

Raymond Rico
House Education Committee
Hearing on HB 2139
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My name is Raymond Rico. I was born and raised in Kansas City, KS. I practice immigration law at the Garcia Immigration Law Firm where I get the chance to see how immigration laws impact the daily lives of immigrants from all over the world. Every day I get to help immigrants navigate the immigration system and if able, adjust their immigration status.

Thus, immigration status is not static, it can change. Granted, at times, there is no line to enter. However, in other instances the line may be decades long. Many immigrants in Kansas are at various stages of the legalization process, and many will be able to have their status changed.

My career is my vocation, and in my career I have gotten to personally know thousands of undocumented youth. Youth who have overcome many barriers you and I have never faced - yet have done everything right and wish to pursue higher education in Kansas, the only place many have ever known. As previously noted, the legal process can take a long while. I meet and work with many students who are currently in that line for legal residency. Most students have become fluent in English if they weren't already, have assimilated into the American culture, and consider themselves Kansans.

If you believe education is the gateway to the "American Dream," then I urge you to stand with me and put an end to these attempts we have seen before - to move in the wrong direction; to repeal our in-state tuition law. This is a law that hurts no one. Our in-state tuition law is a win-win for our higher education institutions who gain diverse students who would not otherwise be able to afford the tuition, and it's a win for all of us to ensure all Kansans have a chance to become educated.

It wasn't so long ago, in 2013, that the Republican National Committee recommended comprehensive immigration reform as consistent with Republican economic policies that promote job growth and opportunity for all. Although it's too bad this recommendation has been rescinded, still today many leaders in Washington of both political parties have specifically stated their support of federal legislation that would create a path to legalization for the same young immigrants we are talking about today.

As our population ages, we should prepare all young talented students who want to remain in Kansas to fill the positions that will be most in need. Our young immigrants have been and will continue to sustain Kansas' rural communities, start businesses here, and contribute their talents here. All of us know that people with a college degree on average

will earn more in income than those without, and with more income means higher contributions in taxes.

As undocumented students cannot receive financial aid, many are already taking only a few classes per semester. But a repeal of in-state tuition will cause students to drop out, will decrease school revenues, and will force our students to remain uneducated, in a permanent underclass, all the while remaining in Kansas.

Kansas' in-state tuition law has been challenged in court in large part by Kansas Secretary of State, Kris Kobach and FAIR. Mr. Kobach also challenged California's in-state tuition law, which is nearly identical to Kansas' law. On both occasions, the lawsuits failed. In-state tuition has been upheld as constitutional. It complies with federal law.

The California Supreme Court unanimously ruled that the California law did not improperly make in-state tuition available to undocumented students based on “residence.”

In a Kansas federal court, the case *Day v. Sebelius* was dismissed, in part, because the plaintiffs lacked standing to challenge the constitutionality of the Kansas law. The student plaintiffs were not injured by the passage of the in-state tuition law, nor would they benefit from its repeal.

In 1996, Congress enacted Section 1623 of Title 8, or what is commonly referred to as IIRAIRA. Congress could have worded this section to unequivocally ban in-state tuition. However, section 1623 only requires that states extend benefits to US citizens to the same extent that they are available to undocumented immigrants. Kansas need not “give” in-state tuition to all U.S. citizens from other states; it satisfies section 505 if the eligibility criteria are based on factors beyond state residency and if Kansas offers U.S. citizens the same opportunity to qualify for in-state tuition under the same criteria. The Kansas law makes any individual – including US citizens who wish to return to Kansas - eligible for in-state tuition if they meet the requirements of K.S.A. § 76-729: three years of high school and graduation from a high school in Kansas. Thus Kansas' law complies with federal law and the constitution, and that's why the courts have rejected legal challenges to the law.

This is no “loophole,” it is recognition from Congress that states may choose to enact tuition equity policies as Kansas has done. Congress gave states the option to create postsecondary education benefits for undocumented immigrants on par with those of their citizen residents. Thus, it is absolutely not true to say that in-state tuition is something states may not do. Kansas acted in full compliance with federal law when it enacted in-state tuition. To suggest otherwise misreads federal law and ignores legal precedent.

It is also important to note that there is another provision of the Kansas' 2004 in-state tuition law that students seek to legalize their immigration status and file an application to begin the process for United States citizenship as soon as such person is eligible to do so. I have helped many students legalize their status and know students who paid in-state tuition

in Kansas, who are now legal residents and citizens, now work in Kansas, purchased homes in Kansas, and have remained in Kansas. Today you would never know the difference that at one time they were in a tough situation on their long journey to become a resident or citizen of the United States, but Kansas' in-state tuition law helped them achieve their American dream. Students want to legalize their status, want become citizens, take that oath to support and defend the constitution of the United States. It is happening. I wish you could see as often as I do the joy when someone becomes a citizen!

Lastly, I have worked with over 500 immigrant youth to help fill out their DACA applications. One thing I always ask DACA students is "what do you want to be?" Among males, the most common answer is a wish to be an engineer. Among females, the most common answer is a wish to be a nurse. A need we have across the country is the need for more bilingual nurses and more science, technology, engineering, and math students. With needs in these areas, it does not make sense to stop the education short of any of our talented students, especially when the federal system allows students to use their degrees and work authorization to work in fields that we most need. If given a chance, our undocumented youth wish to contribute their talents here, pursue higher education here, pay taxes and contribute to the Kansas economy. The choice is yours as to whether we have our youth educated, or not. In the interests of Kansas taxpayers and future generations of Kansans, I urge your opposition to HB 2139 and respectfully request the Committee allow current Kansas law to remain intact.