and irrational, and the situation only promises to get worse without comprehensive action by Congress. Many years ago, former Immigration & Naturalization Service (INS) spokesperson Karen Kraushaar said that US "immigration law is a mystery and a mastery of obfuscation." The system she described has deteriorated since then. Our nation's ever more complex and restrictive legal immigration system makes it very difficult for many people to immigrate to the United States legally.

This reality has led to the growth in the United States of a very large population of persons who have no means of obtaining lawful permanent residence here, even if they have lived in America for decades, paid taxes, and committed no crimes. Many of these individuals are legally in the US in some status that falls short of lawful permanent residence, but some 12 million are unauthorized, including an estimated 2.1 million youth and young adults.[2] Despite the fact that many of these undocumented young people have grown up in the U.S., attended our schools, and demonstrated a sustained commitment to this country by learning English and succeeding in our educational system, US immigration laws provide no avenue for them to obtain any legal status. Many were brought to the U.S. by their parents at an age when they were too young to understand the legality of their arrival, let alone take action to rectify this decision. Now that they are approaching adulthood, their only choice is to hide in the shadows or leave the United States—but their departure from the US will leave most of them unable to return to the United States for at least ten years,[3] even in the highly unlikely event that they manage to qualify to return as legal immigrants.

---

[2] Migration Policy Institute, DREAM v. Reality: An Analysis of Potential DREAM Act Beneficiaries (July 2010).

[3] US immigration law provides for a ten-year bar to readmission for anyone who has departed the United States for any reason after being in the US unlawfully for more than a year. See INA §212(a)(9)(B)(i)(II). Undocumented young people (and their parents) who trigger this bar are typically not eligible for any waiver of this provision, even if they qualify for an immigrant visa through a family relationship or employment. There are no waivers of this provision for the sons or daughters of undocumented immigrants, or for the parents of an immigrant or US citizen. The parents of a DREAM Act beneficiary, for example, are not eligible for a waiver of this bar.

The DREAM Act would allow young people who have grown up in this country, graduated from high school, been acculturated as Americans, and have no serious criminal record to go to college or serve in the military and thereby legalize their immigration status.[4] Those who oppose the DREAM Act often mistakenly repeat the popular misconception that these young people should just "get in line like everyone else." But without the DREAM Act, there is no line in which they can wait.

The inability of this large group of young people to obtain any legal status has far-ranging social and economic impacts, not least of which is an obvious impact on the qualified manpower available for the US Armed Forces. Currently, unauthorized young people are barred from enlisting in the US military. The current military enlistment statute requires enlisted personnel to be US nationals or lawful permanent residents, and contains few exceptions to that requirement. The only exception that might apply to an undocumented person is one that would allow enlistment where a Service Secretary has determined that a person's enlistment is "vital to the national interest."[5] While persons lacking familiarity with today's military enlistment process might believe that it is possible for the military Services to enlist undocumented immigrants under the "vital to the national interest" prong of 10 USC §504, in reality this is not the case. The military Services do not have the legal or administrative ability to enlist an undocumented immigrant who has no record with the Department of Homeland Security and no valid Social Security number permitting employment in the United States. Furthermore, such persons cannot gain legal status through military service except when an Executive Order is in effect allowing them to apply for citizenship under 8 USC §1440. The military Services further lack the immigration law expertise and resources to screen unauthorized immigrants for immigration violations. For these reasons, as a practical matter, the Services cannot use 10 USC §504 to enlist undocumented immigrants.

In contrast, the Department of Homeland Security has the institutional expertise and

---

[4] Contrary to what opponents of the DREAM Act frequently state, not all undocumented youth will be eligible to gain legal status under the DREAM Act. Roughly 38% of potential beneficiaries are expected to meet the law's stringent requirements—which means that about 62% will likely fail to do so. See Migration Policy Institute, DREAM v. Reality: An Analysis of Potential DREAM Act Beneficiaries (July 2010).

[5] See 10 USC §504(b)(2).

processing systems required to take applications from unauthorized immigrants, fingerprint them, collect their filing fees, vet them against complex inadmissibility and removability law criteria, create "Alien files" on them, assign them Alien numbers, and otherwise process them for temporary residence. Under the DREAM Act, this process will happen before these young people appear at a military recruiting station and seek to enlist. The DHS process will be a first gate to screen out persons who are unsuitable for military service as a result of having serious immigration or criminal violations. Under the DREAM Act, DHS will be required to screen out anyone who has a felony or two misdemeanor violations, as well as persons who have no criminal convictions but who have serious immigration law violations, are a security risk to the United States, or lack good moral character. The DREAM Act design appropriately assigns to DHS the role of accepting DREAM applications and conducting this immigration law vetting process before any DREAM applicant is given the Conditional Lawful Resident status that would permit enlistment.

Under the DREAM Act, all DREAM Act beneficiaries who attempt to enlist will have Conditional Lawful Permanent Residence, a status that is already recognized in existing enlistment statutes and military regulations. While some have suggested that the Department of Defense create a "military only" DREAM Act, such a program would present a greater security risk to DOD, would flood military recruiters with unqualified applicants for enlistment, and would require significant changes in military enlistment regulations and recruiting resources. A "military only" DREAM Act would also contradict the fundamental premise of the All Volunteer Force, as many DREAM Act beneficiaries would be motivated to join the military out of a desperate desire to legalize their status, and not because they are truly interested in military service.

A misguided criticism of the DREAM Act is that it discriminates against US citizens and green card holders with regard to military enlistment. In fact, the opposite is the case—DREAM Act beneficiaries will be subject to the same statutory or contractual obligations that all other military enlistees incur, but will be ineligible for any military job requiring a security clearance, will be unable to accept an officer commission, will not be able to sign an ROTC contract or obtain an ROTC scholarship, will be barred from attending the US Service Academies, and will

face a lengthy term of service before they can naturalize as US citizens. While DREAM Act beneficiaries may be eligible to apply for a lifting of the conditions on their Conditional Lawful Permanent Residence after a period of two years of military service, their military service will not end in two years. First, very few military enlistment contracts offer only a two-year active duty period of service,[6] and even two-year active duty enlistments require a person to continue with Reserve service until a full statutory enlistment period is fulfilled (in the case of the Army, that statutory period is eight years of total service). This statutory minimum period of military service is not changed by the DREAM Act. Thus, DREAM Act beneficiaries will have the same statutory and contractual enlistment obligations as all other military personnel; the only difference is that DREAM Act beneficiaries will be unable to naturalize through military service until they have lifted the conditions on their Conditional Lawful Permanent residence status, a process that is likely to take about seven years in most cases. A typical DREAM Act beneficiary who joins the Army will therefore obtain US citizenship at about the same time that he or she meets the eight-year statutory obligation that he or she incurred by enlisting. In contrast, a non-citizen who joins the US Armed Forces but who is not a DREAM Act beneficiary can naturalize immediately in wartime[7] or—if he or she has Lawful Permanent Residence—at the end of one year of service[8] when the President has declared an end to the current hostilities.

Others have criticized the DREAM Act by opining that it is unnecessary because the Armed Forces currently are meeting their enlistment goals: This also is a misinformed opinion. The current beneficial recruiting climate is a direct result of the poor state of the US economy.[9] As the US economy recovers from the current recession and our population continues to age, the Armed Forces will face a very difficult recruiting climate. Three years ago, before the economy soured, the US Armed Forces struggled with a serious recruiting crisis, a crisis that evaporated temporarily only because of the economic downturn. It is no secret that several of the military

---

[6] The Army currently does not offer any two-year active duty enlistment contracts; the shortest current enlistment contract is three years plus training time, due to the demands of the Army's wartime operational tempo.
[7] See 8 USC § 1440 (requiring an Executive Order for naturalization of persons during wartime).
[8] See 8 USC §1439 (peacetime military naturalization statute).
[9] See US Government Accountability Office, Military Recruiting: DOD and Services Need Better Data to Enhance Visibility over Recruiter Irregularities (Aug. 2006) ("Service recruiting officials stated that the economy has been the most important factor affecting recruiting success").

services expect to experience difficulties in recruiting eligible enlisted soldiers in future years. Population changes will likely result in a 10% decline in military enlistments by 2015.[10] In 2008, Dr. Clifford Stanley's predecessor, Dr. David Chu, testified before Congress regarding the grim statistics facing future military recruiters: Only about three in ten Americans of military age can meet the standards for military service.[11] Some 35% are medically disqualified, 18% are barred due to a record of abusing drugs or alcohol, 5% have serious conduct or criminal problems, 6% have too many dependents, and 9% score in the lowest aptitude category on the enlistment test.[12] The DREAM Act can alleviate this coming crisis.

The DREAM Act promises to enlarge dramatically the pool of highly-qualified recruits for the United States Armed Forces. The DREAM Act also requires no change to military rules for enlisting recruits, does not require the military to lower enlistment standards, and allows the US military to tap into an overlooked and unused pool of homegrown talent. As discussed above, the DREAM Act legalizes high quality, Americanized young people who will have passed a rigorous set of criteria and Department of Homeland Security background and biometrics checks before they will be eligible to enlist.

Military officials are fully aware of the potential posed by DREAM Act beneficiaries, because many potential DREAM beneficiaries have sought to enlist in the US Armed Forces but have been turned away because they lack the necessary legal immigration status. Although they lack the legal immigration status necessary for enlistment, these individuals often do meet other military enlistment requirements. The strict DREAM Act criteria mean that once these young people are temporarily legalized under the DREAM Act, they will be more likely to meet other military enlistment requirements than will the typical native-born American. To give just one example, a native-born American can join the US military despite having a felony criminal

---

[10] RAND study sponsored by Army G-1, Manning the All-Volunteer Force from a Changing Youth Market, May 2005.

[11] The future recruiting picture has grown worse since Dr. Chu testified; fewer than 3 in 10 can qualify today, and the number is declining, primarily due to the growing percentage of obese young people. See William H. McMichael, "Most U.S. Youths Unfit to Serve," Army Times, Nov. 3, 2009 (quoting Pentagon accessions official Curt Gilroy as saying "the major component of this is obesity. We have an obesity crisis in the country. There's no question about it.").

