

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfroid at 1:30 P.M. on February 26, 2008, in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Mike Heim, Revisor of Statutes Office
Jason Long, Revisor of Statutes Office
Jeannie Dillon, Committee Assistant

Conferees:

Sister Therese, Kansas Catholic Conference
Bill Gordon, Signature Landscape
Mira Mdivani, Attorney
Jeff Hammons, Executive Officer, Mid-America Green Council
Michael Sharma-Crawford, Immigration Lawyer
Reg Robertson, Custom Lawn and Landscape of Olathe
Curby Hughes, Mid America Green Industry Council
Carlos Gomez, Hispanic Chamber
Henry Sandate, Chamber of Commerce Kansas City
Kara Lineweber, El Centro
Bishop Scott Jones, United Methodist Church
Teresa Molina, Sunflower Community Action
Armando Minjarez, Sunflower Community Action
Amy Blankenbiller, Kansas Chamber
Allie Devine, Kansas Livestock Assn.
Sandy Jacquot, League of Kansas Municipalities
Elias Garcia, Director, LULAC
Stuart Little, Johnson County Government
Joe Connor, Unified Government of Wyandotte Co.
Jim Darner, Suburban Lawn & Garden
Brent Metz, Professor, Kansas University
Tim Witsman, Wichita Independent Business Association
Emily Haverkamp, Immigration Attorney
Don Whitten, Private Citizen
Paul Kane, Tulsa Home Builders Assn.
Bob Walker, Superior Roofing Company
Bud Hentzen, Former County Commissioner, Sedgwick County
William Moroni, Society of Human Resource Management
Nestor Leon, Artistic Designs, Lawn & Landscape Co. Inc.

The meeting was convened at 1:30 by Chairman Siegfroid. The Chair reopened the public hearings on:

HB 2370 - Law enforcement cooperation and assistance in enforcement of immigration laws.

HB 2680 - Immigration accountability act.

HB 2836 - Immigration reform.

HB 2921 - Creating the Kansas employment verification act.

Chairman Siegfroid welcomed Sister Therese, Kansas Catholic Conference, to the Committee. Sister Therese stood in opposition to the bills. She was concerned that in the debate around immigration policy,

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the voices often become shrill and seem to have no connection with the truth. She stated that the Kansas Catholic Conference will continue to be a voice for the dignity for our sisters and brothers who are immigrants. ([Attachment 1](#))

Bill Gordon, Signature Landscape of Olathe, Kansas, provided testimony opposing the bills and said that the way to control illegal immigration is to keep companies like his in business by expanding legal immigration. His appeal to the Committee was to formally ask the Kansas Legislature to do everything possible to encourage Congress to take action to expand legal immigration. ([Attachment 2](#))

Mara Mdivani, Immigration Attorney, spoke against the bills. Ms. Mdivani stated that the government allows about one million immigrants per year to come legally to the United States and the need for new immigrant workers is 2.5 - 3.5 million immigrant workers per year. ([Attachment 3](#))

Jeff Hammons, Executive Officer of Mid-America Green Council, on behalf of Robert Mayer gave testimony opposing [HB 2370](#), [HB 2836](#), [HB 2921](#) and [HB 2680](#). In his testimony Mr. Hammons discussed some of the issues including the economic impact on the state and business owners, and urged the Committee to stop punishing small businesses. ([Attachment 4](#))

Michael Sharma-Crawford, Immigration lawyer, stood in opposition of the bills. Mr. Sharma-Crawford presented notices to appear charging documents that are used to process alleged immigration violations. Until they appear before the judges, this is an alleged violation. He further explained the court system regarding the delay processing illegal immigrants. ([Attachment 5](#))

Curby Hughes representing the Mid American Green Industry Council requested that no legislation be passed which will impose onerous requirements on companies who attempt to hire legal, documented workers. He stated that passage of such a bill will cause undo harm to horticultural industries which rely on a legal, immigrant labor workforce. ([Attachment 6](#))

Custom Lawn and Landscape of Olathe, Kansas, was represented by Reg Robertson as an opponent to the bills. He gave testimony as to the difficulty of finding American workers to do seasonal jobs. He stated that he had always thought our representatives understood small business and valued their contributions to the economy of Kansas, and now he would have to rethink his politics. ([Attachment 7](#))

Carlos Gomez, President of the Hispanic Chamber of Commerce of Greater Kansas City representing 410 businesses, provided testimony in opposition to the legislation before the Committee. In his testimony, Mr. Gomez said that government has the responsibility to give tools before it punishes or penalizes and there is no state or federal support to help employers to hire workers legally. ([Attachment 8](#))

Henry Sandate, Chairman of the Board of Hispanic Chamber of Commerce of Greater Kansas City, offered testimony as an opponent to the bills. He said that the undocumented immigrants want to do the right thing but the laws don't allowed them to do so. ([Attachment 9](#))

Kara Lineweber, Public Policy Associate, El Centro Inc., appeared before the Committee. In her opposition to the bill, Ms. Lineweber agreed that our federal immigration system is broken and in need of comprehensive reform, however, this reform cannot happen at the state level nor can enforcement. Her testimony focused on [HB 2370](#) and [HB 2836](#). She concluded by saying that Kansas is better than this. Kansas must move beyond the anti-immigrant rhetoric and embrace the opportunity to learn from failures of neighboring states. ([Attachment 10](#))

Bishop Scott Jones, United Methodist Church and representing 8 bishops, stood as an opponent of the bills. Bishop Jones said that he understood that many Kansans are troubled by the presence of a large number of undocumented immigrants in our state. He urged all Kansans to reject attacks on immigrants and to work together toward a humane resolution of the problem of illegal immigration. ([Attachment 11](#))

Teresa Molina, Sunflower Community Action, addressed the committee as an opponent to the bills. She

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said that our undocumented workers are not here to gleefully break the law, but they are contributing to our society as they struggle for their own survival. ([Attachment 12](#))

Armando Minjarez, Sunflower Community Action, spoke of his concern with the E-Verify system that, in his opinion, has serious problems. He said that E-Verify is open to employer fraud, misuse and exposes us to identity theft. ([Attachment 13](#))

Amy Blankenbiller on behalf of a coalition of 37 Kansas business organizations in The Kansas Chamber, stood in opposition to **HB 2836** and **HB 2680**. The Chamber is concerned with sections of the bills that would remove a Kansas business' license to participate in the Kansas economy for what could be an accidental paperwork violation. ([Attachment 14](#))

Allie Devine, representing the Kansas Business Coalition, opposed **HB 2836** and **HB 2680**. She cited the reason being that the bills appear to establish a process that can suspend or revoke the business license of a Kansas business owner without due process of law. ([Attachment 15](#))

Sandy Jacquot, on behalf of the League of Kansas Municipalities, spoke in opposition to the bills. She stated that the League's opposition is not to the underlying policy issue, but to the unfunded mandates, confusing and ambiguous language in some of the bills, and the exposure to potential litigation and liability. ([Attachment 16](#))

Elias Garcia, Kansas League of United Latin American Citizens, spoke in opposition to the bills. He said that the United States has serious problems with shortages in education, nursing, and all levels of skilled and unskilled labor. The immigrant community will and their children will play a large part in resolving these shortages. ([Attachment 17](#))

Johnson County Government was represented by Stuart J. Little. Mr. Little stood in opposition to the bills and asked the Committee that as they debate the impact and benefits of **HB 2836**, that they examine the costs to the state and county to provide these services. ([Attachment 18](#))

Joseph Conner representing the Public Health Department of Wyandotte County stated that the Unified Government opposes **HB 2836**. Citizenship status verification for the public benefit programs that they administer would limit their ability to meet many of the ten essential public health services that public health departments are striving to achieve. ([Attachment 19](#))

Jim Darner, Suburban Lawn and Garden, stated his opposition to the bills and said the small business owners in Kansas City will be directly affected as we watch eligible labor leave the state. He advised that we correct the existing deficiencies in E-verify before passing legislation. ([Attachment 20](#))

Dr. Brent Metz, Department of Anthropology, University of Kansas, appeared before the Committee in opposition to the bills and gave information regarding the context in which immigration occurs today in Kansas. He opined that Kansas has the opportunity to set an example to the nation as to what courage and generosity can produce, rather than succumbing to the political agendas of global segregationists. ([Attachment 21](#))

The Chair welcomed Tim Witsman, president of the Wichita Independent Business Association to the Committee. Mr. Witsman opposed **HB 2680** and **HB 2836**. Mr. Witsman was concerned that we have a system where the government rewards illegal immigrants but would punish businesses. He stated that **HB 2921** provides an incentive for businesses to use E-Verify, increases penalties for identity theft and fraud, and penalizes the exploitation of illegal aliens. ([Attachment 22](#))

The Chairman welcomed Emily Haverkamp, Immigration Attorney. Ms. Haverkamp came before the Committee as an opponent to **HB 2370**, **HB 2680**, **HB 2921** and **HB 2836**. She opposes any bill that includes using local law enforcement for immigration enforcement. She urged the Committee to remember the pain it would cause the illegal immigrants' US. Citizen spouses and parents. ([Attachment 23](#))

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Don Whitten, constituent from district 61, appeared before the Committee as an opponent to this legislation. He offered a different point of view to the Committee. He questioned a state's authority to legally take action against any illegal immigrants while they are supported by actions of the nation's leadership. He opined that the influx of immigrants across Mexico's southern and northern borders, presents a unique international situation, confronting the intra-structures of both countries and said that it is time to put America first. ([Attachment 24](#))

Paul Kane representing the Home Builders Association of Greater Tulsa, reported the negative effects in the Tulsa area of legislation enacted in Oklahoma. Mr. Kane told the Committee that we should be putting pressure on the federal government to solve this issue for all Americans. ([Attachment 25](#))

Bud Hentzen, private citizen, was welcomed to the Committee by the Chair. Mr. Hentzen stated that it seems that the present bills being considered are blaming the businesses in our state of being the culprit regarding immigration. He stated that many of the sections of the proposed bills are anti-business and will result in many unintended consequences. ([Attachment 26](#))

William Maroni, Society of Human Resource Management, gave testimony against the bills. He stated that E-Verify is not reliable and is unable to detect document fraud and identity theft. In conclusion, he stated that E-Verify is due to expire at the end of 2008. This deadline provides Congress with an opportunity to enact the next generation of employment verification. ([Attachment 27](#) & [Attachment 28](#))

Nestor Leon, Human Resource Manager of Artistic Design Lawn and Landscape, appeared before the Committee to give testimony in opposition of the bills. He told the Committee that his business is seasonal and Americans do not want seasonal work. He felt that this was anti-business legislation. ([Attachment 29](#))

Chairman Siegfried asked if there was anyone else that would like to be heard. Ted Smith, Kansas Department of Revenue, Division of Motor Vehicles, approached the Committee. Mr. Smith noted the department's concern regarding several issues. The first concern addressed the wording in **HB 2836**, section 5, specifically references to who can receive a public benefit. He stated that the state now recognized legal aliens as citizens and that it required documentation. After review of section 5, the department's concern is that the section may create a way around that provision. The department would like to ask the Committee to consider changing the definition of a public benefit to exclude legal aliens from licensing for the purpose of drivers licenses and identification. The second concern dealt with production of affidavits at the drivers license examiner's level. He asked the Committee to reconsider that requirement because the logistics are not there for each county to retain them to use as evidence at a later date. In conclusion, the department is concerned that the driver's license examiners are being used almost as immigration experts. There are costs incurred every time a check is run on the data base and he would like this cost incorporated into the bill. (No written testimony was presented)

The Chairman directed the Committee's attention to the written testimony and asked the members to review the documents. ([Attachment 30-49](#))

After allowing the Committee to ask questions of the conferees, Chairman Siegfried closed the public hearings on **HB 2921**, **HB 2836**, **HB 2370** and **HB 2680**.

The meeting was adjourned. The next meeting is scheduled for March 5, 2008 at 1:30 pm in room 313-S.

Written testimony:

Chris Wilson, Kansas Building Industry Association ([Attachment 30](#))

Wess Galyon, Wichita Area Builders Association ([Attachment 31](#))

Dan Morgan, The Builder Association, Kansas City Chapter ([Attachment 32](#))

Sister Esther Pineda, Sister of St. Joseph ([Attachment 33](#))

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Leslie Kaufman, Kansas Cooperative Council ([Attachment 34](#))
Tim Stroda, Kansas Pork Association ([Attachment 35](#))
Greg Baker, Greg Baker Painting Inc ([Attachment 36](#))
Matthew Spurgin, Litigation Counsel, Kansas Corporation Commission ([Attachment 37](#))
Duane Simpson, Kansas Agribusiness Retailers Association ([Attachment 38](#))
Tom Tunnell, Kansas Grain & Feed Association ([Attachment 39](#))
Phil Perry, Home Builders Association of Greater Kansas City ([Attachment 40](#))
Trinidad Galdean, Kansas Society of Human Resource Management ([Attachment 41](#))
Dalton Hermes, Hermes Company, Inc. ([Attachment 42](#))
Eric Stafford, Associated General Contractors of Kansas, Inc. ([Attachment 43](#))
Kathy Cook, Kansas Families for Education ([Attachment 44](#))
David Haynes, Pal's Glass Service, Inc. ([Attachment 45](#))
Tim Sinclair, Sinclair Masonry, Inc. ([Attachment 46](#))
Don Jordan, Social and Rehabilitation Services ([Attachment 47](#))
Kathy Cook, Kansas Families for Education ([Attachment 48](#))
Robert Mayer, President of Mid-America Green Industry Council ([Attachment 49](#))

HOUSE FEDEDERAL & STATE COMMITTEE GUEST LIST

DATE: 1/22/08 ~~1/22/08~~ 2-26-08

NAME	REPRESENTING
Don Whitten	Self.
Cynthia & Cain	USD 501 Teachers
Curby Hughes	Curby's Lawn & Garden
Bill Gordon	Signature Landscapes
Melity Montgomery	Artistic Designs
Nestor Leon	Artistic Designs
Mina Mdianani	Immigration Lawyer, Mdianani Law Firm
Emily Haverkamp	Immigration Lawyer, Mdianani Law Firm
Lindsay Matthews	Mdianani Law Firm
Clint Miller	Kansas City HBA
Robert Jackson	Builder Consulting.com / KC HBA
Beatrice Jaroop	Kansas Catholic Conference
B. man	SPS
C. man	Asper Lawn & Landscape
Kari Presley	Kearney & Associates
Clarke Byr	KC HBA
John Pyro	KC HBA
Lizzie Bernhart	KDOL
Carlos J. Nolla	
Ron Ecker	Wen Law Firm

Guest List

2-26-08

Ted E. Smith

Jay D. BEFORT

JEFF GORDON

Martha Jean Smith

Chris Wilson

Dept. of Revenue, KS
Legal Services Bureau
KS
Dept. of Revenue
Legal Svcs

KS CHAIRMAN
KMLA
KBIA



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**House Federal and State Affairs Committee
Testimony in Opposition to HB 2680, HB 2836, HB 2921
Sister Therese Bangert
February 26, 2008**

The United States Catholic Bishops have been a clear voice for Comprehensive Immigration Reform that would be accomplished by laws passed at the federal level. The Bishops and their staffs have been part of the struggle for this comprehensive reform.

Comprehensive Immigration Reform:

The policy that they advocate is clear and includes:

- A path to citizenship for those immigrants who are already present in our country and who are productive members of our communities.
- A path to reunite families who have been separated by our current system.
- A path to provide legal ways for immigrants to come and work in a safe, humane and orderly manner with the availability of sufficient work visas to match the need in our present economy.
- A path to restoring due process protection for immigrants.

I have concern that in the debate around immigration policy, the voices often become shrill and seem to have no connection with the truth. Recent examples:

- HB 2836 would deny "any state or local public benefit, except for state or local public benefits that are required". This language suggests to me that those who are not documented are currently receiving benefits such as Food Stamps and Medicaid. I ask you to note with me that the State of Kansas recently spent \$1 million dollars to verify the citizenship of those applying for Medicaid and found one person who was not documented!
- Before this Legislative Session began, it was stated that many immigrants are voting though the Secretary of State and a number of election commissioners said that there is no such evidence.
- There is much talk saying "Immigrants do not pay taxes". However, when it became apparent that immigrants who file federal tax returns with an ITIN (Individual Taxpayer Identification Number) were going to receive money from the stimulus package there was much consternation.

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.
DIOCESE OF DODGE CITY

MOST REVEREND JOSEPH F. NAUMANN, D.D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND PAUL S. COAKLEY, S.T.L., D.D.
DIOCESE OF SALINA

MOST REVEREND MICHAEL O. JACKELS, S.T.D.
DIOCESE OF WICHITA

MICHAEL P. FARMER
Executive Director

House Fed and State Committee
Feb 26, 2008

MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
BISHOP EMERITUS - DIOCESE OF WICHITA

MOST REVEREND GEORGE K. FITZSIMONS, D.D.
BISHOP EMERITUS - DIOCESE OF SALINA

Attachment

Bishop Michael Jackels, the Bishop of the Wichita Diocese here in Kansas, recently addressed the Catholic faithful in his diocese about immigration through the diocese's newspaper. Bishop Jackels begins by addressing the concern that is often present in the debates that the behavior of immigrants is illegal:

"The Catholic Church is a community of believers and as such respects the rule of law. It does not turn a blind eye to illegal behavior and would certainly not reward it.

However, a law does not have unquestionable authority just because it is enacted. Laws are subject to higher principles, such as respect for the dignity of the human person. When a law does not flow from this fundamental respect, when it is inhumane, or does not serve the common good, people have a moral responsibility to change it, not to worsen its effect."

... Catholic social teaching acknowledges that a nation has a right to secure its borders and to govern the flow of immigrants. However these rights must be balanced with other corresponding rights such as a person's right to migrate in search of what is needed to live in human dignity ...

Consider the suffering of the immigrant who leaves homeland, family, friends and all that is familiar taking great risks of grave danger to get here in hope of escaping extreme poverty. True, some come here without permission and so are without legal documents, but that does not make that person a criminal. Those who come here are for the most part law-abiding, hard-working, tax-paying, revenue-generating, church-going and family oriented folk. In their regard, right-thinking people do not ask legalistically: "what part of illegal don't you understand?" Instead, out of compassion, they work to reform immigration law, not to worsen its effect, such as creating a system that separates husbands and wives, parents and children, sometimes for years!"

Our Church has big arms. We stand with the suffering immigrant and we stand with the suffering business people who cannot find workers for their businesses. We are not naïve about the abuse of some workers at the hands of their employers but we know that is not all employers. The testimony yesterday and today surely underlines for all of us the depth and complexity of our broken immigration policy.

Fiscal Note?

Taking on this broken system on a state level is what the legislation before this committee proposes to do. I have not seen or heard anyone talk of a fiscal note for these bills which would add extra responsibilities to law enforcement, district attorney offices and the courts to mention a few. Has a fiscal note been prepared?

Human Dignity of All:

The human dignity of every person is God-Given. It is not earned or connected to citizenship status. This God-Given dignity is the basis of all Catholic Social Teaching. This dignity belongs to all of us. The Kansas Catholic Conference will continue to be a voice for this dignity for our sisters and brothers who are immigrants.

Thank You for listening today and you have my promise of prayers for Wisdom as you consider this policy.

Testimony To: House Federal and State Affairs Committee

February 26th, 2008

By

Bill Gordon, Owner, Signature Landscape, Olathe, Kansas

Signature Landscape is in its 19th year serving customers in the greater Kansas City area, primarily homes' associations, business parks and shopping centers.

We are now one of the largest landscape companies in Kansas, employing approximately 150 people. We've made legal immigration work for us. Today, we are proud to be a multi-culture, bilingual Company. Forty-two (42) of our employees last year were Hispanics who are citizens/permanent residents. Ninety-three were H-2B seasonal workers here for 10-months on the VISA program.

I started in 1989 working out of my garage. Just a few of us...all US citizens. Work was easy to find, but hard to produce. We had trouble hiring, and keeping, good people. Then, in 1995 I hired Domingo Martinez, a legal immigrant from Mexico. He brought family and friends. They wanted to work. They were reliable. We built up the Hispanic work force, all with papers. Then, in 1998, we were advised that social security numbers didn't match up. We let people go...started to work with the H-2B VISA program for seasonal workers. We've proven that you can build a successful Company if a legal, VISA program provides enough workers to supplement the few US citizens who will do seasonal work.

We have an immediate LEGAL IMMIGRATION problem, which is, of course, a Federal issue. Congressional failure to again extend a bill affecting the H-2B visa program has cut the number of legal workers available nationwide -- and in Kansas -- by 50%, or more.

I have my legal, visa workers for this year, although I will not get them until April, which is well into our work season. But many Kansas companies are not so fortunate. Some may go out of business. I am very concerned about next year, when I expect to have great difficulty getting legal workers in a highly competitive visa environment.

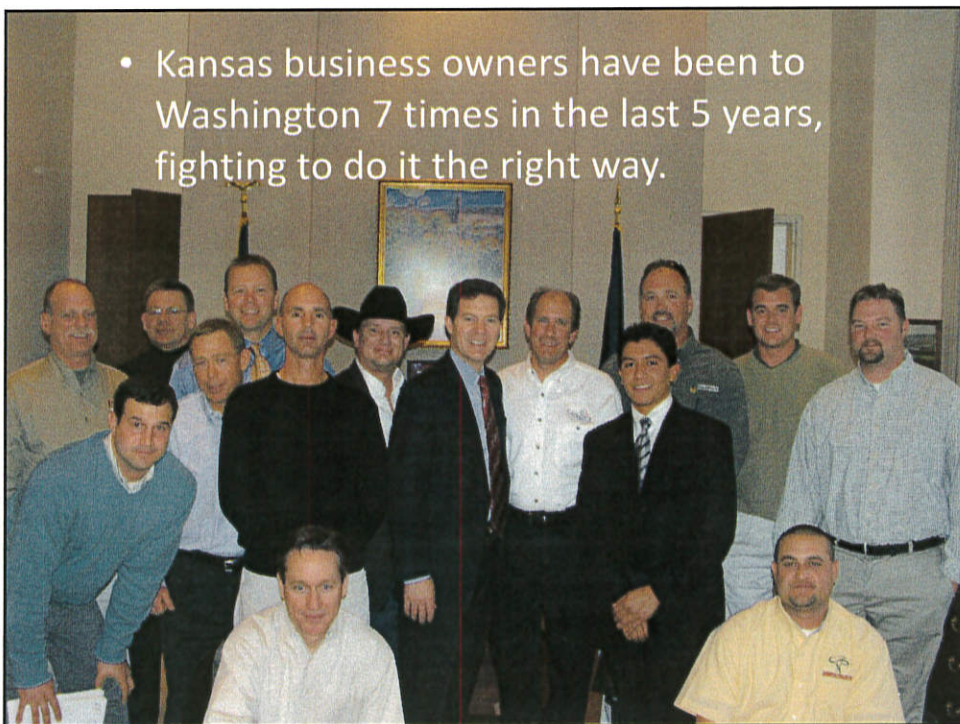
THE BEST WAY TO CONTROL ILLEGAL IMMIGRATION IS TO KEEP COMPANIES LIKE MINE IN BUSINESS BY EXPANDING LEGAL IMMIGRATION. MY APPEAL TO THIS COMMITTEE IS THAT YOU FORMALLY ASK THE KANSAS LEGISLATURE, AND THE ADMINISTRATION, TO DO EVERYTHING POSSIBLE TO ENCOURAGE CONGRESS TO TAKE ACTION, ASAP, TO EXPAND LEGAL IMMIGRATION.

Thank you for allowing me to make the point today that many Kansas companies like mine, are trying very hard to handle immigration the right way.

In our business, "Doing It Right" depends on expanding the legal H-2B visa program.

House Fed and State Committee
Feb 26, 2008





Summary of Testimony of

Mira Mdivani
Immigration Attorney

In Opposition to Kansas House Bills
HB2680, HB 2370, HB 2774, HB2836
and Senate Bill 458

House Fed and State Committee

Feb 26, 2008

Summary of Testimony of

Mira Mdivani
Immigration Attorney

In Opposition to Kansas House Bills
HB2680, HB 2370, HB 2774, HB2836
and Senate Bill 458

Good afternoon. My name is Mira Mdivani. I practice immigration law with the Mdivani Law Firm in Overland Park, Kansas. Most of my practice is assisting U.S. employers with I-9 immigration compliance, E-verify and work visas.

I. Reasonable Government

We expect reasonableness from the government. The very least our business clients expect it to understand the facts on the ground, and make laws to change things for the better. Unreasonable immigration laws was cited in the Declaration of Independence as one of the reasons we did not want to have the King's rule.

II. Need vs. Reality

Per Federal Reserve Chairman Fred Bernanke, our need for new immigrant workers is 2.5-3.5 million immigrant workers per year. The government allows about (1) million immigrants per year to come legally (not all of them workers, many are children and elderly). Therefore, illegal immigration of 1.5-2.5 million of people per year is built in to our laws. There are severe labor shortages in some industries, both in unskilled and highly skilled categories. In Kansas, it means that our meat cutting, food processing, commercial cleaning, landscape industries, as well as high-tech, among others are at risk of shutting down or being outsourced to Mexico, China or India if we cannot get foreign workers in Kansas legally. The federal government prohibits illegal employment with penalties ranging from fines to business forfeiture to jail sentences. Employers are looking for ways to comply with the law and hire legally.

III. How Can Employers Hire Legally if There Are No Work Visas?

A. There is no work visa category for year-around labor, such as

- A. There is no work visa category for year-around labor, such as needed for meat cutting, food processing, commercial cleaning, manufacturing, sewer cleaning, etc.
- B. There are no H-2B Visas for Seasonal Labor (66,000 Cap is Met on January 2, 2008)
- C. There are no H-1B visas for Professionals (65,000 H-1B Cap for new fiscal year will be met in one day)
- D. Permanent green cards take five years or longer. Over 5 year waits make them useless for jobs that need to be filled today.
- E. Cost of I-9 immigration compliance: expensive and elusive, ever-changing standard. See ICE Best Practices.

1. E-Verify Is so prone to error at this time that even the Federal Government who is set on introducing it, is holding off until improvements are made. E-Verify available to check employment authorization for future hires only and does not help with status of existing workforce, and potentially sets employers for employment-discrimination Elite Logistics-style law suits. In some states, E-Verify is illegal, such as Illinois, where state legislature prohibited employers from using it.

3. Affidavits by Employers vouching for Contractors' Immigration Compliance

This is another example of an extremely burdensome requirement

4. Not Allowing Deductions for Wages

This is another example of an extremely burdensome requirement. The flawed E-verify will produce errors in many cases, which will cost Kansas employers millions of dollars.

5. More Efforts by Federal Government to Punish Employers

Recently announced increased fines for

immigration violations

IV. Real Cases: A Kansas Business that did what the Federal Government Wants it to do and Kansas Government Would Want it to do, and is on the Brink of Shutting Its Doors or Thinking of Outsourcing as a Result

A Kansas company goes beyond what is currently mandated by immigration law: not only does beautiful I-9s., but also registers for E-Verify, conducts I-9 audits and I-9 training, training, etc. The company turns away those unauthorized workers that E-Verify does not confirm as authorized. The company needs seasonal workers but can't find any eligible American workers. It then asks the Kansas Department for prevailing wage and supervised recruitment of American workers and then asks the federal Department of Labor to issue a Labor Certification. The DOL issues a Labor Certificate says "No American Workers Are Available to Fill This Job." Which means the labor market in the U.S. is protected, and the employer can apply for work visas for foreign workers, to bring them here legally. But there are also no visas to apply for. So what I have is an exemplary employer that is compliance on I-9s, E-Verify, for whom the government confirmed there are no American workers to fill this job, and for whom the Federal Government confirmed that there are no work visas.

V. How Does Kansas Come Into the Picture?

What does the Kansas Government want to do with such an my employer? The reading of the bills before you shows, you want to further punish that employer by taking away his business license, etc. If there are no enough U.S. workers to fill the jobs and no legal way of hiring them with legal visas, even more is going to be outsourced. Most manufacturing is already outsourced to China and Mexico. Service industries are in a bind: if he could outsource his business, he would. He can't - it is landscaping. His colleague in construction also can't. You know what they are telling me? They might as well take his business license, he has no workers, he can't operate his business. He might as well close my doors. But others, such as meat processing, may have to outsource anyway. There is plenty of beef South of the border.

Therefore, I am testifying against the above bills.


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Current Cap Count for Non-Immigrant Worker Visas for Fiscal Year 2008

What is a "Cap"?

The word "Cap" refers to annual numerical limitations set by Congress on the numbers of workers authorized to be admitted on different types of visas or authorized to change status if already in the United States.

H-1B

Established by the Immigration Act of 1990 (IMMACT 90), the H-1B nonimmigrant visa category allows U.S. employers to augment the existing labor force with highly skilled temporary workers. H-1B workers are admitted to the United States for an initial period of three years, which may be extended for an additional three years and, in some cases, beyond, if an a/s application is pending.

