



### In-state Tuition for Undocumented Immigrants

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Updated March 2008

#### Introduction

As immigration to the United States increases, more and more students are entering the education pipeline. Many of these newly arrived students are undocumented or “illegal” immigrants, and denied the full rights of American citizenship, including educational benefits like in-state tuition at public colleges and universities. In an effort to aid undocumented immigrants who cannot afford the cost of postsecondary education, many states have proposed legislation that offers in-state tuition to this new pool of potential students. Supporters of this legislation point out that most of the children of undocumented immigrants are in the United States to stay, and by providing them access to postsecondary education, society benefits as a whole through increased earnings and taxes, and lower crime and poverty rates.

Supporters also draw on the long history of immigration to the United States and argue it is unfair to deny opportunity to the most recent generation of undocumented aliens. Critics argue it is unfair to allocate in-state tuition to illegal aliens at a time when many American citizens cannot afford to attend postsecondary education. While some states have passed legislation that extends in-state tuition to undocumented immigrants, others have proposed laws that restrict the granting of in-state tuition to these same immigrants. Below is a summary of states that have passed or have considered legislation regarding tuition for undocumented immigrants.

#### Summary

##### **How many states have considered legislation allowing undocumented students to receive in-state tuition?**

As of June 2007, approximately 32 states had considered legislation that would allow undocumented immigrants to receive in-state tuition: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New Hampshire, New York, North Carolina, Oklahoma, Oregon, Rhode Island, Texas, Utah, Virginia, Washington and Wisconsin.

##### **How many states have passed legislation *allowing* undocumented students to receive in-state tuition?**

As of June 2007, 10 states had passed laws that allow undocumented immigrants to receive in-state tuition: California, Illinois, Kansas, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah and Washington.

##### **How many states have tried to pass legislation *restricting* undocumented immigrants from receiving in-state tuition?**

As of June 2007, approximately 10 states – Alaska, Arizona, Colorado, Iowa, Michigan, Mississippi, North Carolina, Texas, Utah and Virginia – had considered legislation that would ban undocumented immigrants

from receiving in-state tuition. Since 2004, Virginia has tried unsuccessfully to pass various bills barring postsecondary institutions from accepting undocumented students. More recently, California, Texas and Utah have proposed bills that would repeal laws allowing undocumented students to pay in-state tuition.

### What are the most common requirements for undocumented students to receive in-state tuition?

To be considered for in-state tuition, most states require undocumented immigrants to:

- Attend a state high school for two to four years
- Complete a high school diploma or GED in the state
- File an affidavit stating intent to become a permanent U.S. citizen.

### State Specifics

State	Policy	Award	Restrict	Passed?
Alaska	H.B. 39 (2003)		X	No
Arizona	H.B. 2518 (2003)	X		No
	H.B. 2392 (2004)		X	No
	H.B. 2069 (2006)		X	No
	S.C.R. 1031 (2006)		X	Yes
	H.B. 2471 (2007) <sup>1</sup>		X	No
Arkansas	H.B. 1525 (2005)	X		No
California	A.B. 540 (2001)	X		Yes
	S.B. 160 (2006)	X		No
	S.B. 160 (2007) <sup>2</sup>	X		No
	A.B. 286 (2007)		X	No
Colorado	H.B. 1178 (2003)	X		No
	H.B. 1187 (2004)		X	No
	H.B. 1023 (2006) <sup>3</sup>		X	Yes
Connecticut	H.B. 6793 (2005)	X		No
	H.B. 5656 (2007)	X		Vetoed
Delaware	H.B. 222 (2003)	X		No
	H.R. 59 (2004) <sup>4</sup>	X		Yes
Florida	H.B. 27 (2003)	X		No
	H.B. 119 (2003)	X		No
Georgia	H.B. 1810 (2001)	X		No
	S.B. 529 (2006) <sup>5</sup>		X	Yes
Hawaii	H.B. 873 (2003)	X		No
Illinois	H.B. 60 (2003)	X		Yes
Iowa	H.F. 470 (2007)	X		No
	S.F. 267 (2007)	X		No
	H.F. 581 (2007)		X	No
Kansas	H.B. 2145 (2004)	X		Yes
Maryland	H.B. 253 (2003)	X		Vetoed
	H.B. 6 (2007) <sup>6</sup>	X		No
Michigan	H.B. 5307 (2006) <sup>7</sup>		X	Vetoed
Massachusetts	S.B. 237 (2003)	X		Vetoed
	H.B. 3924 (2004)	X		No
Minnesota	S.B. 3027 (2002)	X		No
Mississippi	H.B. 101 (2005)	X		No
	H.B. 88 (2006)	X		No
	H.B. 1144 (2007)		X	No
Missouri	S.B. 296 (2005)	X		No
Nebraska	L.B. 152 (2003)	X		No
	L.B. 239 (2006)	X		Yes

