



**Metro Organization for Racial and Economic Equity  
Position Statement  
February 16, 2008**

**Why the Kansas In-State Tuition Act is Good for Kansas**

The Kansas In-State Tuition Act (KSA 76-731a) helps reduce high school dropout rates, creates an opportunity for students who have worked hard in school, and, like all public higher education, it is an investment in the economy of our state. Opponents of the Act claim it's a public benefit and a reward for illegal immigration. Here's why it's not, and why the pending Kansas Senate bill to repeal the Act, SB 458, should be defeated:

**The Kansas In-State Tuition Act can help reduce high school dropout rates and promote academic success.**

Without any hope of further education or opportunity, many students find no reason to complete high school, much less excel in their studies. The results are costly for all of us: High school dropouts generally earn less, are less likely to become part of the workforce, are more likely to be unemployed when they are part of the workforce,<sup>1</sup> and are far more represented in our prison population.<sup>2</sup> Each dropout leaves a negative example for other classmates or family members still in school. But every at-risk student who succeeds in making it to college, whether undocumented or a citizen sets a positive example to other students. This encourages lower dropout rates for all of our students. Moreover, the success of students attending college under the In-State Tuition Act defies common stereotypes of young Latinos and undocumented youth, i.e. refusal to learn English, refusal to assimilate, a propensity to commit crime, and that they are a drain on society.

**The Kansas In-State Tuition Act rewards academic achievement and hard work, not undocumented immigration.**

The students who are eligible under the In-State Tuition Act were generally brought by their parents to the U.S. when they were children. Because they had no choice of whether or not to come to the U.S., they have committed no voluntary act to punish or reward. Often, Kansas is where these students have grown up and is the only home they have known. Unlike adults, who can weigh the risks and benefits of their actions, these students had no more choice in the matter than in where they were born or to which parents. And yet, through no fault of their own, these students already suffer many obstacles: Overcoming language barriers, cultural differences, not being able to get a license, not being able to get a checking account, and living in constant fear of losing one or both parents. Despite these obstacles, eligible students have chosen to stay in school, work hard and excel against remarkable odds. This choice—not the decision made years before by their parents—is what is rewarded by the In-State Tuition Act.

**The Kansas In-State Tuition Act does not encourage more undocumented immigration.**

In 2005, only 221 students in Kansas enrolled under the Act in state universities or community colleges out of an estimated undocumented population of 55,000 to 85,000. In California, three years after a similar law took effect, only 357 illegal immigrant students enrolled in the University of California system in 2004-2005. The undocumented population of California at the time was estimated to be 2.4 million.<sup>3</sup> If in-state tuition were indeed the incentive for undocumented immigration which opponents claim it is, far more would be taking advantage of it. One explanation is that most new immigrants are single males who come to work without their families. The prospect of their children getting to go to college and pay in-state tuition, which is still expensive, is far too distant to be a real incentive for their decision to come here.

### **The Kansas In-State Tuition Act is fair to out-of-state citizen students.**

The question of whether the Kansas In-State Tuition Act harmed out-of-state citizen students was answered definitively by *Day v. Sebelius*, a lawsuit against the State filed by failed congressional candidate Kris Kobach and the Federation for American Immigration Reform, purportedly on behalf of a few dozen out-of-state students. The district court dismissed the case for lack of standing<sup>4</sup> and the U.S. 10<sup>th</sup> Circuit Court of Appeals upheld this dismissal, finding that the plaintiffs couldn't show that they had suffered any injury specific to them, and that even if the Act were struck down, the plaintiffs would still have to pay out-of-state tuition anyway.<sup>5</sup>

Under the Kansas Act, eligible students must have attended a Kansas high school for three years and maintained a B average. They must also sign an agreement that they will try to legalize their immigration status. Citizens can usually get in-state residency just from living one year in Kansas prior to college enrollment,<sup>6</sup> so if a citizen met the criteria set out in the Act, they'd be eligible for in-state tuition too. Moreover, undocumented students are not eligible for any federal financial aid, so they really only get the opportunity to pay 100% of in-state tuition. No tax money is allocated to these students.

### **The Kansas In-State Tuition Act is fair to other resident students and families.**

Most undocumented families are paying taxes of some kind—sales tax, gas taxes, vehicle registration and sometimes property taxes as well. Many also obtain taxpayer identification numbers so they can pay income tax as well.<sup>7</sup> Just as the taxes paid by families of other resident students help pay for public higher education, so do any taxes paid by many of the families of eligible undocumented students.