An H-1B nonimmigrant (with the exception of certain fashion models) must have a bachelor's degree or higher (or equivalent) in the specific specialty. The H-1B visa program is used by some U.S. employers to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field and a bachelor's degree or its equivalent. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. The H-1B visa program also includes certain fashion models of distinguished merit and ability and up to 100 persons who will performing services of an exceptional nature in connection with Department of Defense (DOD) research and development projects or coproduction projects. The current annual cap on the H-1B category is 65,000. Not all H-1B nonimmigrants are subject to this annual cap.

H-1B Employer Exemptions

H-1B nonimmigrants who are employed, or who have received an offer of employment, by institutions of higher education or a related or affiliated nonprofit entity, as well as those employed, or who will be employed, by a nonprofit research organization or a governmental research organization are exempt from the cap.

H-1B Advanced Degree Exemption

The H-1B Visa Reform Act of 2004, which took effect on May 5, 2005, changed the H-1B filing procedures for FY 2005 and for future fiscal years. The H-1B Visa Reform Act of 2004 also makes available 20,000 new H-1B visas for foreign workers with a Master's or higher level degree from a U.S. academic institution. Such persons are statutorily exempted from the annual cap.

	Cap	Beneficiaries Approved	Beneficiaries Pending Petitions Receipted	Beneficiaries Pending Petitions yet to be Receipted	Total	Date of Last Count
H-1B (FY 08)	58,200 ¹	-----	-----	-----	Cap Reached	4/2/2007
H-1B Advanced Degree Exemption (FY 08)	20,000	-----	-----	-----	Cap Reached	4/30/2007

¹ 6,800 visas are set aside during the fiscal year for the H-1B1 program under the terms of the legislation implementing the U.S.-Chile and U.S.-Singapore Free Trade Agreements. Unused numbers in this pool can be made available for H-1B use with start dates beginning on October 1, 2007, the start of FY 2008. USCIS has added 5,800, the projected number of unused H-1B1 Chile/Singapore visas to the FY 2008 H-1B cap.

H-1B1

An H-1B1 is a national of Chile or Singapore coming to the United States to work temporarily in a specialty occupation. The law defines an H-1B1 specialty occupation as a position that requires theoretical and practical application of a body of specialized knowledge. The beneficiary must have a bachelor's degree or higher (or equivalent) in the specific specialty. The combined statutory limit is 6,800 per year. 1,400 visas are set aside annually for nationals of Chile, and 5,400 for nationals of Singapore.

H-2B

The H-2B visa category allows U.S. employers in industries with peak load, seasonal or intermittent needs to augment their existing labor force with temporary workers. The H-2B visa category also allows U.S. employers to augment their existing labor force when necessary due to a one-time occurrence which necessitates a temporary increase in workers. Typically, H-2B workers fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service/processing, and resort/hospitality services.

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The Save Our Small and Seasonal Businesses Act of 2005 (SOS Act) divided the annual numerical limitations of 66,000 into two halves. USCIS regulations allow for filings 6 months in advance. However, H-2B petitioners first must obtain a temporary labor certification from the Department of Labor (DOL). DOL regulations stipulate that the application for temporary labor certification may not be filed more than 120 days in advance of the need for the employee to ensure the accuracy of the labor market test. Thus, USCIS normally begins receiving H-2B petitions with employment start dates in October in June or July.

What is the H-2B numerical limit set by Congress?

The H-2B numerical limit set by Congress per fiscal year is 66,000. USCIS notes that, as of October 1, 2007, Congress has not amended the "returning worker" provisions of the Save Our Small and Seasonal Businesses Act of 2005 (SOS Act) to cover FY 2008.

Until October 1, 2007, if a petition was approved only for the purpose of extending an alien's stay in H-2B status, or only for change or addition of employers or a change in the terms of employment, the worker was not counted against the numerical limit at that time. By contrast, an alien who changes nonimmigrant status to H-2B was generally counted against the annual H-2B cap.

Why does USCIS authorize more H-2B workers than the statutory limit?

USCIS adjudicates H-2B petitions based on the facts presented by the petitioner in the petition. If the alien beneficiaries of the H-2B petition are abroad, USCIS then sends the approved petitions to the Department of State (DOS) for consular processing. Employers, however, may decide after submitting an H-2B petition that the aliens on whose behalf it petitioned are no longer needed. In such cases, DOS will not issue the aliens an H-2B visa. In other instances, some aliens never appear at the consular post for their H-2B visa interview following petition approval. DOS may also deny some H-2B visa applications even though USCIS has approved petitions for these workers. Similarly, DHS Customs and Border Protection (CBP) may determine at a port-of-entry that the beneficiary of an approved H-2B petition is inadmissible and refuse to admit the alien to this country.

Because of such "drop outs," the number of potential H-2B workers authorized to work by USCIS will exceed the actual number of visas issued based on petition approvals – the basis of the statutory limit.

	Cap	Beneficiaries Approved	Beneficiaries Pending	Beneficiaries Target ¹	Total	Date of Last Count
H-2B 1st Half	33,000	-----	-----	-----	Cap Reached	9/27/2007
H-2B 2nd Half	33,000 ²	-----	-----	-----	Cap Reached	1/2/2008
H-2B Annual (FY 08)	66,000 ³	-----	-----	-----	-----	-----

¹ Refers to the estimated numbers of beneficiary applications needed to reach a cap, with an allowance for withdrawals, denials and revocations.

² A shortfall in the 1st half would be made up in the 2nd half.

³ Visas issued plus beneficiaries changing status already in the United States.

H-3

The H-3 nonimmigrant visa category is for aliens who are coming temporarily to the U.S. to receive training (other than graduate medical education or training). The training may be provided by a business entity, academic, or vocational institute. The H-3 nonimmigrant visa category also includes aliens who are coming temporarily to the U.S. to participate in a special education training program for children with physical, mental, or emotional disabilities. There is a limit of 50 visas per fiscal year allocated to H-3 aliens participating in special education training programs. As of November 29, 2007, one of these H-3 visas had been approved with a start date in FY 2007.

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available only for applicants whose priority date is earlier than the cut-off date listed below.)

Fam-ily	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPP-INES
1st	15FEB02	15FEB02	15FEB02	01JUL92	01MAR93
2A	15APR03	15APR03	15APR03	01MAY02	15APR03
2B	08FEB99	08FEB99	08FEB99	01APR92	01FEB97
3rd	15MAY00	15MAY00	15MAY00	15JUL92	01APR91
4th	15JUL97	01DEC96	01NOV96	15NOV94	22FEB86

***NOTE:** For March, 2A numbers **EXEMPT** from per-country limit are available to applicants from all countries with priority dates **earlier** than 01MAY02. 2A numbers **SUBJECT** to per-country limit are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAY02 and earlier than 15APR03. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIP-PINE
Employ-ment-Based					
1st	C	C	C	C	C
2nd	C	01DEC03	U	C	C
3rd	01JAN05	01DEC02	01AUG01	01MAY01	01JAN05
Other Workers	01JAN02	01JAN02	01JAN02	01JAN02	01JAN02
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/Regional Centers	C	C	C	C	C

The Department of State has available a

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The DECLARATION OF INDEPENDENCE of the THIRTEEN COLONIES

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, —That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers,

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incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

- For Quartering large bodies of armed troops among us:
- For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:
- For cutting off our Trade with all parts of the world:
- For imposing Taxes on us without our Consent:
- For depriving us in many cases, of the benefits of Trial by Jury:
- For transporting us beyond Seas to be tried for pretended offences
- For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:
- For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:
- For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become



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Shortage of visas stings employers

Colorado's hospitality industry relies on foreign workers, many of whom won't be allowed to return to the U.S.

By Karen Rouse
 The Denver Post

Article Last Updated: 01/09/2008 11:15:44 PM MST

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Congress' delay on a bill that would have allowed foreign workers to return to seasonal jobs in the United States has employers — particularly those in Colorado's hospitality industry — scrambling to fill jobs for the summer tourism season.

U.S. Citizenship and Immigration Services announced last week that the federal cap on H-2B visas, which permit foreign workers to fill seasonal, nonagricultural jobs that employers can't fill domestically, was met Jan. 2.

Congress allots 66,000 H-2B visas to foreign workers each year. The visas are doled out twice a year, with 33,000 available for winter and another 33,000 for summer hires.

However, employers for several years were able to sidestep that cap because of a provision that exempted returning workers from counting toward the cap.

Congress failed to renew the exemption last year, meaning returning workers are now counted under the 66,000 cap, said Paul Buono, manager of immigration services with the Mountain States Employers Council Inc. in Denver.

With employers nationwide competing for 66,000 visas, the cap was met faster for the winter and now the summer hiring seasons, he said.

"For a lot of Colorado employers who might have needed H-2B visas, they're out of luck," he said.

That includes Gregg Jurgens, co-owner of Comfort Inn in Estes Park. For the last six years, he has rehired the same 10 employees from Mexico to work in his hotel. He said he has gone through "all the hoops," such as proving that he tried unsuccessfully to fill the jobs with American labor.

Jurgens said he was preparing to apply for visas to rehire nine of the 10 workers when he learned the cap had been reached. Without the exemption for rehires, Jurgens said he's in a bind.

"We have to figure out what we're going to do for the summer," he said Wednesday.

Rick Palacio, spokesman for Rep. John Salazar, D-Colo., said the Manassa congressman supports the exemption but wanted it to be renewed as part of a comprehensive immigration-reform bill.

Since Congress did not pass a comprehensive bill, Salazar supports stand-alone legislation that would allow for the exemption provision to be extended, said Palacio.

He said Colorado is the third- highest user of the H-2B visa, behind Texas and Louisiana.



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Testimony before the Kansas House Federal & State Affairs Committee:

In Opposition to the Anti-Business Immigration Bills HB2370, 2680, 2367 and 2836

Introduction:

- Robert Mayer- President of the Mid-America Green Industry Council and Senior Facility manager of Landscape Services for a large Kansas employer.
- Mid-America Green Industry Council represents approximately 200 employers in Kansas and surrounding states.
- Our members range from small family-run businesses to large-scale employers serving the landscape maintenance and construction industry.
- We oppose these bills. We view them as anti-business and against the interests of Kansans.

Issues:

- No legal visas. Not enough American workers to fill jobs within our industry.
- The reading of these bills shows me that Kansas legislators think that there are ample visas that allow us to hire workers legally or that there are enough American workers to fill these jobs.
- In fact, there are NO LEGAL VISAS available to employers to bring seasonal guest workers here legally in Kansas.
- Significant efforts have been made and will continue to be applied to attract American workers to these seasonal jobs, but no matter how hard we try, very few apply and fewer stay even when we pay above the prevailing wage.
- Our industry is being held hostage by an H-2B disaster orchestrated by our Federal government. They have yanked the rug out from under small business men & women who want to do the right thing.
- Many of our members have done everything they can to do the right thing law-wise to hire help legally, through vigorously recruiting U.S. workers and applying for legal visas for foreign workers when American workers fail to fill the jobs.
- This year, landscape company employers in Kansas filed their Labor Certification with the Kansas Department of Commerce, advertised in the Kansas City Star and other major newspapers and entered job orders in to the Kansas Unemployment database.
- Their prevailing wages were issued and employment efforts were supervised and directed by the Kansas Department of Commerce to make sure that no American who was willing to work was overlooked.
- Kansas Department of Commerce and the Federal Department of Labor agreed that despite us paying appropriate wages and vigorously recruiting U.S. workers, there are no Americans available to fill our jobs and awarded our member company's Labor Certificates.
- With the Department of Labor authorization, landscape company's filed for H-2B visas only to discover that the Federal government failed us.
- Congress allows for only 66,000 H-2B visas per year. As expected, this cap was met on Jan. 2nd long before most of our business owners had a chance for DOL approval.
- The U.S. Congress knew of the severe labor shortage yet failed to do anything about it.



- Thus, our employers have the labor certification issued by the government validating that there are no Americans to fill our jobs and yet they are not giving us any legal way to get the seasonal foreign workers here legally.
- What should we expect from our state legislators? Understand the issue and help us by explaining to the U.S. Congress that they are setting us up for failure.
- The federal law already punishes employers for hiring undocumented workers. The last thing that we expect from our state legislators is to jump on the band wagon and instead of helping us, threaten to punish us further.
- Before you punish, you must help us acquire the legal resources to comply with the law.

Economic Impact:

- Some of our members who are not getting their legal H-2B workers this year will have to close their businesses. Some will have to fire existing U.S workers such as office personnel and supervisors because they will not have people to support and manage.
- Many business owners have reported that they would not be able to buy equipment, tools and supplies including American truck manufactured right here in the U.S.
- Many will default on customer contracts due to lack of manpower.
- The word will go out to those U.S. workers who loose their jobs and suppliers who loose our business as to why this happened. It's because we did not get our legal workers this year.
- Our membership will know that instead of our federal and state legislators helping us get our legal workers, they competed in devising ways to punish us further for not hiring legal workers.

Request for Help:

- As legislators, you have a duty to act on behalf of your constituents.
- As your constituents, we are asking for your help in getting legal ways to hire seasonal workers by explaining it to the U.S. Congress. Please do not further punish Kansas small business men and women who are doing their best to hire legal workers but have been unable to because of Congress's irresponsibility.

Conclusion:

- In conclusion, I testify in opposition of these proposed bills.

Following the law, companies wind up in a bind

By DIANE STAFFORD
The Kansas City Star

If your landscape contractor
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this spring ...

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You may be coming to grips with a little-known, little-understood guest worker program that this year is imperiling some small businesses and the services they provide.

From the lobster industry in Maine to landscape companies in Kansas City to carnival exhibitors in Southern California, thousands of U.S. business operators are sweating out their ability to keep their customers because of a limit placed by the federal government on H-2B visas.

H-2Bs are permission slips that allow manual laborers to work — temporarily and legally — in the United States for employers who sponsor their visa applications.

For this fiscal year, U.S. businesses are allowed only about half the number of H-2B seasonal workers that were hired last year.

After the cap on applications for the second half of the fiscal year was reached this month, several dozen Kansas City companies learned their applications didn't make the cut.

And, because of the way H-2Bs are allocated, even those companies that won approval won't be getting their seasonal workers until April. That late arrival date is putting many are landscape companies in a hiring and scheduling pinch.

In the Kansas City area, no industry counts more on H-2B workers than the landscaping and yard care trade. By May, one landscape company owner said, it should be clear to customers which companies received their H-2B visa workers and which didn't.

To understand why H-2B workers are sought, consider the experience of Lance Schelhammer Jr., owner of Grass-Roots Inc., based in Olathe. His company employs 20 to 30 U.S. workers year-round. But, when its outdoor business kicks up in March, it needs about 50 more workers for the growing season.

Last year, Schelhammer's H-2B authorizations did not come through until mid-May, so he tried to hire locally.

"It was a nightmare. It was absolutely terrible," he said. "We went to temp agencies, to day-labor agencies all over town. We ran ads all the time.

"We went through 150 workers, and only two of them lasted more than two weeks. The longest tenure out of 150 was the one worker who lasted 1½ months. Not one of the locals we hired stayed the entire season."

For about \$12 an hour, Schelhammer said, he couldn't find and keep American-born workers in the Kansas City area who would cut grass. Fortunately for his business, he added, his 55 H-2B applications were approved this year and the guest workers are expected to begin work in April.

For companies that didn't win the visa lottery this year — and there are some large area businesses among them — the alternative may be resorting to undocumented workers.

"It puts employers in a position where they almost have to hire undocumented workers," said immigration attorney Alejandro Solorio. "This is a great hardship on the companies that bring back some of the same seasonal workers year after year."

Solorio, who helps companies file H-2B applications, said that this year not one of his client companies had their applications approved.

Caught up in the explosive immigration debate, and fanned by election year politics, Congress last year declined to raise the cap, which this year allows 66,000 guest workers to work in the United States.

Next page >

To reach Diane Stafford, call 816-234-4359 or send e-mail to stafford@kcstar.com.

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East End again on hold over foreign workers



Jen Friebely of the Hampton Jitney company and Paul Monte of Gurneys Inn and president of the Montauk Chamber of Commerce, speak after a chamber meeting last month about the lack of legal foreign employees for the upcoming summer season. (Photo by Gordon M. Grant)

BY MITCHELL FREEDMAN | mitchell.freedman@newsday.com
4:00 PM EST, February 11, 2008

At Gurney's Inn in Montauk, one of the largest private employers in the Hamptons, general manager Paul Monte is looking to the summer with high anxiety.

He's got popular cottages, suites and rooms to let. But if he doesn't have enough staff to clean the rooms, Monte can't rent them. He's got a restaurant and a cafe. But if there isn't enough wait staff and cooks, people will have to be turned away.

The serious problem of 2007 has become even worse in 2008, and it is national in scope: For years, an estimated 66,000 to 70,000 people have been allowed into the United States as temporary, nonagricultural workers on a federal "H-2B" visa. In each of the past three years, the number of H-2B visas granted increased substantially, due to a special exemption, rising last year to a high of nearly 130,000.

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H2B visas

Need for workers goes beyond waiters, gardeners

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But for various reasons -- prime among them the debate over immigration reform -- those formerly allowed to come here under the program, regulated by the U.S. Department of Labor, cannot return unless Congress acts promptly.

So the hotels, inns, restaurants and landscaping businesses that have relied on those seasonal employees don't know how or where they will find replacements.

Monte's staff, for example, increases from about 200 full-time workers to 325 as the foreign nationals come in to work Gurney's busiest season.

"If I can't bump up my housekeeping staff by 30 percent in the summer, who's going to clean the rooms? If my dining room staff can't increase by 45 percent, who's going to wait on the tables?" he asked. "The more you think this through, the more you realize the impact this is going to

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The same kind of potential worker shortages are a headache for luxury hotels in Arizona and Colorado, shoreline resorts in New Jersey and Cape Cod, and even a traveling circus in Texas.

"I don't think there is a broad understanding of the kind of havoc we are looking at. In my own district there will be terribly serious consequences," said Rep. Timothy Bishop (D-Southampton). "There are any number of sectors of the economy that are dependent on this workforce, and there are districts all across the country like mine."

Bishop's office estimates that businesses in his district, which covers the East End, employed well over 1,000 H-2B workers last year.

Under the H-2B program, workers prescreened by federal officials are allowed into the country to work for up to 10 months in jobs that their employers certify they cannot otherwise fill. An annual cap of 66,000 new workers on H-2B visas was imposed more than a decade ago. But, under an exemption passed by Congress that took effect in May 2005, any worker who had come into the United States under an H-2B visa in any of the three previous fiscal years could return and not count against the cap.

Congress did not renew the exemption for this year, causing the current dilemma posed by lack of returning seasonal employees. The nonrenewal stemmed from several reasons -- including strong opposition from the Congressional Hispanic Caucus, which views the H-2B program as a Band-Aid solution to comprehensive immigration reform.

"I can appreciate that many businesses -- from health providers to landscapers, and from the hospitality industry to the fishing industry -- need Congress to address H-2B visas," said Rep. Joe Baca (D-Calif.), who chairs the caucus. "I recognize that H-2B visa fixes are an important part of the immigration crisis, but that should be just another check mark in the column as to why this Congress must take real action on immigration reform."

With anxious constituents sending up flares, more than 90 members of Congress, both Republicans and Democrats, sent a letter to President George W. Bush in late January, imploring him to lift the cap through an executive order. So far, Bishop said, they have not gotten a response.

A White House spokesman said Friday that the request would require review by the Department of Homeland Security.

A House bill to renew the H-2B exemption is stalled in committee, as the time needed to process any additional H-2B visa applications grows short. "There is a general consensus that it has to be resolved by April 1 if it is to have any impact this summer," Bishop said.

Last year, East End business owners' nerves -- and bottom lines -- were frayed by an H-2B visa issue, but for a different reason.

Because of delays in processing H-2B workers' applications, landscaping businesses, restaurants, pool service firms and other seasonal businesses had to try frantically to find enough employees as the summer season began. Eventually, the foreign nationals got the visas, but businesses already had lost customers, incurred overtime costs and discovered that there was no local labor market to tap for replacement workers.

Pearl Kamer, chief economist for the Long Island Association, said the loss of seasonal workers would hurt the East End's economy at a time when more people are likely to be vacationing locally because of high gasoline costs and a weak dollar.

"Long Island economic growth has been extremely modest over the last year or so -- 5,100 new jobs in the 12 months ending in November," Kamer said. "Tourism is one of the few growth industries on Long Island."

Melinda Rubin of Hampton Bays, an immigration attorney who handles more than 60 H-2B applications a year, predicted a dearth of seasonal workers "will completely hurt Montauk. Most of the businesses out there will be shut off from workers ... that whole town is tourism."

Monte, from his oceanfront vantage point, considered the impact both on his inn and elsewhere.

"Everyone is pulling out their hair," he said. "This is forcing everyone in the country to compete for the same insufficient workforce."

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4-5

APPROVED BY
U.S. DEPARTMENT OF LABOR
Employment and Training Administration

APPLICATION
FOR

ALIEN EMPLOYMENT CERTIFICATION

OMB Approval No. 1205-0015

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM
PRINT legibly in ink or use a typewriter. If you need more space to answer questions in this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT

1. Name of Alien (Family name in capital letter, First, Middle, Maiden)																			
Multiple (25) unnamed Aliens																			
2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country)								3. Type of Visa (If in U.S.)											
Not in the United States of America								NA											
The following information is submitted as an offer of employment.																			
4. Name of Employer (Full name of Organization)								5. Telephone											
[Redacted]								(785) 843-4370											
6. Address (Number, Street, City and Town, State ZIP code)																			
600 Lincoln St. Lawrence, KS 66044, USA																			
7. Address Where Alien Will Work (If different from Item 6)																			
Multiple worksites within Douglas County, Kansas																			
8. Nature of Employer's Business Activity		9. Name of Job Title		10. Total Hours Per Week		11. Work Schedule (Hourly)		12. Rate of Pay											
Landscaping		Landscape laborer		40 0-5		7:00 a.m. to 5:00 p.m.		a. Basic \$ 8.00 per hour b. Overtime \$ 12.00 per hour											
13. Describe fully the job to be performed (Duties)																			
Maintain grounds using hand and power back to mow, prune, edge, blowing, planting and irrigating.																			
14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in Item 13 above.																			
EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)															
	0	0	0	NA															
TRAINING	No. Yrs.	No. Mos.	Type of Training																
	0	0	NA																
EXPERIENCE	Job Offered		Related Occupation		Related Occupation (specify)														
	Yrs.	Mos.	Yrs.	Mos.	NA														
15. Other Special Requirements																			
16. Occupational Title of Person Who Will Be Alien's Immediate Supervisor																			
President																			
17. Number of Employees Alien Will Supervise																			
0																			
<p>1. Qualified workers cannot be found in the United States</p> <p>2. Division of Foreign Labor Certification Policies have been observed.</p> <p>3. This certification is valid from 1/3/08 through 12/1/08</p> <p>(Date) <i>Monica C. Gonzalez</i> (Certifying Officer)</p>																			
<p>ENDORSEMENTS (Make no entry in section - for Government use only)</p> <table border="1"> <tr> <td colspan="2">Date Forms Received</td> </tr> <tr> <td>L.O.</td> <td>S.O.</td> </tr> <tr> <td>R.O.</td> <td>N.O.</td> </tr> <tr> <td>Ind. Code</td> <td>Occ. Code</td> </tr> <tr> <td>Occ. Title</td> <td></td> </tr> </table> <p>Landscaping & Groundskeeping Workers</p>										Date Forms Received		L.O.	S.O.	R.O.	N.O.	Ind. Code	Occ. Code	Occ. Title	
Date Forms Received																			
L.O.	S.O.																		
R.O.	N.O.																		
Ind. Code	Occ. Code																		
Occ. Title																			

Replaces MA 7-50A, B and C (Apr. 1970 edition) which is obsolete.

ETA 750 (Oct. 1979)

C-07302-33124

U.S. Department of Labor **Employment and Training Administration**
Chicago National Processing Center
844 N. Rush Street
12th Floor
Chicago, IL 60611



FINAL DETERMINATION FOR REDUCED NUMBER CERTIFICATION

January 31, 2008

~~GREEN WOOD SERVICE~~
~~LAWRENCE LANDSCAPE, INC~~
600 LINCOLN ST
LAWRENCE, KS 66044

ETA Case Number: C-07362-33124
State Case Number:
Number of Openings: 25
Occupation: Laborer, Landscape
Period of Certification: April 01, 2008 - December 01, 2008

The Department of Labor has made a final determination on your application for certification of temporary alien employment pursuant to Title 20, Code of Federal Regulations, Part 655.

The Application for Alien Employment Certification, Form ETA 750A, has been certified and is enclosed. We are granting certification for 23 job opportunities and reducing certification by 2 job opportunities. The number of positions has been reduced by the number of U.S. workers that applied for the position through the State Workforce Agency Job Order KS8232333 and were hired by the employer.

Upon receipt of this notification, you will need to submit the appropriate Form I-129 which is required in conjunction with an H-2B temporary labor certification application. The USCIS I-129 form can be obtained at <http://www.uscis.gov>.

Sincerely,

Marie Gonzalez
Certifying Officer

CC: ~~LAWRENCE LANDSCAPE, INC~~

Attachments: Form ETA 750A

ARM - JANE M. M. -
816 561-1191

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: [REDACTED]
Case No: KAN0501000008

In the Matter of:

Respondent: [REDACTED] currently residing at:

(Number, street, city state and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
☒ 2. You are an alien present in the United States who has not been admitted or paroled.
☐ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

Sharma-Crawford
ATTORNEYS AT LAW

migration Court, including Room Number, if any)
now why you should not be removed from the United States based on the

GROUP SUPERVISOR

(Signature and Title of Issuing Officer)

KANSAS CITY, MISSOURI

House Fed and State Committee
Feb 26, 2008

for important information

Attachment 5

Michael Sharma-Crawford Rekha Sharma-Crawford
wmsclegal@kc.rr.com rsclegal@kc.rr.com

7208 W. 80th, Ste. 202 • Overland Park, KS 66204
Office: 913.385.9821 • Fax: 913.385.9964
www.sharma-crawford.com

Alien's Name

File Number

Case No: KAN0501000008

Date

January 7, 2005

The Service alleges that you:

- 1) You are not a citizen or national of the United States;
- 2) You are a native of MEXICO and a citizen of MEXICO;
- 3) You arrived in the United States at or near EAGLE PASS, TEXAS, on or about September 15, 1997;
- 4) You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

Signature

Title

GROUP SUPERVISOR

3 of 3 Pages

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID : [REDACTED]

File No: A0 [REDACTED]

Event No: [REDACTED]

In the Matter of: [REDACTED];

Respondent: [REDACTED]

In DHS/ICE Custody

currently residing at:

9747 NW Conant Ave.

Kansas City, MO 64153-1864

(Number, street, city and ZIP code)

(816) 891-0676

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☐ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☒ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of [REDACTED] and a citizen of [REDACTED];
3. You were admitted to the United States at San Francisco, California on or about [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED] (D)

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set at a time to be set to show why you should not be removed from the United States based on the

(Date) (Time)

charge(s) set forth above.

(Signature and Title of Issuing Officer)

Date: December 12, 2007

Kansas City, Missouri

(City and State)

See reverse for important information

WILLIAM MICHAEL SHARMA-CRAWFORD
7208 W. 80th Ste 202 Overland Park, Ks 66212
(913) 385-9821 office
(913) 385-9964 facsimile

William Michael Sharma-Crawford is a principal in the law firm formed with his partner and spouse Rekha Sharma-Crawford. Together, the two have created a rapidly growing firm dedicated to serving those in need of complex immigration representation. Michael Sharma-Crawford has become a frequently requested speaker and author on the subject of immigration law, as the topic gains local and national attention.

Michael is a graduate of Washburn Law School, with honors. Michael earned his B.S. in Criminal Justice from Friends University and an Associates Degree from Wichita State University.