State	Policy	Award	Restrict	Passed?
New Jersey	S.B. 78 (2004)	X		No
	S.B. 436 (2006)	X		No
	A.B. 4032 (2007)	X		No
New Mexico	S.B. 582 (2005)	X		Yes
	S.B. 374 (2007) <sup>8</sup>	X		No
New York	S.B. 7784 (2002)	X		Yes
	S.B. 1993 (2007)	X		No
	A.B. 8109 (2007)	X		No
North Carolina	S.B. 982 (2003)		X	No
	H.B. 1183 (2005)	X		No
Oklahoma	S.B. 596 (2003)	X		Yes
Oregon	S.B. 769 (2005)	X		No
Rhode Island	H.B. 6184 (2005)	X		No
	H.B. 7973 (2006)	X		No
Texas	H.B. 1403 (2001)	X		Yes
	H.B. 28 (2007)		X	No
	H.B. 159 (2007)		X	No
Utah	H.B. 331 (2002)	X		Yes
	H.B. 144 (2002) <sup>9</sup>	X		Yes
	H.B. 7 (2006)		X	No
	H.B. 118 (2007)	X <sup>10</sup>		Yes
	H.B. 224 (2007)		X	No
	H.B. 437 (2007)		X	No
Virginia	H.B. 2339 (2003)		X	Vetoed
	H.B. 1562 (2003)		X	No
	H.B. 156 (2004) <sup>11</sup>		X	No
	S.B. 677 (2006)	X		No
	H.B. 262 (2006) <sup>12</sup>		X	No
	H.B. 1050 (2006)		X	No
	H.B. 1961 (2007)		X	No
	H.B. 2623 (2007)		X	No
	H.B. 2169 (2007)		X	No
Washington	H.B. 1079 (2003)	X		Yes
Wisconsin	A.B. 95 (2003)	X		No

## Notes

<sup>1</sup> H.B. 2471 would deny illegal aliens and the children of illegal aliens all public benefits including, but not limited to, public instruction in a kindergarten program or grades 1 through 12, and instruction at a public institution of higher education.

<sup>2</sup> S.B. 160 would require that a person who has attended and graduated from secondary school, rather than high school, in California would be exempt from paying nonresident tuition at the California Community Colleges and the California State University if at least one year of that secondary school attendance was at a high school.

<sup>3</sup> As of August 1, 2006, Colorado law (HB06S-1023) requires that all students age 18 or older who apply for certain public benefits that entail any payment or financial assistance provide proof they are lawfully present in the United States. However, any student whose lawful presence is confirmed through the process of completing a Free Application for Federal Student Aid (FAFSA) will be considered to have met the requirements of House Bill 1023.

<sup>4</sup> H.R. 59 encourages the Delaware congressional delegation "to support the Development, Relief and Education for Alien Minors ("DREAM") Act, but does not award in-state tuition to undocumented students. The DREAM Act proposes a legalization process for undocumented children that includes a provision allowing in-state tuition. Under the proposal states would have the option of providing in-state tuition to undocumented students.

<sup>5</sup> S.B. 529 mandates that Georgia's Board of Regents set forth policies regarding postsecondary benefits that comply with federal law described in 8 U.S.C. Section 1611, 162 or 1623. Title 50, Chapter 36.

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<sup>6</sup> H.B. 6 would allow nonresidents to receive in-state tuition by requiring specified individuals to provide documentation regarding Maryland income tax withholding; and requiring the governing board of each public institution of higher education to adopt specified policies.

<sup>7</sup> H.B. 5307 conditions eligibility for tuition grants to students enrolled in independent nonprofit institutions of higher learning on being a U.S. citizen or legal alien with permanent residency status.

<sup>8</sup> S.B. 374 would extend the definition of resident student to “a student who is a citizen of Mexico, Latin American or the Iberian Peninsula, and who attends a state four-year institution under the organization of the American states’ educational portal of the America’s program...”

<sup>9</sup> H.B. 144 allows a student who meets certain requirements to be exempt from paying nonresident tuition at institutions of higher education while also specifying that the State Board of Regents will make rules to implement these regulations.

<sup>10</sup> H.B.118 repeals the requirement for a nonresident student to complete 60 semester hours or have three years of residency prior to registration. The new law requires a nonresident student to maintain continuous Utah residency status for one full year prior to registration and modifies the provisions that require evidence to be submitted in order to confirm the student has taken overt steps to establish permanent residency in Utah.

<sup>11</sup> While not specifically about tuition, H.B. 156 stipulates, “Public institutions of higher education may not knowingly accept for enrollment any illegal alien, and directs each institution, upon discovering an enrollment of an illegal alien, to provide for the prompt dismissal of any such person from the institution.”

<sup>12</sup> H.B. 262 prohibits admission of undocumented students to Virginia institutions of higher education.

## Statutory References

ARIZ. REV. STAT. § 15-1803

CAL. EDUC. CODE § 68130.5

COLO. REV. STAT. § 24-76.5-101

GA. CODE ANN. § 50-36-1

110 ILL. COMP. STAT. ANN. 947/65.27

2004 Kan. Sess. Laws 172

NEB. REV. STAT. ANN. § 80-411

2005 N.M. Laws 348

N.Y. EDUC. LAW § 355

OKLA. STAT. ANN. tit. 70 § 3242

TEX. EDUC. CODE ANN. § 54.051, 54.052, 54.0551, 54.057, 54.060

UTAH CODE ANN. § 53B-8-102

WASH. REV. CODE ANN. § 28B.15.012

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