### **The Kansas In-State Tuition Act is an investment in the Kansas economy, not a public benefit or subsidy of undocumented students.**

In Kansas, state funding of Regents universities and community colleges are based on fixed line-item allocations in the state budget.<sup>8</sup> In other words, state funding does not increase with increased student enrollment. So, for Kansas, a few hundred more undocumented students paying full in-state tuition will not necessarily cost taxpayers any more, and it will cost universities no more than if the same number of new citizen students from Kansas enrolled.

This relates to a larger debate about state funding of public higher education. Those who consider public higher education as a kind of entitlement that only benefits the student will argue that the Kansas In-State Tuition Act is an entitlement benefiting undocumented students as well. However, most Kansans and policymakers believe that public higher education is an investment in our people and in our economy. The more highly educated a population is, the more likely it will create businesses and jobs and tax revenues, and this benefits all of us. The reverse is also true. The recent economic transformation of Ireland is an example. By investing in college access and success over the last 15 years, it has moved from being one of Europe's poorest nations to one of its richest, with unemployment dropping from 20 percent in the 1980s to 5 percent today.<sup>9</sup> By expanding access to higher education to an underserved population, the entire state benefits.

**SB 458, which would in part repeal the Kansas In-State Tuition Act, does nothing to benefit the state economy, public higher education, or any students in Kansas.**

SB 458 purports to defend citizen students and the public higher education system against an imagined harm by repealing the Kansas In-State Tuition Act. In reality, it does not add any funding to public higher education, it does not improve access to public higher education for any students, and it does nothing to improve high school dropout rates. Nor would the repeal of the Kansas In-State Tuition Act do anything to improve the state economy. The repeal of KSA 76-731a will neither reduce undocumented immigration nor do anything to fix our broken immigration laws. SB 458 would succeed in harming the Latino community, both legal and undocumented, by cutting off opportunities for some of its brightest and most dedicated young students. SB 458 will create many losers if it is passed—students, universities, and the whole of Kansas—but no winners.

**Please contact your state senator in support of the Kansas In-State Tuition Act and in opposition to SB 458.**

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<sup>1</sup> National Center for Education Statistics. See

[http://nces.ed.gov/ssbr/pages/dropoutrates07024.asp?IndID=37#notes\\_001\\_foot](http://nces.ed.gov/ssbr/pages/dropoutrates07024.asp?IndID=37#notes_001_foot)

<sup>2</sup> Bureau of Justice Statistics Special Report: Education and Prison Statistics, U.S. Department of Justice (2003). See <http://www.ojp.usdoj.gov/bjs/pub/pdf/ecp.pdf>

<sup>3</sup> "In-state tuition not a draw for many immigrants." Lewis, Ralph. *The Boston Globe*, Nov. 9, 2005.

Available at

[http://www.boston.com/news/education/higher/articles/2005/11/09/in\\_state\\_tuition\\_not\\_a\\_draw\\_for\\_many\\_immigrants/](http://www.boston.com/news/education/higher/articles/2005/11/09/in_state_tuition_not_a_draw_for_many_immigrants/)

<sup>4</sup> *Day v. Sebelius* 376 F. Supp. 2d. 1022 (D. Kan. 2005).

<sup>5</sup> *Day v. Bond*, 500 F.3d 1127 (10th Cir. 2007) "The record before us is devoid of evidence of any causal relationship between the tuition cost imposed on Kansas' public universities by §76-731a and nonresident tuition rates imposed on the Plaintiffs. Accordingly, the Plaintiffs have failed to carry their burden of demonstrating this claimed injury is not conjectural or hypothetical."

<sup>6</sup> *Frequently Asked Questions: Kansas Residency for Tuition and Fee Purposes at State Universities*, Kansas Board of Regents (July 18, 2007). Available at

<http://www.kansasregents.org/download/institutions/070718%20Frequently%20Asked%20Questions%20for%20SUs.pdf>

See also Kansas Board Of Regents Policy And Procedures Manual, Appendix D (July 1995)

<sup>7</sup> *Understanding Your IRS Individual Taxpayer Identification Number (ITIN)*, Internal Revenue Service Publication 1915 (Rev. 9-2007) Available at <http://www.irs.gov/pub/irs-pdf/p1915.pdf>

<sup>8</sup> <http://www.kansasregents.org/finance/budget.html>

<sup>9</sup> "Should States Invest in Higher Education As an Economic Development Strategy?" Reindl, Travis. *Trusteeship*, Jan./Feb. 2008, p. 34 (Publication of Association of Governing Boards of Universities and Colleges)

Note: Research compiled by David J. Grummon.