Memberships: Kansas Bar Association
Missouri Bar Association
District Court of Kansas – Federal District Court
Western District of Missouri – Federal District Court
2nd Circuit Court of Appeals
7th Circuit Court of Appeals
8th Circuit Court of Appeals
10th Circuit Court of Appeals
Johnson County Bar Association
Kansas City Metropolitan Bar Association
American Immigration Lawyers Association
American Bar Association
American Trial Lawyers Association

Published Decisions

Sheik Elzour v Ashcroft 378 F.3d 1143 (10th Cir 2004)
Cecaj v. Gonzales, 440 F.3d 897 (CA7 2006)
Chen v. Gonzales, -F.3d- 2007 WL1661548 (C.A. 7 06/11/2007)(06-3980)
Tandia v. Gonzales, -F.3d- 2007 WL1487407 (C.A. 7 05/23/2007)(06-2471)
Agbor v. Gonzales, 487 F.3d 499 (C.A. 7 2007)

Publications

Immigration Law; 2007 Kansas Annual Survey – Kansas Bar Association June 2007
Disaster on the Horizon: It's Post Conviction Time, Do you know where your alien client is? - Kansas Bar Journal, February 2004
Immigration Consequences of Criminal Convictions - Kansas Association of Defense Lawyers - 2003

Lectures

Latinos of Tomorrow – Immigration Forum – UMKC Law School July 2007
KMBZ radio - Shanin and Parks – Current topics in Immigration Q & A July 2007
KCMBA - Immigration Consequences of Criminal Convictions – May 2007
Immigration and Children – Washburn Law School – March 2007
AILA/AILF – Litigation Institute; Denver, Co April 2005
Missouri Public Defender Annual Conference – Immigration Consequences of Criminal Convictions, 2003/2004
MAGICouncil – Immigration Consequences for Employees and Pitfalls for Employers – 2005
Lorman Education Services - Immigration Consequences for Employees and Pitfalls for Employers – 2004
Johnson County Bar Association Brown Bag Lunch CLE 2004
KCMBA Hour lunch CLE 2003
KCMBA Ask-a-Lawyer telethon 2004, 2005
El Centro – Current Immigration issues 2003-2005
Guadalupe Center – Current Immigration Issues 2004

Honors:

Recipient, Alumni Fund Scholarship Washburn University, 2000-2002
Negotiation Competition Champion Washburn University 2000-2001
Law Enforcement Officer of the Year, 1997, Wichita Crime Commission,
Commendations from the Drug Enforcement Administration 1995

Professional Experience:

SHARMA-CRAWFORD ATTORNEYS AT LAW LLC, Overland Park, KS

Partner May 2003-present

- Consult clients and counsel in criminal and immigration law
- Prepare and conduct trials in Immigration Court, Federal District Court and State District Court
- File appeals with the Board of Immigration Appeals and the 2nd, 7th, 10th and 8th Circuit Courts of Appeal
- Conduct oral argument before the Courts of Appeal (7th, 8th & 10th Circuit)
- Prepare and submit applications to the Bureau of Citizenship and Immigration Services

AUSTIN AND FERGUSON L.L.C. , Kansas City, Mo

Associate/Investigator, Immigration Law April 2002-May 2003

- Interview clients
- Prepare and present cases for trial in Immigration Court
- Draft appellate briefs and memorandums of law
- Locate criminal records and witnesses

SHAWNEE COUNTY DISTRICT ATTORNEY'S OFFICE, Topeka, Kansas

Legal Intern, Criminal Division May 2001-April 2002

- Responsible for General Misdemeanor/Domestic Violence Docket
- Conduct plea bargains, bench trials and jury trials
- Write motion responses

BRYAN, LYKINS, HEJTMANEK, AND FINCHER, P.A., Topeka, Kansas

Law Clerk, Danton Hejtmank June 2000-May 2001

- Research issues in the areas of personal injury, bankruptcy, and Social Security Disability
- Write memorandums and briefs
- Take photographs and interview witnesses

SEDGWICK COUNTY, SHERIFF'S DEPARTMENT, Wichita, Kansas

SERGEANT, Spring, 1998-Winter, 1999

- Supervised Law Enforcement operations for the Exploited and Missing Child Unit
- Responsible for overseeing interstate and intrastate case investigations
- Coordinated Internet stings including detective involvement, evidence gathering and arrest
- Conducted training on legal issues and human resource matters
- Assisted in writing grants for federal funding in excess of \$250,000
- Researched case law and statutory requirements using traditional methods, and the Internet

DETECTIVE, Fall, 1992 - Spring, 1998

- Conducted drug/money laundering/criminal investigations for Federal or State prosecution
- Organized multi-jurisdictional investigations including OCDETF (Organized Crime Drug Enforcement Task Force) investigations
- Conducted financial investigations of targeted persons in support of asset forfeiture
- Wrote Federal and State search and seizure warrants
- Drafted OCDETF proposals for investigative funding requests

PATROL DEPUTY, Fall, 1985 - Fall, 1992

DETENTION DEPUTY, Winter 1985 – Fall 1985



February 26, 2008

Federal & State Affairs Committee
House of Representatives
State of Kansas

The Mid America Green Industry Council respectfully requests that no legislation be passed which will impose onerous requirements on companies who attempt to hire legal, documented workers. The passage of such a bill will cause undo harm to horticultural industries which rely on a legal, immigrant labor, workforce.

A recent report by Kansas Agricultural Statistics indicates that the horticulture industry added more than one billion dollars in sales and expenditures to the Kansas economy in 2006. The economic impact of horticulture has nearly doubled in the six year period since the last survey. Over six hundred thousand acres of turfgrass is maintained in the state by more than 25,000 employees with a payroll and maintenance expense of nearly a half billion dollars. Over one million households in Kansas pay someone to assist in maintaining their lawn. The greenhouse, nursery, arborists, fruit, vegetable, Christmas tree, florist, grape and wine industries additionally impact the economy with sales, purchases and jobs of an additional half billion dollars. Kansas Secretary of Agriculture, Adrian Polansky, is quoted in the release accompanying the survey as saying "Clearly, horticulture plays a significant role in the Kansas economy and in our state's agricultural landscape."

The horticulture industries, like much of agriculture, can be characterized as small, family owned businesses requiring large amounts of workers performing jobs of physical labor and endurance on a seasonal basis. The rapid growth of horticulture in Kansas, nearly doubling in only six years, requires ever increasing numbers of workers to sustain that growth. The resulting expansion in the number of jobs, payroll and expenditures helps fuel the growth in the state's economy that is necessary to maintain our quality of life.

To us this is not an illegal immigration issue. It is a business survival issue. Without workers we cannot help to sustain the Kansas economy. We can't survive with laws whose regulations are complex and difficult to follow. Laws that require small family businesses to have a legal department just to be able to comply with applicant and worker screening, researching, documenting and security checking will raise the risk and cost of doing business to a level where we can no longer remain profitable. While we provide a billion dollars to the Kansas economy, we are not a giant national corporate industry. We are a large number of small family businesses. We request that you do not pass such laws. Our survivability is at risk.

Sincerely,

Curby Hughes
Mid America Green Industry Council (MAGIC)

House Fed and State Committee
Feb 26, 2008

Attachment **6**

Testimony of Reg Robertson
Custom Lawn and Landscape, Inc.
Olathe, KS

Against Bills House Bill 2370, 2680, 2367,2836,2774 and Senate Bill 458

Dear Legislators, thank you for giving me time to address you.

My name is Reg Robertson. I am President and owner of Custom Lawn and Landscape in Olathe, KS. My employees and I have spent 27 years building our business. We employ 25 people, 10 full time and 15 seasonal. There are thousands of businesses just like us in the landscaping, construction, the service industry and farming.

No Americans to Fill My Seasonal Jobs

It is very hard for me to find people to do seasonal, hard physical work. It is difficult to find Americans who want to be paid only during our mowing season and be laid off for the rest of the year.

This year, I advertised in the Kansas City Star and KS unemployment database. I did not receive a single application from American workers for seasonal mowing and landscape labor jobs.

I have heard it said that if we paid better wages, we would get people to apply or that we give American jobs away. These jobs do not require much of an education but do require the ability to work long hours in the heat during the short growing season. All my American applicants want to work year around and be supervisors, technicians, and clerical workers. No one wants to mow grass etc. seasonally. Let Kansans be policemen, nurses and firemen and let us have legal seasonal workers for landscape labor jobs. Do you really think it is a reasonable idea to try entice a policeman or a nurse to switch jobs and mow lawns seasonally for a living? This makes no sense.

In Kansas, the unemployment is 4.9%. It seems to me that all who want to be employed, pretty much are. Also, last time I checked, the Kansas City Star had 6,041 jobs listed for the state of Kansas, so if an American wants a job, there are plenty out there. Including, the 15 seasonal jobs at my business, I ask you to send me your sons & daughters, your relatives and other Americans, PLEASE come and apply, I want to hire you.

There Should Be A Legal Way to Bring Foreign Workers to Fill My Seasonal Jobs

The only way to bring seasonal workers to fill my jobs is H-2B visas. In order to qualify for H-2B, every year I file an application with Kansas Department of Commerce. They tell me what wages are appropriate to protect the market from cheap labor, supervise my efforts to meet their standards, and then The Department of Labor

House Fed and State Committee
Feb 26, 2008

Attachment

7

certifies that there no Americans wanting these jobs. The process costs me about \$20,000 every year and if I could hire English speaking Americans, I would not go through this tortuous process. This year, we again were certified, that no U.S. workers were available for my seasonal jobs (I have attach the certification). However, Congress failed to give us enough H-2B visas, and my labor certification is useless. So I have no seasonal workers this year.

Now the federal government wants to send me to jail if I hire any illegal's, and you want to my revoke my business license.

What It Will Do to My Business, My American Employees and my American Vendors

Without a workforce that I can count on it is a little difficult to commit to new jobs. Last week I had to pass up an opportunity to bid on a large property, Honeywell, because I have not found people to do the work. I will be declining other work. I will not need to or be able to buy any new trucks or equipment. I will have to cut hours and/or lay off some of my full-time American workers, including: Pat , Faye and Stacy from the office, my Operations Manager Darren, my mechanic John, and my three technicians Ryan, Gary and Sean, all Kansans. With no seasonal workers they will have no one to work with, manage, to issue payroll too, etc. When their hours are cut and/or I lay them off, I will make sure they know who to thank for helping our company out of business.

You are our Hope for Reasonableness and Sanity on this issue.

I don't know where all this anti immigrant sentiment comes from but I wish people would understand that it is no good for anyone. I hope people wake up before it is too late.

I had always thought that you our representatives and especially Republicans understood small business, supported business and valued our contribution to the economy of Kansas. Instead I find you are trying to make life difficult and drive me and my employees out of business.

You are forcing me to rethink my politics.

U.S. DEPARTMENT OF LABOR
Employment and Training Administration

APPLICATION
FOR
ALIEN EMPLOYMENT CERTIFICATION

OMB Approval No. 44-R1301

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM
PRINT legibly in ink or use a typewriter. If you need more space to answer questions in this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.
To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001).

PART A. OFFER OF EMPLOYMENT																																							
1. Name of Alien (Family name in capital letter, First, Middle, Maiden) Multiple																																							
2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country) Unknown								3. Type of Visa (If in U.S.)																															
The following information is submitted as an offer of employment.																																							
4. Name of Employer (Full name of Organization) Custom Lawn & Landscape, Inc								5. Telephone (913) 782-8315																															
6. Address (Number, Street, City and Town, State ZIP code) 15204 S. Keeler Street Olathe, Kansas 66062																																							
7. Address Where Alien Will Work (If different from item 6) Various locations within a 50 mile radius of the office. All work is done in the Kansas counties of Johnson, Miami & Wyandotte																																							
8. Nature of Employer's Business Activity Landscape		9. Name of Job Title Landscape Laborer		10. Total Hours per Week a. Basic 40 b. Overtime 0		11. Work Schedule (Hourly) 07:00 a.m. 03:30 p.m.		12. Rate of Pay a. Basic \$ 8.33 b. Overtime \$ 12.50 per hour per hour																															
13. Describe fully the job to be performed (Duties) Landscape or maintain grounds of property using hand tools or power tools or equipment. Workers typically perform a variety of tasks, which may include any combination of the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, sprinkler installation and installation of mortarless segmental concrete masonry wall units.																																							
14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 13 above.					15. Other Special Requirements																																		
<table border="1"> <tr> <td>EDUCATION (Enter number of years)</td> <td>Grade School</td> <td>High School</td> <td>College</td> <td>College Degree Required (specify)</td> </tr> <tr> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> </tr> <tr> <td>TRAINING</td> <td>No. Yrs.</td> <td>No. Mos.</td> <td colspan="2">Type of Training</td> </tr> <tr> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td colspan="2">n/a</td> </tr> <tr> <td>EXPERIENCE</td> <td colspan="2">Job Offered</td> <td colspan="2">Related Occupation (specify)</td> </tr> <tr> <td>n/a</td> <td colspan="2">n/a</td> <td colspan="2">n/a</td> </tr> </table>					EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)	n/a	n/a	n/a	n/a	n/a	TRAINING	No. Yrs.	No. Mos.	Type of Training		n/a	n/a	n/a	n/a		EXPERIENCE	Job Offered		Related Occupation (specify)		n/a	n/a		n/a		Must be able to lift 50 lbs. <div style="writing-mode: vertical-rl; transform: rotate(180deg);"> RECEIVED DEC-7 2007 FOREIGN LABOR CERTIFICATION U.S. DEPT. OF LABOR 100-200-019-000-000 </div>				
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Replaces MA 7-30A, B and C (Apr. 1970 edition) which is obsolete.

ETA 750 (Oct. 1979)

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7-4

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Testimony

Carlos Gomez

President/CEO

Hispanic Chamber of Commerce of Greater Kansas City

- Introduction – My name is Carlos Gomez, President of the Hispanic Chamber of Commerce of Greater Kansas City. On behalf of the 410 Businesses of the Hispanic Chamber of Commerce, which range from small family owned businesses to Corporate America, we oppose such legislation which is not good for business in Kansas.
- Businesses make every effort to hire legally; they do not purposely risk their business or their livelihood hiring undocumented workers. They must rely on the system that the government has provided them. And Quiet Frankly, Kansas Businesses are tired of being portrayed as entities condoning illegal practices of any sort. We are the Cogs that make the Kansas Economic Train Run.
- Business and Commerce are directly connected to an immigrant populations in the economies of Dodge City, Garden City, Liberal, Wichita, Topeka, Emporia & Kansas City. As quoted in the Capitol Journal 2006, Bob Wetmore, President of the Dodge City Area Chamber of Commerce “the economy of his city is dependent upon immigrant workers. Wetmore said 50% of the Dodge City Population are immigrants.” “Without immigrant workers, we wouldn’t be here” “We are significantly dependent on them”
- Government has the responsibility to give tools before it punishes or penalizes and there is no State or Federal Support to help employers to hire workers legally.
- There is No Justification for such proposed Legislation unless you want to send a message to the Hispanic Community that we are not welcomed in Kansas.
- Conclusion – Therefore the Hispanic Chamber of Commerce of Greater Kansas City is against such legislation that is being proposed before this committee.. Do not Criminalize Kansas Businesses

House Fed and State Committee
Feb 26, 2008

Testimony

Henry Sandate

Chairman of the Hispanic Chamber of Commerce of Greater Kansas City

- Introduction – My name is Henry Sandate, I am Chairman of the Board of the Hispanic Chamber of Commerce of Greater Kansas City. I support the testimony that was just presenting to you by the President of the Chamber.
- This Legislation will harm businesses in Kansas. As we our witnessing in Oklahoma Legislation 1804 already is crippling the State Economy. As Quoted in USA Today, Republican State Representative Shane Jett states. Without Changes to the Law, this will be the single most destructive economic disaster since the Dust Bowl”
- Quote Wichita Hispanic Chamber
- Undocumented immigrants want to do the right thing but the laws don’t allow it. They want to obtain drivers licenses, buy insurance etc.
- Businesses don’t want to hire undocumented immigrants but there is no legal way to obtain any working Visas.
- Conclusion – We do not support the legislation that is being proposed to this committee.

Wichita Hispanic Chamber of Commerce

Wichita Hispanic Chamber of Commerce, Inc. (WHCC) recognizes the ultimate solution to the Immigration issues lies at the Federal level with the U.S. Congress. Imposition of state law requirements inconsistent with other state laws and with federal law make it impossible for a business or employer to comply with all the requirements at the same time. WHCC would support a workable immigration policy that respects the dignity of the individual and meets the workforce needs of Kansas's economy. WHCC opposes legislation that seeks to transfer the role of verifying immigration status from the government to employers, which would otherwise place the burden of proof on businesses.

**Testimony of Kara Lineweber
Public Policy Associate, El Centro Inc.
Kansas City, KS**

Before the Kansas House Federal and State Affairs Committee

Hearing on HB 2370, HB 2836, HB 2680 and HB 2921

Good Afternoon.

Mr. Chairman, Members of the Committee, thank you for the opportunity to speak today. My name is Kara Lineweber and I am the Public Policy Associate at El Centro, Inc. in Kansas City, KS. El Centro is a non-profit agency that has served the Kansas City Metro Area including the Hispanic population for over 30 years. We are very involved in the integration of new immigrants into the American society and thus strongly oppose HB 2370 and 2836.

We all can agree that our Federal Immigration System is broken and in need of Comprehensive Reform; however, Comprehensive Immigration Reform cannot happen at the state level nor can enforcement only legislation positively address the undocumented immigrant population in Kansas.

OVERVIEW

Enforcement only legislation such as HB 2370 and HB 2836 has significant economic, social and moral implications. For this reason, El Centro Inc. opposes this legislation. My testimony today will focus specifically on HB 2370 and two provisions of HB 2836.

Both HB 2370 and HB 2836 deputize State and Local Law Enforcement requiring them to enforce Federal Immigration Law. Deputizing our state and local law enforcement officials and requiring them to enforce Federal Immigration Law will not keep Kansans safer.

Should this law pass, it would be necessary for all residents and citizens of Kansas to carry their passport, birth certificate, or immigration papers with them at all times. Is this really the direction Kansas wants to go?

- Overland Park Chief of Police John Douglass said in a letter to Representative Moore regarding the 2003 federal legislation that would have deputized law enforcement, "Legislation such as this (The CLEAR Act) would be a detriment to all who live, work, and visit Overland Park. We want all to know that the police are available to protect them no matter whom they are or where they come from."¹

¹ Chief of Police, John Douglass, Overland Park, KS, Letter to Representative Moore 10/29/03 <http://www.aila>

- Ellen Hanson, the Chief of Police for Lenexa, KS, echoed Chief John Douglass's sentiments in her own letter saying Local and state Law Enforcement are already short on resources and manpower and struggling to meet our citizen's service demands. Adding immigration enforcement to their duties will force law enforcement to make cuts in other areas to comply.
- Chief Hanson continues citing training costs, the potential for racial profiling and damaging the credibility the police force has worked so hard to establish.
- She concludes saying, "The most troubling aspect of this act is that it could cause members of certain groups to not report crimes or come forward with information about crimes for fear of being deported (the CLEAR Act)."²

In addition to deputizing law enforcement, HB 2836 would prohibit undocumented immigrants from receiving Public Benefits. This provision, already federal law, denies citizens and those with legal status access to services for which they're eligible, and the price tag to implement this legislation is significant.

- The federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) prohibits undocumented immigrants from receiving public benefits with the exception of emergency medical care, temporary disaster relief and inoculations.
- Furthermore, this kind of legislation touted as cracking down on illegal immigrants in fact does more to harm our citizens and documented residents. In July last year, our Federal Government implemented Citizenship and Identify verification requirements for public benefits in an attempt to find undocumented immigrants accessing public benefits for which they're not eligible.
- **In Kansas, 20,000 people lost their healthcare; 15,000 were children. And of those 20,000, zero were undocumented immigrants.**
- Our neighbor state of Colorado spent \$2 million dollars to find the undocumented immigrants accessing public benefits – **they found zero**.³
- **Last year Kansas spent \$1 million dollars and how many undocumented immigrants did we find accessing benefits? One**.⁴

² <http://www.immigrationforum.org/DesktopDefault.aspx?tabid=576>

³ http://www.denverpost.com/news/ci_5081255

⁴ <http://www.khi.org/s/index.cfm?aid=947>

- In a time when our state is facing budget constraints, we must ask ourselves is this really an issue and how will we fiscally justify further legislation on this after spending a \$1 million dollars to find one undocumented immigrant?

Conclusion:

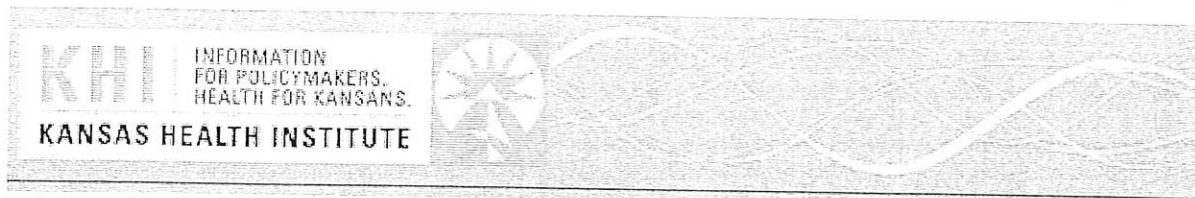
Kansas is better than this. We are capable of making good policy and positively addressing the issue of immigration in our state. While other states, such as our neighbors Oklahoma and Colorado, have passed legislation that is gravely affecting their communities, Kansas must move beyond the anti-immigrant rhetoric and embrace the opportunity to learn from failed policy; we should set a higher standard by more aggressively pushing our federal government for Comprehensive Immigration Reform, enlightening our community with the real facts, and putting ourselves on the road to a prosperous future for all Kansans.

At the appropriate time, I will stand for questions.

Thank you.

For more information, please contact me at:

El Centro, Inc.
650 Minnesota Ave.
Kansas City, KS 66101
(913) 677-0100
klineweber@elcentroinc.com



Home > KHI News Service > Kansas Health Digest Archive

Proof-of-citizenship requirement snares one

By Dave Ranney
KHI News Service

TOPEKA, Oct. 31 — The first time Rep. Sue Storm, D-Overland Park, heard that after one year and \$1 million, state officials had found just one illegal immigrant in Kansas had applied for Medicaid, she thought it was a joke.

"When I heard that I thought it was, you know, tongue-in-cheek," Storm said. "I mean, we spent more than a million dollars on this, surely there was more than one."

So when Kansas Health Policy Authority Deputy Director Andy Allison appeared Tuesday before the Joint Committee on Children's Issues, Storm asked how many illegal immigrants had been discovered in the aftermath of new federal requirements requiring proof of citizenship from Medicaid applicants.

Allison replied, "I believe, one."

Other states have reported similar results.

"Was it worth it?" Storm asked, directing her question to the committee. "If we'd found one, 10 or 100, would it have been worth it? Wouldn't this money have been better spent on health care? These are questions that need to be asked."

Sen. Roger Reitz, R-Manhattan, said the new paperwork requirements were part of a federal campaign to keep the public divided on health care reform. He bristled at the notion of expecting doctors and emergency rooms to turn away children of illegal immigrants.

Children of illegal immigrants, he said, "can be as sick with strep throat as my children."

Reitz added, "I find this whole thing offensive."

But Sen. Julia Lynn, R-Olathe, said she wondered if illegal immigrants were using fake driver's licenses, Social Security cards and birth certificates to avoid detection.

"This could be costing us a lot of money," Lynn said.

Afterward, Allison said the health policy authority's systems are not set up to snare illegal immigrants; instead, they are designed to determine who's eligible for Medicaid and who's not.

When an applicant cannot prove their citizenship they are denied eligibility, he said. But they are not assumed to be illegal immigrants.

Allison said the one person who was caught "self-acknowledged" being in the country illegally.

"That was about six months ago," he said.

Application backlog

The increased scrutiny is driven by a federal law that, effective July 1, 2006, required low-income parents to prove their children were U.S. citizens before they could be deemed eligible for Medicaid.



Carla Deckert, project manager at the Kansas Family Medical Clearinghouse, listens to questions posed Tuesday by members of the Joint Committee on Children's Issues. The meeting was held in the Old Supreme Court room at the Statehouse. (Dave Ranney/KHI)

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Before the new law, parents had been required to provide their children's Social Security number and, under penalty of perjury, sign a form indicating their children were, in fact, U.S. citizens.

Within weeks of the new law taking effect, the Kansas Family Medical Clearinghouse was flooded with letters, faxes and telephone calls from applicants scrambling to meet the new requirements.

An application process that used to take three to four weeks stretched to two or three, or sometimes, four months.

According to the health policy authority, these delays triggered an 18,000-to-20,000-person drop in the state's Medicaid enrollment. The vast majority of these denials were due to parents not having birth certificates for their children — they were not due to the parents being in the country illegally.

To offset the backlog, lawmakers agreed to spend \$1 million on additional workers for the clearinghouse.

These workers, Allison said, have reduced the backlog of unprocessed applications from 15,000 in February to about 5,900 in mid October; the number of applications in the system for more than 25 days has fallen from 4,729 to 524.

Allison said the clearinghouse will be caught up by Jan. 1. Many of those who lost coverage have now returned to the rolls after rounding up the required documents.

Maximus, a Virginia-based corporation, runs the clearinghouse on behalf of the health policy authority.

Located in downtown Topeka, the clearinghouse employs about 140 workers, said project manager Carla Deckert. The facility, she said, processes 9,400 applications and reviews a month.

-Dave Ranney is a staff writer for KHI News Service, which specializes in coverage of health issues facing Kansans. He can be reached at dranney@khi.org or at 785-233-5443, ext. 128.

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10-5

El Centro, Inc.

The Center for Continuous Family Improvement

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The Academy for Children
1330 S. 30th Street
Kansas City, KS 66106
Fax: 913-677-7090
913-677-1115

☐ Academy for Children,
Donnelly College
608 North 18th Street
Kansas City, KS 66102
Fax: 913-281-2571
913-281-1700

www.ElCentroInc.com



February 25, 2008

The Board of Directors of El Centro, Inc., a not-for-profit human services organization with offices in Wyandotte and Johnson Counties, opposes HB 2370, HB 2680, and HB 2836. El Centro's mission is to create and sustain educational, social and economic opportunities for families. Since 1976 we have been assisting families most in need with basic services so they can live productive lives.

Many of the families served by El Centro are immigrants who have come to our state, our country seeking better lives. They are making positive contributions to our society and to our economy by starting new businesses, working jobs that are the hardest to fill, purchase goods and services and yes, pay taxes.

Immigration is a federal issue and must be addressed at the federal level. Creating legislation in Kansas such as those listed above is harmful and contributes to growing hostility. Other states that enacted such legislation are already feeling negative impact to their state's economy. Rather than creating negative and harmful legislation let's create legislation that welcomes the immigrant, that removes barriers to earning a decent living, and that allows high school graduates the opportunity for in-state tuition.

Sincerely,

Mary Lou Jaramillo
President & CEO

United Methodist Church, Kansas Area
Evangelical Lutheran Church in America, Central States Synod
Catholic Bishops of Kansas
Episcopal Church Dioceses of Kansas

February, 2008

The question was asked of Jesus *who is my neighbor?* Jesus answered with the story of the Good Samaritan. *Anyone who needs me, and whom I can help is my neighbor.* For Jesus this path of loving our neighbor brings us to an encounter with God. To close our eyes to our neighbor blinds us to God.

When Jesus speaks of the ultimate judgment, all those judged are surprised that they did not recognize *him* in those people *in need*. He reminds us that it is precisely in *those in need* that we can see him and can choose to serve him or not.

We understand that many Kansans are perplexed and troubled by the presence of a large number of undocumented immigrants in our state and country. We share their concern. Illegal immigration is not good for society or the person migrating. We urge our parishioners – and all Kansans – to reject attacks on immigrants and to work together toward a humane resolution of the problem of illegal immigration.

We acknowledge the right and necessity of our country to maintain our borders and enforce our laws. We caution that while doing so, our government must respect human rights and dignity and minimize the separation of families.

We ask President Bush and our Kansas Congressional Delegation to give serious attention to the issues related to undocumented workers, their families, and their impact on the life and economy of our country and state. We urge them to work for comprehensive reform that maintains the integrity of our borders, makes temporary visas available for those willing to work, provides fair and equitable rules and reasonable time frames for processing applications to become legal residents, offers compassionate rules and practical time frames for family reunification for legal resident aliens and naturalized citizens, sets reasonable requirements for legal residents to become citizens, and recognizes the impact of globalization and free trade on patterns of immigration.

We ask Governor Sebelius and our Kansas Legislators to resist the frustration caused by the inactivity of our Federal government and to refuse to react to a fear that seems to focus on people in our State who for the most part are here because they or their parents want to work. We ask them to work for laws that benefit and support all people of our State.


As we travel Kansas and are in and out of local parishes we meet people who are afraid...afraid of losing their jobs, homes, families. They are looking for neighbors. They work in our meatpacking plants, dairies, feedlots, service industries. They work on our ranches, construction sites, hog farms. They work. Can we continue to benefit from the fruits of their labor, on one hand, and relegate them to an underclass without full protection of the law on the other? We meet people who are afraid that our laws are not working and that something is badly broken. We know that so many of those who are fearful are at the same time instinctively neighborly. Will their fears be allayed by passing more laws that cannot work and will cast more people living in Kansas into the shadows with less trust and confidence in our laws?

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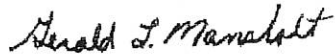
House Fed and State Committee
Feb 26, 2008

Attachment //

We ask our parishioners, other Christians, all people of faith, and all people of good will to resist fear, seize hold of hope, make justice our aim so that all living in Kansas may work together for the good and welfare of one another and not pit one against another. May we live out of our Kansas neighborliness that is at the heart of the message of Jesus.

