

Thursday, Dec. 2, 2010

Unwise to let illegal aliens pay in-state tuition

By Kris W. Kobach

The Eagle editorial board urged me to give up my fight to stop states from providing in-state tuition rates to illegal aliens (Nov. 26 Eagle Editorial). Ten states are violating federal law by providing this benefit to illegal aliens. I am representing U.S. citizens in pending lawsuits challenging this practice in California and Nebraska, and I have urged the Kansas Legislature to stop giving in-state tuition rates to illegal aliens.

Kansas has been providing this taxpayer-subsidized higher education to illegal aliens since July 2004, when the law went into effect. There are now 413 illegal aliens taking advantage of this program in Kansas — nearly double the 221 illegal aliens who did so in 2005 — and that number will continue to increase if nothing is done.

The editorial claimed that nobody is harmed by giving this subsidy to illegal aliens. However, the editorial board neglected to consider the interests of Kansas taxpayers.

The price tag for this program is very expensive. At the University of Kansas, for example, a nonresident student pays about \$20,680 in tuition a year, while an in-state student pays \$7,875. Kansas taxpayers pick up the difference. In total, this program is costing Kansas taxpayers about \$3 million a year — at a time when the Legislature just raised the sales-tax rate to balance the budget.

It makes no sense to hand this valuable subsidy to illegal aliens when so many U.S. citizens can't afford to attend college — even at the in-state rates. If we are going to subsidize anyone's tuition, let's help out our own citizens before we reward aliens who are breaking federal law by remaining in this country.

But the most important reason to oppose in-state tuition for illegal aliens is that the Legislature violated federal law by passing the bill. In 1996, Congress enacted a federal statute specifically prohibiting state governments from giving in-state tuition rates to illegal aliens (Title 8 U.S. Code Section 1623). Congress declared that no state may give in-state tuition benefits to illegal aliens without extending the same benefits to every out-of-state U.S. citizen. Kansas is now openly and flagrantly disregarding federal law.

Amazingly, the Kansas law expressly denies in-state tuition to legal aliens who have a valid student visa. Aliens are sent this message: In Kansas, we encourage you to violate the law. If you

actually get a valid visa to study here, we will penalize you by making you pay out-of-state tuition. Talk about perverse incentives.

The editorial board also claimed that we should subsidize the education of illegal aliens in Kansas because it's "in the economic interest of the state" to have college-educated workers. What it failed to recognize is that these aliens cannot legally work in Kansas once they graduate.

Indeed, as the Wall Street Journal has reported, illegal aliens who attend American universities experience a rude awakening when they graduate: Companies that hire college graduates are not willing to break federal law by hiring illegal aliens. So the college-educated illegal alien ends up working in a meatpacking plant or landscaping crew, unable to gain any benefit from his newly minted college degree.

It's a lose-lose proposition. The illegal alien finds that his degree is worth little because he can't get a high-paying job, and the state has wasted millions of dollars training an illegal work force that can be deported at any moment.

On top of all that, it's against the law. That is why I will continue to fight this fight.

Kris W. Kobach is Kansas secretary of state-elect and currently a law professor at the University of Missouri-Kansas City.