



TESTIMONY OF  
**VIGNESH GANAPATHY**  
POLICY DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF KANSAS  
**IN OPPOSITION TO HB 2643**  
KANSAS HOUSE COMMITTEE ON HIGHER EDUCATION BUDGET

FEBRUARY 15, 2018

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Thank you, Chair Jones, and members of the Higher Education Budget Committee for affording us the opportunity to provide testimony on HB 2643.

The American Civil Liberties Union (ACLU) of Kansas is a non-partisan, non-political membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas. We work to preserve and strengthen our constitutional rights and freedoms through policy advocacy, litigation, and education. We proudly serve over 30,000 supporters in Kansas and represent more than 1.6 million supporters nationwide.

**The ACLU of Kansas strongly opposes HB 2643.** This bill would effectively repeal Kansas's in-state tuition law, limiting access to higher education for Kansas youth solely on the basis of their immigration status and without regard for their scholastic achievement or merit. Furthermore, HB 2643 cynically encourages colleges and universities to use those dollars to fund tuition for foster youth. HB 2643 would repeal this in-state tuition law, limiting access to higher education for Kansas youth solely on the basis of their immigration status and with no regard for their scholastic achievement or merit. Specifically, the ACLU of Kansas opposes HB 2643 because:

- **In-state tuition encourages all of our youth to pursue their dream of going to college, a precursor to working, paying taxes, and contributing to our state.** In 2004, the Legislature passed a law creating in-state tuition for undocumented students. In order to be eligible to pay in-state tuition at a state school, an undocumented student must attend a Kansas high school for at least three years, graduate or obtain a GED, and sign an affidavit declaring that he or she will seek to adjust his or her immigration status as soon as such option becomes available. This is a good return on our investment, and encourages undocumented students to exhaust their options to seek documented status. A large percentage of undocumented students have either graduated from a public high school or obtained a GED. Current law already prohibits undocumented students from qualifying for federal and most state-based financial aid, including grants, work-study jobs, or loan programs.<sup>i</sup> And many scholarships and grants require U.S. citizenship in order to apply. Therefore, undocumented students living in the U.S. who choose to pursue higher education often cover the costs without the help of any aid.<sup>ii</sup> Furthermore, our neighboring states provide in-state tuition and if the option is not available in Kansas, students who would otherwise remain and contribute to our economy will seek opportunities elsewhere. The Deferred Action for Childhood Arrivals (DACA) program is set to expire in March of this year, creating a significant

risk that many of our state's youth will be deported to countries they do not have any connection to. These youth have complied with DACA's strict requirements and have shown a desire to remain and contribute to the Kansas economy.

- **This bill works moves Kansas in the wrong direction, further stigmatizes immigrants, and contravenes the goals of federal law.** Courts have consistently held that in-state tuition laws comport with federal law, and in-state tuition is available to all students who currently reside within the state of Kansas.<sup>iii</sup> 18 states currently offer in-state tuition to undocumented students, including Nebraska, Oklahoma, Texas and Utah, and a number of public university systems opt to provide in-state tuition for undocumented students without any legislative requirement to do so. There are also significant costs to limiting educational opportunities for undocumented youth: according to a 2005 report from the American Association for State Colleges and Universities (AASCU), failing to help students attend college results in higher costs to state prisons and state welfare systems.<sup>iv</sup> The current in-state tuition framework promotes public safety and economic growth while protecting undocumented Kansan youth.
- **Kansas should not have to choose between undocumented and foster youth.** There is an increasing consensus that 18-21 year-olds require continuing support. Foster youth, in particular, have experienced traumas that can impact their adolescence. In addition, they face hurdles—notably the absence of a safety net—that makes the transition to independence even more challenging. However, by pitting these vulnerable populations against each other, HB 2643 ensures that there will be a permanent underclass of youth who will require public assistance, face homelessness, have a harder time accessing health care and mental health services when needed, and become involved in our criminal justice system.<sup>v</sup> Kansans deserve an education system that serves all of its youth and sustainably promotes public safety, economic growth, and educational opportunity.

Therefore, we urge this committee to vote “No” on HB 2643.

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<sup>i</sup> Abrego, L. J., & Gonzales, R. G. *Blocked paths, uncertain futures: The postsecondary education and labor market prospects of undocumented Latino youth*. *Journal Of Education For Students Placed At Risk*, 15(1/2), 144-157 (2010).

<sup>ii</sup> Gildersleeve, R. E., Rumann, C., & Mondragón, R. *Serving undocumented students: Current law and policy*. *New Directions For Student Services*, (131), 5-18 (2010).

<sup>iii</sup> *Day v. Sebelius*, 376 F. Supp. 2d. (D. Kansas. 2005); *Martinez v. Regents of the University of California*, 50 Cal. 4th 1277 (Cal. 2010).

<sup>iv</sup> Siley, C. *Should Undocumented Immigrants Have Access to In-State Tuition?*. *Policy Matters: A Higher Education Policy Brief* (Jun. 2005) (“The Texas House Research Organization estimated that in 1998, the number of students who dropped out of high school increased to almost 1.2 million and the result would cost the state roughly \$319 billion due to ‘increased spending on social programs, higher rates of crime and decreased opportunities for a higher quality of life.’”).

<sup>v</sup> Courtney, M. E., et al. *Midwest Evaluation of the Adult Functioning of Former Foster Youth*. Chapin Hall at the University of Chicago Report (2011). <http://www.chapinhall.org/research/report/midwest-evaluation-adult-functioning-former-foster-youth>.