[12] Otto Kreisher, Armed Services Having Trouble Finding Qualified Recruits, Congress Daily, March 24, 2008.

conviction, whereas a DREAM Act beneficiary will not get past the first gate at DHS with such a record.[13] Undocumented persons will be screened out by DHS on multiple grounds before being given any temporary immigration status that would allow enlistment.

As illustrated by the example above, DREAM Act beneficiaries will be of even higher quality than lawful permanent residents and US citizens who are currently permitted to enlist. In addition to being pre-screened for criminality and other disqualifying factors, DREAM Act beneficiaries will have longer residences in the United States than many green card holders and US citizens who enlist today. Finally, DREAM Act beneficiaries must show "good moral character" to obtain temporary status; there is no similar requirement for other non-citizens or US citizens who seek to enlist. In every case, DREAM Act beneficiaries will be held to a higher standard than the typical green card or US citizen enlistee.

Military officials expect that DREAM Act beneficiaries will be motivated to stay in the military, once they are enlisted. Non-citizens in general have a 36-month retention rate that is 9-20% higher than white US citizens.[14] DREAM Act recruits will have a greater incentive to remain in the US military than any other group, citizen or non-citizen: For them, staying in the military for at least two years and leaving with an honorable discharge will gain them status as Lawful Permanent Residents, putting them in line for US citizenship. If they quit the military early, they will lose their opportunity to legalize their status.

As mentioned above, I am a member of the Retired Reserve of the US Army Reserve. Before being transferred to the Retired Reserve, I served in the US Army Reserve for twenty-eight years. During that time, I learned of many undocumented immigrants who wanted to serve America by joining the All-Volunteer Force. I often had the unpleasant task of explaining to

---

[13] For example, Private Steven Green, a US citizen and high school dropout, was able to join the Army despite having three criminal convictions and a history of substance abuse. Private Green was later charged with raping an Iraqi girl and killing four members of her family, as detailed in Jim Frederick's book, "Black Hearts: One Platoon's Descent Into Madness in Iraq's Triangle of Death" (2010). If a DREAM Act applicant had a record like Private Green's, that person would not be given Conditional Lawful Permanent Residence under the DREAM Act, but would instead be identified by DHS as a criminal alien and processed for deportation.

[14] Anita U. Hattiangadi, Gary Lee, & Aline O. Quester, "Recruiting Hispanics: The Marine Corps Experience Final Report," CNA Corporation 2004.

these eager, patriotic, and energetic young people that they were barred from enlisting because of their lack of a legal immigration status. As an immigration lawyer, I also had to give them the bad news that US immigration laws completely prevented them from legalizing their status. On a regular basis, my fellow service members would approach me to ask how to get legal status for a promising young person whom they knew, and I had to give them the same bad news. Over and over again, I would hear the comment "Ma'am, this makes no sense. All they want to do is serve the United States. Why don't we let them?"

Here is an example of two such messages, which come from military members who serve as a Junior ROTC instructors:

> "[Jessica] has been one of my cadets in the . . . JROTC program since she was a freshman. She is now a senior. In this time period I have gotten to know her well and learned many things about her. . . She comes from a family of five brothers and sisters . . . She has been an International Baccalaureate Magnet program student for four years. She has been on the honor roll list for three and a half years. She is involved with many extracurricular activities, always setting JROTC as her main priority. She is a member of the female varsity Honor Guard/Color Guard. I can honestly say that I have US citizens in this Corps who do not even come close to loving, respecting, appreciating and valuing this country as much as [Jessica]. She arrived here when she was only one and a half years old. She's lived here ever since, growing with this great country's ways and customs. She knows no other home than the US. So I ask: Why can't she be a US citizen? Please let's not allow her alien status to prevent this bright young lady from achieving her dreams and goals. She's hungry for success and wants to serve this country as a citizen. . . . Can we find her help please?"

> "I'll admit that I used to be 180 degrees on this issue until last year. I have an outstanding young woman in my unit [who] has a 3.3 GPA, is a really bright young woman, contributed hundreds of hours to community and school service projects, and is a really great young leader whom I selected to assume command of one of our JROTC squadrons. I had been prepping her to attend a four-year state college . . . She finally broke down last month and told me that she was here illegally, but by no fault of her own. Her parents came to the US legally 16 years ago and overstayed their visas. This young woman really has no options. She cannot afford to attend college without financial assistance, but is ineligible for many state aid packages. She also cannot work part-time legally because she does not have an SSN . . . . She would join the Air Force in a heartbeat, but because she is here illegally, she cannot enlist in the US military. . . . She is in a real quandary, because she'll just have to become part of the hidden work force. She really needs to be in college. As I mentioned, I was pretty much unsympathetic until one of my best young students was the victim of parental choice."

It makes little sense to deport these American-educated youth to countries where they have no memories or ties. It is expensive to locate, arrest, imprison, and eventually deport these individuals. They cannot realistically be deported in any large numbers. The absence of any means to obtain legal status will drive these promising young people into an illegal, underground economy; deprive our country of responsible, tax paying citizens; and contribute to the creation of a permanent, furtive underclass. Finally, if deported to countries where they have few ties and no substantial familial support network, they may be vulnerable to recruitment by organizations whose interests are inimical to those of the United States.

In summary, the DREAM Act is good for the United States military and good for the country. Pass the DREAM Act, and let these promising young people serve America.

PREPARED STATEMENT OF STEVEN A. CAMAROTA

The DREAM Act

Testimony Prepared for
Senate Committee on the Judiciary
Subcommittee on Immigration, Refugees, and
Border Security
June 28, 2011

by Steven A. Camarota, Ph.D.
Director of Research
Center for Immigration Studies
1522 K St. NW, Suite 820
Washington, DC 20005
(202) 466-8185
fax: (202) 466-8076
sac@cis.org
www.cis.org

Introduction

The recently introduced DREAM Act, (S. 952) attempts to deal with one of the more vexing issues in immigration. The act offers permanent legal status to illegal immigrants, up to age 35, who arrived in the United States before age 16, provided they complete two years of college or serve two years in the "uniform services." These individuals are one of the most compelling groups of illegal immigrants because their situation is generally not their fault. In most cases their parents created their predicament. However, the DREAM Act as currently written would create a number of significant problems. In my testimony I will highlight several of the most serious problems with S.952, and suggest possible remedies.

Problem with S.952

Costs to State and Local Governments. The DREAM Act would grant permanent residence to those who complete two years of college. Completing a degree is not required. Under the act, beneficiaries would receive in-state tuition. (A small number, perhaps 50,000, are also expected to go into the military.[1]) Given the low income of illegal immigrants, most can be expected to attend state-supported schools. In a study done by the Center for Immigration Studies, we estimated that the costs to tax payers would be nearly $6,000 for each year an illegal immigrant attends a public institution of higher learning. We estimate a total cost in tuition subsidies of about $12 billion for the roughly one million illegal immigrants expected to attend state universities or community colleges. This is obviously a significant cost for tax payers in high illegal immigration states to absorb.[2] These figures do not include the estimated 60,000 currently enrolled in public colleges.[3]

In addition to the costs to taxpayers there is the related issue of crowding out U.S.-citizens and legal immigrants from cash-strapped public institutions of higher learning. It is important to remember that the illegal-immigrant population is not evenly spread throughout the country. Many public institutions of higher learning in the states with the most illegal immigrants are already reeling from overcrowding and budget cuts.

---

[1] See "DREAM vs. Reality: An Analysis of Potential," *Migration Policy Institute*, July 2001. The MPI found that less than 1 percent of age-eligible Hispanics (18 to 44) were active enlisted military members in 2008. However, they make "a generous assumption" that 5 percent of the roughly 2 million potential beneficiaries would use the military option under the DREAM Act. This comes to about 50,000 individuals (page 15).

[2] See "Estimating the Impact of the DREAM Act," *Center for Immigration Studies*, http://www.cis.org/DREAM-act-costs

[3] Based partly on reported numbers from the states that provide in-state tuition, the Federation for American Immigration Reform has estimated 60,000 illegal immigrant students enrolled in public institutions of higher learning. See page 52 of "The Fiscal Burden of Illegal Immigration on United States Taxpayers," http://www.fairus.org/site/DocServer/USCostStudy_2010.pdf?docID=4921.

Advocates of the DREAM Act argue that it will significantly increase tax revenue in the long run because once they have a college education recipients will earn more and pay more in taxes over their lifetime. However, several factors need to be considered when evaluating this argument: First, any hoped-for tax benefit will come in the long term and will not help public institutions deal with the large influx of new students the act would create in a relatively short period of time. Given the limited space at public institutions, the DREAM Act will almost certainly cause some crowding out of legal immigrants and U.S. citizens, reducing their lifetime earnings and tax payments. Further, because the DREAM Act requires nothing more than two years of college, the income and resulting tax revenue will be small. Census Bureau data show that the income gains for having some college, but no degree, is modest.[4] Also, because college dropout rates are high for all students, many illegal immigrants who enroll at public institutions will not complete the two years the act requires. In such cases taxpayers will bear the tuition expense without the hoped-for fiscal benefit.

Possible Remedies The most direct response to this problem would be for the DREAM Act to provide additional funding to state universities and community colleges to cover the costs it will create. If the idea behind the DREAM Act has merit—which I think it does—then acknowledging these costs and including them in the law would make sense. Of course, this would not be cheap. But by providing the money upfront, Congress could avoid creating enormous strains on local institutions that are already overcrowded. If advocates of the DREAM Act are right, the hoped-for long-term tax benefits will eventually compensate federal coffers. Providing money to state and local schools would not only be honest, it would also help reduce the crowding out that would almost certainly come from adding nearly a million a new students to taxpayer-subsidized institutions in the top states of illegal-immigrant settlement.

