

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2615

As Amended by House Committee of the Whole

Brief*

HB 2615 , as amended, would strike the language repealing KSA 2005 Supp 76-731a dealing with the criteria for determining in-state tuition at Kansas postsecondary educational institutions for certain persons without lawful immigration status.

Background

KSA 2005 Supp 76-731a created the following requirements for an individual to be eligible for in-state tuition at postsecondary educational institutions:

- Attended an accredited Kansas high school for three or more years;
- Either graduated from an accredited Kansas high school or obtained a general educational development certificate (GED) in Kansas; and
- Filed an affidavit stating either the person, or the person's parents, has filed an application to legalize such person's immigration status or to file for U.S. citizenship.

An individual who has been deemed eligible for in-state tuition under these criteria and who has falsified the affidavit or failed to follow through on the application process would have that eligibility revoked. In addition, the individual would be required to repay the difference between resident and non-resident tuition.

The provisions of the law do not apply to an individual who has a valid student visa or who is eligible to pay in-state tuition in another state.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

KSA 2005 Supp 76-731a defined "postsecondary educational institution" to include any public university, municipal university, community college, technical college and vocational education school, and any combination of such postsecondary educational institutions.

Proponents of the bill included Representative Becky Hutchins, and several other individuals. Kris Kobach, Professor of Constitutional Law, Legislation and Immigration Law at the University of Missouri (Kansas City) explained his opinion of the legality and constitutionality of KSA 76-731a in relation to 8 U.S.C. 1623. He stated the Kansas law violated the federal law and the *US Constitution*.

Opponents included: the president and CEO of the Kansas Board of Regents; the Executive Director of the Kansas Hispanic & Latino American Affairs Commission; the President of the League of Women Voters of Kansas; a representatives of KNEA, the Kansas Catholic Conference, the Kansas Association of School Boards and the United Methodist Women; a WW II veteran; an immigration attorney; the Director of Policy Advocacy and Research, El Centro, Inc.; the Superintendent of the Wichita Public Schools; the Executive Director of Kansas Families United for Public Education; and several other individuals.

The House Committee of the Whole amended HB 2615 to strike the language relating K.S.A. 2005 Supp 76-731a. The amendment preserves the criteria for determining in-state tuition at Kansas postsecondary educational institutions for certain persons without lawful immigration status. This amendment passed on a vote of 63 to 58.

A proposed amendment that would impose more severe criminal penalties on employers who knowingly hire illegal immigrants was not brought to a vote because the House Committee of the Whole agreed to send HB 2615, as amended, back to the House Federal and State Affairs Committee.

The fiscal note states that in the fall of 2005, there were 221 individuals without lawful immigration status enrolled in postsecondary institutions of higher education who were paying resident tuition under current law. The enrollment distribution for the fall of 2005 is as follows:

| <u>Institution Type</u> | <u>Students</u> |
|-------------------------|-----------------|
| Universities | 35 |
| Community Colleges | 181 |
| Technical Colleges | 4 |
| Technical Schools | 4 |
| Total | <u>221</u> |

The fiscal note further states that in order to calculate the fiscal effect of this legislation, the current amounts being paid for tuition and fees must be compared to what they would be under HB 2615. At the time of the hearing on this bill, the Board of Regents was unable to provide information on the tuition and fees for these students. However, the Board will make that information available as soon as possible, and a revised fiscal note will be issued at that time. Even then, it will be possible to estimate only a maximum fiscal effect, assuming that all individuals enrolled would remain in school and be able and willing to pay the non-resident rates. Because this is not likely to be the case, the actual fiscal effect is expected to be something less than this maximum.