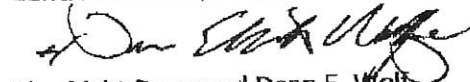

Scott J. Jones

Resident Bishop, the United Methodist Church, Kansas Area



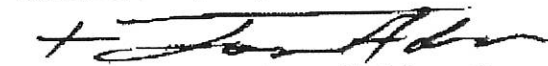
Bishop Gerald Marsholt

Central States Synod, the Evangelical Lutheran Church in America



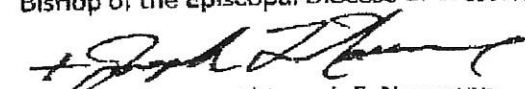
The Right Reverend Dean E. Wolf

Bishop of the Episcopal Diocese of Kansas



The Right Reverend James M. Adams, Jr.

Bishop of the Episcopal Diocese of Western Kansas



The Most Reverend Joseph F. Naumann

Archbishop of the Catholic Archdiocese of Kansas City in Kansas



The Most Reverend Ronald M. Gilmore

Bishop of the Catholic Diocese of Dodge City



The Most Reverend Paul S. Coakley

Bishop of the Catholic Diocese of Salina



The Most Reverend Michael O. Jackels

Bishop of the Catholic Diocese of Wichita

Ladies and Gentlemen of the Kansas State Legislature:

Kansas is on the eve of momentous decisions which will define our State and people. We have the unique opportunity to observe what other States have done regarding anti-immigrant legislation, and the negative effects it has produced. I pray that Kansas will choose the higher road. We should not allow vigilante hate groups to dictate our public policy, but rather weigh real evidence and make informed decisions.

It has been stated that undocumented workers "are draining public resources and that we should no longer foot the bill". Before enacting legislation based on this claim, we need to evaluate whether such a statement is true. Kansas has not done any studies comparing the contributions of undocumented workers compared to services they may receive, but many other states have.

A report by the State Comptroller showed that undocumented immigrants in Texas contributed \$17.7 billion to the gross state product, \$1.58 billion in state revenues with a net benefit amounting to \$16.68 billion during fiscal year 2005.

Arizona has now joined a long list of states in which recent studies demonstrate that the current influx of immigrants contributes far more in taxes than they receive in government services. The University of Arizona study specifically separated legal immigrant contributions from those of undocumented workers, and finds not only an overall net gain for the state, but that the loss of the undocumented population will most likely cause economic problems long term.

Neighbor state of Arkansas has received the highest influx of undocumented immigrants in the past five years of any state, but a Rockefeller Foundation study shows that the new population has been beneficial to the State economy, even when costs for education, health and correctional services are taken into consideration.

Oklahoma and Colorado have certainly discovered that such legislation is costly to businesses and taxpayers alike. Oklahoma businesses are folding and the revenues from State sales taxes are taking a significant dive. Colorado spent \$2.3 million on implementation of their new laws, using Basic Pilot/E-Verify to identify undocumented people using state services illegally. All state agencies reported finding none. Zero.

Here in Kansas the Federal government mandated that we determine if HealthWave was providing services to undocumented people. After creating a huge backlog in applications and spending \$1 million dollars, only one case was found. How many more millions are we willing to spend, and where will the money come from?

In a recent interview one legislator repeated over and over, "when is it good public policy to reward illegal behavior?" Our undocumented workers are not here to gleefully break the law, but rather are contributing to our society as they struggle for their own survival. I think Kansans can understand that, and have the wisdom to seek more humane means of accomplishing immigration reform through a more informed public policy. Thank you.

House Fed and State Committee
Feb 26, 2008

Attachment 12

Armando Minjarez
505 W. Campbell Apt. A
Garden City, KS 67846
Sunflower Community Action
SW KS Chapter
February 25, 2008

Honorable Legislators,

Should Kansas require E-Verify? We should be careful what we ask for. We might get it.

An important element contained in the anti-immigrant bills introduced in the legislature proposes the use of the Department of Homeland Security's Basic Pilot/E-Verify program by employers to screen for undocumented workers. While this sounds simple, E-Verify has serious problems. The DHS admits that the databases used from Social Security are error-filled. In order to combat this, they are asking States to contribute identifying information, such as drivers licenses.

Soon the federal government will have one single database of information identifying every citizen, determining who is allowed to work. In the future, what might it be used for? The expansion of E-Verify poses severe risks for national and individual security. The privacy of every citizen will be at risk. E-Verify is wide-open to employer fraud, misuse and exposes us all to identity theft. A 2007 report to Congress revealed that hackers broke into DHS computers, sending out data for up to five hours at a time. Illinois has been so concerned about the data problems of DHS that they have refused to require employers to use it. Kansas should think twice as well.

House Fed and State Committee
Feb 26, 2008

CONGRESSIONAL RESPONSE
REPORT
Accuracy of the Social Security Administration's Numident
File

A-08-06-26100

Presently, up to 29 documents issued by various Federal, State and local awarding agencies are valid for completing the *Employment Eligibility Verification* (Form I-9), which is legally required for every newly-hired employee. Acceptable records include (1) DHS identity and work authorization documents; (2) U.S. passports; (3) SSN cards; (4) State and local Government records; and (5) records from schools, medical facilities and the military. See 8 C.F.R. § 274a.2; DHS Form I-9.

Of the 136 discrepancies, 42 (30.9 percent) were on Numident record entries dated before May 15, 1978, the date on which SSA began requiring all SSN applicants to provide proof of age, identity and U.S. citizenship. The remaining 94 (69.1 percent) Numident records were dated between May 15, 1978 and November 30, 2005.

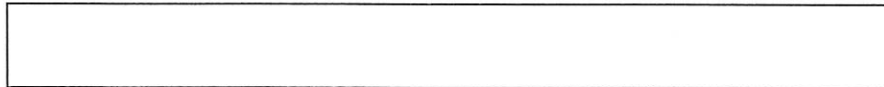
This estimate was developed using a stratified sampling approach. We randomly selected 810 Numident records from each of the three populations. The three populations varied in size based on the citizenship status and place of birth annotated on the Numident records. See Appendix C for our sample results.

Foreign-born U.S. citizens are those individuals who (1) were born abroad to U.S. citizen parents or (2) became "naturalized" citizens after immigrating to the United States. 8 U.S.C. §§ 1401(c); 1421 *et seq.*

As explained on pages 10 and 11 of this report, only 19 of these cases were included in the total 136 discrepancies that impacted Basic Pilot results. Although the remaining 43 foreign-born U.S. citizens discussed were misclassified, DHS confirmed that they were Legal Permanent Residents and authorized to work. As such, the Basic Pilot feedback was correct – they were eligible for employment.

We identified some discrepancies that could result in the Basic Pilot providing incorrect feedback to employers attempting to determine the employment eligibility of their workers. Specifically, of the 2,430 Numident records reviewed, 136 contained discrepancies in the name, date of birth or citizenship status of the numberholder or we determined that the numberholder may be deceased.³ In all of these cases, the Basic Pilot provided incorrect results. As a result, we estimate that discrepancies in approximately 17.8 million⁴ (4.1 percent) of the 435 million Numident records could result in incorrect feedback when submitted through the Basic Pilot. While the accuracy of SSA's Numident records is noteworthy, if use of an employment verification service such as the Basic Pilot becomes mandatory, the workload of SSA and DHS may significantly increase—even if only a portion of these 17.8 million numberholders need to correct their records with one of these agencies.

We are particularly concerned with the extent of incorrect citizenship information in SSA's Numident file for the foreign-born U.S. citizens⁵ and non-U.S. citizens we tested. Based on DHS information, we determined that 62 (7.7 percent) of the 810 foreign-born U.S. citizen Numident records we reviewed were misclassified—and the numberholders were not actually U.S. citizens. Given this exception rate, we estimate that about 616,420 of the approximate 8 million numberholders in the foreign-born U.S. citizen category are not actually U.S. citizens.⁶ Additionally, we noted that 57 (7.0 percent) of the 810 non-U.S. citizen Numident records we reviewed were currently misclassified—because the individuals had become U.S. citizens after obtaining their SSN but had not updated their records with SSA. Although SSA is not at fault for these latter misclassifications, we estimate that of the 46.5 million non-U.S. citizen records in SSA's Numident file, about 3.3 million contain out-of-date citizenship status codes.⁷ As such, these individuals may need to visit an SSA office to correct their Numident record before they would be confirmed eligible for employment by the Basic Pilot.



Spotlight on Surveillance

July 2007:

E-Verify System: DHS Changes Name, But Problems Remain for U.S. Workers

Homeland Security Secretary Michael Chertoff recently announced several changes to the employment eligibility verification program. The agency will require more than 200,000 federal contractors to use E-Verify, an increase of more than 1,076 percent over the 17,000 employers currently registered in E-Verify. The system will use an "enhanced photograph capability" that will allow employers to check photographs in E-Verify databases. DHS will expand the number of databases E-Verify checks to include visa and passport databases; and the agency is asking states to "voluntarily" allow DHS access to their motor vehicle databases. DHS will require employers to fire employees if they were unable to resolve "no match" discrepancies within 90 days. If the employers do not terminate the workers' employment, the businesses would face fines of \$11,000 or more. DHS also will raise fines against employers by 25 percent and increasingly use criminal action against employers, as opposed to administrative action.

EPIC, the Government Accountability Office, the Social Security Administration's Inspector General, and others have detailed the many shortcomings of the federal government's employment eligibility verification system, and the newly announced changes do not solve them. In fact, the changes exacerbate the problems in the current system.

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SOCIAL SECURITY

For immediate release

June 07, 2007

Contact: (202) 225 1721

McNulty Announces a Hearing on Employment Eligibility Verification Systems

Congressman Michael R. McNulty (D-NY), Chairman, Subcommittee on Social Security of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on current and proposed employment eligibility verification systems and the role of the Social Security Administration in authenticating employment eligibility. **The hearing will take place on Thursday, June 7, in room B-318 Rayburn House Office Building, beginning at 10 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

BACKGROUND

Since 1986, United States immigration law has prohibited employers from knowingly hiring or continuing to employ aliens who are not authorized to work under the Immigration and Nationality Act (INA). All employers are required to request that employees, once hired, produce documents that show they are authorized to work in the United States. Verification of the validity of the documents is not mandatory. The Social Security card is one of a number of items that an employee may use in combination with other identity documents to demonstrate work authorization.

While the Department of Homeland Security (DHS) is responsible for enforcing the INA prohibitions on unauthorized employment, the Social Security Administration (SSA) plays a key role in the verification process. Since 1996, employers have had the option of verifying names and Social Security numbers (SSNs) of new hires against SSA's database through an employment eligibility verification system (EEVS, formerly known as the Basic Pilot) operated jointly by SSA and DHS. Until 2003, the Basic Pilot was restricted to operate in only five states, but has since been expanded nationally. Currently, about 16,700 employers at 73,000 hiring sites (less than 1 percent of all establishments) participate in the EEVS. Most participating employers do so

voluntarily, but some are required to use the EEVS by law or because of prior immigration violations.

In 2006, the system received over 1.6 million requests for verification. Of these, 1.4 million cases were resolved by SSA. The bulk of the remaining cases were referred to DHS for further verification of work-eligibility.

The Government Accountability Office (GAO) and the SSA Inspector General have found that the current system is hampered by inaccuracies in the records maintained by DHS and SSA. GAO and other auditors also have found that the current EEVS is vulnerable to identification document fraud, prohibited and privacy-violating uses by employers, as well as discriminatory abuse.

Recent immigration reform proposals have included provisions to expand some version of an employment eligibility verification system. Some of the proposals would build on the current EEVS and require employers to verify all new hires, making the system mandatory for all 7.4 million private and 90,000 public sector employers in the United States. These employers account for 60 million hires per year, according to SSA. Other proposals include a requirement that the Social Security card be enhanced with tamper-proof, counterfeit-resistant or biometric features.

In announcing the hearing, Chairman McNulty stated **"If employment eligibility verification is to be a key enforcement tool for immigration policy, we must ensure the system is effective, efficient and feasible. We need a better understanding of the possible consequences and impact on the Social Security Administration if they are to undertake this expanded responsibility without compromising their core mission of administering Social Security."**

FOCUS OF THE HEARING

The hearing will examine the current EEVS system and proposed expansions, including the potential costs and increased workloads that would be faced by SSA. The hearing also will examine the potential impact on workers and employers; how it would interact with REAL ID and other identification methods; and the privacy implications, especially in light of proposed data-sharing arrangements between agencies.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "110th Congress" from the menu entitled, "Committee Hearings" (<http://waysandmeans.house.gov/Hearings.asp?congress=118>). Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You **MUST REPLY** to the email and **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Thursday, June 21, 2007**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and **MUST NOT** exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Testimony
House Federal and State Affairs Committee
Amy Blankenbiller
The Kansas Chamber
February 26, 2008

Thank you Mr. Chairman and members of the committee for this opportunity to testify today. My name is Amy Blankenbiller, and I am the President and CEO of the Kansas Chamber.

I am here representing a coalition of 37 Kansas business organizations in opposition to HB 2836 and HB 2680. The members of the coalition can be found at the end of my testimony.

While there are many issues surrounding immigration covered in these two measures, we are strongly opposed to:

- 1. the increased mandates on business to participate in the voluntary federal program called E-Verify;**
- 2. the penalties that include the removal of a business license for any length of time for what could be an accidental paperwork violation;**
- 3. the opportunity in HB 2836 for employees to bring suit against their employer for hiring an unauthorized worker and allow the employee to recover treble damages and reasonable attorneys' fees.**

This piece of legislation requires businesses to register and use the federal government's voluntary E-Verify system for all future hires. Employers are currently tasked with obtaining identification and filing an I-9 form and we believe that adding yet another layer of bureaucratic red tape will only complicate the process.

The E-Verify system as it currently stands only verifies that the name and social security number match. It does not indicate that multiple individuals may be using that same number.

We are also very concerned with sections of the bills that would remove a Kansas business' license to participate in the Kansas economy for what could be an accidental paperwork violation.

Many, if not most, Kansas businesses can not survive even a one day suspension of their business license.

I also respectfully, but strongly caution you as lawmakers from asking businesses to change their mission. Businesses are the economic engine of Kansas. They are the job creators in this state. They were not created to enforce laws.

House Fed and State Committee
Feb 26, 2008

In a poll conducted last week, 62% of Kansas voters agreed that it is wrong to turn employers into policemen when it comes to illegal immigration - more than twice as many agreed as disagreed with that statement.

We have made great gains over the past few years in making Kansas a better state to own and operate a business and to have a stable job. There is much work left to do though to make us the best, and unfortunately these two bills will take the state in a giant step backwards.

While we all agree the immigration system is in need of repair, we believe it can only be truly corrected at the federal level. A patch-work of state fixes will only further complicate an issue that is already tremendously complicated.

Thank you again for the opportunity to voice our opposition to these two bills. We look forward to working with the committee to pass legislation that combats this issue without harming lawful Kansas businesses as HB 2836 and HB 2680 will do if they are enacted.

Associated Builders and Contractors
– Heart of America Chapter
Associated General Contractors –
Kansas City Chapter
Associated General Contractors of
Kansas
Builders’ Association
Dodge City Chamber of Commerce
Garden City Area Chamber of
Commerce
Greater Topeka Chamber of
Commerce
Home Builders Association of
Greater Kansas City
Kansas Agribusiness Retailers
Association
Kansas Association of Realtors
Kansas Building Industry
Association
Kansas Chamber
Kansas City Kansas Chamber of
Commerce
Kansas Contractors Association
Kansas Cooperative Council
Kansas Dairy Association
Kansas Farm Bureau
Kansas Grain and Feed Association
Kansas Licensed Beverage
Association

Kansas Livestock Association
Kansas Manufactured Housing
Association
Kansas Pork Association
Kansas Restaurant and Hospitality
Association
Kansas Society for Human Resource
Management
Kansas Soybean Commission
Leawood Chamber of Commerce
Lenexa Chamber of Commerce
Liberal Chamber of Commerce
National Federation of Independent
Businesses – Kansas
Northeast Johnson County Chamber
of Commerce
Ottawa Chamber of Commerce
Overland Park Chamber of
Commerce
Southwestern Association
Travel Industry Association of
Kansas
Wichita Metro Chamber of
Commerce
Wichita Independent Business
Association
Wichita Hispanic Chamber of
Commerce

February 26, 2008

**KANSAS HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE
REPRESENTATIVE ARLEN SIEGFREID, CHAIR**

Testimony of Allie Devine on behalf of the Kansas Business Coalition
Opposing HB 2836 and HB 2680

Good afternoon, members of the Committee, my name is Allie Devine. I am the Vice President and General Counsel of the Kansas Livestock Association but am appearing today on behalf of the Kansas business coalition. The list of coalition members was provided by Terry Holdren yesterday.

The business coalition strongly opposes HB 2836 and HB 2680 because the bills appear to establish a process that can suspend or revoke the business license of a Kansas business owner without due process of law. These bills take away a business' ability to defend themselves against accusations of violations.

While these may appear to be technical legal arguments-they are really very simple and go to the heart of freedom in this country.

Under current federal immigration law, if an employer is accused of violating the law, the employer is given:

1. Notice of the violation;
2. An opportunity to respond;
3. A hearing before an administrative judge wherein the employer is allowed to present evidence on their own behalf and challenge the evidence presented against them;
4. Administrative appeals; and
5. Appellate reviews.

Under current state law, if a business is accused of violating a provision of their business permit, they are protected by the Kansas Administrative Procedures Act (K.S.A 77-501), which is incorporated into the licensing administration of most licensing authorities. This system provides Kansas businesses with:

1. Notice of the violation;
2. An opportunity to respond;
3. A hearing before an administrative judge wherein the employer is allowed to present evidence on their own behalf and challenge the evidence presented against them;
4. An administrative appeal, usually to the head of the agency, and
5. The right to appeal to the district and appellate courts.

These reviews are given as part of the fundamental due process afforded every Kansas business owner before their license is suspended or revoked or before any penalties are assessed. Kansas law provides these protections because the Kansas and U.S.

House Fed and State Committee
Feb 26, 2008

Constitutions do not allow the government to take property or liberty from citizens without due process-rights to be heard and to defend oneself.

Bills remove due process provisions of federal immigration law and state business licensing law.

HB 2836 and HB 2680 take away the right of the accused employer under federal immigration law to defend themselves and then penalize with the “nuclear” option as Representative Mah so accurately described the penalties provisions in these bills.

Proponents will argue that the bills give the employer a hearing. HB 2836 section 2(g) provides that the law shall be enforced in the courts of Kansas. It’s logical to conclude that a judge would need to 1. determine whether employees of the accused employer are unauthorized aliens; and 2. whether the employer knowingly hired and continued to employ an unauthorized alien. HB 2836 section 2(m) states that the court SHALL only consider the federal government’s determination of an employee’s status. The court may take notice of documents the federal government previously provided but whatever the federal government said last is “presumed” to be the status of the employee.

What does this mean to employers? Consider this: An employer hires an employee; verifies work eligibility through the I-9 process; checks the data through E-verify and receives an “employment authorized” response. Employer is accused of violating the law. Employer goes to court. Court receives later data than that held by the employer from the federal government illustrating that employee is an unauthorized alien.

Employer shows court his/her E-verify information and states that he/she has a rebuttable presumption that he/she did not knowingly violate the law. (pursuant to HB 2836 section 2 (n) page 4 lines 20-24) Court, by the proposed law, shall not consider the data of the employer (pursuant to section 2(m)) and the latest data from the federal government is presumed to be the most accurate. Section 2 (m) is apparently added to avoid a federal preemption challenge like the case ongoing in Arizona (see *Valle de Sol v. Goddard* No. 07-02518 (D. Ariz. Filed Dec. 12, 2007) The Court then makes a determination that the employee is an unauthorized alien.

If this had been a federal immigration proceeding the employer could have challenged the federal government’s determination by posing questions about how the latter determination was made. Under this bill, that opportunity to question is not allowed. The determination is binding and entered into the state court proceeding as the only evidence of employee status.

Bills adopt a broad standard of “knowingly” that includes “not only actual knowledge but knowledge which may fairly be inferred ...” which will likely catch even the most vigilant employer.

Court then tries to determine whether employer “knowingly employed an unauthorized alien”. What does “knowingly employ an authorized alien” mean? HB 2836 section 1(p)

refers to a federal definition that incorporates numerous federal regulations. In simplest terms the definition of knowing (in federal regulations) includes "not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition."

It appears that our employer did everything correct when he/she hired the employee. Does the law require the employer to continuously monitor the federal data base? What if the federal data base is inaccurate? The DHS presenter on Feb. 25, 2008 did not know the accuracy of the data base. What if the employer received a "tentative nonconfirmation" through E-verify? Employer may not terminate the employee while the employee seeks to resolve the matter. The DHS presenter told me there is no timeline for resolutions but most are resolved quickly. What if the employer is accused of a violation during this resolution period? The bill does not give the court, the employee, or the employer flexibility.

HB 2680 contains the same standard of court review (see page 5 lines 31-37) limiting an employers' challenge to federal determinations. HB 2680 incorporates a definition of "intentionally" into the federal "knowingly" definition. It appears to offer more flexibility to address some of practical problems this process has, but may only confuse the courts.

HB 2836 contains "gotcha" provisions.

Throughout HB 2836, the employer is required to file affidavits of participation in E-verify and sworn statements attesting that he/she does not "knowingly employ any person who is an unauthorized alien". (see HB 2836 page 3 lines 6-9; page 7 lines 12-30) What is the purpose of these filings? Will these affidavits be used as evidence against the employer? When an employer signs such an affidavit and it is later found that the employer employed an unauthorized alien, does that automatically create a violation of the law?

In addition Section 6 of HB 2836 (page 6 lines 26-34) allows for cities and counties to pass whatever ordinances and resolutions they may desire to regulate the employment of unauthorized aliens. This section also allows cities and counties to pass resolutions/ordinances allowing "lawful employees" to bring suits against employers to recover treble damages and reasonable attorneys' fees. This appears to be the "catch all enforcement provision". The provision does not specify what injuries are compensable; or whether the employee must actually show "how" he/she was injured. This exposes Kansas business to every conceivable claim by any disgruntled employee and his/her attorney. The business coalition strongly opposes this provision and encourages the legislature to review case law from other jurisdictions wherein this type of language has been challenged.

Bills contain the “Death Penalty” for businesses.

Finally, both bills call for the automatic suspension or revocation of the business license of the employer that violated the employment prohibitions. (HB 2836 page 3, lines 27-36; HB 2680 page 3, lines 8 through page 5 line 26) Clearly this is the “death penalty” for business as described by Arizona’s Governor Napolitano. Under any other circumstance, the business would be entitled to challenge the charges, correct their behavior and perhaps negotiate a lesser penalty prior to a suspension or revocation of a license. Here, once there is a violation determined, the proposals prescribe the death sentence. HB 2680 offers some flexibility but in the end, suspension or permanent revocation are the penalties. Under these proposals, there are not time frames; no stay proceeding; no requirement that the employer be convicted of a federal violation of immigration law before the state proceeds. We believe these provisions raise serious preemption and Constitutional challenges. The business coalition strongly opposes such a disproportionate penalty to those of the federal government for similar violations.

In closing, please consider that in passing these bills, you are placing Kansas businesses at the mercy of a federal system without opportunity to challenge and defend themselves. It would be very difficult for employers to successfully navigate through the mine fields created by these proposals. We ask that you reject these proposals.



League of Kansas Municipalities

300 SW 8th . . . nue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

TO: House Federal and State Affairs Committee

FROM: Sandy Jacquot, Director of Law/General Counsel

DATE: February 25, 2008

RE: Opposition to HB 2921, HB 2370, HB 2680 and HB 2836

Thank you for allowing the League of Kansas Municipalities to testify on behalf of its 585 member cities in opposition to the above-enumerated bills. These bills are directed in various aspects to those individuals who are unlawfully in the United States. The League's opposition is not to the underlying policy issue, but to the unfunded mandates, confusing and ambiguous language in some of the bills and the exposure to potential litigation and liability. We believe these bills have mandates that will be very difficult, and possibly costly, for city officials to apply. Trying not to be redundant, the concerns with each bill are set forth below.

HB 2370 - This bill requires law enforcement officers to inquire into the citizenship or immigration status of every individual detained for a violation of law. In so doing, the bill states that, "[t]he inquiry may not significantly expand the duration of the detention," apparently referring to the potential for a violation of the Fourth Amendment by the law enforcement officer. There is nothing to indicate how an officer is to determine legal status, except by asking the person detained. There is further nothing to indicate what "significantly expand" means in the context of the stop. Anytime additional questions are asked, the detention is lengthened. This bill has the potential to subject cities to discrimination and 42 U.S.C. § 1983 lawsuits. Since there is no way for the State to immunize cities from lawsuits under federal law and the United States Constitution, unless the State is prepared to indemnify cities against such litigation and potential damage awards for complying with the bill's requirements, the legislation is ill-advised and should not be adopted.

HB 2836 - This particular bill also contains the law enforcement provisions of HB 2370, with a bit more detail. All non-citizens must have legal status verified through the federal government, whatever that entails, and with whatever cost there might be borne by the city. The same liability concerns will also exist as identified above. It is also of concern that this bill designates the judiciary committee of the House of Representatives to be able to sit in a quasi-judicial capacity to adjudicate violations by law enforcement agencies of the requirements of the bill. Such would seem to have a separation of powers problem. In addition, cities, as with all employers, must verify the legal status through the use of the e-verify system, and bear the cost of the use of that system. It is very unclear, given the definition of "illegal alien" as anyone who is not a citizen or a national of the United States, exactly what cities (or any employer for that matter) are trying to verify. Apparently individuals in the United States with documents conferring legal residency, student visas or work visas are also illegal under this bill.

www.lkm.org

House Fed and State Committee
Feb 26, 2008

Attachment 16

The limitation on providing public benefits is extremely confusing and will be difficult for cities to apply. First, under this bill, cities will have to verify that anyone who is not a citizen of the United States, or cannot prove that he or she is a citizen of the United States, is lawfully in the country. This will involve using the Homeland Security SAVE system, which is a fee service to check residency status. In addition, local governments will need to understand exactly what documents will suffice to show the type of immigration status of the individual. Thus, there will be a cost to local governments in implementing the bill that will likely require much training for city officials. City officials who in good faith attempt to comply with the requirements of this bill could violate various civil rights of individuals, subjecting cities to liability. In addition, the bill exempts certain benefits that are required by federal law to be offered. It then, however, goes beyond the language of the federal law to define public benefits as any of the enumerated services "under which payments, assistance, credits or reduced rates or fees are provided." It is not clear from the language how broadly this must be interpreted and what those terms mean in the context of the bill. The bill does not require the public agency to provide the benefit for it to be covered by the requirements, so if a social service agency receives public funds, does the service it provides become a public benefit? If so, must the social service agency verify the legal status of those receiving the service?

The other issues raised by this bill include the chilling effect it would have on services to children born in the United States to those unlawfully in the country. In addition, it would discourage preventative health care, prenatal care and other non-emergency health care provided by local health agencies.

HB 2680 - This bill requires the verification of all new employees, which has been discussed above. It has the additional requirement in Section 7 of prohibiting the municipality from doing business with contractors and vendors that have been found to have violated the act by employing individuals not lawfully in the country in the previous five years. That contractor or vendor is likewise prohibited from trying to do business with the municipality. This puts the burden on the municipality to try to check on the multitude of vendors and contractors it does business with, going back five years, to try to ascertain violations of the act. These are mandates that will add to the cost of providing services to municipalities.

HB 2921 - This is basically an employment verification bill that will require municipalities, and all other employers, to verify the legal status of all employees. It is unclear whether the municipality must verify the status of all current employees, or just apply the verification prospectively, but it appears to require all current employees to be verified. Thus, municipalities will incur the cost of applying the mandates under the bill.

For all of the above-stated reasons, the League urges this committee not to report these bills favorably. I will be available to answer questions at the appropriate time.



House Fed and State Affairs Committee

Testimony: **HB 2836**

Elias L. Garcia, Policy & Advocacy Director
Kansas League of United Latin American Citizens (LULAC)

Thank you Chairman Siegfried and honorable members of the committee, my name is Elias Garcia, Policy & Advocacy Director for Kansas' STATE League of Latin American Citizens (LULAC). LULAC is the largest and oldest Hispanic Organization in the United States with 75 years of service and over 700 LULAC councils nationwide (including 3 councils in the state of Kansas). LULAC is proud of its history of promoting positive socio-economic, educational and political change on behalf of the Hispanic & Latino community and Kansas' State LULAC appreciates the opportunity to appear before you today and present testimony in opposition to HB 2836.

The issue of immigration has been part American landscape since the founding of this country, yet the political panorama changed dramatically after the tragic events of Sept 11 2001. While a broken U.S. immigration system is widely viewed as the root problem to our U.S. immigration dilemma, the problem has been further fueled by misinformation about immigrants and immigration.

In Kansas, the immigrant population totals approximately .02 percent of this state's population. Yet, many would have you believe that members of the immigrant population are inundating our communities and negatively impacting our system by draining our public benefits programs, taking away jobs from Americans, pushing up crime rates in our communities, and they are unwilling to learn English and assimilate, etc. etc. One need only check the record to find that all these allegations have no merit?