Lack of Immigration Enforcement. Whenever there is an amnesty for illegal immigrants, there is always the concern that it will encourage more illegal immigration in the future. On the understandable assumption that their children might benefit from some future legalization, more people may settle in our country illegally if the DREAM Act passes. We all agree that we do not wish to encourage illegal immigration. But S.952 has no provision to discourage future illegal immigration.

Possible Remedies Full implementation of the U.S. Visit program, which tracks the arrival and departure of visitors at all border crossings and airports, would help reduce future illegal immigration. So would a federal requirement that all employers use the E-Verify system to verify the legal status of new hires. A more rapid implementation of the Secure Communities program and additional funding of the 287g program should also be included. While any legalization would tend to encourage more illegal immigration, implementation of these basic enforcement tools would all help to discourage illegal immigration in the future.

---

[4] In 2009, foreign-born Hispanic high school graduates earned 77 percent as much as someone who had attended college, but did not receive a degree. Figures are from the March 2010 Current Population Survey public use file. The figures are for foreign-born Hispanics ages 25 to 65. We use this population as a point of comparison because 80 percent of those expected to benefit from the act are Hispanic.

Rewards to Parents. All of us can agree that those brought to this country illegally as children are not to blame for their situation. It is their parents who are responsible for their predicament. The parents, therefore, should not benefit from the DREAM Act. However, the DREAM Act as currently constructed would eventually allow many of the parents who put their children in this situation to get legal status because it puts their children on a path to U.S. citizenship. U.S. citizens can sponsor their parents for green cards.

Possible Remedies The simplest and most direct way to deal with this problem is to change the DREAM Act so that it gives recipients a status other than permanent residence and the eventual citizenship that comes with it. Perhaps a long term non-immigrant visa that is renewable indefinitely, say every 6 years, would be a way of dealing with this problem. This would allow those young people who benefit from the DREAM Act to go on with their lives, but because it would not give them eventual citizenship, they will not be able to sponsor their parents. Another possibility would be to simply end the current practice of giving green cards to the parents of American citizens. This category of immigration is problematic for a number of reasons and doing away with it would also be a way of preventing the parents of DREAM Act beneficiaries from benefiting from their illegal activity.

Affirmative Action. DHS estimates indicate that about 80 percent of illegal immigrants are Hispanic.[5] All of the available evidence indicates that the overwhelming majority of DREAM Act beneficiaries will be minorities who can benefit from affirmative action programs that are an important part of admissions at colleges and universities. As media reports have noted, this raises the possibility of illegal immigrants receiving preferential access to college.[6]

As Americans we need to consider whether someone who is illegally living in the United States should take an affirmative action slot that was designed to benefit U.S.-born minorities and legal immigrants. It seems hard to argue that such a policy is fair. This problem would be somewhat lessened by the fact that most DREAM Act beneficiaries are expected to attend community colleges. These institutions have more open admission policies; and as a result, affirmative action does not play a very large role in who gets in. However, this is not the case at state universities or private institutions of higher learning. In these more competitive schools, DREAM Act beneficiaries will take affirmative action slots. The same may also happen for scholarship programs for minorities and disadvantaged students. The number of such scholarships is limited. Any discussion of the DREAM Act must include consideration of those who will be harmed if it passes.

Possible Solution I cannot think of any remedy for this problem. Affirmative action programs can be said to run on auto-pilot. Minorities who check the right boxes have their applications treated accordingly. The only way to mitigate this problem is to limit the number of the people who can benefit from the DREAM Act. The smaller the number, the fewer the affirmative action slots and scholarships they will take.

---

[5] "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2010," *Office of Immigration Statistics*, U.S.C.I.S., http://www.cis.org/DREAM-act-costs#12

[6] "University Insiders: Illegal Immigrants Get Affirmative Action," Fox News, May 17, 2011, http://www.foxnews.com/us/2011/05/17/affirmative-action-illegal-immigrants/

Invitation to Fraud. There are several ways in which the DREAM Act is an invitation to fraud. The three most important are as follows: First, the law prevents prosecution for willfully providing false information. So for example, if it becomes clear in the application process that someone is using another person's identify, the applicant will not be arrested and prosecuted. Second, the law does not provide a clear list of acceptable documents that can be used to determine eligibility. Are we going to use third-party attestations as proof of eligibility, as we did in the 1986 amnesty? This too is an open invitation to fraud. In the 1986 IRCA amnesty an estimated 700,000 illegal immigrants who did not qualify received legal status fraudulently.[7] Third, as I read the law, anyone can apply. There is no way to preclude even ridiculously inappropriate applications. The law would apply even to someone in removal proceedings who files a DREAM Act application. It might take U.S.C.I.S. two years to determine that someone is not eligible, and during that time their removal proceeding would be stopped. There is every reason for anyone to apply, on the reasonable chance that they would trick immigration authorities and stay in the United States, at least while the application is pending.

The immigration bureaucracy is already overwhelmed. The tsunami of work that will be hitting the immigration system if the DREAM Act passes will make it very difficult to distinguish good applications from bad ones. Given the way the bill is currently structured, we could easily see a repeat of the 1986 amnesty. Studies of that program have shown that between one fourth and one-third of the amnesty recipients had fraudulent applications.

Possible Solution The act should provide more funding to the immigration bureaucracy to process the significant increase in paper work it would create. Only after the staff is hired and trained should the law go into effect. While many applicants may not qualify or complete the requirements, the actual number who will apply could run into the millions, even if there is no fraud. If there is widespread fraud, which seems very likely, the numbers will be even higher. Creating a bureaucracy that can properly handle these applications will not be cheap. Perhaps fees charged to DREAM Act applicants might recoup some of these costs. Anyone found providing fraudulent information must be prosecuted and removed. Moreover, as the bill stands, any information people provide in the application process cannot be used later in an enforcement action, even if the person is found to be ineligible to benefit from the act. This also needs to be addressed. Information provided should be used to find and remove those who are not eligible for the DREAM Act. The act should not encourage those for whom it is not intended to game the system.

Legalization for Serious Offenders. Under the DREAM Act, as presently written, a person convicted of two misdemeanors could still be given legal status. In many states, misdemeanors include drunk driving, assault or even some types of sexual assault. Moreover, it is very common for people to plead to a misdemeanor even though they were charged with a felony.

---

[7]See "SAWs, RAWS and California's Labor Market," by Professor Philip L. Martin, U.C. Davis, August 1988. Also, in their report for the Ford Foundation, David North and Anna Mary Portz found internal INS statistics that showed that 888,637 legalization applications in both programs had been marked for denials for local office staff, but only 60,020 final denials had been issued. Based on the number of applications that were eventually approved, it was clear that an overwhelming majority of these individuals ultimately received amnesty. See David North and Anna Mary Portz, "The U.S. Alien Legalization Program," *Transcentury Development Associates*, Washington, 1989.

Possible Solution Given that misdemeanors can be serious offenses, it makes sense to make some misdemeanors grounds for exclusion under the DREAM Act. This could include any misdemeanor of a violent or sexual nature, as well as drunk driving. Any individual having even one of these serious misdemeanors should be a barred from receiving the DREAM Act legalization. This would insure that permanent residence is not given to anyone who represents a threat to public safety.

A Question of Fairness. It seems to me that the strongest argument for the DREAM Act is a moral one—those who came as children, through no fault of their own, should be allowed to stay. But if the moral argument is correct, why require two years of college? How does the ability to do college-level work give someone a greater moral claim? Someone who came at age 2 and has lived here for 20 years but did not graduate high school, would seem to have a much stronger claim on our conscience than someone who finds college work relatively easy but came at age 14 and has been in the country for only five years. Under the DREAM Act the former would not receive legal status, while the later would be legalized.

Possible Solution As already discussed, the college requirement in the DREAM Act will likely have only a modest impact on earnings. Moreover, it will exclude perhaps half of those who met the residence and age requirement. It would make more sense to drop the college requirement, lower the qualifying age from the current 15 to, say, 10, and then to legalize everyone who came under that age, provided they pass a background check.

Other Issues. I have tried to outline some important areas of concern with regard to the DREAM Act. There are other issues as well. For example, if we give legal status to people who live here illegally, it is necessarily a slap in the face to legal immigrants. It makes those who play by the rules look like dupes for having taken our immigration laws seriously. The above suggestion of giving DREAM Act recipients a long-term renewable, non-immigrant visa would have the advantage of not making those who played by the rules look so foolish. By not putting DREAM Act beneficiaries on a path to citizenship, we would be sending the message that there is a practical as well as a moral difference between obeying the law and violating it.

There is also the question of adding more workers to the legal labor force. Unemployment is very high among those with some college. Unemployment for young (18 to 29) Americans with some college, but not a bachelor's degree, is 11.3 percent. Using the broader measure of unemployment, (referred to as U-6), which includes those who want to work but have not looked recently, the unemployment for this group is 20.2 percent. For U.S.-born African Americans (18 to 29) with some college, the U-6 measure is 29.2 percent. If the act does not pass and the DREAM Act population remains illegal, then they will tend to compete for jobs with less-educated Americans. But unemployment for young less-educated Americans is even higher than for those with some college.[8]

One way to deal with this problem is to reduce legal immigration. Ending the visa lottery and family chain migration as part of a DREAM Act compromise could help reduce job competition in the

[8] Figures are from the first quarter of 2011. See "A Need for More Immigrant Workers? Unemployment and Underemployment in the First Quarter of 2011," *Center for Immigration Studies*, http://www.cis.org/no-need-for-more-immigrant-workers-q1-2011

future. Jobs are not plentiful, but by reducing legal immigration in the future, we can help offset some of the negative effects of allowing the DREAM Act population to stay in the country.

One important administrative issue with the DREAM Act is that there is no time limit on how long after its enactment someone can apply. A person age 25 could wait until age 35 to apply. They only have to show that they arrived before age 15 and lived in the United States continuously for five years. There needs to be a time limit after which the door is closed to new applicants, perhaps three or five year after its enactment.

