

Date of Hearing: June 14, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SJR 9 (Limón) – As Amended May 19, 2022

SENATE VOTE: 30-0

SUBJECT: 20th anniversary of the nonresident tuition exemption: American Families Plan: immigration reform.

SUMMARY: Recognizes October 12, 2021, as the 20th anniversary of the enactment of the exemption from nonresident tuition for qualified students during the 2001-02 Regular Session. Specifically, **this resolution:**

- 1) Makes several legislative findings and declarations, including, but not limited to, the following:
 - a) Over 2,000,000 undocumented immigrants of all nationalities and backgrounds call California home, including over 183,000 Deferred Action for Childhood Arrivals (DACA) recipients;
 - b) Undocumented pupils who have lived in the United States for five years or more graduate from high school every year;
 - c) Many undocumented pupils who arrive in the United States before 14 years of age desire to go on to college;
 - d) California has uplifted and empowered undocumented immigrants to seek a better life by providing pathways to public services and extending protections through sanctuary laws;
 - e) Nonresident tuition is cost prohibitive to undocumented students who already experience barriers to employment and lack of access to federal financial aid;
 - f) The passage of Assembly Bill 540 of the 2001–02 Regular Session (AB 540), authored by the late Assembly Member Marco Antonio Firebaugh and signed into law by former Governor Gray Davis on October 12, 2001, declared that long-term California residents, regardless of their citizenship status, would pay in-state fees at California public colleges and universities;
 - g) It is estimated between 75,000 and 156,000 undocumented students attend California’s community colleges, 10,063 attend the California State Universities, and over 4,000 attend the Universities of California;
 - h) That exemption from nonresident tuition expanded opportunities for a college education and reduced opportunity gaps for undocumented students by removing the burden of out-of-state tuition;
 - i) Without AB 540, and other subsequent college affordability measures like the California Dream Act, undocumented students would pay thousands of dollars in tuition and fees each year as nonresidents or international students;

- j) California's higher education systems are committed to serving all students, regardless of their immigration status, and providing them with the supports, resources, and opportunities to pursue their educational goals;
 - k) The federal American Families Plan proposes a pathway to citizenship for undocumented students and expands access to federal financial aid, which will enable more undocumented students to pay for college, complete their studies, and contribute to the economy; and,
 - l) The passage of the federal American Families Plan will ensure a stable and welcoming future for undocumented students by allowing them to achieve their higher education goals and become fully participating members of their communities.
- 2) Recognizes October 12, 2021, as the 20th anniversary of the enactment of the exemption from nonresident tuition during the 2001-02 Regular Session.
 - 3) Urges all residents of the State to celebrate the significance of that enactment in enabling more undocumented students to pursue a college education.
 - 4) Calls on the United States Congress to pass the American Families Plan and provide financial resources for undocumented students through the budget reconciliation process, and to adopt comprehensive immigration reform.

EXISTING LAW: *Federal law.* On June 15, 2012, the Secretary of Homeland Security, under the direction of President Obama, announced the DACA policy, authorizing certain people who came to the United States as children and meet several guidelines to request consideration of deferred action for a period of two years, subject to renewal. They are also eligible for work authorization. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status.

State law.

- 1) Exempts specified California nonresidents from paying nonresident tuition at the University of California (UC), the California State University (CSU), and the California Community Colleges (CCC), also known as the AB 540 nonresident tuition waiver, if they meet all of the following:
 - a) Attended or attained credits at a California high school, an adult school, a CCC campus, or a combination of these entities, for the equivalent of three or more years; or completed three or more years of full-time high school coursework, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of such elementary and secondary schools;
 - b) Graduated from a California high school or attained an equivalent degree; attained a CCC associate degree; or fulfilled the minimum transfer requirements from a CCC campus to a UC or CSU campus;
 - c) Registered or attended an accredited California higher education institution beginning after fall of the 2001-02 academic year; and,

- d) If a person without lawful immigration status has filed an affidavit stating that the student has filed an application to legalize his or her immigration status or will file such an application as soon as he or she is eligible to so do (EC Section 68130.5).
- 2) Requires the CSU Trustees and the CCC Board of Governors, and requests the UC Regents, to establish procedures and forms that enable AB 540 students to apply for, and participate in, all student aid programs administered by these segments to the full extent permitted by federal law (EC Section 66021.6).
- 3) Establishes the California DREAM Act to provide state financial aid, including the Cal Grant Program and the CCC California College Promise Grant (formerly known as the Board of Governors Fee Waiver), and institutional financial aid to students who qualify for the aforementioned exemption from non-resident tuition (as listed in number one above); students must apply by March 2 prior to the academic year; Dream Act recipients receive Cal Grant Entitlement awards, but are not eligible for Competitive Cal Grant awards unless funding remains available after eligible California students have received awards (EC Section 69508.5).
- 4) Establishes the California DREAM Loan Program intended to provide low-interest loans to Dream Act students who are accessing the Cal Grant program and attending UC and CSU. These students are not eligible for federal student loans, making it difficult for some to cover the total costs of college. The law requires the state, UC, and CSU to split the costs of launching the program. Expands, commencing with the 2020-21 academic year, the California DREAM Loan eligibility to a student who is enrolled in a program of study leading to a professional or graduate degree at the CSU and the UC (EC Sections 70030-70039).