Over the last few years, there has been a large body of research conducted by states, local bodies of government, universities and organizations to study the degree the undocumented immigrant community has had on public systems and have found that in nearly all cases, the allegations and concerns have not been substantiated. Examples of case studies and what was discovered include:

- 2006: the State of Colorado spent 2 million dollars to identify undocumented immigrants accessing public benefit programs--out of thousands of cases researched, they found no evidence that any undocumented immigrants were participating ..0 (zero).
- 2006: Suffolk County, NY signed a law requiring 6000 contractors to affirm their employees were not "illegal". Since then they have found ONE ! Contractors are left asking WHY do we need this law?
- 2007: University of California Irvine study (for the Immigration Policy Center, Wash. D.C.) "Immigrants less likely to commit crimes than native-born Americans"
- 2004: When Kansas passed an In-State Immigrant Tuition Bill, many thought that Kansas colleges would be inundated with the children of the undocumented. Presently a total of 46 students are attending Kansas colleges under this law (a law that has been challenged in federal court and has been upheld)

Honorable committee members, we encourage you to be patient and trust (as we do) that very soon, our Congress will take action and will pass a national comprehensive immigration reform bill. Please know that all Americans, especially Hispanic and Latino Americans, share your frustration with our national government and their failure to pass a fair, comprehensive immigration reform that addresses the concerns of the American people. While we appreciate your efforts to fill this leadership void in the immigration debate, LULAC suggests to you that the answers to this highly complex issue of immigration must be addressed at the national level and cannot be adequately or effectively addressed at state levels.

I will close by saying that the United States has serious problems with shortages in education, nursing, and all levels of skilled and unskilled labor. In the future the immigrant community and their children will play a large part in resolving these. I ask you to consider the value of incorporation of this population into the U.S. as part of the "professional solution" as opposed as part of the problem. I thank you for the opportunity to reaffirm LULAC's opposition to any and all efforts to pass HB 2836.

House Fed and State Committee
Feb 26, 2008

STUART J. LITTLE, Ph.D.
Little Government Relations

House Federal and State Affairs Committee

Testimony on House Bill 2836

February 26, 2008

Mr. Chairman Siegfried and Members of the Committee,

My name is Stuart J. Little and I appear today on behalf of Johnson County Government in opposition to one portion of HB 2836. The Johnson County Board of County Commissioners discussed the issue of immigration related bills on Thursday, February 21 and asked me to appear today to express their concerns about one portion of the bill. Johnson County Government believes the provisions of new section 5 of HB 2836 if enacted into law would have a negative impact on the public health and welfare of our community.

As you are aware, county government serves as the front line of the state, local, and federal efforts to meet citizens' needs for a wide range of social, family, public health and other services. Additionally, county government has a duty to enforce the laws, punish offenders, and generally protect the public welfare. The costs to the state and the county to provide these services are great and they strain the resources of both levels of government to meet the present and ever-increasing demands for services.

As the Committee debates the impact and benefits of House Bill 2836, the Johnson County Board of County Commissioners believes the impact of new section 5 of the bill, beginning on page five, would have a social, public safety, and potential public health impact in excess of current cost of providing these services. Currently the various divisions of Johnson County are exploring what are the cost of providing services and supervision to illegal aliens. Some of the considerations the BOCC must weighing for example, include: aliens with communicable diseases which would go unaddressed; children and newborns in need of services who will otherwise "touch" the public system in the future, such as the public school system; offenders both adult and juvenile who are currently service sentences or on supervision who would be removed from the system. What would be the administrative costs of determining citizenship?

We welcome your thoughtful consideration of how this legislation in new section 5 will impact the duties and responsibilities of the social services and public safety in your counties.

I would be glad to stand for questions at the appropriate time.



Public Health Department

Joseph M. Connor, Director

619 Ann Avenue
Kansas City, KS 66101-3038

Phone (913) 321-4803
Fax (913) 321-7932

There are Ten Essential Public Health Services as a part of the National Public Health Performance Standards Program that public health departments are striving to achieve.

Those ten services are:

1. Monitor health status to identify and solve community health problems.
2. Diagnose and investigate health problems and health hazards in the community.
3. Inform, educate and empower people about health issues.
4. Mobilize community partnerships and action to identify and solve health problems.
5. Develop policies and plans that support individual and community health efforts.
6. Enforce laws and regulations that protect health and ensure safety.
7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable.
8. Assure competent public and personal health care workforce.
9. Evaluate effectiveness, accessibility and quality of personal and population-based health services.
10. Research for new insights and innovative solutions to health problems.



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Testimony in Opposition to HB 2836
House Federal and State Affairs Committee
February 26, 2008, 1:30 p.m., Room 313 South

HB 2836 would put an unfair burden on the Unified Government Public Health Department to provide services to the residents of our community. The Unified Government opposes this bill but if the committee does decide to advance it we would request that public health services be exempted from this bill so that we can continue to strive to provide effective public health protections in Wyandotte County and in the State of Kansas.

Citizenship status verification for the public benefit programs that we administer would limit our ability to meet many of the Ten Essential Public Health Services as listed on page two. It also places a large administrative burden that will increase our costs to do business and reduce our efficiency.

An example of the negative impact on our services would be highlighted in our Prenatal Collaborative. In December, 2006 we transitioned from providing direct patient care to a nursing case management model. Our target population is the uninsured and over the last 3 years 90-97% of the women served are of Hispanic origin. The Prenatal Collaborative is our link (Essential Service #7) for people to a needed personal health service.

One of the health status indicators (Essential Service #1) for Wyandotte County that highlights the need for this collaborative is the rate at which prenatal care is accessed in the first trimester. For the years 2004-2006 the State of Kansas average is 79.3%. Over that same period the rate in Wyandotte County is 67.2% and for Hispanic women in Wyandotte County the rate is 52.4%. The Healthy People 2010 goal is 90%.

Opposition Letter to Kansas Senate Bill 458

As a small business in Kansas City we will be directly affected as we watch eligible labor leave the state. These eligible workers will be leaving because a family member who is undocumented will have no choice but to leave the state if Senate Bill 458 passes. The Bill will allow state and local authorities to enforce immigration law. It also would mandate that a fault-ridden verification system be used by all Kansas companies. So not only will undocumented workers be leaving, but their **eligible** brothers, sisters and families. These families will not return to Mexico but rather move to another state to contribute to their economy and progress. There will be an exodus of good, hard working labor in a time when the economy has seen better days. Small businesses in Kansas need these workers to stay. The Kansas companies that supply goods to and depend on small businesses will lose economic revenue as a result of us not having these workers and not being able to provide consistent, dependable labor to our customers.

We do not know the impact it will have economically for the state if Senate Bill 458 passes. We support Representative Nile Dillmore's proposed audit of the impact of illegal immigration in Kansas before any Bill passes, so that it can be, as he said, "based on factual, objective information". Kansas taxpayers have a right to know where their tax dollars are going but they also should know the truth about what these workers contribute to our economy. Instead of projecting misconceptions about how illegal immigrants are taking our jobs and draining the state's social services, we deserve to know the facts.

Kansas, along with all of the other states, needs to put pressure on the federal government to pass comprehensive immigration reform. The passage of the Kansas Bill would not stop the flow of illegal immigrants into the United States. It would only serve to move a large part of the Latino immigrant population to another bordering state. If that state follows suit and passes legislation, the immigrant population will move again. Before you know it, there are 50 different laws. States need to stay united on this issue. Comprehensive immigration reform is the answer.

Lastly, the deficiencies that currently exist within the E-verify system should be addressed before it is made mandatory for the State of Kansas to

House Fed and State Committee
Feb 26, 2008

implement. A 10% error rate in the system is unacceptable. When a legally eligible worker is told they are unauthorized to work, problems will arise. Inaccurate data can lead to a time consuming review process and discrimination suits against the company through no fault of their own or the applicant. Sufficient time should be spent on making sure the system is up to date and correct. Citizens of Kansas shouldn't fear that when they apply for a job that a newly-implemented verification system will fail them and deny them work.

Let's see the facts first on how the illegal immigrant population affects the economy of Kansas and let's correct the existing deficiencies in E-verify before hastily throwing legislation together based on fear and rhetoric.

Jim Darner
Suburban Lawn & Garden
Kansas City, MO
2/26/2008

Testimony on HB 2836
House Committee on Federal and State Affairs

February 26, 2008

Dr. Brent Metz,
Department of Anthropology, University of Kansas
February 26, 2008

Senator Siegfried and members of the committee, I appear before you today to provide information regarding the context in which immigration occurs today in Kansas. Most U.S.-wide studies show that immigrant workers pay more in taxes and social security than they will ever get back, and that they do not come here to leech off our welfare system. Studies like the State of Iowa's that imprecisely estimate a net loss from taxes paid and services received admit that the same losses are incurred when calculating the expenses of all poor workers, regardless of documented status. It is no secret that the cost-benefit analyses of taxes and services alone do not account for the overall contributions that immigrants and their documented family members make to the economy. Those who question the abundant data demonstrating immigrants' indispensable contributions to the economy must only turn to Oklahoma to see the economic downturn there after their highly restrictive legislation was implemented. If we are truly concerned about economics then a study should be commissioned to calculate the costs to the state of virtually deputizing every public employee and even landlords as Border Patrol agents, the costs of withdrawing healthcare and schooling to a large sector of its working population, or the costs that the nationwide anti-immigrant backlash has contributed to the domino effect of home foreclosures.

That immigrants are "illegal" is easily dispelled as well. How can anyone that touts "free trade" believe that corporations and commodities should be free to cross borders, but workers should not. This is the definition of unfair market. Our major agroindustries in Kansas need not be educated on this matter, as over half of their exports go to Mexico, where their subsidized, industrially produced, cheaper grains displace Mexican peasants who cannot compete. One need not have a PhD in economics to understand how Kansas' own exports have contributed to an acceleration of Mexican migration since NAFTA went into effect in 1994.

Some anti-immigrant groups have cited security as a concern. Especially since 911, having foreigners in one's homeland is terrifying to some, but it is common knowledge that none of the 911 terrorists were undocumented, and they entered through Canada and Europe, not Mexico. The largest terrorist attack in this part of the country, the Oklahoma City bombing, was enacted by a White man. There are no organized Hispanic terrorist groups in the United States, although there are arguable many White ones. No one seriously considering the issue truly believes that terrorism is the issue here.

The same side calling immigrants economic burdens, illegals, and terrorist threats now show concern that they are "new slaves". The contradiction here merits no further comment.

If we cut all of our noses to spite our economic faces, label those displaced by the global economy as "illegals", cry terrorism when none is to be found, all while showing concern for their humanity, then why do we want to drive them and their documented families out of the state? The real fear is that Mexicans and other Latin Americans are coming too fast and heavy for our society to absorb. They're taking over everything, or they are creating ethnic enclaves, a

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veritable balkanization of the United States. These faulty assumptions underlying such alarmism are the ones that really need to be addressed.

One assumption is that there is a timeless, singular entity called US culture, which in turn is presumed to be white, Protestant, and middle class. Correspondingly, another is that it is dangerous to celebrate or even recognize the multiple ethnicities that have always contributed making the United States what it is today. It takes little reflection or historical knowledge to realize the errors of such historical revisionism.

Another assumption is that white Protestant values of hard work and entrepreneurialism were what made this country great, when in fact the immigrants to this country, including the first ones, have always been ethnically, religiously, and genetically diverse. Our very federal system of government was borrowed from the Iroquois. One can only wonder what the United States would be without the seizure of half of Mexico's territory in 1848. Conversely, some assume that Hispanics are culturally inferior, lacking initiative, mistrusting outsiders, not valuing education, and accepting poverty as a Catholic virtue. How much initiative does it take for one to leave one's home country with nothing in one's pocket and set off for a strange land with a different language, where some will treat you as illegal and inferior? If Hispanics are lazy, why are so many of our businesses trying to hire them? If they seek to stick to themselves and not learn English or American culture, then why do we have towns like Garden City where Hispanic and Anglo businesses serve both populations and a Hispanic woman was elected as mayor by both Anglos and Hispanics? Why do nearly all second-generation Hispanic immigrants speak English and only 7% retain Spanish as their primary tongue? Why do so many Hispanics seek the right to go to school as Kansans?

Yet another assumption is that the current wave of Hispanic immigrants is unprecedented in U.S. history, that never before have so many new immigrants from one area concentrated themselves in isolated pockets of the United States. They must certainly be creating a permanent society apart. Research has actually shown that Hispanic immigrants are no different than other poor workers who have immigrated to the U.S. in earlier waves, including Mexicans, many of whom now call themselves white. Whatever signs of slower Hispanic integration into the U.S. mainstream are attributable to exclusion by the host population, not a rejection of inclusion by Hispanics. Ironically, the most exclusionary members of our society are the ones who blame and attack the excluded for not including themselves.

One final assumption, and perhaps the most troubling of all, is that culture and genetics are the same, that one is born with one's language, customs, tastes, habits, etc., rather than learning them. This was proven wrong centuries ago, and any adoptive parent of a foreign child knows that a child raised as an American, behaves as an American. But somehow Hispanics are thought to be different, as if their culture were somehow magically engrained in their physical features, as if their genotypes and phenotypes were all the same, as if all of their diverse Latin American cultures were actually the same, as if whites can learn different habits, customs, tastes, routines, vocabulary, jokes, tools, etc., over the course of our lifetimes, but Hispanics can't. If one is a good Samaritan and actually invites a Hispanic family over to dinner, rather than treating them as "illegal aliens", they will quickly discover this to be wrong.

Kansas should invite this hardworking, ambitious, displaced population to the table with cross-cultural outreach programs, rather than slamming the doors on them and their children's fingers. Kansas has the opportunity to set an example to the nation as to what courage and generosity can produce, rather than succumbing to the political agendas of global segregationists. Thank you for the opportunity to appear before you today.



Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

**House Committee on Federal and State Affairs
Testimony by Tim Witsman on
HB 2680, HB 2836 and HB 2921
February 26, 2008**

Thank you very much for the opportunity to appear before you today. I am Tim Witsman, President of the Wichita Independent Business Association and the Kansas Independent Business Coalition.

Are WIBA and business organizations in general supportive of enforcing federal immigration laws? Yes.

Is immigration a federal issue? Yes. "The United States Chamber of Commerce has filed a lawsuit to enjoin Oklahoma's immigration law from interfering with federal law that comprehensively regulates the employment of unauthorized workers."

Should businesses be forced to use the e-Verify system on penalty of losing their business licenses? In November a 254 page evaluation of e-Verify commissioned by the U.S. Citizenship and Immigration Services and conducted by Westat failed to meet the accuracy standards set by Congress. The report stated: "Most importantly, the database used for verification is still not sufficiently up to date to meet the [Illegal Immigration Reform and Immigrant Responsibility Act of 1996] requirement for accurate verification, especially for naturalized citizens."

Is it a good idea for there to be twenty million illegal aliens in the United States? No.

Has the federal government failed to meet the challenge of creating a workable system to permit the level of legal immigration required by our economy and to prevent illegal immigration? Yes.

Is it feasible or the right thing for our economy to deport twenty million people? No. There are only two developed countries that have population replacement rates sufficient to prevent population decline – Israel and the United States. It is immigration that permits the United States population to grow. For those who fear, whether they voice it or not, an overwhelming of the native born by immigrants there are a demographic facts that refute the argument. Once a country, regardless of its religion, ethnicity, or traditions, reaches the stage of having a developed economy the fertility rate slows to below replacement. A prime example is Mexico. As the Mexican economy has grown and strengthened over the past 20 years the fertility rate among Mexican women has dropped from seven children per woman to three.

Should Kansas be among the first states to threaten businesses with loss of their licenses? No. It is an unpleasant and ugly irony when governments that provide incentives for people to enter the country illegally seek to punish businesses for hiring them, even unintentionally. We have a system where the governments reward illegal immigrants but would punish businesses if they went to work and contributed to the economy. It is difficult for businesses to forget when we reluctantly agreed to participate in the Streamlined Sales Tax Program as a pioneer. Kansas businesses went through the effort and cost of changing to a destination sourcing system, only to have more populous states refuse to make the conversion.

HB 2921 provides a mechanism to incent businesses to use e-Verify, increased penalties for identity theft and fraud, and penalties for the exploitation of illegal aliens. These are reasonable and appropriate steps to address the problem at the state level. To do more is to be destructive to Kansas businesses, in particular small business.

I would be happy to answer any questions you might have.

February 26, 2008

**Testimony by Emily Haverkamp, Immigration Attorney
Opposing House Bills 2370, 2680, 2367 and 2836**

To Whom it May Concern:

My name is Emily Haverkamp, and I practice immigration law at the Mdivani Law Firm in Overland Park. Thank you for giving me this opportunity to testify before you today.

As an immigration attorney, I work with many families affected by our immigration laws. For me to even begin working on a family case, a U.S. citizen or permanent resident must be involved. The current federal system makes it difficult for these families to stay together. Kansas should not be compounding the problems these families face.

One thing I have learned through my practice is that there are many shades of gray between being "legal" and "illegal," and how so many families have a mixture of members with and without status. Over 80% of illegal immigrants have at least one family member who is a U.S. citizen or permanent resident. Any measure to punish illegal immigrants will also punish their U.S. citizen and permanent resident family members.

State and Local Law Enforcement Should Not Enforce Federal Immigration Law

I respect and admire local law enforcement, who have a large amount of risk and responsibility in their jobs. However, adding immigration enforcement to their list of responsibilities would be a dangerous measure, as a thorough understanding of immigration laws requires specialization. Because of this, I strongly oppose any measure that requires local law enforcement to enforce federal immigration law.

One of the common refrains about illegal immigrants is "Why don't they just do it legally?" They all would like to, but most potential clients I see have few or no options. Some try and bring in their families from home, and are discouraged when they find wait times as long as 20 years.

For those precious few I can help, it is a long, expensive and trying process. My clients who have applied to "fix their papers" are at risk for deportation until they are finally granted legal immigration status. This will almost always take at least a year and usually it takes longer. During this time, they can be deported if they are caught by immigration. If they are deported, they cannot re-apply for 20 years.

House Fed and State Committee
Feb 26, 2008

It Is a Waste of State Resources to Outlaw Illegal Immigrant Benefits and Voting

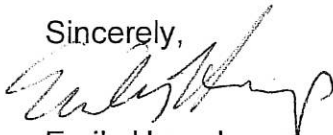
I oppose any measure that uses state law to outlaw public benefits for illegal immigrants. It is redundant, as there are no public benefits they can receive under federal law. There is no evidence that this is an issue. Colorado instituted a similar measure, and it cost them \$2 million to enforce with absolutely no results. We should learn from the mistakes of others and not waste money solving problems that don't exist.

The same goes for measures to outlaw voting by illegal immigrants. Again, there is no evidence that this is a problem. Why spend money on something we don't know to be a problem? We have far too many actual problems to be wasting money on conjecture.

I strongly oppose any bill that includes using of local law enforcement for immigration enforcement. When considering such measures, please remember the pain it would cause the illegal immigrants' U.S. citizen spouses and parents. I also oppose provisions outlawing public benefits for illegal immigrants and making it a crime for illegal immigrants to vote. State resources are too precious to be spending them in this manner.

I am available for any questions or follow-up. I enclose an article on a Kansas family that was divided by the federal immigration system, information about Colorado wasting money on trying to chase mythical illegal immigrant users of public benefits, and the most recent Visa Bulletin, which shows the wait times families face when trying to unite. Thank you.

Sincerely,



Emily Haverkamp

Attorney at Law

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CJOnline.com / Topeka Capital-Journal

Published Sunday, December 31, 2006

Family reunited after immigration ruling

By Tim Carpenter
The Capital-Journal

KANSAS CITY, Mo. — The small piece of ornate paper in Hector Piedra's hands ended months of tears, turmoil and trepidation.

"This is it," he said, fingering the fine print on his U.S. visa.

The cherished document issued Dec. 18 enabled this son of Mexico to return legally to his adopted United States and a reunion with his family. His wife, Jessica Allen-Piedra, and her two children, Jahleel, 9, and Raquel, 3, were waiting at Kansas City International Airport.

"It's wonderful to have him home," said Allen-Piedra, a law student at the University of Missouri-Kansas City.

Piedra, among millions of aliens who moved to the United States in the 1990s, was working in construction and as a musician in the Kansas City area when he met Jessica at a church service. They were married in 2004. Raquel is their daughter.

Weary of Piedra's status as an unauthorized immigrant, the family made a difficult decision. Piedra would voluntarily return to his hometown of Cuernavaca, Mexico, while U.S. immigration officials weighed his application for the K-3 visa issued to spouses of American citizens.



Jason Hunter/The Capital-Journal

Hector Piedra shares family time with children Raquel, 3, and Jahleel, 9. Piedra, a native of Mexico, recently reunited with his family after returning legally to his adopted United States after being granted a visa issued to spouses of American citizens.

[Click here to check for reprint availability.](#)

A reply from immigration agents was expected in three months, but time ticked away and anxiety grew.

"I was getting so depressed," Allen-Piedra said.

In November, good news arrived in the mail.

Piedra would have a visa in December, assuming there were no last-minute snags. His final meeting with immigration officials went smoothly in Ciudad Juarez, Mexico. Within hours, he crossed the border into El Paso, Texas, to catch a flight to KCI.

"Until I got the visa in my hand, I was nervous," Piedra said.

In the wings

23-3

The Piedra family's life in limbo was first chronicled in September by The Topeka Capital-Journal in a story that examined the roots of illegal immigration to the United States. Allen-Piedra shared her thoughts in Kansas City, while Piedra was interviewed in Cuernavaca.

Allen-Piedra was frustrated with the pace of decision making by immigration officials. She was a single parent enrolled in law school. There was no guarantee her family would ever enjoy the legal status taken for granted by so many U.S. citizens, but Allen-Piedra maintained a faith that it would all work out in the end.



Jason Hunter/The Capital-Journal

Jessica Allen-Piedra, wife of Hector Piedra, was head of the household for about the past year while her husband returned to Mexico awaiting the approval of a special visa.

[Click here to check for reprint availability.](#)

Piedra wasn't as confident. There was fear in his voice. He wept at the possibility of rejection.

"Never going back," he said at that time. "That's the fear I have now."

Once the visa was issued, the tough part was over. The family would no longer live apart. It was the turning point of an immigration success story. There will be more dreary paperwork on the horizon as Piedra seeks a temporary work permit before applying for permanent residency and, in perhaps three years, U.S. citizenship. For now though, it is all good.

But for every family's happy turn on the immigration merry-go-round, there is a family struggling to obtain a slice of security.

A case in point is Isabel Solis, a lifelong Topekan, and her husband, Dionicio.

Dionicio Solis, whose mother died when he was an infant, came to the United States at the age of 11 when his father in Mexico could no longer care for him. Solis moved to Topeka a couple of years later and has spent the past decade working in the capital city.

In 2002, Dionicio and Isabel married. They have a daughter, Esperanza.

Previous installments in the series

Over the past four months, The Topeka Capital-Journal has produced a series of stories exploring the explosive issue of illegal immigration.

Sept. 3, 2006

- [Dangerous Crossings: The Mexican Dream](#)
- [Dangerous Crossings: Where villains are the heroes](#)
- [Dangerous Crossings: Venturing where many want to leave](#)

Sept. 17, 2006

- [Citizenship earned, not taken for granted](#)

23-4

Like Piedra, Dionicio Solis was never deported from the United States. And, just as in Piedra's case, he returned to Mexico voluntarily to usher the visa application through the process.

Oct. 22, 2006
Nov. 19, 2006

- 'Can't stop' illegal immigration
- Citizen groups join the war
- Jail a station on the deportation line

"He's there now," Isabel Solis said. "We don't know how long it will take. I've heard about cases in which people get stuck in Mexico for two years without seeing their families."

- Employers face quandry about hiring immigrant workers
- Reimbursement for treatment of illegals hard to get
- Many companies fill seasonal labor needs with 'guest workers'
- Employers struggle to validate identification documentation

Dec. 17, 2006

The future

While separation anxiety is tough on adults, children in these families have huge problems with the absence and emergence of a parent.

- The politics of immigration
- A hot-button issue in Kansas
- Local services for undocumented immigrants questioned
- Readers offer views online
- Immigration - Journey: Parties face competing demands
- Immigration - Holland: Understand underlying causes
- Immigration - Lewis: The current system is broken
- Immigration - Murguia: It's time for Congress to act

When Piedra stepped off the airplane at KCI, his 3-year-old daughter was uncertain how to react.

"Raquel was really confused to see him," Allen-Piedra said. "She didn't know whether she wanted to hug him or not."

On the drive to their apartment, Raquel opened up.

"When are you going back to Mexico, Daddy?" she asked.

"Not for a long time," he assured her.

Allen-Piedra said reunification of the family was an ongoing adjustment.

"We're happy," she said, "but it is weird. I've been running the show for a year. He's been a single guy, being a musician, for a year. We're trying to be patient."

Allen-Piedra said some of the anguish for families of visa applicants could be diminished if Congress reformed immigration law. For example, Piedra was required to obtain a U.S. government waiver from a law that bans him from applying for a visa for a decade because he resided in the United States for at least one year without authorization.

She said the 10-year rule should be eliminated for individuals married to a U.S. citizen.

"I think reform should be done in pieces rather than try and get a blanket amnesty," Allen-Piedra said. "We need to focus on those people attached to a U.S. family."

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In addition, she said, immigration law in the United States has become so complicated that a person often needed a lawyer to navigate the maze.

"There's plenty of work out there," said Allen-Piedra, who has three semesters left of law school.

Down the road, Piedra said he wanted to re-establish the construction business he operated prior to leaving the country in January. He expects to have a U.S. work permit within three months. Obtaining permanent residency won't take longer than one year.

The final piece of the puzzle would be citizenship.

"Why not?" Piedra said. "I've come to live a different life."

Tim Carpenter can be reached at  (785) 295-1158 or timothy.carpenter@cjonline.com.

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MADELEINE BRAND, host:

And I'm Madeleine Brand.

Colorado likes to brag that it has the toughest immigration laws in the country. Last summer it passed a law that denies most state services to undocumented immigrants. Then governor, Bill Owens, predicted the law would mean fifty thousand fewer people on welfare. Well that did not happen. In fact, it's costing the state money and it's had some other unintended consequences. From Denver, NPR's Jeff Brady reports.

JEFF BRADY: The law created tougher guidelines for those applying to receive all but emergency services. Even with fake documents it would be difficult for someone in the country illegally to get past these requirements.

Unidentified man: The trouble is it's also become a little tougher to get public benefits in Colorado, even if you are here lawfully.

BRADY: State house speaker Andrew Romanoff along with everyone else has read the accounts in local papers. There's the lawmakers daughter who had trouble getting a driver's license because her only ID was a U.S. passport and that's not sufficient to prove citizenship under the Colorado law. Then there was the elderly woman who was told she'd have to prove her citizenship to receive a hundred dollar rebate for installing low flow toilets. Some consequences are less concrete. Immigrant advocates say the law has poisoned an already hostile political climate. Raquel Sanchez is a co-founder of Sueno Americano or American Dream.

Ms. RAQUEL SANCHEZ (Co-founder of Sueno Americano) (through interpreter): Not too long ago there was a case of a person in our group who went to a large store that has locations all over the country, just to exchange a piece of clothing - they asked for ID and would only accept ID from the United States.

BRADY: A few weeks back Colorado lawmakers asked agencies to tally up the costs and savings of the new law. In all, the state has spent over two million dollars to implement it. And the savings from kicking migrants here illegally off the welfare rolls? Nada. Over at the state capitol building senator Dave Schultheis says the law wasn't about saving money.

Mr. DAVE SCHULTHEIS (Colorado state senator): Maybe there's not thirty thousand illegal aliens that are utilizing this system. That's not the issue. The issue is if there are ten, that's too many; and if there are five, that's too many. No one that is here in this country illegally should be using hard earned taxpayer dollars. It's not right.

BRADY: Schultheis wouldn't be surprised if those numbers stayed low. He agrees with the dominant theory among immigration researchers that people don't risk their lives crossing the border to tap into our welfare system. They come here to work. Researchers say migration within the U.S. backs up this contention too. Instead of moving to states with relatively generous welfare programs like California, immigrants are choosing states in the Rockies, the Midwest, and the Southeast where there are plenty of jobs. And for the few who do want benefits, a 1996 welfare reform law made that illegal. Michael Fix is with the Migration Policy Institute.

Mr. MICHAEL FIX (Migration Policy Institute): In many ways these bars that people are putting on benefits for the undocumented is the equivalent of putting a second lock on, on the front door. I mean, the door was already locked, the benefits were already barred, and so it's not surprising that you get results like you see in Colorado where the savings are comparatively small.

BRADY: Advocates for immigrants have asked Colorado's democratic leaders in the legislature to change or repeal the law but that appears unlikely. Especially considering immigration is still a hot political issue in this state.

Jeff Brady, NPR News, Denver.

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Visa Bulletin

Number 116
Volume VIII
Washington, D.C.