Conclusion

The idea behind the DREAM Act clearly has merit. While illegal immigrants raised in the United States do not have a right to stay in America, they certainly have a claim on our conscience. We should act on that claim. But we should do so in a manner that makes sense. We must deal honestly with the upfront costs of the DREAM Act, ensuring that if we do add a million new students to our community colleges and state universities, we provide funding so as to not crowd out deserving Americans. We must also do so in a way that guards public safety and enforces the law so as not to encourage more illegal immigration in the future. We must adopt policies that discourage fraud, which has plagued amnesty programs in the past. The college requirement should also be examined. Finally, we should think long and hard about including within the act measures that reduce job competition. This could be accomplished by lowering the number of green cards we issue each year. If we make the right changes, we can have a DREAM Act that would both provide relief to a group of people who clearly need help, while also limiting its unintended consequences.

PREPARED STATEMENT OF CHAIRMAN PATRICK J. LEAHY

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Subcommittee On Immigration, Refugees And Border Security
The DREAM Act
June 28, 2011

I am very pleased that the Judiciary Committee will consider the DREAM Act today. I have been a cosponsor of this important legislation since it was first introduced in the 107th Congress, and my support today is as strong as ever. I was disappointed when the Senate failed to pass it last December, but I commend Senator Durbin for his persistence in advocating for this bill over the past 10 years.

I also want to recognize the important work that so many affected young men and women have done in support of this legislation. They truly have the courage of their convictions. These are young people who find themselves in an impossible situation and who wish for nothing more than to become lawful, patriotic participants in the country they call home.

Enactment of the DREAM Act will serve the interests of the United States. The DREAM Act encourages and rewards military service. I agree with Secretary Gates and General Powell that our Armed Services will be stronger for encouraging more participation by those who desire to serve the United States. Allowing these young people to serve America, in their journey to becoming Americans, is something we should all support. It is worth taking a moment to recognize just how extraordinary it is that men and women who are not U.S. citizens fight and die in service of the United States and its citizens. This fact says a lot about America, and it says a lot about the character of those who serve the United States military with less than full citizenship.

In addition to military service, the bill also promotes educational opportunities for America's young people. I can see no purpose that is served by deporting talented young people who find themselves in a situation not of their own making, especially for those who wish for nothing more than to contribute to the country they call home.

Military readiness and higher education are not Democratic or Republican issues, they are American ideals.

To disparage this legislation by calling it "amnesty" ignores our fundamental values of fairness and justice. Almost 30 years ago, in the landmark Supreme Court case *Plyler v. Doe*, the Supreme Court held that children may not be punished for the actions of their parents. I find it hard to believe that anyone would disagree with that basic principle. But to deny these deserving students a chance to gain lawful status and an opportunity to realize their potential does just that.

I look forward to hearing from our witnesses today, and I hope that this hearing will continue the important debate around both the DREAM Act and the need for broader reforms to our immigration laws.

# # # # #

PREPARED STATEMENT OF RANKING MEMBER CHUCK GRASSLEY

Statement of Senator Chuck Grassley

Before the Committee on the Judiciary

Subcommittee on Immigration, Refugees and Border Security

"The DREAM Act"

June 28, 2011

Mr. Chairman, the subject of immigration often divides people, parties and ideologies. Addressing our immigration system has bogged down the Senate in each instance we have tried to amend current law. But, this is a debate that we must have. Much can be done to strengthen our current system, but it cannot happen until we have successfully stopped the flow of undocumented immigrants crossing our borders and overstaying their visas. Real reforms must be enacted to ensure that the problems we face today do not become the problems of future generations.

Iterations of the Dream Act have circulated for a decade, with the first proposal being introduced in 2001. However, this is the first hearing to be called in the Senate on the issue. I'm pleased that we're having this hearing because there are many questions surrounding the Dream Act which need to be asked and answered. The sponsors of the legislation claim only children who came to this country through no fault of their own would benefit. But the legislation would actually set the stage for another mass amnesty by putting millions of individuals, not just young people, on a path to citizenship. It would open the door to massive fraud and abuse of our immigration system. It would greatly disadvantage individuals who are currently standing in line, all around the world, who are following the law and waiting their turn to come here legally. We granted amnesty to 3 million people in 1986, and today we face an undocumented population of 12 to 20 million. We have learned that rewarding illegality creates more of it.

I'm concerned that the repercussions in discussing another amnesty will only create a rush to the border. This is dangerous not only for the men and women who patrol our boundaries, but

for the immigrants themselves. It is not unusual for those wanting a better life to justify their illegal behavior, but it is just that: illegal.

There are many flaws with the legislation. The bill fails to require individuals to graduate from college or to complete their military service, even though proponents claim that education is the sole mission. I have always supported educating our youth. Education for children is paramount. It drives us out of poverty and propels better futures. But what this legislation would allow goes beyond what its sponsors intend.

A very troubling aspect of the bill is that it would allow anyone to apply under the Dream Act. No matter how frivolous the claim, anyone can petition for relief. And while his or her application is pending, that alien is provided safe harbor, meaning he or she cannot be removed from the country and will be granted employment authorization. This provision alone will open the floodgates and cause a massive backlog. And why wouldn't someone apply? This legislation does not have a cap nor does it have a sunset. Encouraging future flows of illegal immigration and rewarding that behavior with green cards does not serve the best interests of this country.

Another issue is the ripple effect chain migration will create. I must remind everyone how our family based immigration system works. Legal permanent residents, which is what the Dream Act students would become, can petition to bring in their family members. Once they naturalize, they can then petition for their children, whether they are married or not, and their brothers and sisters. Then those family members can start the cycle all over again.

The legislation would grant "conditional" legal permanent resident status to those who have entered the country before the age of 16 but are under the age of 35 on the date of enactment. The sponsors claim this legislation is needed because of kids currently in the country through no fault of their own. I am not sure who would consider a 35 year old person a child, but I certainly don't. In previous versions of the bill, the age requirement was set at 30. Even a 30 year should not be considered a child. I'm concerned about the language because it will be difficult, if not impossible, for the Department to know how old an alien is. Many of the home countries from which these aliens were born do not keep accurate records of birth. Couple that with the

profitable market of fraudulent documents, the Department will have a hard time trying to ascertain when someone actually came into our country.

To remove the "conditional status", one must complete only 2 years towards a bachelor's degree or serve in the Uniformed Services for 2 years. One does not need to actually obtain a degree in a required time frame. But the bill says that the Department of Homeland Security Secretary can waive those requirements if the alien has "compelling circumstance for their inability to satisfy the requirements" and their "removal from the United States would result in extreme hardship". If the sponsors are serious about education, it would be a priority in this bill. The waiver allowed by the Secretary does not promote education and invites fraud and abuse of the system.

I agree that diversity has made this country the greatest in the world. We are a nation of immigrants, and continue to be an incredibly welcoming nation. But we need to be cautious when considering proposals that incentivize and reward illegal behavior.

Another issue which needs to be addressed stems from the Administration's plan to bypass Congress and ignore our immigration laws. Last July and September, Committee Republicans wrote to Secretary Napolitano expressing our concerns over internal amnesty memos that detailed the Department's plans to grant parole or deferred action on undocumented aliens. The Secretary's office responded that "DHS has not and will not grant deferred action or humanitarian parole to the Nation's illegal immigrant population." However, on June 17th, U.S. Immigration and Customs Enforcement released a memo giving ICE officers, agents and attorneys prosecutorial discretion for undocumented immigrants on a case-by-case basis. The list of factors to be considered in whether someone should be apprehended, detained or removed is exhaustive. Factors range from whether the person in question has "ties and contributions to the community" to "the person's age, with particular consideration given to minors and the elderly", and "the agency's civil immigration enforcement priorities". It is clear the agency's immigration enforcement priorities are not in step with the American people. Chris Cane, President of the National ICE Council, stated, "[u]nable to pass its immigration agenda through legislation, the

Administration is now implementing it through agency policy." Providing a back-door amnesty, while Congress continues to be side-stepped will not be tolerated.

There is much to discuss with our current immigration situation. I look forward to hearing all sides of the debate today.

I thank our witnesses for being here today.

PREPARED STATEMENT OF SENATOR DICK DURBIN

Opening Statement of Senator Dick Durbin
Hearing on "The DREAM Act"
Immigration, Refugees, and Border Security Subcommittee
June 28, 2011

As Prepared for Delivery

This hearing of the Subcommittee on Immigration, Refugees, and Border Security will come to order. Today's hearing is on the DREAM Act, legislation that would allow a select group of immigrant students to earn legal status.

Before I begin, I want to thank Senator Leahy, the Chairman of the Judiciary Committee, and Senator Schumer, the Chairman of the Immigration Subcommittee, for their long-standing support for the DREAM Act, and for giving me the opportunity to hold the first-ever Senate hearing on this bill.

Thousands of immigrant students in the United States were brought to the United States as children. It was not their decision to come to this country, but they grew up here pledging allegiance to our flag and singing our national anthem. They are American in their hearts.

The DREAM Act would give these young people a chance to earn legal status if they have good moral character and go to college or serve in the military.

The DREAM Act would make America a stronger country by giving these talented immigrants the chance to fulfill their potential.

The young people who would be eligible for the DREAM Act call themselves Dreamers.

Over the years, I have met hundreds of these students. Today, I want to introduce a few of them.

Ten years ago, I was contacted by Ann Monaco, a teacher at the Merit School of Music in Chicago. One of her students – Tereza Lee – was a musical prodigy who had played as a soloist with the Chicago Symphony Orchestra. She had been accepted into several of the country's most prestigious music schools. But Tereza had a problem. Her parents had brought her to the United States when she was two, and she was undocumented.

We contacted the INS and they told us there was only one option: Tereza would have to leave the United States. That's when I began to work on the DREAM Act.

Tereza went on to obtain her BA and Masters degree from the Manhattan School of Music. In 2009, she played her debut at Carnegie Hall. Today, Tereza is pursuing her Doctorate at the Manhattan School of Music.

Nelson and Jhon Magdaleno were brought to this country from Venezuela when Nelson was 11 and Jhon was 9.

In high school, Jhon was the 4th highest ranking officer and Commander of the Air Honor Society in Junior R.O.T.C.