FISCAL EFFECT: Unknown. This resolution has been keyed non-fiscal by the Legislative Counsel.

COMMENTS: *Need for the resolution.* According to the author, “Undocumented students remain one of the most underserved populations in California. They have faced barriers that restrict access to higher education and limit their ability to work, contribute to California’s economy, and provide for their families.”

The author states that, “As a result, many of these students have been forced to give up on their college dreams. This situation has been exacerbated by the COVID-19 pandemic, which has disproportionately impacted low-income students and students of color.”

Additionally, the author contends that, “Immigrants are the fabric of our community and deserve the opportunity to thrive and succeed. They are aspiring medical professionals, lawmakers, community leaders, engineers, teachers, scientists, and entrepreneurs and are poised to make significant contributions to our state and nation’s economic prosperity and growth.”

This resolution celebrates the 20th anniversary of the enactment of AB 540 (Firebaugh), Chapter 814, Statutes of 2001, and urges all residents of California to celebrate the significance of the enactment in enabling more undocumented students to pursue a college education.

Undocumented students. According to the author, “Undocumented students face many challenges that documented students traditionally do not face. Barriers like racism, poverty, and fear of deportation restrict access to higher education and limit the ability to undocumented students to work, contribute to California’s economy, and provide for their families.”

Additionally, the author states, “Nonresident tuition is cost prohibitive to undocumented students who already experience barriers to employment and lack access to federal financial aid.”

How many? Some undocumented students fear stating their status; an exact number of undocumented students is unknown. However, it is estimated between 75,000 and 156,000 undocumented students attend the CCC (with approximately 62,000 students benefiting from the exemption from nonresident tuition); 10,063 undocumented students attend the CSU; and, over 4,000 attend the UC.

American Families Plan. President Biden officially launched the American Families Plan on April 28, 2021, as, according to the White House, “an investment in our kids, our families, and our economic future.” The Plan, in part, would allow DREAMers to access federal student aid, in the form of Pell Grants, to attend colleges and universities in any state, regardless of state policy. The federal government awards Pell Grants to undergraduate students who display exceptional financial needs. Granting access to this new form of financial aid will expand opportunities for over 600,000 DREAMers and develop their ability to contribute to the U.S. economy.

According to information provided by the author’s office, major provisions of the Plan were considered as part of the Build Back Better bill that is currently pending in Congress. The House of Representatives passed their own version of Build Back Better last year, which included federal financial aid eligibility for DACA recipients. However, the Senate Parliamentarian has ruled that this provision is outside the scope of budget reconciliation. Senators have also tried to include a pathway to citizenship with Build Back Better but those provisions have also been rejected by the Parliamentarian.

Arguments in support. The California Community Colleges Chancellor’s Office (CCCCO), sponsors of this resolution, state that the CCCCCO is pleased to sponsor, “Senate Joint Resolution 9 to celebrate the twentieth anniversary of the passage of Assembly Bill 540, authored by the late Marco Antonio Firebaugh. Signed into law in 2001, this landmark legislation opened the doors to higher education for thousands of undocumented students by removing the burden of out-of-state tuition at California’s public colleges and universities.”

Further the CCCCCO states, “AB 540 was landmark legislation and SJR 9 celebrates its significance in shaping California higher education policy to support immigrants, who are the fabric of our community and deserve fair and equitable opportunities to follow their dreams.”

Related legislation. SB 1141 (Limón), which will be heard by this Committee today, expands the eligibility for paying nonresident tuition exemption at a California public postsecondary institution established for long-term California residents, regardless of citizenship status, by reducing the number of years required to qualify for the exemption, from three to two, in full-time attendance or attainment of equivalent credits from specified California schools or a CCC.

SB 1160 (Durazo), which was held on the Suspense File in the Senate Committee on Appropriations, would have extended the exemption from paying nonresident tuition at California's public postsecondary institutions to nonresident international students.

REGISTERED SUPPORT / OPPOSITION:

Support

California Catholic Conference
California Community Colleges Chancellor's Office (Sponsor)

Opposition

None on file.

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