VISA BULLETIN FOR MARCH 2008

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A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during March. Consular officers are required to report to the Department of State documented qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applications for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by February 8th in the chronological order of the reported priority dates. If the demand could not be satisfied within statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within numerical limits. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual numerical family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers.

A. Spouses and Children: 77% of the overall second preference limitation, which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers required by first three preferences.

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EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are

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available only for applicants whose priority date is earlier than the cut-off date listed below.)

Fam-ily	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPP-INES
1st	15FEB02	15FEB02	15FEB02	01JUL92	01MAR93
2A	15APR03	15APR03	15APR03	01MAY02	15APR03
2B	08FEB99	08FEB99	08FEB99	01APR92	01FEB97
3rd	15MAY00	15MAY00	15MAY00	15JUL92	01APR91
4th	15JUL97	01DEC96	01NOV96	15NOV94	22FEB86

***NOTE:** For March, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAY02. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAY02 and earlier than 15APR03. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIP-PINE
Employ-ment -Based					
1st	C	C	C	C	C
2nd	C	01DEC03	U	C	C
3rd	01JAN05	01DEC02	01AUG01	01MAY01	01JAN05
Other Workers	01JAN02	01JAN02	01JAN02	01JAN02	01JAN02
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C

The Department of State has available a

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Kansas State Legislature
Federal and State Affairs Committee
Topeka Ks.

Date: February 26, 2008

Subject: Immigration issues, HB 2680 session of 2008.

Committee Chair, Members and Guest.

The Immigration bills as presented by this Legislature Session fails to address the Immigration Issues for the State of Kansas. These bills, each and every one will lead America down the path of a Third World Nation. As Kansas Legislatures, you are attempting to Legislate an issue that is not an issue only with-in the State of Kansas, however is a Federal Issue. I question a state authority to legally take action against any illegal immigrants while they are, in many cases, supported by actions of this nation's leadership. The President of the United States has placed two border guards in prison that were protecting our borders. Most of the Kansas delegation has supported the illegal immigration issues, and continue to do so.. Following this action you are now taking will not solve, but perpetuate the issue.

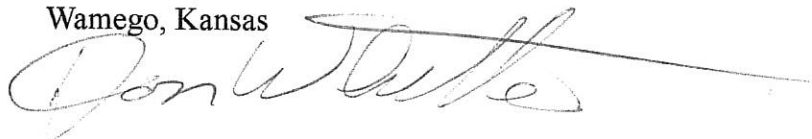
Immigration is a National Issue of great concern as the infiltration of migrants through Mexico spread out across America, thus impossible for control by individual states. The migration movement is not only from Mexico, many countries are involved. China, Africa, Southern Asia, South and Central America and other countries worldwide are continually crossing Mexico's Southern Border. This migration from within the Central America region follows two Northern pathways. The Western route leads from Nicaragua through El Salvador, Guatemala and Mexico's Southern Border. The East Central route runs from Honduras through Guatemala, crossing the Southern border of Mexico.

The influx of immigrants across Mexico's Southern and Northern borders, presents a unique international situation, confronting the infrastructures of both countries, the United States and Mexico. This out of control movement can come to a satisfactory settlement only through negotiations by the leadership of both the United States and Mexico, absolutely not through individual state legislation as being attempted here.

Unfortunately the immigration issue is only the tip of the ice berg as confronting issues for America's future. Congresswoman Nancy Boyda has brought many closeted issues to the forefront. Many issues directly, and or, indirectly associated with the immigration issues. The "Smart Port" controlled by foreign powers, a Super Corridor, open borders, West Coast Ports and shipping being operated from proposed Ports of Entry in Mexico, complimenting the now started Corridor.

This being a National Issue, the first move is: Deny citizenship to "anchor babies". The Kansas State Leadership must work very closely with members on Capital Hill. The absolute solution, A reform that recognizes the meaning of "illegal", limits immigration population to the capacity of the environment, and needs of the United States industry. The time has come to put America First.

Don Whitten
Constituent, House District 61
Wamego, Kansas



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Feb 26, 2008

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STATEMENT OF PAUL KANE
EXECUTIVE VICE PRESIDENT/CEO
HOME BUILDERS ASSOCIATION OF GREATER TULSA

As is commonly known, Oklahoma has enacted legislation to address immigration. This law is known as the Oklahoma Taxpayer and Citizen Protection Act of 2007, also known as 1804 ("1804"). The big issues which have been of concern to the members of the Home Builders Association of Greater Tulsa (the "HBA"), have been the unintended consequences of 1804. First, it should be known the HBA does not endorse or condone illegal entry in the country, or any other illegal activity for that matter. However, 1804 has done more than change the attitudes of undocumented workers and their employers, it has impacted the attitudes of a vast number of immigrants, many of whom are documented, law abiding, tax-paying workers.

Even though 1804 did not go into effect (in part) until November 1, 2007, the impacts of the law began well before then. In mid-August, the HBA began receiving reports of a "mass exodus" of Hispanics from the Greater Tulsa area because of the impending 1804. Some were leaving because they were, in fact, undocumented (which was the intended affect of 1804); some left because they were friends or family of undocumented workers (which was not necessarily intended by 1804); and some left because they believed that there was an emerging "anti-Hispanic" environment in Tulsa (which some argue was intended with the law, and other argue was not intended).

What we discovered in the weeks and months which followed was that 1804 created such a culture of fear within the immigrant population, that rumor after rumor began emerging as to what this law was all about. We began hearing of ICE job site raids on construction sites, road blocks to check identification and police intimidating immigrants at convenient stores. Many Hispanics stopped showing up for work in order

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to avoid the potential of harassment by federal officials. Even documented workers are intimidated by federal officials and didn't want to run the risk of being mistaken as undocumented.

One such rumor was that a job site raid had occurred at a particular subdivision in Tulsa. Under this story, ICE came rolling in with their trucks, lined up all the immigrant workers, loaded them in the trucks and deported them. After weeks of attempting to get the bottom of this story, we discovered the truth behind the story: Apparently, some ICE officials did, indeed show up at the job site in question. But instead of being there to conduct a general raid, they were there to serve a felony warrant on a known felon. Naturally, in order to find this felon, they had to check the identity of various workers. No workers, other than the felon sought, were taken away.

On another occasion, there was a rumor of the Sheriff's department having parked outside a predominantly Hispanic Catholic church, waiting for mass to get out so they could card the parishioners. This never happened. Clearly, this was an inflammatory rumor, intended to frighten the Hispanic population.

Is the fault of 1804 that people are spreading unsubstantiated rumors? Maybe not directly. However, much of the talk surrounding the enactment of 1804 was that it was the "toughest immigration law in the nation". While many of the immigrant community did not understand the nuances of the law itself, they believed they were being targeted as an ethnic group.

1804 has had an impact not just on the undocumented workers, but on the law abiding immigrants as well. For example, you might have a documented worker, who has three children who were all born in the U.S. (and are therefore citizens), but his wife is undocumented. They flee to avoid the law. Accordingly, five people have now

left to avoid problems for one. And one of those who left is a documented worker who is supporting the Oklahoma economy.

Ultimately, this is not about amnesty or allowing undocumented workers to avoid the law. It is about the recognition that the immigrant population has a significant place in the economy. And that the immigration problem is one of national proportions. As every state passes its own version of an immigration law, confusion and inconsistencies among laws emerge. What will result is a patch-work quilt of laws across the country in which no two states' immigration laws are the same. This will have a negative and adverse impact on interstate commerce. This problem is exacerbated when individual municipalities began enacting their own ordinances to "deal with the problem". This has already begun happening in Oklahoma, and it has probably started happening in Kansas too.

This a federal issue. It must be addressed by the federal government. While it is understandable that many U.S. citizens are frustrated by the federal government's failure to resolve this issue so far, this is no reason to "take matters into our own hands". This is analogous to vigilantes engaging in their own version of "law enforcement" because they think the local Sheriff isn't doing his job well enough. It is not the job of states to control the borders or immigration any more than it is the job of vigilantes to go track down a local criminal. We should be putting pressure of the federal government to solve this issue for all Americans, once and for all!

Immigration Survey Results

The following information was collected from an online survey of Builder Members of the HBA of Greater Tulsa in November 2007.

Survey population: 178

Response rate: 25.3%

Sample size: 45

1. Estimate of percentage of workers lost as a result of recent immigration issue.
 - a. 20% of respondents have lost no workers
 - b. 80% of respondents have had a loss, and the average loss is 20% of workers.
2. Estimated increase in costs.
 - a. 33% (one-third) of respondents have experience no increase in costs
 - b. 66% of respondents have experienced an average of 10% in cost increases.
3. Percentage that prices have increased to offset higher costs.
 - a. 51% of respondents have not increased prices.
 - b. Of the remaining respondents, they have increased prices by an average of 10%.
4. Measure of delays
 - a. 55% of respondents are experiencing delays of weeks due to loss of labor force
 - b. 42.5% of respondents are experiencing delays of days due to loss of labor force
 - c. 2.5% of respondents are experiencing delays of months due to loss of labor force
5. Belief that they will lose more workers in the future if Oklahoma's immigration law stays in effect:
 - a. Yes: 81.4%
 - b. No: 18.6%
6. Concerned that worker status verification system required beginning July 1, 2008 will cause a burden in time and money on business.
 - a. Yes: 95.2%
 - b. No: 4.8%

The following information was collected from an online survey of Associate Members of the HBA of Greater Tulsa in November 2007.

Survey population: 683

Response rate: 8.8%

Sample size: 60

1. Estimate of percentage of workers lost as a result of recent immigration issue.
 - a. 76.3% of respondents have lost no workers
 - b. 23.7% of respondents have had a loss, and the average loss is 37% of workers.
2. Estimated increase in costs.
 - a. 82.5% (one-third) of respondents have experience no increase in costs
 - b. 17.5% of respondents have experienced an average of 17% in cost increases.
3. Percentage that prices have increased to offset higher costs.
 - a. 78.6% of respondents have not increased prices.
 - b. Of the remaining respondents, they have increased prices by an average of 13.6%.
4. Measure of delays
 - a. 60.7% of respondents are experiencing no delays
 - b. 17.9% of respondents are experiencing delays of weeks due to loss of labor force
 - c. 17.9% of respondents are experiencing delays of days due to loss of labor force
 - d. 3.6% of respondents are experiencing delays of months due to loss of labor force
5. Belief that they will lose more workers in the future if Oklahoma's immigration law stays in effect:
 - a. Yes: 38.6%
 - b. No: 61.4%
6. Concerned that worker status verification system required beginning July 1, 2008 will cause a burden in time and money on business.
 - a. Yes: 53.4%
 - b. No: 46.6%

Bud Hentzen
3310 Woodrow
Wichita, KS 67204
(316) 267-3321 office

February 26, 2008

House Committee on Federal and State Affairs
Kansas Legislature
State Capitol
Topeka, KS 66612

Subject: My testimony is presented opposing the bills being presented regarding immigration here in Kansas.

Mr. Chairman, and members of the House Committee on Federal and State Affairs, thank you for allowing me this opportunity to speak to you opposing the passage of the current bills on immigration.

I was born here in Kansas, graduated from the University of Kansas in 1951. Most of my life has been lived here in Kansas and frankly, believe that this country adopted the free enterprise system of business activity. It seems to me that this system has done more for more people than any other system devised. Our system is better than communism, better than socialism, better than fascism and so forth.

I have been allowed to participate in the "American Dream" starting Hentzen Contractors, Inc. forty five years ago. After participating and working with members of the Wichita Area Builders and the members of the Wichita Independent Business Association I suggest we are proud of being able to pay good wages and attractive working conditions. It appears to me the present bills being considered are blaming the businesses in our state as the culprit to regarding immigration. Many of the sections of the proposed bills are anti-business and I believe will result in many unintended consequences.

Let me conclude by speaking shortly about the people who come here to fill the jobs that are available. I believe I have earned the right to speak about their problem. Co-founder of 501C3 Charitable Foundation – 25 years ago.

Mexico, Guatemala, Honduras, Salvador, Haiti, Dominican Republic, Columbia, Venezuela and Chile, to name some of the countries in our hemisphere. We have over 200,000 poor children and elderly persons sponsored in the above countries. We have an additional 100,000 persons sponsored in India, the Philippines and Africa.

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House Committee on Federal and State Affairs

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I believe it would be a mistake to pass the current immigration bills. It would be an extremely difficult and involved paper network if all fifty states developed their own set of immigration bills. I believe it should be set upon the Federal Government of this country to create workable immigration bills that would be cover everyone.

Sincerely,

Bud Hentzen

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STATEMENT OF WILLIAM J. MARONI

**CHIEF EXTERNAL AFFAIRS OFFICER
SOCIETY FOR HUMAN RESOURCE MANAGEMENT**

SUBMITTED TO

**KANSAS HOUSE OF REPRESENTATIVES
COMMITTEE ON FEDERAL AND STATE AFFAIRS**

FEBRUARY 26, 2008

Chairman Siegfried, Ranking Member Peterson, and Members of the Committee. My name is William Maroni and I am the Chief External Affairs Officer of the Society for Human Resource Management (SHRM). On behalf of the SHRM and the Human Resource Initiative for a Legal Workforce, a coalition of HR and employer organizations, I am grateful for the opportunity to provide testimony to the Committee on this important issue.

The Society for Human Resource Management is the world's largest association devoted to human resource management. Representing more than 230,000 individual members, the Society's mission is to serve the needs of human resource professionals and to advance the interests of the HR profession. In Kansas alone, we have 2,800 individual members representing businesses across the state's economy.

The Human Resource Initiative for a Legal Workforce represents human resource professionals in thousands of small, medium and large U.S. organizations in every sector of the American economy. The HR Initiative coalition – which, in addition to SHRM, include American Council on International Personnel, College and University Professional Association for Human Resources, the Food Marketing Institute, HR Policy Association, International Public

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Management Association for Human Resources, and the National Association of Manufacturers – seeks to improve the current process of employment verification by creating a secure, efficient and reliable system that will ensure a legal workforce and help prevent unauthorized employment.

We appreciate the opportunity to offer our expert opinion on whether the state of Kansas should require the use of E-Verify, the current, voluntary employment verification system managed by the Federal government. In organizations throughout the nation, our members are on the front lines of verification challenges. We have first-hand experience in real workplaces with what is effective and what is not.

SHRM and the HR Initiative coalition support a federal electronic employment verification system. We are committed to only hiring work-authorized individuals and we have endorsed the development of an effective, efficient, national electronic employment verification system. However, the current employment verification system is in need of real reform. Until such reforms are enacted, we strongly recommend that the Kansas Legislature reject efforts to mandate the use of E-Verify, which is little more than an inadequate quick fix solution to a growing national problem.

SHRM and the HR Initiative coalition believe E-Verify is the wrong choice for Kansas for several reasons.

First, E-Verify is not reliable. It uses the Social Security System database, which has a 4.1 percent data error rate. If all U.S. employers were to use the system, millions of U.S. citizens and legal residents could potentially be denied employment due to bureaucratic errors. Moreover, the error rate for legal foreign-born workers is estimated to be as high as 10 percent, thereby opening the door to increased discrimination based on national origin.

According to testimony before the U.S. Congress by the Social Security Administration's own Office of the Inspector General, a 4.1 percent error rate in the 435 million Social Security records could result in false employment status for approximately 17.8 million citizens and legal

residents of the United States. By extension, tens of thousands of Kansans likely would be adversely impacted.

This error rate is unacceptable – especially when it will impact the ability of legal workers to obtain jobs. We should not place human resource professionals and their employers in the middle – subjecting them to stiff penalties if they mistakenly hire an unauthorized worker, while exposing them to potential lawsuits if they deny employment to a legal worker – all because of faulty government data and processes.

Second, E-Verify is unable to detect document fraud and identity theft. This leaves all employers vulnerable to sanctions through no fault of their own. This is because E-Verify does not verify the authenticity of the identity being presented for employment purposes, but rather only that the identity presented matches information in the Social Security and Department of Homeland Security databases.

Although the name E-Verify implies the system is electronic, it still relies on paper documents. Simply stated, unauthorized workers are using stolen Social Security numbers, fake certificates and drivers' licenses, and fraudulently-obtained but "legitimate" photo IDs to bypass the system and gain employment. And E-Verify cannot stop it.

The proliferation of false or stolen documents can and does cause reputable employers to mistakenly hire individuals who are not eligible to work. At the same time, the lack of certainty and the threat of government-imposed penalties may lead some employers to delay or forego hiring legal workers who are eligible. In either case, the costs are high for both U.S. employers and legal workers.

E-Verify calls upon human resource professionals to be part immigration agent, part border-patrol guard, and part CSI expert. U.S. employers, whether large or small, cannot be expected to consistently identify unauthorized workers using the existing system, but they are liable for severe sanctions if these workers find their way onto the payroll. At the same time,

they are subject to claims of discrimination if they question the validity of documents too strenuously.

Employers need the right tools to verify a legal workforce. We believe employers are entitled to a quick, unambiguous, and accurate answer from the government to the query whether an employee is authorized to accept an offer of employment. Unfortunately, mandating E-Verify will not meet this need, and may make the challenges more difficult for reputable employers and legal employees.

Third, E-Verify was established by Congress as a voluntary pilot program. As such, it is ill-equipped to handle a massive influx of users.

On February 12, 2008, the U.S. Citizen and Immigration Services reported that 52,000 employers were now using the E-Verify system, and 1,000 new registrations were signing up every week. However, these numbers represent only a tiny fraction of the nearly 6 million employers in the United States.

E-Verify is not only far from fool-proof, it is not ready to meet the challenge of massively increasing its participant level as more and more states begin requiring participation.

Fourth, more laws in different states means more muddle and mistakes, and less security. The proposed Kansas law, when added to numerous other state and local ordinances aimed at deterring illegal immigration, is likely to create a confusing and ineffective patchwork of federal and state laws.

According to the National Conference of State Legislatures, states enacted 246 immigration-related laws in 2007 — that's triple the number passed in 2006.

Clearly, this is a reaction to the gridlock holding up immigration reform efforts in Washington. The desire to deter illegal immigration proactively by ending unauthorized

employment is both understandable and laudable, and one we support. State legislatures, such as here in Kansas, feel the need to step in and do something on an issue of such great importance.

In fact, dozens of states have already acted or are in the process of considering legislation in the area of employment verification. What is resulting, however, is a confusing and complex array of laws and regulations that could make it all but impossible for multi-state businesses to obey, and that do not serve the interests of employers, employee or the country.

For example, the Arizona law that mandates employers to use E-Verify is countered by a law in Illinois that prohibits employers in that state from using the system. Illinois passed its law to protect workers in Illinois from the significant error rate in the federal program. While the state has temporarily suspended enforcement of the law, multi-state employers could ultimately find themselves in a Catch-22 situation, forced to choose between obeying the law in Arizona or Illinois.

Incidentally, it is worth noting that the Arizona law is currently under legal challenge in the federal courts. If Kansas enacts the pending legislation, thereby mandating participation in E-Verify by your state's employers, you will replicate many provisions contained in the controversial Arizona law that has been strenuously opposed by organizations representing employers, civil rights groups and legal immigrants.

Finally, since E-Verify was intended to be a pilot program, it is due to expire at the end of 2008. This deadline provides Congress with a perfect opportunity to enact the next generation of employment verification -- and a system that truly works -- for employers and employees.

Toward this goal, SHRM and the HR Initiative coalition have endorsed the concept of a secure, reliable, economic, and truly electronic national employment verification system, and we are actively promoting new legislation that will be introduced in the U.S. Congress this week. This legislation, entitled the "New Employee Verification Act," will create a state-of-the-art employment verification system that can protect the identities of American citizens and give employers the tools they need to obtain fast, accurate information about potential hires.

SHRM and the HR Initiative coalition support this new federal legislation that would replace the current, ineffective verification process with Electronic Employment Verification System (EEVS). The new system would:

- Enhance security by requiring employers to verify a worker's identity through the use of biometrics, more secure documents and document-screening tools. It also would use the State New Hire Registry, a process already mandated for use by employers to enhance child support enforcement.
- Confirm U.S. citizenship from Social Security databases and check the work authorization status of non-citizens through Department of Homeland Security (DHS) databases, giving employers a "yes" or "no" on whether employment is authorized.
- Provide employers a safe harbor through reliance on system information, along with a reasonable phased-in implementation schedule designed to achieve deterrence of illegal immigration and unauthorized employment, while providing employees needed protections against discrimination.
- Ensure privacy and accuracy by requiring direct consultation with public and private sector experts and stakeholders in designing the system, along with requiring annual reporting by the Social Security Administration and the Government Accountability Office on its operations.

SHRM and the HR Initiative coalition believe this new system could eradicate virtually all unauthorized employment – thereby eliminating a huge incentive for illegal immigration. It also will eliminate discrimination by taking the subjectivity out of the verification process.

True employment verification is the only way to ensure fair and equitable treatment for those individuals who should have access to legitimate jobs. It is essential for a legal workforce and for America's national and economic security.

We urge you to reject efforts to mandate E-Verify in the state of Kansas, and instead to support new legislation that will guarantee true employment verification.

On behalf of SHRM and the HR Initiative coalition -- and the millions of workplaces and employees we represent -- we are grateful for this opportunity to offer our views.



Employment Verification

November 2007

Produced by the SHRM® Governmental Affairs Department

Background

Under the Immigration and Nationality Act (INA), it is unlawful for an employer to knowingly hire or continue to employ an alien who is not authorized to work in the United States. The Immigration Reform and Control Act of 1986 requires employers to examine up to 29 different documents presented by new hires to verify identity and work eligibility and to complete and retain the Form I-9.

Employers may also elect to participate in an electronic employment eligibility verification system, known as the Basic Pilot (sometimes referred to as E-verify). Participants in the Basic Pilot electronically verify employment authorization of new hires through Social Security Administration (SSA) and Department of Homeland Security (DHS) databases. Currently, only 20,000 out of 5.6 million U.S. employers participate in Basic Pilot.

Issue

America's human resource professionals recognize the critical need to improve the federal employment verification system, and endorse the creation of a secure, efficient and reliable electronic system that will help prevent unauthorized employment. However, the current verification system is an inherently subjective and ultimately insecure process, as sophisticated fraudulent documents are easily acquired, allowing an unauthorized worker to obtain employment. In addition, innocent paperwork violations and data entry errors are not uncommon, and can cause ongoing problems for employers and employees alike.

According to the *2006 SHRM Access to Human Capital and Employment Verification Survey Report*, 60 percent of survey respondents indicated that their organizations experience challenges with the current employment verification process.

Finally, the Basic Pilot still relies on paper documentation. The program's accuracy is therefore undermined by the proliferation of fraudulent ID's, as it cannot verify the authenticity of the identity documents, only that a given name matches information in the Social Security and DHS databases.

Status

In an effort to make an impact on illegal immigration, the federal government is increasingly focused on workplace enforcement. Although comprehensive immigration reform proposals is not considered likely, efforts to require mandatory participation in the Basic Pilot program continue to garner interest in the 110th Congress.

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SHRM Position

To ensure effective enforcement of immigration laws, the federal government must provide U.S. employers with a fast and reliable method to confirm whether new hires are legally authorized to work in the United States.

However, the current I-9 verification system and Basic Pilot are unreliable and susceptible to identity fraud. As an alternative, SHRM has urged Congress to improve the Basic Pilot system by incorporating state-of-the-art technologies that would ensure that only work-authorized individuals can gain employment in the US.

If adequately funded, fairly administered and strictly enforced, a new federal electronic workforce verification system would:

- Eliminate virtually all unauthorized employment;
- Provide certainty for employers;
- Protect the identity and personal information of legal workers; and
- Prevent national origin or other related discrimination in the employment verification process.

Talking Points

- SHRM and its members share the goal of a legal, authorized workforce.
- However, because current federal employment verification practices and tools remain dependent on paper documents – which can easily be faked – employers cannot be expected to always distinguish if a prospective employee is in fact who he or she claims to be.
- Before focusing on “enforcement only,” the federal government must develop an efficient and foolproof system to ensure a legal workforce – which is the key to an effective immigration policy.
- Congress should not create an electronic verification requirement on top of the current I-9 requirements, as it will always be vulnerable to fraud.
- Fixing the federal employment verification system by establishing a reliable and efficient state-of-the-art electronic system is the only way to guarantee a legal workforce, and should be a top priority for Congress in 2008.
- **TELL YOUR STORY:** *How have you and your organization been impacted by the current employment verification system? Discuss any challenges that you have had with the current employment verification system.*

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How To Ensure A Legal Workforce

By Susan R. Meisinger

Meaningful immigration reform has eluded policymakers in Washington for years. This month, the U.S. Senate plans to take up that challenge again, as debate begins over a comprehensive legislative plan.



Susan R. Meisinger

The easy availability of jobs in the United States—and the need by U.S. employers to fill those jobs—are strong incentives to look for simple solutions, like stricter enforcement. Unfortunately, such an approach is why our current employment verification system doesn't work now and won't work as promised.

True immigration reform must begin with a better system for certifying that an applicant is authorized to work in the United States.

Currently, employers can pick from two equally-flawed options offered by the government, one paper-based, the other an electronic program. The paper-based system is as "advanced" as it sounds, requiring an employer to inspect and verify the authenticity of as many as 29 different types of identify documents, all of which are prone to fraud, counterfeiting and theft.

HR cannot—and should not—be America's surrogate border patrol agents.

The so-called electronic system isn't much better since it still relies on paper documents that are checked against outdated electronic databases. Known as the "Basic Pilot" since it was created in 1996, it remains basic, untested and unreliable. Only 13,000 employers in the United States use this program, and it still fails to confirm immediate eligibility as often as 15 percent of the time. It also isn't designed to catch identity theft. Imagine what will happen if all *six million* employers are required to use the "Basic Pilot" as part of immigration reform.

Under these existing programs, U.S. employers, whether large or small, cannot be expected to consistently identify undocumented workers, but they are liable for severe sanctions if these workers find their way onto the payroll. At the same time, the lack of certainty and threat of government-imposed penalties leads some employers to

delay or forego hiring legal workers who are eligible. In either case, the costs are high for both U.S. employers and legal workers.

As the representative of more than 217,000 human resource professionals, the Society for Human Resource Management (SHRM) understands the dilemma facing the country's workplaces. Today, HR professionals are responsible for a wide range of employment policies and programs. However, HR cannot—and should not—be America's surrogate border patrol agents. Sadly, that's exactly what we're forcing human resource departments to do.

There is a more effective solution. SHRM and like-minded organizations formed the "HR Initiative for a Legal Workforce" to help develop an effective employment verification system based on the following five principles:

Create a set of rules and shared responsibilities that work for everyone. Don't force employers and HR managers to become immigration agents. And let's stop what might become a dizzying patchwork of 50 different state regulations.

Make it fair to employers and employees. The penalties should fit the crime, not punish unintentional mistakes.

Guarantee that it actually works. No employers should be forced into a system unless it can be shown to work every time. No potential employee should lose a job because of a flawed, slow or inaccurate verification system.

Make it easy. The system needs to be simple enough for the smallest employers to embrace it.

Go high tech—and tamper-proof. Use technologies that will make identity fraud impossible. This could be biometric identifies or another option that cannot be counterfeited or stolen. Choose what works.

A new verification system based on these principles could put an end to virtually all unauthorized employment—thereby eliminating a major incentive for illegal immigration.

It's been said "Immigration is the sincerest form of flattery," and we don't disagree. But true employment verification is the only way to ensure a legal workforce—and fair treatment for anyone who should have access to a legitimate job. America's national and economic security depend on making this a reality.

Susan R. Meisinger is President and CEO, Society for Human Resource Management, and a founding leader of the "HR Initiative for a Legal Workforce" coalition.



HR: Leading People,
Leading Organizations

My name is Nestor Leon. I am the Human Resource Manager for Artistic Designs Lawn and Landscape. We are currently holding certification issued to our company from the federal government clearly stating qualified workers cannot be found in the United States. Our qualifications clearly state we do not required experience or training. We have met all the requirements to participate in the H2B program. We have jumped through every hoop required to get this certification. Not only is this process time consuming, it is expensive. Since Congress has not authorized the extension of the returning workers and only 66,000 visas were available, we are not getting any workers. We cannot hire workers without authorization without losing our business license but you will not give us the resources we need. We are currently facing up to 30 lay offs of American personnel or worse going out of business. We have done everything asked of us including E-Verify and our problem just gets worse, and the legislators are not getting it. Instead of doing something to get us legal workers so our business and our employees can remain working, they are finding new ways to punish us.

We have tried to hire legal American workers as well as legal foreign workers without success. For this reason, we have applied for the H2B program. We offer a wage above and beyond the prevailing wage and require no previous experience. Last year we hired 75 American workers and out of that 75 we have only one of them still employed. The remaining workers quit within the 2-3 days often without notification. As required by the H2B program we advertised for workers this year. We did not receive a single application. The truth is American workers do not want the seasonal work. Our season runs for 8 months with a 4 month lay off. We have also tried to hire students but they are in school for a good part of the season.