Nelson and John are now honors students at Georgia Tech University, one of the best engineering schools in America. Nelson is a computer engineering major and Jhon is a biomedical engineering major.

Tolu Olubumni was brought to the United States from Nigeria as a child.

In 2002, Tolu graduated from a prestigious university in Virginia with a degree in chemical engineering.

It has been nine years since Tolu graduated. She has yet to work a day as a chemical engineer because she is undocumented.

Monji Dolon's parents brought him to the United States from Bangladesh in 1991, when he was 5.

In 2008, Monji graduated from the University of North Carolina at Chapel Hill. Now Monji is being courted by the technology industry. He has even been offered a job as the lead engineer for a start-up in Silicon Valley. But he cannot accept the job offers he has received because he is undocumented.

Benita Veliz was brought here in 1993, when she was 8.

Benita graduated as the valedictorian of her high school class at the age of 16.

She graduated from the Honors program at St. Mary's University in Texas with a double major in biology and sociology.

Angelica Hernandez was brought here from Mexico when she was 9.

In high school, she served in Junior R.O.T.C. and was President of the National Honors Society. This spring, she graduated from Arizona State University as the outstanding senior in the Mechanical Engineering Department.

There are many others here today who I would like to introduce, but my time is short.

Let me ask everyone here today who is a DREAM Act student to stand and be recognized.

When I look around this room, I see the future doctors, nurses, scientists, and soldiers who will make this country stronger.

I ask my colleagues to consider the plight of these young people, who find themselves in a legal twilight zone through no fault of their own. They are willing to serve our country, if we would only give them a chance.

Opponents of the DREAM Act always say they sympathize with DREAM Act students. They criticize the details of the bill, but they offer no alternative. Do they want these young people to be deported to countries that they barely remember? Or to continue living in the shadows?

These Dreamers would happily go to the back of the line and wait their turn for citizenship, but there is no line for them to get into.

I urge my colleagues to support the DREAM Act. It is one of the most compelling human rights issues of our time.

QUESTIONS SUBMITTED TO HON. JANET NAPOLITANO BY SENATOR GRASSLEY

Senator Charles E. Grassley

Questions for the Record

Honorable Janet Napolitano, Secretary of Homeland Security

1. During the hearing I asked you where the funds would originate from to implement this bill. You stated, "I believe there's … a fee mechanism in the bill.." However, S. 952 does not designate a fee that will be charged to each person who seeks to apply for the Dream Act.

    a. What will the fee be for each petitioner? Please be as specific as possible.

    b. On what grounds will the Department waive that fee? Please be as specific as possible.

    c. What are the Department's estimates for how many people would apply? Of that number, how many is estimated to receive "conditional" legal permanent resident status? How many would successfully remove the conditional status?

    d. How many new employees will the Department need to hire in order to adequately handle the millions who would petition under the Dream Act?

    e. Do you think the taxpayers should have to pay for any portion of the legislation's implementation?

    f. Does the Department have an implementation plan should the Dream Act be enacted? If so, would you please provide it to the Committee?

2. As I stated at the hearing, the legislation broadly allows the Secretary to set forth the manner in which those seeking benefit under the Dream Act to apply. One requirement is the undocumented person must initially enter the U.S. before the age of 16 and be 35 years or younger on the date of enactment. As you know, many countries do not keep accurate records of birth and fraudulent documents are rampant.

    a. What documents will you require to determine age?

b. How will you determine when the undocumented person actually entered the United States?

c. Will you set forth specific documents required to prove date of entry? If so, what will they be?

3. You also stated your willingness to discuss a process for the Department to inform the Committee of every instance in which a DREAM Act-eligible person is granted deferred action.

   a. Please provide the Committee, to date as well as going forward, a monthly report of those who apply for, or otherwise seek deferred action as well as the number who have and continue to be granted such relief.

   b. Deferred action is generally valid for up to one year. Under what circumstances would ICE decline to extend or renew deferred action? Has ICE ever terminated, or declined to renew deferred action? If so, please describe the instance(s).

4. Under the bill, beneficiaries, who came to this country through no fault of their own, would be able to petition for the parents who brought them here.

   a. Would you support an amendment barring those responsible for the illegal entry/overstay in which their child(ren) would benefit?

   b. If so, how can this be accomplished legislatively and administratively?

5. At the Homeland Security oversight hearing before the full Committee on March 9, I asked you about allegations that Border Patrol Agent Brian Terry's unit was under a standing order to use non-lethal force prior deadly force. That order allegedly was given by the Tucson Sector Chief at the time in response to outrage from Mexico over a June 2010 shooting that left a 15-year-old Mexican boy dead. In December 2010, the Sector

Chief was transferred from the Tucson Sector just 9 months after he took the post, making it the shortest tenure for a chief of that sector since 1955. After your testimony on March 9, the Border Patrol provided us with a briefing about the use of force policy, but failed to provide personnel able to answer any questions about that local order. We were told we would receive a briefing by individuals more knowledgeable about the matter, but never received it.

a. Will you commit to providing my staff with that briefing?

b. Has any Department official issued any informal or formal "gag order" or command to employees to persuade them not to speak to Congress?

c. Is Agent Terry's unit under a gag order, or are they free to speak to Congressional investigators?

6. I submitted questions for the record following the March 9, 2011 "Oversight of the Department of Homeland Security" hearing in which you testified. Yet the Committee has not received your responses. What is the cause of delay and when can the Committee expect to receive your answers to those questions?

QUESTIONS SUBMITTED TO HON. ARNE DUNCAN BY SENATOR GRASSLEY

Senator Charles E. Grassley
Questions for the Record
The Honorable Arne Duncan, Secretary of Education

1. Are undocumented students currently barred from attending college in the United States?

2. If S. 952, the Dream Act, were to be enacted, it would allow illegal immigrants to be eligible for in-state tuition. During the current economic downturn, how would you explain to American students, who cannot afford to go to out-of-state universities, that students here illegally would receive subsidized in-state tuition rates?

3. If enacted, what steps will you take to ensure American students will not be placed at a disadvantage in universities and community colleges?

4. Do you support the legislation's requirement that a person **does not** need to actually obtain a degree to be eligible for legal permanent resident status?

    a. Would the Department support an amendment to the bill requiring the completion of a degree to be eligible for adjustment to legal permanent resident status?

QUESTIONS SUBMITTED TO CLIFFORD L. STANLEY BY SENATOR GRASSLEY

[Note: At the time of printing, the Committee had not received responses from Clifford L. Stanley.]

Senator Charles E. Grassley

Questions for the Record

Dr. Clifford Stanley, Under Secretary of Defense for Personnel and Readiness

U.S. Department of Defense

1. Are you familiar with the Secretary's authority to allow the enlistment of aliens who are not lawfully admitted under 10 U.S.C. 504?

    a. What is the Department's interpretation of the statute in terms of its scope?
    b. When and how should the authority be exercised?

QUESTIONS SUBMITTED TO STEVEN A. CAMAROTA BY SENATOR GRASSLEY

Senator Charles E. Grassley

Questions for the Record

Dr. Steven A. Camarota, Director of Research

Center for Immigration Studies

1. Under the DREAM Act, could a 50 year old with 2 convictions of drunk driving apply for relief?

    a. If so, would he/she be eligible for employment authorization while his/her petition is pending?

2. What effects could 2.1 million newly authorized workers have on our economy?

3. In your testimony you talk about providing funding "so as to not crowd out deserving Americans." Can you elaborate on that point and give an estimate of the funds that would be required?

RESPONSES OF HON. JANET NAPOLITANO TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

Question#:	1
Topic:	fee
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: During the hearing I asked you where the funds would originate from to implement this bill. You stated, "I believe there's ... a fee mechanism in the bill..." However, S. 952 does not designate a fee that will be charged to each person who seeks to apply for the Dream Act.

What will the fee be for each petitioner? Please be as specific as possible.

Response: The fee amount charged to each petitioner will be tied to the requirements as outlined in the final legislative language. DHS cannot set a precise fee given that the costs could vary significantly depending on the specific legislative requirements and associated deadlines.

Most immigration petition and application fees are not set legislatively. Rather, §286(m) of the Immigration and Nationality Act provides that "fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services." Accordingly, I would expect that USCIS will set the fees for processing applications under the DREAM Act to fully recover the processing costs in accordance with this provision, as it does with other applications and petitions.

Question: On what grounds will the Department waive that fee? Please be as specific as possible.

Response: Please see response to question above regarding fee setting. Should USCIS allow for fee waivers, a basis of that fee waiver request and subsequent adjudication could be the applicant's inability to afford to pay the fee. The guidance for that type of waiver request is documented in the USCIS Form I-912, Request for Fee Waiver, and associated instructions to that form.

Question: What are the Department's estimates for how many people would apply? Of that number, how many is estimated to receive "conditional" legal permanent resident status? How many would successfully remove the conditional status?

Response: The Department has not developed an independent estimate for how many people might apply. However, multiple public third party assessments do exist regarding the number of applicants who might apply under a similar scenario.

Question#:	1
Topic:	fee
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

For example, in July 2010 the Migration Policy Institute (MPI) conducted an assessment of the DREAM Act bill as introduced by Senator Durbin and Rep. Howard Berman in March 2009 which has similar provisions to S. 952.

An estimation of the number of individuals who could successfully remove the conditional status involves multiple variables. DHS is not aware of any current reliable estimate upon which to base that calculation.

Question: How many new employees will the Department need to hire in order to adequately handle the millions who would petition under the Dream Act?

Response: USCIS has not made any final determination of the number of new employees, if any, that would be needed to adjudicate applications filed under the DREAM Act.

Question: Do you think the taxpayers should have to pay for any portion of the legislation's implementation?

Response: With limited exception, USCIS is a fee-funded agency. As a fee-funded agency, USCIS recovers the full cost of agency operations from application filing fees. USCIS receives appropriated funds only for specific programs. At a minimum, an application fee under the DREAM Act would be set so as to cover all administration and operating costs.

