



Written by [Joe Wolverton, II, J.D.](#) on May 12, 2011

DREAM Act Reintroduced in House and Senate

The recently revised iteration of the controversial legislation was introduced Wednesday by cosponsors Senate Majority Whip Dick Durbin (D-Ill.) and Senate Majority Leader Harry Reid (D-Nev.). Although being touted as a “new bill,” the devil is in the details.



The 2011 [version](#) of the bill is significantly and substantially similar to its predecessors. As presently written, the measure is nearly indistinguishable from the bill passed last year by the House of Representatives. The thresholds set for eligibility for the benefits provided by the slate of programs that comprise the bill are essentially the same and they still offer “a pathway to citizenship” for nearly two million illegal immigrants who entered the United States before the age of 16, who have lived in the country at least five years, and who have earned a high-school diploma or equivalent, and enroll in college or enlist in the American military.

Basically, the DREAM Act (as presently constituted) offers people who illegally entered the United States before the age of 16 the gift of permanent residency and eventually full-fledged citizenship if they go on to college or join the armed forces. Boldly, the text of the bill insists that by requiring that illegals go to college or join the military, the United States is holding them accountable for their violation of the immigration law. □□Similarly, the new bill mirrors provisions in the previous version in the prohibition of beneficiaries from receiving Pell grants. Furthermore, applicants must prove their proficiency in reading, writing, and speaking English.

Word is that the language proficiency provision was tacked on as an attempt to mollify Republicans who paint the proposal as no more than amnesty by another, more ethereal, name. According to Republican opponents of the bill, the DREAM Act is no more than a reward for lawbreaking, as it potentially confers the blessings of citizenship on those who came here in defiance of existing immigration laws. □□Senator Durbin tinkered with a couple of other aspects of the bill by raising the eligibility age from 29 to 35 and extending in-state tuition rates to recipients. The measure that was passed last year by the House specifically proscribed the tuition benefit.

The bill’s sponsors have promised a vote on the measure in the Senate. That promise is hollow, however, as a vote means nothing more than putting a letter (Y or N) next to the name of a Senator, as the provision is likely to fall short of passage this year as it did last year. In 2010, supporters of the measure couldn’t garner the 60 votes necessary to end a GOP filibuster and after the bill was



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reintroduced by Senators Durbin and Lugar the following day, no additional sponsors could be recruited and the bill was defeated twice in two days.

The row is even harder to hoe this year as Republicans control the House (which has resulted in ardent DREAM opponent John Boehner's election as Speaker of the House), and the Democrats' margin of majority in the Senate is significantly smaller than in 2009-2010.

Durbin, who has been pushing the program for years, is not dissuaded by recent legislative setbacks. "We're not giving up," he [asserted](#), adding, "This is not just a piece of legislation, it is a matter of justice."

His cosponsor, Senator Harry Reid, is equally determined: "Instead of kicking out of our country people who are educated," Reid said, "we should let them work."

Senator Chuck Schumer (D-N.Y.) has [joined](#) the DREAM Act optimist club, as well.

I don't put it at a majority chance, but there's a chance. We're still talking — I'm talking to both business and labor about this bill. I'm talking to my Republican colleagues, and I think the Republican Party realizes that the position of doing nothing on immigration doesn't help them.

A companion measure was introduced in the House of Representatives by Representative Howard Berman (D-Calif.), who has offered similar bills every year for over a decade.

Of course, some proponents will not allow the Constitution's exclusive grant of lawmaking power to the Congress to prevent them from achieving their amnesty agenda. These advocates would just as soon abdicate their Article I powers to the executive branch if it meant that the provisions of the act would become law, or something like it.

Hopeful Democrats are perhaps counting on a cadre of Republican defectors when and if the bill comes up for a vote. They might remember the move made in 2007 by Senator Kay Bailey Hutchison (R-Texas) to lend support to the bill after Durbin promised to tweak the measure and make it more palatable to members of her party.

Cynics might see another probable reason the Democrats are so anxious to push for a vote on the DREAM Act. With elections looming in 2012, perhaps Democrats are counting on Republicans to vote against the bill and thus alienate the Latino vote, a bloc that is growing in numbers and influence. And Latinos make up a significant percentage of the electorate in states such as Texas, California, and Florida that have enough electoral votes to sway a presidential election one way or the other.

The gamble is risky, however, as last year the bill's demise was aided by the aligning of four Senate Democrats with their Republican colleagues in the vote.

While the proffer and promise of the DREAM of citizenship in exchange for attending college or enlisting in the armed forces is demeaning to the concept of the rule of law, the simple, constitutional *reality* is that the Constitution of the United States contains no enumeration of the power to regulate immigration to the federal government. It is only the rules of naturalization that may be set by the national authority, not the rules of immigration itself.

When the foregoing constitutional fact is married to the plain language of the Tenth Amendment that leaves all unenumerated powers in the domain of the states, the offspring is the requirement that each of the 50 sovereign states enact and enforce its own immigration statutes, including the penalties or punishments assigned to the violation of those laws.



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