On behalf of my company, our legal workers, and me I am against these anti-business laws.

House Fed and State Committee
Feb 26, 2008

Attachment 29



STATEMENT OF
KANSAS BUILDING INDUSTRY ASSOCIATION
TO THE HOUSE FEDERAL AND STATE AFFAIRS
COMMITTEE
REPRESENTATIVE ARLEN SIEGFREID, CHAIR
REGARDING IMMIGRATION LEGISLATION

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association. KBIA is the statewide trade association of the residential construction industry, with over 2300 member companies.

KBIA is opposed to illegal immigration. We support efforts to provide comprehensive immigration reform at the federal level. Along with the National Association of Home Builders and 800 other state and local home builders associations, we have been working for over four years to address this issue.

Homebuilders provide jobs for legal immigrant workers. Attached to my statement is statistical information, showing the percentage of foreign born workers employed in construction industries. In Kansas, that is about 3.5%, compared with over 19% nationally. Our industry has found these workers to be hard-working and skilled. Also attached to my statement are U.S. Department of Labor statistics data showing that workers in construction occupations in Kansas make good wages. Our members' objective is to get the job done and done well, in compliance with all federal, state and local regulations, not to have "slave" labor or to hire workers illegally.

We understand that there is great frustration on the part of Americans that Congress has not acted on this issue. We share that frustration, but we also know this is a very difficult issue to address effectively. The National Association of Home Builders has been working hard with other business groups at the national level to develop consensus legislation that can be passed by Congress and will effectively address employer issues.

Understandably, employers who are acting in good faith and to the best of their knowledge following the law have concerns about legislative initiatives that would penalize them if despite their good efforts they are found to have an illegal worker. They want to know with certainty that those they hire are legal to be in this country. They also have concerns about inaccuracies and mistakes with the federal systems for ascertaining legality to work and don't want to be held liable for those mistakes.

That aside, the legislation that NAHB has been working on is likely to be introduced in Congress this week and will provide for effective verification of legal worker status. There is much to be worked on, including addressing the needs for industries such as ours

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Attachment

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that hire workers in the field, where a computer is not immediately available, and where telephone verification is needed.

We support these efforts at the federal level and urge the Kansas Legislature to exercise patience and caution in approaching legislation. We urge you to adopt a resolution urging Congress to act as soon as possible.

We urge you to not pass legislation that could have unintended consequences as has been the case in Oklahoma and will be illustrated by the testimony of our counterparts from that state.

Thank you for your work in addressing this important and complex issue.

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HousingEconomics.com Home > Special Studies > Immigrant Workers in Construction
 Immigrant Workers in Construction

Normal View

Immigrant Workers in Construction by Natalia Siniavskaja, Ph.D.

* This in-depth analysis was originally posted December 2, 2005. Available to the public as a courtesy of HousingEconomics.com

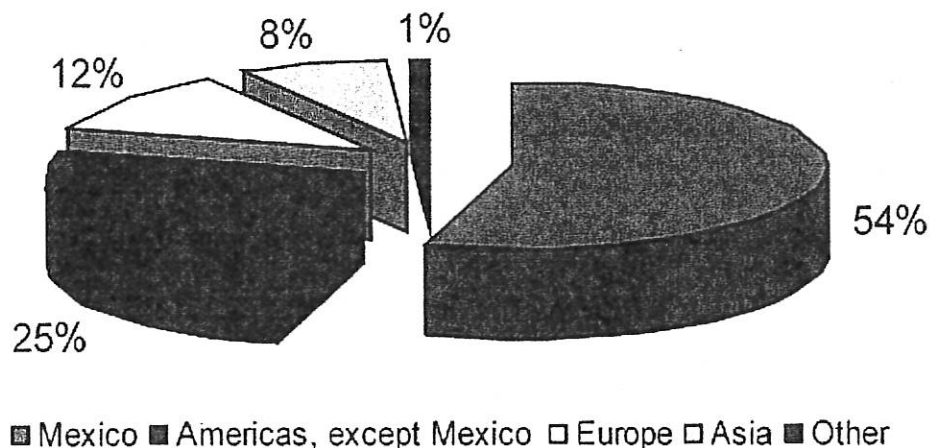
Labor shortages have the potential to cause delays in home building and add to the cost of construction. In the Builders Economic Council (BEC) surveys conducted monthly by NAHB, builders consistently rate labor availability among their most prominent concerns. This article examines where construction workers come from by analyzing the 2004 American Community Survey (ACS) from the Census Bureau. The results show that immigration provides a large share of the construction industry's work force.

Where Construction Workers Come From

According to the ACS, more than 15 percent of the US workforce was born abroad. The share of immigrant workers is much higher in construction, where 2.4 million, or around 20 percent, of workers are foreign born. The ACS does not report employment data separately for residential and nonresidential construction, but different types of construction can require similar skills and, therefore, often draw workers from the same labor pool. As a result, workers' movement between the residential and nonresidential is flexible for many trades.

Figure 1 illustrates where immigrant construction workers come from. The majority, 54 percent, come from Mexico. An additional 25 percent come from other countries in the Americas. Together, the Western Hemisphere accounts for 80 percent of all immigrant construction workers in the US. Europeans make up 12 percent, and an additional 8 percent come from Asia. 1 percent come from Other.

Figure 1. Immigrant Workers in Construction



Source: American Community Survey, PUMS 2004

An informative way to analyze the importance of the immigrant population in home building is by evaluating the shares of the US born and immigrant populations that work in construction. Table 1 details this information. While only 4 percent of native born citizens work in the industry, one out of ten immigrants coming from the Americas and 5 percent of European immigrants go into construction. Only Asian and other (African, Australian, etc) immigrants are less likely than the native born to work in the construction industry.

Place of Birth	Year of Entry					Total
	Prior 1980	1980-1989	1990-1994	1995-1999	2000-2004	
Mexico	8.20%	12.76%	12.59%	14.57%	14.90%	12.65%
Americas	3.79%	7.42%	7.96%	7.94%	9.08%	6.86%
Asia	2.23%	2.27%	1.63%	1.42%	1.56%	1.90%
Europe	4.09%	6.82%	5.79%	5.14%	3.85%	4.79%
Other	3.69%	2.19%	2.66%	1.01%	0.89%	1.88%
All Immigrants	4.41%	7.16%	7.15%	7.71%	8.15%	6.67%
Native Born	4.04%					

Source: American Community Survey, PUMS 2004

The tendency to work in construction is particularly high for immigrants born in Mexico. Remarkably, one out of every eight Mexican immigrants currently works in the industry. This tendency is even more prominent among recently arrived Mexicans, with almost 15 percent of those who arrived after 2000 working in construction. In comparison, the rates of employment in construction are significantly lower for recent immigrants from Europe and Asia. These numbers highlight the increasing reliance of the construction industry on newly arrived immigrants from the Americas in general, and from Mexico in particular.

Regional analysis of construction employment provides some additional insights (see Table 2). In four states -California, Nevada, Texas, Arizona- and the District of Columbia, more than a third of all construction workers are immigrants. In New York, Florida, and New Jersey, immigrants account for more than a quarter of all construction workers. Interestingly, reliance on foreign-born labor now spreads outside of these traditional immigrant magnets and is evident in states like Colorado, Georgia, Illinois, and North Carolina. While most states draw their immigrant construction workers from the Americas, Hawaii relies more heavily on Asian immigrants, and European immigrants are a significant source of labor in North East.

State	Immigrant Construction Worker's Place of Birth				Native Born
	Americas	Asia	Europe	Other	
California	31.36	3.95	2.19	0.33	62.17
Nevada	33.3	1.48	1.7	0.2	63.32
Texas	33.33	1.07	0.73	0.1	64.77
District of Columbia	31.25	1.35	1.59	0.52	65.3
Arizona	31.55	0.59	1.77	0.51	65.58
New York	16.88	3.61	8.34	0.43	70.73
Florida	25.63	0.7	1.89	0.1	71.69
New Jersey	14.44	1.68	9.1	0.37	74.41
New Mexico	20.29	1.68	1.73	0	76.3
Colorado	20.83	0.5	1.91	0.34	76.42
Georgia	19.88	0.79	1.08	0.17	78.08
Illinois	13.28	1.07	7.13	0	78.52
Virginia	15.78	2.55	1.43	0.11	80.13
Hawaii	2.9	13.71	1.74	0.93	80.73
Connecticut	11.66	0.57	6.76	0.15	80.87
North Carolina	17.54	0.47	0.79	0.14	81.06
Maryland	14.01	1.86	1.52	0.93	81.68
Utah	12.66	0.7	1.43	0.37	84.83
Massachusetts	6.6	2.38	5.17	0.47	85.38
South Carolina	11.82	0.31	0.6	0.07	87.2

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Rhode Island	6.23	0.58	4.5	1.29	87.4
Oregon	8.69	0.99	1.32	0.27	88.73
Washington	3.68	3.01	3.44	0.64	89.22
Idaho	7.85	0.52	1.6	0.27	89.76
Oklahoma	7.6	0.2	0.18	0.17	91.84
Tennessee	7.08	0.21	0.5	0	92.21
Minnesota	4.04	1.37	1.21	0.15	93.23
Alabama	5.69	0.19	0.31	0	93.81
Nebraska	5.44	0	0.59	0	93.97
Michigan	2.08	1.4	1.93	0.3	94.29
New Hampshire	3.44	0.56	1.43	0.14	94.42
Delaware	3.42	0.83	0.97	0	94.78
Ohio	2.45	0.44	1.89	0	95.22
Indiana	4.15	0.27	0.35	0	95.23
Pennsylvania	1.93	1.26	1.51	0.05	95.25
Arkansas	3.43	0.51	0	0.23	95.84
Wisconsin	2.3	1.01	0.71	0.13	95.85
Missouri	2.61	0.26	1.15	0.07	95.92
Wyoming	3.61	0.16	0.16	0	96.07
Alaska	1.74	0.76	0.8	0.52	96.18
Iowa	2.16	0.56	1.04	0	96.24
Kansas	3.36	0	0.29	0	96.35
Louisiana	1.81	0.44	0.89	0.22	96.64
Vermont	1.72	0	1.33	0.16	96.8
Kentucky	2.35	0	0.43	0.1	97.11
Maine	2.27	0	0.44	0	97.28
South Dakota	1.61	0.12	0.66	0	97.62
Mississippi	2.04	0.16	0.14	0	97.67
Montana	0.22	0	0.97	1.06	97.75
North Dakota	1.26	0	0.34	0	98.4
West Virginia	0.25	0.06	0.55	0	99.14
US Total	15.41%	1.46%	2.28%	0.21%	80.63%
US Total	1,925,017	182,359	284,766	26,709	10,070,000

Source: American Community Survey, PUMS 2004

Immigrants in Construction Trades

According to the government's system for classifying occupations, the construction industry employs workers in over 280 occupations. Out of these, fewer than 30 are construction trade jobs, but these account for more than two-thirds of all jobs in the construction industry. The other third of the jobs are in finance, sales, administration and other off-site activities. Note that managers, heating, ventilation, air conditioning, and refrigeration (HVACR) mechanics and installers are not included in the construction group.

The two most prevalent construction trade occupations (see Table 3), carpenters and construction laborers, account for almost 30 percent of overall construction employment. About 22 percent of the carpenters and 32 percent of the construction laborers are immigrant workers. Among painters, masons, and roofers, almost a third of the workers are immigrants. The occupation with the largest immigrant presence is drywall/ceiling tile installers, and tapers, where 40 percent of workers are of foreign born origin.

According to the monthly BEC surveys conducted by NAHB, construction trades with the most widespread and severe labor shortages are carpenters and roofers, with more than 50 percent of all builders consistently reporting either severe or some shortage of carpenters and more than 40 percent expressing concerns over availability of roofers. These labor shortages become particularly acute during the summer months of 2005. For example, in July, two thirds of all interviewed builders complained about shortages of carpenters and 42 percent reported shortages of roofers. It is noteworthy that immigrant rates of employment are above average in these high-demand trades.

Table 3. Construction Workers and Residential Construction Wages by Occupation, 2004					
Occupation	Immigrant	U.S. Born	Total	Immigrant Share	Average Annual Pay in RC

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Carpenters	394,662	1,402,639	1,797,301	21.96%	\$37,150
Construction Laborers	557,857	1,172,374	1,730,231	32.24%	\$27,650
Painters	226,272	481,423	707,695	31.97%	\$33,800
Electricians	75,351	538,378	613,729	12.28%	\$39,450
Pipelayers, Plumbers, Pipefitters, and Steamfitters	77,948	458,406	536,354	14.53%	\$43,820
Masons	143,948	294,636	438,584	32.82%	\$36,450
Equipment Operators	45,570	379,531	425,101	10.72%	\$41,650
Roofers	89,875	182,763	272,638	32.96%	\$29,260
Drywall Installers, Ceiling Tile Installers, and Tapers	103,597	156,960	260,557	39.76%	\$39,210
Carpet, Floor, and Tile Installers and Finishers	65,650	163,600	229,250	28.64%	\$36,176
First-Line Supervisors	134,982	1,000,146	1,135,128	11.89%	\$52,820
Other Construction	111,157	499,109	610,266	18.21%	NA
Chief Executives [1]	106,815	1,044,620	1,151,435	9.28%	\$140,630
HVACR Mechanics and Installers [2]	28,116	279,802	307,918	9.13%	\$31,740
Other Non-Construction	257,051	2,015,613	2,272,664	11.30%	NA
Total	2,418,851	10,070,000	12,488,851	19.37%	\$40,720

[1] Non-construction occupation, included in Management Occupations.

[2] Non-construction occupation, included in Installation, Maintenance, Repair Occupations.

Source: American Community Survey, PUMS 200; Occupational Employment Statistics, 2004

It is interesting to compare immigrant employment by trade with occupational wages. The Occupational Employment Statistics (OES) program conducted by the Bureau of Labor Statistics (BLS) produces wage estimates for various occupations. The BLS reports occupational wages separately for residential and nonresidential building construction. The drawback, however, is that self-employed persons (more than 2 million in residential construction) are not included in the estimates.

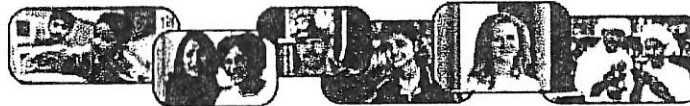
According to the 2004 OES estimates, average annual pay in residential construction is \$40,720 but varies considerably across different occupations. The range extends from \$140,630 for chief executives to below \$20,000 for grounds maintenance workers. Immigrants are concentrated in the lower wage occupations. While the overall share of immigrants in construction is 20 percent, their share among chief executives, the single highest paid occupation in construction, is only 7 percent. It goes up just slightly to 9 percent for all management occupations combined, the highest paid group with an average annual pay of \$88,820. Even among the lower ranked first line supervisors and managers of construction trades, the share of immigrants is below 12 percent. As mentioned above, the story is different for lower wage occupations. Annual wages for construction laborers, roofers, and helpers are \$27,650, \$29,260, and below \$23,000, respectively. About one-third of the workers in these occupations are foreign born. In the occupation with the highest immigrant concentration, drywall and ceiling tile installers, average annual pay is \$39,210.

In summary, analysis of data from the 2004 ACS and additional sources highlights the importance of immigrant workers in residential construction and their significant role in providing housing for all Americans.

See previous articles

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U.S. Department of Labor Bureau of Labor Statistics



Bureau of Labor Statistics Data

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Occupational Employment Statistics

(For more information or help)

Area name	Employment ⁽¹⁾	Employment percent relative standard error ⁽³⁾	Hourly mean wage	Annual mean wage ⁽²⁾	Wage percent relative standard error ⁽³⁾	Hourly 10th percentile wage	Hourly 25th percentile wage	Hourly median wage	Hourly 75th percentile wage	Hourly 90th percentile wage	Annual 10th percentile wage ⁽²⁾	Annual 25th percentile wage ⁽²⁾	Annual median wage ⁽²⁾	Annual 75th percentile wage ⁽²⁾	Annual 90th percentile wage ⁽²⁾
Kansas	65320	1.9	17.25	35890	0.9	9.69	12.00	15.69	21.46	27.76	20150	24960	32620	44630	57730

Footnotes:

(1) Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.

(2) Annual wages have been calculated by multiplying the hourly mean wage by 2,080 hours; where an hourly mean wage is not published, the annual wage has been directly calculated from the reported survey data.

(3) The relative standard error (RSE) is a measure of the reliability of a survey statistic. The smaller the relative standard error, the more precise the estimate.

SOC code: Standard Occupational Classification code -- see <http://www.bls.gov/soc/home.htm>

Data extracted on January 24, 2008

Occupation: Construction and Extraction Occupations (SOC code 470000)

Period: May 2006

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**Statement of Wess Galyon
President/CEO
Wichita Area Builders Association**

Upon presenting this statement for consideration, it should be known that the Wichita Area Builders Association nor any of our 1300 members involved in the various phases of housing and light commercial construction do not endorse or condone illegal entry into the country, or any other illegal activity for that matter.

We have a number of concerns regarding the legislation that has been proposed and wish to make the following comments for consideration:

- We agree that employers who choose to utilize the E-Verify system to check on the legality of any employees hired ought to be immune from sanctions of any type. However, it should be acknowledged that there are instances when persons applying for employment will possess what appears to be a valid drivers license and social security card which employers should be allowed to accept and utilize in conjunction with the completion of the I 9 forms without having to take steps that could be deemed to be discriminatory if E-Verify were to be also utilized and contain erroneous information which results in the firing of an employee.
- We have been advised by several attorneys that they do not feel it to be in the best interest of employers to subscribe to E-Verify due to the fact that, when doing so, employers are agreeing that representatives of Home Land Security can show up at the employers office an any time "without notice" to audit information in the possession of the employer about the employers employees. ICE has not always been noted for being fair and reasonable in terms of the treatment of employees, nor employees, when they show up and employers should at have the courtesy of notice of an audit in this regard.
- We are opposed to sanctions such as fines and loss of licenses of any type unless employers alleged to be guilty of knowingly hiring illegal's are convicted of such by a court of competent jurisdiction. Due process is critical in this regard, and the taking of actions which could put a person out of business without providing it can result in the employers not only losing his/her livelihood but the impact on legitimate employees of the employer could be devastating as well.
- Employers should not be made the "fall guys" for failed immigration enforcement nor made the "police force" in conjunction with a mandate to enforce federal immigration laws which the effectively cannot. The notion that employers created the problem because they are the ones who provide jobs for those who want to work is absurd.
- Claims being made that 40% of the decline in Black employment is due to immigration is very questionable. Immigrates that are hired to do work in our area are paid competitive wages to do the work that others do not want and will not do and the housing and light construction industry would be in dire straits if the current immigrant work force were not available. We know of no

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instances where immigrant workers in our area being treated as "slave labor" as some have alleged.

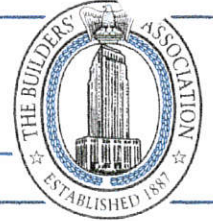
- States, including Kansas, can do little to fix the immigration problem and instead of seeking to become part of "patch work" attempt that will not bring about an equitable and comprehensive solution we encourage legislators to give serious consideration to the passing of a bi-partisan Resolution by both the state House and Senate that, having recognized the problems that exist, calls on the Governor of the state to work with the Governors of other states and the US Congress to deal with the problem in a timely and effective manner. Passing legislation that will, in all likelihood, result in litigation being filed does not seem responsible and is certainly not a good use of tax payer dollars in terms of the state defending its actions if such is done in this regard.

As a final note, please keep in mind that it is the desire of everyone to keep businesses in our state viable. Such is essential to the continued good economic health of our state, now and in the future, and employers should not be penalized in any way for the positive contributions they are making in this regard.

THE BUILDERS' ASSOCIATION

SERVING MISSOURI AND KANSAS
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WRITTEN TESTIMONY TO THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE IN OPPOSITION TO HOUSE BILLS 2680 & 2836

By Dan Morgan

The Builders' Association and Kansas City Chapter, AGC
February 26, 2008

Mister Chairman and members of the House Federal and State Affairs Committee, my name is Dan Morgan. I am director of governmental affairs for the Builders' Association and the Kansas City Chapter of Associated General Contractors of America. These organizations represent more than 1,100 general contractors, subcontractors and suppliers engaged in the commercial and industrial building construction industry. Half of our members are located in the Kansas City area and are either domiciled in Kansas or perform work in the state. I appreciate the opportunity to offer this written testimony in opposition to House Bills 2680 and 2836.

Proponents of these bills would have us believe that the state of Kansas is awash in employers who knowingly and intentionally employ unauthorized aliens in order to gain competitive advantage over their business rivals. The truth is that a relative small number of Kansas employers knowingly and intentionally violate federal immigration laws, yet these proposals would put all Kansas employers at risk of losing the ability to do business for failure to properly comply with a second layer of new state immigration mandates that needn't be imposed on the majority of them in the first place. The jobs of innocent employees would be put at risk as well. While we certainly share everyone's concerns about the harmful effects of illegal immigration in our state and country, we believe that any new state remedies ought to be directed at those who are causing the problem, rather than at the business community at large.

We have no concern for the fate of those who knowingly violate federal immigration laws. We are, however, very concerned for innocent employers who will be put at risk if these proposals are adopted. The vast majority of employers who would never knowingly employ an illegal alien should not be put at risk of losing their business licenses because of false complaints by disgruntled former employees or competitors or because they are found to have had "constructive knowledge" of an employee's unauthorized status. Nor should they be made to bear the expense and risk of defending associated discrimination lawsuits.

We are opposed to provisions in these bills that would mandate participation in the federal E-Verify program because of problems associated with it. Those who elect to utilize this employment authorization verification program in good faith, however, should be granted a "safe harbor" against any action relating to the employment of an illegal alien. We also strongly oppose provisions that would make one employer liable for his or her subcontractors' or independent contractors' actions or record-keeping requirements. Existing state law already addresses the misclassification of employees for the purpose of evading tax responsibilities.

Immigration is a federal matter. Any new state law should encourage, assist in and enhance the enforcement of existing federal law which already contains significant penalties. Other states' laws that place the burden of enforcing our nation's immigration laws on employers have been found to have unintended consequences and to contain significant potential liabilities for innocent employers. For these reasons, we support House Bill 2921 which focuses on employment eligibility verification requirements and establishes new and increased state penalties on those who are causing the problems. We respectfully request that the House Federal and State Affairs Committee reject House Bills 2680 and 2836. 2/26/08

House Fed & State

Attachment 32



JUSTICE AND PEACE CENTER
Sisters of St. Joseph

February 25, 2008

House Federal & State Affairs Committee
Senator Arlen Siegfried, Chair

I am submitting this written testimony to be included with record of testimony in opposition to HB2370, 2680, 2836 and 2921.

We, Sisters of St. Joseph have been in the state of Kansas since 1883 ministering to the needs of Kansans in the area of education and health care. Our religious faith and Community charism calls us to be attentive to the most vulnerable among us; thus, we are concerned with the recent legislative immigration bills before the Kansas House and Senate.

We are writing in response to House Bills: 2370, 2680, 2367. We write in opposition to these bills. What Kansas needs, what the whole country needs is Comprehensive Immigration Reform and not piece-meal legislation that encourages anti-immigrant sentiment. Proponents of these bills suggest that undocumented immigrants are receiving public benefits, yet when asked for statistics, few are forthcoming.

We are especially concerned with the segment of these bills that attempt to derail the in-state tuition to undocumented children who are here in the US, illegally, through no fault of their own. These are children who know English well, who are good students, graduating from our high schools and whose desire is to obtain a college degree and eventually able to work in the field of their choice.

These bills further expand immigration enforcement authority to local police and sheriff's departments. This can lead to "racial profiling" by having law enforcement personnel inquire into a person's legal status merely because of the color of skin, a surname, or voice intonation. We already have enough hate rhetoric, must we add to it?

We thank the committee for holding this hearing and hope you realize the complexity of this issue but the answer to it cannot be a piecemeal solution; the solution can only come from Federal Legislation in the form of Comprehensive Immigration Reform.

Sincerely,

Sister Esther Pineda, CSJ
Sisters of St. Joseph- Concordia, KS

House Fed and State Committee
Feb 26, 2008



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House Committee Federal & State Affairs

Feb. 26, 2008 -- Topeka, Kansas

Statement opposing HB 2680 and HB 2836 dealing with state-level illegal immigration acts.

Chairman Siegfried and members of House Federal & State Affairs Committee, thank you for the opportunity to share our opposition to HB 2680 and HB 2836. I am Leslie Kaufman, Executive Director for the Kansas Cooperative Council. The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives.

Cooperative businesses operate all across this great state and in a variety of industries. Our members do not condone illegal activity or operating outside the law in any area of business, including hiring practices.

There are many issues related to the problem of illegal immigration. Solving these dilemmas will take a holistic approach from the federal government. A piece-meal, state-by-state patchwork of remedies is not the answer. We understand many are frustrated with the lack of progress our national leaders are making to address illegal immigration head-on. We share this frustration. A hasty, knee-jerk reaction to "take matters into our hands" is not the panacea Kansans truly seek.

The Kansas Cooperative Council supports immigration reforms that help ensure our national security, while at the same time preserve farmers' and agribusinesses' ability to access an available workforce. Immigration reforms should not place employers in a position to be caught between conflicting laws. Neither should rules on verifying employee eligibility essentially, and unfairly, shift enforcement responsibilities from the government to employers.

Our members are willing to do their part to assure they are hiring legal workers. They support the current federal I-9 process. But, they are concerned that many of the concepts proposed for addressing immigration issues on a state level will place unnecessary burdens on employers and create a false perception that the state can "fix" a national problem.

The KCC does not believe it is a proper exercise of state power to mandate E-verify when the federal government, who operates the program, considers it voluntary. Under both HB 2680 and HB 2836, employers must participate in E-verify (either directly or as a condition of their business licenses). We think it ill-advised to condition business licenses on participating in a program the federal government deems voluntary, at this time. Additionally, forcing employers to utilize E-verify, along with other provisions of the bills noted, essentially shifts the burden of illegal immigration enforcement from the government to private enterprise.

Cooperatives need hiring requirements that are workable, adaptable to changing business conditions, suitable for seasonal work, responsive and effective. Additionally, they do not want

House Fed & State Committee

2/26/08

Attachment 34

**House Federal and State Affairs
Testimony in Opposition to House Bill 2680**

By Tim Stroda
President-CEO
Kansas Pork Association



February 25, 2008

Mr. Chairman, members of the Committee, I would like to provide information in opposition to House Bill 2680.

The members of the Kansas Pork Association support an effective immigration policy that provides border security, establishes practical and fair employment laws and encourages a legal and productive work force. We believe this is best accomplished at the federal level.

In fact, our national organization is part of a coalition developing legislation that would:

- Extend the E-VERIFY program for 5 years.
- Keep the E-VERIFY program voluntary.
- Only apply to new hires and not be retroactive.
- Require that the Social Security Administration and Department of Homeland Security maintain "real time" data entry.
- Seek broad language protecting employers from liability under any law if they comply with the procedures set forth for programs.

House Bill 2680 takes a very different approach. It places unnecessary burdens and responsibilities on legitimate businesses.

Our members support securing our national borders in a way that is fair and just. However, we do not believe the entire responsibility for this task should be placed on employers.

In 2007, Kansas pork producers sold over 3.3 million head of market hogs, feeder pigs and seedstock with a gross market value over \$402 million. This year, Kansas pork operations will consume nearly 40 million bushels of grain or grain products. At today's price, the pork industry will spend over \$200 million on feedstocks.

Our operations provide food for the world and a positive economic impact on the state and local economy. However, our operations need a stable work force for success.

Our members believe H.B. 2680 is detrimental to our businesses and urge you to vote against the measure.

**House Federal and State Affairs
Testimony in Opposition to House Bill 2836**

By Tim Stroda
President-CEO
Kansas Pork Association



February 25, 2008

Mr. Chairman, members of the Committee, I would like to provide information in opposition to House Bill 2836.

The members of the Kansas Pork Association support an effective immigration policy that provides border security, establishes practical and fair employment laws and encourages a legal and productive work force. We believe this is best accomplished at the federal level.

In fact, our national organization is part of a coalition developing legislation that would:

- Extend the E-VERIFY program for 5 years.
- Keep the E-VERIFY program voluntary.
- Only apply to new hires and not be retroactive.
- Require that the Social Security Administration and Department of Homeland Security maintain "real time" data entry.
- Seek broad language protecting employers from liability under any law if they comply with the procedures set forth for programs.

House Bill 2836 takes a very different approach. It places unnecessary burdens and responsibilities on legitimate businesses.

Our members support securing our national borders in a way that is fair and just. However, we do not believe the entire responsibility for this task should be placed on employers.

In 2007, Kansas pork producers sold over 3.3 million head of market hogs, feeder pigs and seedstock with a gross market value over \$402 million. This year, Kansas pork operations will consume nearly 40 million bushels of grain or grain products. At today's price, the pork industry will spend over \$200 million on feedstocks.

Our operations provide food for the world and a positive economic impact on the state and local economy. However, our operations need a stable work force for success.