Question: Does the Department have an implementation plan should the Dream Act be enacted? If so, would you please provide it to the Committee?

Response: The Department has not finalized any implementation plan for the DREAM Act. However, as with other potential legislation affecting the Department, DHS is monitoring the bill's progress and will review the operational readiness of its implementing agencies – including USCIS – when appropriate.

Question#:	2
Topic:	documents
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: As I stated at the hearing, the legislation broadly allows the Secretary to set forth the manner in which those seeking benefit under the Dream Act to apply. One requirement is the undocumented person must initially enter the U.S. before the age of 16 and be 35 years or younger on the date of enactment. As you know, many countries do not keep accurate records of birth and fraudulent documents are rampant.

What documents will you require to determine age?

Response: Under the scenario stated at the hearing, DHS would require a copy of the individual's foreign birth certificate or secondary evidence that meets the provisions of 8 C.F.R. 103.2(b)(2), the existing regulation governing the submission of evidence in support of applications. As is customary with other applications, USCIS would refer to the Department of State's Foreign Affairs Manual (FAM) to assess documentary evidence from the individual's country.

It is essential to identify suspect cases as early in the process as possible, ideally before the application or petition reaches an adjudicator for decision making, and, most certainly, before an applicant or beneficiary is accorded a benefit that will enable him or her to enter or stay in the United States.

Depending on the final language of the legislation, and upon implementing that legislation, USCIS will develop and provide guidance to officers and staff who process applications under this program. Such guidance will include information regarding general fraud indicators, any fraud indicators specific to this program that can be identified, and instructions on how to treat cases where any fraud indicators are found. Where appropriate, cases of suspected fraud will be referred to USCIS Fraud Detection and National Security (FDNS) units for administrative investigations. In accordance with the existing USCIS-ICE anti-fraud strategy, FDNS will refer cases meeting certain criteria to ICE for criminal investigation.

Where document fraud is suspected, and where possible, FDNS will seek to verify the document. Where foreign documents are suspect, USCIS may engage overseas assets to verify the authenticity of documents. Depending on the nature and volume of documents suspected, USCIS may also engage ICE's Forensic Document Laboratory (FDL) in determining whether documents are fraudulent. More generally, the FDL can provide valuable background on the families of documents that are encountered (e.g. birth certificates, education documents, or national identification cards issued by authorities in

Question#:	2
Topic:	documents
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

certain countries during certain times) and the reliability of those documents for establishing identity.

Question: How will you determine when the undocumented person actually entered the United States?

Response: The provisions of S. 952 currently require proof that the applicant has been continuously present in the United States for the 5 years immediately prior to the enactment of the legislation. Once the legislation is enacted, USCIS would review the requirements of the final legislation and based on its extensive experience implementing other programs, the agency would issue regulations setting forth appropriate and reliable criteria to verify the applicant's entry into the United States.

Question: Will you set forth specific documents required to prove date of entry? If so, what will they be?

Response: USCIS has not yet determined which documents may be required of an undocumented person who entered the United States, but once the legislation is enacted, USCIS would issue regulations setting forth appropriate documentation procedures.

Question#:	3
Topic:	deferred action
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You also stated your willingness to discuss a process for the Department to inform the Committee of every instance in which a DREAM Act-eligible person is granted deferred action.

Please provide the Committee, to date as well as going forward, a monthly report of those who apply for, or otherwise seek deferred action as well as the number who have and continue to be granted such relief.

Deferred action is generally valid for up to one year. Under what circumstances would ICE decline to extend or renew deferred action? Has ICE ever terminated, or declined to renew deferred action? If so, please describe the instance(s).

Response: ICE does not currently track applications for deferred action related to DREAM Act type criteria. However, ICE plans to implement a tracking system in the near future.

Deferred action—a form of prosecutorial discretion—is not a form of relief from removal based on specific, established criteria or exercised on a categorical basis for large classes of aliens. Instead, it is a product of the inherent authority of ICE to decide which cases merit the commitment of our agency's resources. ICE officers, special agents, and attorneys consider every case individually to decide whether, based on the totality of the circumstances, a favorable exercise of prosecutorial discretion is appropriate.

On June 17, 2011, ICE Assistant Secretary John Morton issued a memorandum entitled, "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens" (Prosecutorial Discretion Memorandum). This memorandum provides guidance to ICE employees concerning the scope and purpose of prosecutorial discretion, which includes deferred action, and describes the factors to consider when exercising prosecutorial discretion.

The Prosecutorial Discretion Memorandum includes a list of factors that ICE officers, special agents, and attorneys should consider in exercising prosecutorial discretion to grant or decline to extend deferred action. Favorable discretionary considerations include, for example, whether an alien is a veteran or related to a military service member, came to the United States at a young age, has graduated from a U.S. high school, or has pursued or is pursuing a college education. The Prosecutorial Discretion

Question#:	3
Topic:	deferred action
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Memorandum also identifies negative factors, including the existence of a criminal history or evidence of risk to the national security of the United States. While many of the factors set forth in the Prosecutorial Discretion Memorandum were already considered by ICE officers, special agents, and attorneys when exercising prosecutorial discretion prior to the issuance of the June 17, 2011 memorandum, the Prosecutorial Discretion Memorandum provides for a more uniform and consistent consideration of these factors when reviewing a prosecutorial discretion request.

Question#:	4
Topic:	parents
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Under the bill, beneficiaries, who came to this country through no fault of their own, would be able to petition for the parents who brought them here.

Would you support an amendment barring those responsible for the illegal entry/overstay in which their child(ren) would benefit?

If so, how can this be accomplished legislatively and administratively?

Response: As I recently stated, the DREAM Act is a priority for this Administration and is important to both the mission of the Department of Homeland Security and to the nation as a whole. Both the President and I strongly support the DREAM Act and will continue to encourage Congress to pass this important piece of legislation. Once the legislation is taken up by the Senate and amendments are offered, the Department would be open to reviewing any proposed legislative language that the Senator would offer and, upon review, offer our perspective on this issue.

Question#:	5
Topic:	Brian Terry
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: At the Homeland Security oversight hearing before the full Committee on March 9, I asked you about allegations that Border Patrol Agent Brian Terry's unit was under a standing order to use non-lethal force prior deadly force. That order allegedly was given by the Tucson Sector Chief at the time in response to outrage from Mexico over a June 2010 shooting that left a 15-year-old Mexican boy dead. In December 2010, the Sector Chief was transferred from the Tucson Sector just 9 months after he took the post, making it the shortest tenure for a chief of that sector since 1955. After your testimony on March 9, the Border Patrol provided us with a briefing about the use of force policy, but failed to provide personnel able to answer any questions about that local order. We were told we would receive a briefing by individuals more knowledgeable about the matter, but never received it.

Will you commit to providing my staff with that briefing?

Response: As stated in my response letter to you on March 11, 2011, CBP law enforcement personnel have never been ordered – now or in the past – to use less-lethal devices before using deadly force.

The U.S. Border Patrol provides less-lethal devices to its agents to assist in responding to a wide variety of threats faced in field settings. The U.S. Border Patrol Tactical Unit (BORTAC) provides additional devices, both lethal and less lethal, to its agents to ensure they have the capability to respond to a myriad of threats when conducting tactical operations in both rural and urban settings. The decision to deploy these types of devices rests with the agents in the field and is dependent upon the situation present at the time of any encounter.

Question: Has any Department official issued any informal or formal "gag order" or command to employees to persuade them not to speak to Congress?

Response: The Department of Homeland Security does not issue formal or informal gag orders or commands to employees to persuade them not to speak to Congress. While there exist internal Departmental policies that govern agency relations with Congress, the offices and components of DHS, acting through their legislative/congressional affairs offices, are encouraged to be as transparent as possible to matters of Congressional concern.

Question#:	5
Topic:	Brian Terry
Hearing:	The DREAM Act
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Is Agent Terry's unit under a gag order, or are they free to speak to Congressional investigators?

Response: The Department of Homeland Security does not issue formal or informal gag orders. While there exist internal Departmental policies that govern agency relations with Congress, the offices and components of DHS, acting through their legislative/congressional affairs offices, are encouraged to be as transparent as possible to matters of Congressional concern.

RESPONSES OF HON. ARNE DUNCAN TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF LEGISLATION AND CONGRESSIONAL AFFAIRS

August 2, 2011

Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your Committee's follow-up questions from the June 28, 2011, hearing on "The DREAM Act." Please see the enclosed document for responses to the questions submitted.

If you have any issues or questions about our responses, please contact me at 202-401-0020.

Sincerely,

Gabriella Gomez
Assistant Secretary
Office of Legislation and Congressional Affairs

Enclosure

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-3100
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Senator Charles E. Grassley

Questions for the Record

The Honorable Arne Duncan, Secretary of Education

1. *Are undocumented students currently barred from attending college in the United States?*

Under current law, undocumented students are not barred from attending college in the United States. However, section 484(a)(5) of the Higher Education Act of 1965 (HEA) requires that, in order to receive any Federal student financial assistance under title IV of that Act, a student must be a citizen or national of the United States, a permanent resident, or able to provide evidence that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident (20 U.S.C. 1091(a)(5)). In addition, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) provides that aliens other than "qualified aliens" as defined by PRWORA are ineligible for Federal postsecondary education benefits (8 U.S.C. 1611, 1641). While some States have chosen to make undocumented students eligible for State benefits, such as in-state tuition, those decisions are generally left up to each State and not dictated by the Department of Education (Department). In addition, the Department does not set admissions requirements or influence acceptance decisions; those responsibilities rest with institutions of higher education (and States, in the case of State institutions).

2. *If S. 952, the Dream Act, were to be enacted, it would allow illegal immigrants to be eligible for in-state tuition. During the current economic downturn, how would you explain to American students, who cannot afford to go to out-of-state universities, that students here illegally would receive subsidized in-state tuition rates?*

S. 952, the Development, Relief, and Education for Alien Minors Act (DREAM Act) would not force states to provide in-State tuition to students without legal immigration status. The decision to offer in-State tuition benefits to students without legal immigration status would rest with the State. Current Federal law hampers States' ability to choose how to set their in-State tuition policies. The DREAM Act makes it clear that States can choose whether they want to allow students without legal immigration status to pay in-State tuition rates. The DREAM Act would

return in-State tuition decisions to the States by providing legal clarity and making it easier for them to choose whether or not to charge in-State tuition to students without legal immigration status.

3. *If enacted, what steps will you take to ensure American students will not be placed at a disadvantage in universities and community colleges?*

The Department does not set admissions requirements or influence acceptance decisions, and it does not mandate State or institutional financial aid policies—such matters are left to the discretion of States and institutions of higher education, except as specifically provided by Federal law (see 8 U.S.C. 1621). The DREAM Act would not result in any changes to the Department's role in these areas. It would not force States to award any state financial assistance to students without legal immigration status, and it does not mandate admissions decisions.

Where the Department can play a significant role in ensuring American students are not placed at a disadvantage is in the provision of federal student aid—a significant set of resources that allocates over $150 billion annually to help almost 16 million students pay for college. This includes the Pell Grant program, which is the single-largest source of need-based grant aid for higher education in the nation and is awarded to over one-third of postsecondary students. The DREAM Act would not give students who obtain conditional lawful permanent resident status access to Federal Pell Grants. By working to ensure that the maximum award of $5,550 is maintained, we can continue to help American students get significant assistance in paying for college. The Department can also continue to operate the Direct Loan Program so that loan funds are disbursed in a timely manner and are widely available. While students who obtain conditional lawful permanent resident status under the DREAM Act would gain access to the Direct Loan Program, loans made through this program are statutorily guaranteed to all students who are citizens, nationals, or permanent residents (provided they meet certain other eligibility requirements) and do not score as a cost to the government. Therefore, this expanded eligibility in the Direct Loan Program would not adversely affect American students.

4. *Do you support the legislation's requirement that a person* ***does not*** *need to actually obtain a degree to be eligible for legal permanent resident status?*

a. *Would the Department support an amendment to the bill requiring the completion of a degree to be eligible for adjustment to legal permanent resident status?*

The DREAM Act provides rewards for individuals who have demonstrated hard work and perseverance, either through two years of higher education or two years of military service. It requires that these individuals make a significant commitment to invest in their future, but with the flexibility to choose the path that works for them and their communities. In order to be career-ready, there is no one-size-fits-all degree: career-ready might mean completing a four-year degree for some students, while for others it might be two years at a four-year school or community college. With respect to the higher education option, the DREAM Act still requires two years of higher education, the equivalent number of years required to complete many associate degree programs. To require degree completion rather than two years of attendance would create a disincentive for students to pursue a bachelor's degree.

It should also be noted that the two year requirement is a minimum, not a maximum. Students who receive conditional lawful permanent resident status could still pursue bachelor's degrees or even attend graduate school. Our higher education system provides a diverse range of learning options and degree programs and by setting a two year requirement we do not limit the options students can pursue, while also ensuring that the programs they enter necessitate a certain level of commitment.

The Department has endorsed the bill as introduced. Consistent with Departmental policy, the Department will review any additional language proposed by Congress.

RESPONSES OF STEVEN A. CAMAROTA TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

Senator Charles E. Grassley

Questions for the Record

Dr. Steven A. Camarota, Director of Research

Center for Immigration Studies

1. *Under the DREAM Act, could a 50 year old with 2 convictions of drunk driving apply for relief?*

    a. *If so, would he/she be eligible for employment authorization while his/her petition is pending?*

ANSWER: Yes, such a person could apply and eventually receive legal status. As I read the act, there is no time limit associated with an application, provided an applicant arrived in the United States before age 16 and was under age 35 at the time the act passed. A person who meets those requirements could wait an indefinite period of time before applying, as there is no sunset provision included in the law. Thus, a person who was 30 at the time the act passed could wait 20 years until age 50 to apply. Moreover, they would receive work authorization while their application was pending. Finally, as the act currently stands, individuals with up to two misdemeanor convictions, including two for drunk driving, could apply for relief under the DREAM Act. It seems very unlikely that the provision in the law requiring good moral character would prevent a person with two drunk driving misdemeanors from benefiting from the DREAM Act.

2. *What effects could 2.1 million newly authorized workers have on our economy?*

ANSWER: Adding more workers to the U.S. economy at this time is very problematic. Data from the Bureau of Labor Statistics for the first quarter of this year show that unemployment for young (18 to 29) Americans with some college, but not a bachelor's degree, is 11.3 percent. Using the broader measure of unemployment, (referred to as U-6), which includes those who want to work but have not looked recently, the unemployment for this group is 20.2 percent. For U.S.-born African Americans (18 to 29) with some college, the U-6 measure is 29.2 percent. If

the act does not pass and the DREAM Act population remains illegal, then they will tend to compete for jobs with less-educated Americans. But unemployment for young, less-educated Americans is even higher than for those with some college. If instead of allowing illegal immigrant to stay in the United States, they were encouraged to return to their home countries, it would take pressure off the U.S. labor market.

3. *In your testimony you talk about providing funding "so as to not crowd out deserving Americans." Can you elaborate on that point and give an estimate of the funds that would be required?*

ANSWER: Based on our research at the Center for Immigration Studies the DREAM Act would likely add roughly one million students to the nation's publically funded institutions of higher learning. (See our report: *Estimating the Impact of the DREAM Act,* November 2010) About half of those individuals would be added in the first few years after its passage. These figures do not include those who have already completed college or are currently enrolled at public institutions. Our estimate is only for new students. Public, rather than private universities and colleges will be the primary way DREAM Act beneficiaries met the college requirement, given the relatively low income of most illegal immigrants.

In fact, because they are much cheaper to attend, it seems almost certain that community colleges will be the primary way most illegal immigrants met the college requirement. In our estimates of the costs we assume that 80 percent of illegal immigrants who attend college will do so at a community college. We estimate that the total cost of in-state tuition subsidies for DREAM Act beneficiaries will be about $12 billion dollars. These costs will be borne primarily by taxpayers in the dozen states where illegal immigrants are concentrated. In fact, taxpayers in roughly 40 counties in these states will be especially hard hit. In every major state of illegal immigrant settlement public institutions of higher learning are already overcrowded and reeling from budget cuts. Space and funding are not unlimited at these schools. Adding roughly a million new students will mean some American citizens and legal immigrants will be crowded out of these institutions.

Advocates of the DREAM Act argue that it will significantly increase tax revenue because with a college education, recipients will earn more and pay more in taxes over their lifetime. However, any hoped-for tax benefit is in the long-term, if it exists, and will not help public institutions deal with the large influx of new students the act creates. The crowding out will take place now, while the possible tax benefits will be in the future. Moreover, given limited spaces at public institutions, those U.S. citizens crowded out of schools will see their lifetime earnings and tax payments reduced. It is also worth noting that the DREAM Act only requires two years of college; no degree is necessary. The income gains for having some college, but no degree, are modest.

Of course, congress could provide money in the DREAM Act to states and counties to cover the in-state tuition subsidies these students will receive. Again, we estimate some $12 billion would cover the costs. Failure to include such funding will add significantly to the problems public universities and colleges already face, and negatively impact American citizens who are competing for the limited space at these institutions.

SUBMISSION FOR THE RECORD

WRITTEN STATEMENT OF
THE AMERICAN CIVIL LIBERTIES UNION

Laura W. Murphy
Director, Washington Legislative Office

Joanne Lin
Legislative Counsel

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND BORDER SECURITY
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

AT A HEARING ON
"S. 952, DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS (DREAM) ACT OF 2011"

JUNE 28, 2011

Chairman Schumer, Ranking Member Cornyn, and members of the Subcommittee:

The American Civil Liberties Union (ACLU) commends the Subcommittee for conducting a hearing on S.952, the "Development, Relief, and Education for Alien Minors (DREAM) Act of 2011." We respectfully submit this statement for the record to express our support for this legislation.

The ACLU is a nationwide, non-partisan organization of more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to enforcing the fundamental rights individuals under the Constitution and laws of the United States. The Immigrants' Rights Project (IRP) of the ACLU engages in a national program of litigation, advocacy, and public education to enforce and protect the constitutional and civil rights of immigrants.

The ACLU supports the bill's provisions which grant conditional permanent residency to certain highly-qualified young people who possess limitless potential to contribute to our society, and provide them with a path to citizenship after higher education or military service. Immigrants who have lived in the United States since their youth can acquire legal status by working hard and maintaining good moral character: nothing could be more consistent with American values.

In addition, the ACLU has fought consistently to preserve the option for states to grant all their resident students, regardless of immigration status, the right to attend public universities at an affordable rate. This bill would play a critical role in promoting fundamental fairness in access to public higher education by clarifying that states have the right to establish the conditions students must meet to qualify for in-state tuition rates.

In this statement, we focus on two major reasons to support the DREAM Act: (1) the imperative of protecting the rights of vulnerable immigrant communities; and (2) the importance of access to higher education.

I. The DREAM Act provides opportunities for the growing population of undocumented youth, without which they risk becoming a vulnerable underclass.

Currently, almost one-third of immigrant children covered by the DREAM Act who are still in school live below the federal poverty line.[1] The inability of immigrants to obtain lawful status creates an "underclass" subject to exploitation, often unable or afraid to assert civil and constitutional rights. This is particularly dangerous for children who enter the country at a young age. In the words of the Supreme Court, "the illegal alien of today may well be the legal alien of tomorrow . . . . [W]ithout an education, these undocumented children, [a]lready disadvantaged as a result of poverty, lack of English-speaking ability, and undeniable racial prejudices, . . . will

[1] Jeanne Batalova & Margie McHugh, Migration Policy Institute, *DREAM v. Reality: An Analysis of Potential DREAM Act Beneficiaries* (July 2010), at 8, *available at* http://www.migrationpolicy.org/pubs/DREAM-Insight-July2010.pdf.

become permanently locked into the lowest socio-economic class."[2] Allowing this large and growing group of individuals to remain in poverty without access to higher education is wrong for America.

Many of the approximately 11 million undocumented individuals currently living in the United States have lived here for years or decades and have deep ties to this country. Particularly for those who were brought to the United States when they were children, these ties are often much stronger than those – if they exist at all – to their country of origin. In addition, demographic data estimate that 53% of the undocumented population lives in so-called "mixed" families where at least one member is a U.S. citizen or legal resident. These members of our communities are extremely vulnerable. They face daily reluctance to contact police and public safety officials; exposure to private exploitation and abuse; diminished or non-existent workplace safeguards; exclusion from public health programs; and fear of asserting their basic legal rights and protections.

Given this situation, the future is bleak for those brought to the United States as children by their parents without proper documentation. Current laws ensure that their dreams will always remain out of reach. Unlike the classmates they have grown up next to, pursuing a college education and/or military service aren't just a matter of working hard and achieving. Instead, they face many roadblocks in their path to success: crushing financial burdens, discriminatory enrollment policies, the inability to work, and the constantly-looming threat of deportation.

The DREAM Act would protect these morally blameless young people from having their careers and lives stunted by their legal disabilities. The legislation creates a powerful imperative for recipients of conditional lawful status either to pursue a college education or join the military. It also encourages immigrant children now enrolled in elementary or secondary school to obtain a high-school diploma and further education. Thus, the DREAM Act will significantly ameliorate the costly economic and social detriments associated with maintaining a large population of individuals in the United States who are part of our communities but prevented from using their talents fully to serve our country.

By encouraging high-achieving young people to focus on their studies and/or serve the United States military, the legislation will allow these individuals who are part of our communities' fabric to regularize their status and thereby benefit our economy and national security.

II. States must have autonomy to recognize the value of higher education for all of their residents.

Higher education is critical for young people to achieve their fullest potential. Immigrant students covered by the DREAM Act have limitless potential. They are often talented high achievers who grew up in the United States and overcame challenging odds to graduate from high school and secure admission to a public university. However, financing a college education is particularly difficult for undocumented youth because they are ineligible to receive federal financial aid or loans under current federal law. Even at relatively affordable public universities,

[2] *Plyler v. Doe*, 457 U.S. 202, 207-08 (1982).

undocumented students in most states are often charged out-of-state tuition rates, which are prohibitively expensive for most immigrant families. This effectively blocks many undocumented youth from all higher education other than community or junior colleges, leading to serious inequality of educational opportunities.

Several states[3] have enacted laws which make public universities equally accessible to all students graduating from their secondary schools. In enacting equal education laws, these states remove economic impediments to high school graduates pursuing higher education and decline to penalize children who were brought to the United States at a young age by their parents. In addition, these states recognize that a well-educated population leads to increased earning power which then generates higher income, sales, and property taxes. This in turn stimulates economic growth for all participants in the states' economies, while increasing the nation's competitiveness in the global economy.

Despite their manifold benefits, tuition equality laws have been subject to unsuccessful legal challenges. IRP and ACLU affiliates have been involved in defending these laws in both federal and state courts. In December 2007, the U.S. Court of Appeals for the Tenth Circuit dismissed a challenge to a Kansas law on procedural grounds,[4] and the Supreme Court denied certiorari.[5] In November 2010, the California Supreme Court unanimously upheld California's law.[6] That case, *Martinez v. Regents of the University of California*, is the first state supreme court decision to address challenges to tuition equality laws on the merits.[7]

The DREAM Act would clarify that states are entitled to decide for themselves whether to provide in-state tuition to undocumented students. Because the DREAM Act will ensure that states have this option without encumbrance, the ACLU supports its passage.

III. Conclusion

Talented, motivated young people who wish to serve their communities, join our armed forces, and build a future in the United States that has been their long-term home should be permitted to do so, in order to benefit them and all Americans. The ideals of fairness and equal opportunity on which this nation has thrived are on the side of the DREAM Act, which offers DREAMers a chance to harness their capabilities to endeavors and achievements that will help our nation grow.

---

[3] California, Illinois, Kansas, Nebraska, New Mexico, Texas, Washington, Utah, New York, Wisconsin, and Maryland.
[4] *Day v. Bond*, 500 F.3d 1127 (10th Cir. 2007).
[5] *Day v. Bond*, 128 S. Ct. 2987 (2008).
[6] *Martinez, et al. v. Regents of the University of California*, 198 P.3d 1 (Cal. 2008).
[7] Certiorari was recently denied. *Martinez, et al. v. Regents of the University of California*, 563 U.S. __, 79 U.S.L.W. 3494 (U.S. June 6, 2011).

SUBMISSION FOR THE RECORD

Hearing on S. 952, the DREAM Act of 2011

Statement of Dan Stein
President, Federation for American Immigration Reform

to the Senate Judiciary Subcommittee
Tuesday, June 28, 2011

This testimony describes FAIR's opposition to legislation that would provide an amnesty to a large class of illegal aliens.

Mr. Chairman,

This statement is submitted on behalf of the Federation for American Immigration Reform's (FAIR) more than a quarter million members and activists. FAIR is a national, non-profit public interest organization that works to end illegal immigration, restore moderate legal immigration levels and reform our immigration laws to bring them into accord with the national interest. In addition to representing the views of our members, FAIR represents the views of a majority of American voters in opposition to enactment of the DREAM Act as documented in a November 2010 public opinion poll.[1]

Undermining the Rule of Law
FAIR opposes the DREAM Act (S.952) for numerous reasons. Chief among them is that every time an amnesty provision is adopted it weakens the fabric of our immigration laws that are intended to regulate immigration in support of national interests. The nation learned a hard lesson with the enactment of the amnesty provisions in the Immigration Reform and Control Act in 1986 (IRCA). IRCA purported to simultaneously curb illegal immigration by adopting sanctions on employers who hire illegal workers and, at the same time, grant legal residence and work authorization to those who were already here illegally. The fact that today we have 11 to 13 million illegal aliens in the U.S. demonstrates that rather than diminish the problem, the 1986 amnesty aggravated it.

The 1986 amnesty had a dramatic impact on our immigration system. The message that it sent outside of our borders was that the U. S. did not seriously intend to discourage illegal immigration. If one could get into the country with a visa or by sneaking across the border, one could get a job and count on this country to eventually accept his illegal act by granting amnesty for these immigration law breakers. That is a perception that must be reversed.

Rewarding Illegality
Granting amnesty to aliens illegally in the U.S. is equivalent to accepting them as if they had entered as legal immigrants. It means authorizing them to work here legally, and it allows them to compete with our own citizens for access to public schooling and social welfare programs.

---

[1] 54% of likely voters oppose the DREAM Act, compared to 38% who support its passage (Pulse, November 2010).

The reason that we have immigration laws rather than open borders is because we want to protect our citizens from unwanted and unnecessary competition for limited resources.

At a time when the country is coping with enormous problems of unemployment and a spiraling national debt and state debt crises, it is especially implausible to think that it is in the national interest to make an exception to the law in order to incorporate millions of illegal immigrants as permanent competitors for limited resources. It is cavalier disregard of the struggle and suffering of American citizens to propose to offer access to jobs, scholarships and social welfare benefits to foreign nationals rather than to prevent this unfair competition.

Current Immigration Levels are Unsustainable
We should never turn our back on our heritage of harnessing the talent and dedication of immigrants in our national development. But that heritage should be seen in the context of history. The United States is no longer a country being settled from coast to coast largely by immigrants, nor is it undergoing rapid industrialization aided by immigrant labor. Our country is already heavily populated and still growing rapidly by about three million additional people each year – largely because of unprecedented levels of legal and illegal immigration. In order to safeguard our nation's future, we must return to a level of moderate legal immigration in which immigration ceases to be the main driver of population increase.

Threats to National Security
Today, we are a country living under the threat of international terrorism, and that underscores the essential need to no longer accept persons streaming into the country with little or no screening. Yet, that is exactly what is encouraged when we advertise to the world that we do not have the will to enforce our immigration law against illegal residence.

Adoption of a new and extensive amnesty for illegal aliens as is proposed in the DREAM Act would reduce the number of illegal aliens in the country by making them legal residents, but the reduction would be short lived as millions more interpret the action as a sign of weakness and decide to join the throng attempting to line up for the next amnesty. Meanwhile, the population of illegal aliens entering and residing illegally would continue to provide protective cover for international terrorists who also entered the United States by avoiding detection.

A Choice of Compassion
FAIR recognizes that there are some young illegal aliens, brought into the country by their parents, who have excelled in school and have significant personal accomplishments. Nevertheless, we cannot forget that our strength as a nation of laws will be eroded if we make exceptions for these youth by ignoring their illegal presence in our society. We cannot ignore the fact that the benefit the DREAM Act would confer on millions of illegal aliens would at the same time diminish opportunities for the nation's most vulnerable citizens.

Those who support the DREAM Act focus only on a handful of exceptional illegal aliens and ignore the greater problem. They hide the fact that amnesty recipients under the DREAM Act may sponsor their parents who illegally brought their children into the U.S. and contributed to the chaos that currently characterizes our immigration system.

An Invitation to Fraud

In addition to promoting bad public policy, the DREAM Act creates open invitation to fraud. For example, how could it be established at what age a person came to the U.S. illegally? How could even the current age of the illegal alien be established? What is the meaning of "good moral character"? How would the Department of Homeland Security process millions of applications and maintain the integrity of the process and secure our nation? If illegal aliens try to qualify for the amnesty through fraud, why would that information be withheld from law enforcement personnel? Wouldn't that simply invite the use of fraud? Proponents of the legislation have been unable to provide sufficient answers to these questions and many other questions like them.

Conclusion

The DREAM Act is legislation that rewards individuals for breaking our immigration laws and does so at the expense of our national interest. Proponents of the legislation ignore the fact that the DREAM Act contains provisions that will have long-term negative consequences for this country. FAIR is committed to educating the public on the negative impacts this legislation would have on our nation.

○