Our members believe H.B. 2836 is detrimental to our businesses and urge you to vote against the measure.



GREG BAKER PAINTING INC.

Residential/Commercial Repaint Specialists

5315 Farley Avenue • Merriam, Kansas 66203

(913) 236-9359

February 25, 2008

Dear Legislators,

Past history has proven to me that legal domestic Americans do not want to work at a labor position for \$10 to \$15 per hour. The government does not support the H2B returning worker program. At this point I have no qualified workers and my season is scheduled to start in less than one month! The government then says if you hire any illegal undocumented workers there will be severe penalties. What are my options? I do not have any options! Please help! I need your help!!

I am the owner of Greg Baker Painting a small painting business. In the last two out of three years I was not able to get my laborers up from Mexico until August. This is half way thru my season!! I had no choice but to hire domestic help. In both instances none of my domestic help made it thru the season. They either quit on their own accord or they were fired due to lack of work ethic. The first twelve years I was in business I hired domestic help and I had similar or comparable results as previously mentioned. Therefore, the H2B program does not take jobs away from Americans!

I am out of business without people. I desperately need the government's understanding and a reasonable solution. Taking away my H2B workers and then saying you cannot hire any undocumented workers is anything but reasonable. PLEASE HELP!!!

Respectfully,

Greg Baker
Greg Baker Painting

House Fed and State Committee
Feb 26, 2008

Attachment 36



*Kathleen Sebelius, Governor
Thomas E. Wright, Chairman
Michael C. Moffet, Commissioner
Joseph F. Harkins, Commissioner*

February 25, 2008

Arlen Siegfried
Chairman, House Federal and State Affairs
300 SW 10th Avenue
Room 161-W, Statehouse
Topeka, KS 66612

Written Testimony on HB 2680 and HB 2836

Chairman Siegfried and members of the Committee:

The Kansas Corporation Commission (KCC) is concerned about potential consequences of HB 2836 and HB 2680, as these bills are currently written. Either of these bills, if enacted, creates the possibility of a business entity's license being suspended if that business entity is found to have violated provisions, by knowingly or intentionally employing an unauthorized alien.

Pursuant to K.S.A. 66-131, public utilities and common carriers are not allowed to conduct business in the state of Kansas without first obtaining a certificate from the KCC. This applies to motor carriers, oil and gas pipelines, gas and electric utilities, some water utilities, and telecommunication utilities. Additionally, oil and gas well operators are licensed by the KCC pursuant to K.S.A. 55-155.

Based on the language of the bills as they are currently written, one potential effect would be that a utility company's "license" could be suspended. We are concerned that could include the utility's certificate authority to operate, thus resulting in interruption of utility service to its customers.

We ask that the committee consider our concern when working the bills and consider some amendments that would allow for continued services for Kansans.

Respectfully submitted,
Matthew A. Spurgin
Litigation Counsel

House Fed and State Committee
Feb 26, 2008



KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE

Written Testimony in Opposition to HB 2680 and HB 2836
House Federal and State Affairs Committee
Representative Arlen Siegfried, Chairman
February 25, 2008

Thank you Mr. Chairman and members of the Committee for the opportunity to submit testimony on this important issue; my name is Duane Simpson, I am the Chief Operating Officer and Vice President of the Kansas Agribusiness Retailers Association (KARA). KARA is a voluntary state association made up of over 700 business locations across the state. Our members are primarily ag retail facilities but they include agronomy services, chemical, fertilizer and seed sales and manufacturing companies, and equipment manufacturing, distribution and sales companies. On behalf of the members of KARA, I am testifying in opposition to HB 2680 and HB 2836.

Both of these bills require every business in Kansas to use the federal E-Verify system. Yesterday, the representative from the Department of Homeland Security was unable to tell legislators what their accuracy rate was. However, in a September report commissioned by the Department of Homeland Security, it was determined that the E-Verify database did not meet the accuracy standards set by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. According to the 254 page report, a copy of which I have given to the committee secretary, "the database used for verification is still not sufficiently up to date to meet the requirement for accurate verification, especially for naturalized citizens," that is required by law. The state of Illinois has prohibited businesses from using E-Verify until DHS can certify that the database is 99% accurate. The Department of Homeland Security has not certified their accuracy, instead they have filed suit to prevent implementation of the new law. If DHS knows that the E-Verify system is inaccurate, the state of Illinois knows the system is inaccurate, the US Congress knows the system is inaccurate, why in the world would Kansas require every business in the state to use the program?

These bills also require an unusual amount of paperwork for businesses. They must certify that they use E-Verify when they get or renew their business license. They must certify that they use E-Verify when they get a state contract. They must certify that their subcontractors and independent contractors use E-Verify when they use them on a state contract. They must certify that they and all of their contractors used E-Verify when they file their taxes. Each business that provides any service to another business must certify to that business that it uses E-Verify so that the business receiving the service can properly file their taxes. If every business is required to certify that it uses E-Verify in order to have a business license, why does any business need to certify that other businesses use E-Verify or recertify when they

contract with state agencies or recertify when they file their taxes? If the Secretary of State cannot enforce the law, why should businesses be expected to?

Mr. Chairman and members of the committee, we understand the real problem you are attempting to solve. This is not a problem that was created by Kansas. It is a problem that has been caused by the federal government's inaction. While Kansas must do all that it can reasonably do to enforce the law, we urge this committee to proceed with caution to prevent the unintended consequences that can be associated with trying to do too much at one time. House Bill 2921 is a reasonable step towards stemming the flow of illegal immigration into Kansas. It cracks down on identification crimes while protecting businesses that are trying to follow the law. I urge this committee to pass House Bill 2921. HB 2680 and HB 2836 place unnecessary burdens on businesses putting them in the law enforcement business rather than their chosen profession. I urge this committee to reject HB 2680 and HB 2836.



Kansas Grain & Feed Association

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**Written Testimony in Opposition to House Bills 2680 and 2836
House Federal and State Affairs Committee
Representative Arlen Siegfried, Chairman
February 26, 2008**

Thank you Mr. Chairman and members of the Committee for the opportunity to submit testimony on this important issue; my name is Tom Tunnell, I am the President and CEO of the Kansas Grain and Feed Association. KGFA is a voluntary state association founded in 1896 with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes approximately 900 Kansas business locations and represents 98% of the commercially licensed grain storage in the state. On behalf of the members of KGFA, I am testifying in opposition to HB 2680 and HB 2836.

I just returned from a 3 day trip through Western Kansas calling on member companies. Throughout that trip I heard about typical concerns of our industry, but one concern stood out at every stop along the way. At every stop on my trip, it was mentioned how difficult it is to find good employees. While this has always been a challenge in rural parts of our state, there seems to be a real awareness of legislative efforts in Topeka, to make criminals out of employers that inadvertently hire illegal immigrants. Not only are state lawmakers grappling with how to solve this issue, but Congress is as well. What seems to be missing in the whole debate however, is the basic need for an adequate labor force in rural Kansas to keep our tremendous agriculture economic engine churning. Our members are professional grain handlers, they are not professional Human Resource Officers, forensic document experts or law enforcement officers.

These bills mandate all employers to use the federal E-Verify system which is intended to be a voluntary system. The Social Security Administration estimates that 4.1% of its records are inaccurate, which means 4.1% of the data used by the E-Verify system are inaccurate. In Kansas, that would equal over 120,000 Kansans that would face difficulties getting employment if every employer was forced to use E-Verify. In addition, not every business in the state currently is connected to the internet. Around 10% of our members still get our electronic newsletter via facsimile. The Department of Homeland Security suggested that those people could use 3rd party vendors to verify employment eligibility status. Why should they have to pay a 3rd party to help them hire their employees? This unfunded government mandate is just another way of taxing businesses in Kansas.

In addition, the bills make it impossible for businesses to enjoy tax certainty in the state. If a business outsources work to a 3rd party, which is a legitimate business expense that should not be subject to

immigration enforcement in order to claim those tax expenses. Businesses need the certainty of knowing that legitimate business expenses will be allowed. Both of these bills inappropriately use the tax code to try to enforce immigration law. Of course, this is just a symptom of the greater problem that both bills have where they require one business to enforce the law whenever it does business with anyone else. Independent contractors are by definition independent. No business should ever be required to swear in a state affidavit that 3rd parties follow the law and then be held responsible if they do not.

House Bill 2836 also has a very troubling provision that allows every city and county in the state to create its own immigration laws. It's difficult enough for our businesses that do business in Illinois which prohibits the use of E-Verify and Oklahoma which requires its use. We certainly do not want businesses to have to follow different rules in every city and county in the state. If Kansas is determined to pass its own immigration laws, please give your businesses the respect of only having to follow one set of rules within the borders of this state.

Mr. Chairman, I submitted testimony supporting the coalition bill that would crack down on those criminals that are making it difficult for businesses to distinguish between legal and illegal workers. House Bill 2921 is a reasonable step for Kansas to take without overburdening businesses with new mandates and an uncertain taxing environment. I urge this committee to reject HB 2680 and HB 2836.



**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

WRITTEN TESTIMONY IN OPPOSITION
TO H.B. 2680 & 2836
House Federal & State Affairs Committee
Phil Perry, Director of Governmental Affairs
Home Builders Association of Greater Kansas City
February 26, 2008

Mr. Chair and members of the committee, the Home Builders Association of Greater Kansas City thanks you for this opportunity to speak in opposition to H.B. 2680 and 2836. The HBA does not promote or condone the presence of illegal aliens in the United States and firmly believes that immigration is a matter that should be handled by the Federal Government and we strongly oppose any legislation that would penalize businesses in Kansas for following federal immigration laws.

Our organization is very concerned about the patchwork effect that is being created as states craft their own sets of laws on this important issue. As many of our members do business in both Kansas and Missouri, this creates a difficult situation, as the current Federal and proposed Kansas and Missouri laws would be wildly divergent.

Federal law already imposes civil fines, which have been recently increased, for those who knowingly hire illegal aliens and it is our position that these laws need to be enforced instead of creating additional penalties. Kansas businesses should not be penalized for following federal immigration laws, nor should they be required to enforce these laws.

We strongly oppose any sanctions that include suspension or revocation of a business license as this type of penalty will shut down our members. We also believe that businesses should not be required to enforce laws on the subcontractors that they hire and are the backbone of our industry.

Additionally, the HBA is strongly opposed to mandating the E-verify system for Kansas businesses. As we stated above, this creates a system where businesses will not be sure what system to use as E-verify is not currently mandated by the federal government and is outlawed for use by some states. The E-verify system is inherently flawed and we feel that the present use of the I-9's is an adequate system for business to use.

Thank you for this chance to offer our opposition to H.B. 2680 and 2836 and we look forward to working with all legislators on creating meaningful immigration reform.

Do Business With A Member House Fed and State Committee
Feb 26, 2008

Attachment 40



Testimony in Opposition of House Bill No. 2680 and House Bill No. 2836

By **Trinidad Galdean**
Kansas Society of Human Resource Management – State Council
Wichita Society of Human Resource Management

Kutak Rock LLP
8301 E. 21st St. North, Suite 370, Wichita, Kansas 67206
Phone (316) 609-7900 – Fax (316) 630-8021

Committee Chairman and Committee Members:

Thank you for the opportunity to supply written testimony in opposition of HB 2680 and HB 2836, which proposes to mandate Kansas employers use of the federal E-verify system to determine the immigration status of new hires and also creates penalties for Kansas employers who violate the act.

My name is Trinidad Galdean and I am an employment attorney with Kutak Rock LLP. I am appearing on behalf of over 2,000 members within the Kansas State Council of the Society of Human Resource Management (KS-SHRM).

The proposed legislation requires all Kansas employers to register and use the federal E-Verify system to verify the employment authorization of all new hires beginning on January 1, 2009. While it is understandable to proactively deter illegal immigration by ending unauthorized employment, there is a need for a secure, reliable federal electronic employment verification system. E-verify is far from foolproof and it is not ready to meet the challenge of massively increasing its participant level as more and more states begin requiring participation. Employers should not be forced to participate in this E-verification program until the federal government provides assurances that the system works.

Additionally, other key concerns for human resource professionals include the following:

- **Federal Preemption** – The federal government and not the states should be responsible for establishing the requirements for verifying employment eligibility under our nation's immigration laws. Although well-intentioned, a state mandate as proposed under the House Bills is confusing and costly for Kansas employers and undermines the goals of an effective national system.
- **Inadequate System Capacity** – HB 2680 and HB 2836 mandates all Kansas business entities to apply and eventually participate in E-Verify (formerly called "Basic Pilot") to verify a new hire's eligibility for employment. As of June 2007, the Department of Homeland Security (DHS) and the Social Security Administration (SSA) have not resolved ways to reduce processing delays. The majority of E-Verify queries are confirmed within seconds, yet about eight percent can't be confirmed and these can take

House Fed and State Committee
Feb 26, 2008

several days, or in some cases weeks to resolve, putting employers in a difficult situation and subjecting thousands of legal workers to potential job loss and/or lengthy delays as they attempt to navigate the federal bureaucracy.

- **Susceptibility to Identity Fraud** - E-Verify does not even address identify fraud issues where individuals presents borrowed or stolen genuine documents. This is a growing problem that puts employers, including small businesses, in the business of immigration enforcement.
- **Additional Administrative Burdens** – While HB 2680 and HB 2836 mandates all Kansas businesses to use E-Verify to confirm the employment eligibility of new hires effective January 1, 2009, Kansas employers would still be required to continue to attest on the Federal form I-9 that he or she had examined the new hire's employment and identification documents to ensure authenticity, resulting in double-work for Kansas employers.
- **Employer Accessibility**- The E-Verify program is accessible only through the Internet which many small employers in Kansas may not have access to.
- **Conflicting Statutes** - The legislative language of HB 2680 and HB 2836 are ambiguous about termination procedures that relate to a "non-confirmed" status being returned by the U.S. Department of Homeland Security.
- **Lack of Employee Protection** - Both HB 2680 and HB 2836 fail to address issues on potential abuse of employers using the system to pre-screening job applicants before making a hiring decision, yet some employers were doing just that. In December 2006, the Social Security Administration's Office of the Inspector General reviewed the employment eligibility verification system and found that 42 percent of employers used the program to prescreen employees, and 30 percent of employers used the program to verify the employment eligibility of their existing workforce. In 2002, the independent analysis found that, "[a]mong a sample of individuals classified on the transaction database as unresolved tentative non-confirmations, 28 percent said that they did not receive a job offer from the pilot employer." Also, these job applicants were not informed they were being pre-screened through the employment eligibility verification system, and "[c]onsequently, they were denied not only jobs, but also the opportunity to resolve any inaccuracies in their Federal records."

Mandating employers to participate in the E-Verify program without it being fully functional will cause a huge burden for Kansas employers attempting to verify their new hires. Employers want an accurate, fair and timely federal electronic employment eligibility verification system. However, they should not be forced (under threat of monetary penalties) to participate in a program that has been shown to be less than 100 percent efficient in supplying accurate and timely information to employers.

In conclusion, the members of KS-SHRM appreciate the efforts of the Kansas Legislature in addressing the issues presented before all employers in the State of Kansas. KS-SHRM respectfully requests that you oppose HB 2680 and HB 2836.

Written Statement
House Federal and State Affairs Committee
Dalton Hermes, Owner
Hermes Company, Inc.
February 26, 2008

I respectfully submit this written statement as a life-long resident of the state of Kansas, an active contributor to the Kansas community and most importantly an owner of a business that has contributed to the Kansas economy for almost forty-five years. I also submit this statement on behalf of nearly one hundred Kansas residents employed by my company. I submit this as a statement of opposition to Kansas House Bill No. 2680 (HB 2680).

My company is in the landscape and nursery industry. We provide a service to the community and are a producer of agricultural product. The most critical resource this company must have, to provide these goods and services, is an ample supply of low-skilled and semi-skilled labor, to work on a seasonal basis. A resource we have not been able to secure, without the significant use of legal immigrant labor, despite continuous and exhaustive efforts to employ U.S. citizens in these occupations.

HB 2680 prescribes a number of penalties for business found to have hired unauthorized workers. Once again, I am not speaking as an employer hiring unauthorized workers. My company has utilized both the H2A and H2B visa program, for over 10 years, to employ legal immigrant guest workers. I am protesting this proposed legislation from the standpoint of almost certain peril Kansas employers, such as myself, will face when we are not able to hire enough workers to remain in business.

As I am sure you are aware, the federal government dictates the number of guest worker visas, such as H2A and H2B available to employers, and they have failed to allow for a sufficient number to meet the demands of U.S. businesses. At the same time, legislation is now being proposed at the state level, as in HB 2680, placing additional obstacles to hiring. Employers are caught in the middle and find themselves with no means to employ the number workers needed.

As long as there are an insufficient number of guest worker visas available, countless upstanding employers will be faced with the devastating fact they are not able to find enough authorized workers to remain in business. They will be in this situation because there are simply not enough U.S. workers to fill these jobs. I know this is true of the landscape industry and of many other industries such as ours (i.e. construction, restaurant, hospitality, agriculture) that need a high percentage of labor to operate their businesses.

Many opponents to immigrant labor claim U.S. workers will not take these jobs because of the low wages paid in such occupations. This is simply not true. Our company pays starting wages in the range of \$8.35 - \$15.00 per hour, which is well above the federal

minimum wage. Our colleagues in the construction industry pay union workers \$35.00 per hour and more and are still unable to fill all their positions at those rates. This is not a wage issue; it is a supply issue.

As our elected officials and stewards of the state of Kansas, it is imperative you gather the correct facts before passing any new legislation. It is necessary to know the current net impact the immigrant workforce has on the Kansas economy and the full impact this proposed legislation would have on the economic stability of the state. It would be irresponsible to pass such legislation on speculation and emotion.

There is much criticism that immigrant workers, especially unauthorized workers, are a drain on our social service system. However, I believe the data would reveal there is a net gain. Immigrant workers, and their employers contribute a tremendous amount of income taxes, unemployment taxes, social security taxes etc. that fund programs made available to U.S. citizens, but not to immigrant workers.

I believe research, on the impact of measures as proposed in HB 2680, will reveal a devastating economic outcome for the state. Countless Kansas businesses would be crippled or destroyed; jeopardizing income they bring to the state and the livelihood of the Kansas residents they employ.

If I am unable to find enough workers to stay in business, the almost one hundred Kansas residents I do employ will lose their jobs, many who have worked for my company for 15 years or more.

My company alone directly contributes almost \$ 750,000.00 to the Kansas economy. This figure is comprised of payroll taxes, unemployment taxes, real estate and property taxes, sales and use taxes, licensing fees etc. This \$ 750,000.00 is the amount of revenue the state receives directly from my business, it doesn't count for the additional revenue received from the Kansas residents gainfully employed at my company. If I am unable to hire enough workers to operate my company, the state of Kansas will lose this revenue. I urge you to consider the revenue that will be lost from the hundreds of other companies contributing to the Kansas economy.

Over the past several decades, the federal government has allowed the problem of unauthorized workers to continue because they know our country must have immigrant labor to survive. We are following the federal laws as they currently exist and will continue to abide by federal law. This is a problem for the federal government to solve and they will solve it. The dialogue has already begun. Until such time a federal solution is found, imposing additional piecemeal legislation at the state level will only create more complexity to an already very complex problem. A problem that needs a meaningful, effective and comprehensive solution, at the federal level.

Until the federal government defines a comprehensive solution, I would encourage the state of Kansas to look at alternative solutions to those proposed in HB 2680. Solutions to achieve some of the same desired objectives without destroying Kansas business. In

fact I believe there are solutions to be found that could actually expand business and the state economy.

I would like to reiterate I am not in favor of hiring unauthorized workers. I am in favor of legislation that will provide Kansas businesses the legal means to hire a sufficient number of workers to stay in business. I am in favor of U.S. business providing jobs and opportunity to U.S. citizens first, and we do. In fact, we have been approved to utilize H2A and H2B workers only because the Department of Labor agrees we have done and continue to do everything we can to hire U.S. workers.

I have invested forty years of my life and all of my personal assets in this company. A company that consistently contributes, to the Kansas economy. It is disheartening to contemplate the very community I have supported all these years, may take away my ability to continue this business, and my support of the Kansas economy and the Kansas residents I employ. In your role, I know you all want the state of Kansas to thrive. I am confident we can work together to find solutions to real immigration reform while allowing Kansas businesses and the Kansas economy to flourish.

Thank you.



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE FEDERAL AND STATE AFFAIRS
HB 2680, HB 2836**

February 26, 2008

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Associate Government Affairs Director for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

AGC of Kansas opposes House Bills 2680 and 2836 and respectfully asks that you reject these bills.

Immigration is a complex issue that is best to be resolved by the Federal Government. AGC, along with members of a coalition composed of the Kansas Chamber, Kansas Livestock Association and other business and industry related organizations, strongly oppose any legislation that puts legitimate companies attempting to lawfully do business in Kansas at risk.

Both HB 2680 and 2836 threaten the suspension and revocation of business licenses needed to operate within Kansas. AGC opposes this language with concern that legitimate companies can have their licenses suspended for something as minor as paperwork errors. The penalties proposed would likely put companies out of business. AGC also opposes the mandate that Kansas businesses enroll in the voluntary Federal e-verify program.

HB 2836 contains language which would hold the general contractor responsible for the hiring practices of subcontractors. AGC has expressed concern regarding this since the first bills on immigration began to surface. Some proponents of the bill indicated that this was not their intent and that it would be removed. However, it has not. AGC feels strongly that one business should not be held liable for another's business practices for over which they have no control.

The language in HB 2680 relating to contractor relationships and employer-employee relationships causes concern. Why would the state not hold themselves to the same level of verification standards that private businesses are held? Also, since there are already laws in place relating to worker classification, sections 8 and 9 are unnecessary. Section 11 in HB 2680 opens the door for complaints to be filed on a company for any number of reasons. This could easily be abused by any individual, company or organization that wishes to harm the accused company. These complaints and resulting investigations will result in financial hardships and potentially unnecessary litigation.

AGC believes that the first step for a sound immigration policy is to secure the border, a step that will not be resolved by the State of Kansas. Therefore, AGC feels this issue should be debated by the Federal Government.

House Fed and State Committee
Feb 26, 2008

Instead of attacking businesses with harmful and threatening legislation, AGC feels the state should focus on enforcement of existing laws that, if enforced, are a strong enough deterrent to keep legitimate companies from knowingly breaking the law. Unscrupulous companies will continue to break laws, regardless of what new statutes are enacted. In addition to enforcement, a crackdown on individuals creating fraudulent documents is needed.

Developing the Kansas construction workforce has been a top priority for the industry for nearly a decade. Kansas contractors can not find enough trained workers today. Work is being turned down because of this shortage, a shortage that is only going to get worse and will soon near a crisis level as baby boomers retire. Comments that thousands of Kansans are out of work because of illegal aliens is questionable at best. If this is the case, these workers are most definitely not in the construction industry.

Also, examples have been given regarding corrupt businesses in the construction industry. Companies utilizing illegal, immoral and unethical business practices should be prosecuted to the full extent of the law. However, it must be pointed out that they are by far the exception in the Kansas construction industry. Testimony on the construction industry has been painted with an extremely broad brush and this blatant misrepresentation of the honest, hard working business owners in Kansas is deplorable.

The AGC of Kansas **opposes House Bills HB 2680 and HB 2836** and respectfully requests that you do not vote favorably on these bills. Thank you for your consideration.

Kansas Families for Education

Demanding Excellent Public Schools for ALL

Written Testimony HB2836

Committee on Federal and State Affairs – February 26, 2008

Kathy Cook, Executive Director -Kansas Families for Education

Mr. Chairman and members of the committee, thank you for the opportunity to submit written testimony. I am Kathy Cook, Executive Director for Kansas Families for Education and we submit this testimony as opposition to this legislation. We are a statewide organization made up of educators, parents, taxpayers, students, and other Kansans committed to equity and excellence in our public schools, for all Kansas students.

It is our interpretation of HB2836 that the new Section 5, particularly the definition of “benefit” (f) could have the effect of overturning Kansas’ in-state tuition policy. Our opposition to this legislation focuses specifically on this portion which would repeal in-state tuition for children who graduate from Kansas high schools, whether or not those children currently enjoy legal U.S. citizenship.

We are talking about young people who are residents of this state, whose parents pay taxes, and who pay taxes themselves. These are young people who have achieved the graduation requirements of a Kansas high school, which is no small feat, given our state’s high educational standards and the poverty in which many of these young people live.

We contend that to deny these students access to higher learning is not only detrimental to them as individuals, but detrimental to our state and our economy. The 21st century will present many challenges to our business community, and those businesses must be equipped with a well educated workforce prepared to meet those challenges. Our best strategy for ensuring that we will have the human capital we need in the future is to grow it ourselves, and we negate the importance of a well educated workforce when we attempt to deny Kansas students an opportunity for a college education.

If these students are denied in-state tuition it would take dollars away from our already under funded higher educational institutions. Many of the students are only able to afford higher education at the in-state cost, and could not attend or spend their money at Kansas universities if charged the out of state tuition rates. In addition, there is considerable evidence from other states that opening the doors of our colleges and universities to all qualified Kansas graduates will also enhance the educational climate in our secondary schools, where immigrant students study alongside their native U.S.-born peers, and where all of our children must hear the message that their hard work and sacrifice can pay off.

The Kansas in-state tuition law has been challenged in U.S. District Court and the 10th Circuit Court of Appeals and upheld every time. We see no logical, rational, or legal reason to repeal in-state tuition. In fact, we maintain that education is a basic human right and the bedrock of our success as a state. We believe that the majority of Kansans embrace our immigrant population and want the students that are sitting side by side with our children in our K-12 classrooms to have the same opportunities to live the American dream by attending post secondary institutions.

I urge you to oppose House Bill 2836 and show your support for the love of freedom and the American Dream, a dream in which these immigrant children fervently share. Thank you.

House Fed and State Committee
Feb 26, 2008

15941 W. 65th St., #104 • Shawnee, Kansas • ☎

Attachment 44



GLASS & GLAZING CONTRACTOR

1257 N. MOSLEY WICHITA KANSAS 67214 BUS. (316) 265 2915 FAX 316 265 2092 www.palsglass.com

February 26, 2008

Mr. Chairman and Members of the Committee
House Federal and State Affairs
State of Kansas

OPPOSITION OF HOUSE BILLS 2680 AND 2836 – SUPPORT OF BUSINESS COALITION BILL

Dear Mr. Chairman and members of the committee:

My name is David Haynes. I am the Owner of Pal's Glass Service, Inc. We are in the construction industry. We employee over 20 employees. Including only immediate families of these employees, we support over 80 individuals.

Immigration is a complex issue that is best to be resolved by the Federal Government. We strongly oppose any legislation that opens up risk to legitimate companies doing business in Kansas.

Both HB 2680 and 2836 threaten the suspension and revocation of business licenses needed to operate within Kansas. We oppose this language with concern that legitimate companies within Kansas can have their licenses suspended for minor paperwork errors. We also oppose the state mandating that Kansas businesses enroll in the Federal e-verify program.

The language in HB 2680 relating to contractor relationships and employer employee relationships causes concern. Why would the state not hold themselves to the same level of verification standards that private businesses are held? Also, in sections 8 and 9, there are already laws in place relating to worker classification so these sections are unnecessary. Section 11 in HB 2680 opens the door for anyone who wants to file a complaint on a company. These complaints and resulting investigations will result in financial hardships with unnecessary litigation.

We believe that the first step for a sound immigration policy is to secure the border, a step that will not be resolved by the State of Kansas. Therefore, we feel this issue should be debated and resolved by the Federal Government.

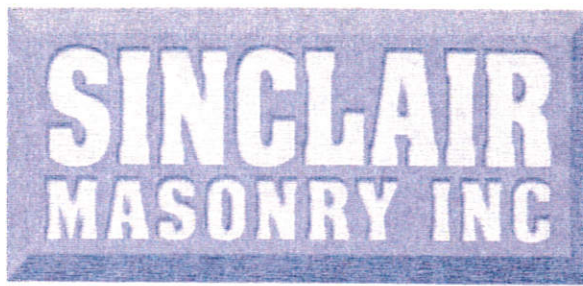
Sincerely,

David Haynes
Owner/ Vice President
Pal's Glass Service, Inc.

Attachment: Immigration Bullet Points

House Fed and State Committee
Feb 26, 2008

Attachment 45



1957 N. MOSLEY WICHITA, KS 67214 BUS: (316) 264-8726 FAX: (316) 264-8748

February 26, 2008

Mr. Chairman and Members of the Committee
House Federal and State Affairs
State of Kansas

OPPOSITION OF HOUSE BILLS 2680 AND 2836 – SUPPORT OF BUSINESS COALITION BILL

Dear Mr. Chairman and members of the committee:

My name is Tim L. Sinclair. I am the Owner of Sinclair Masonry, Inc. We are in the construction industry. We have over 100 employees. Including only immediate families of these employees, we support over 400 individuals.

Immigration is a complex issue that is best to be resolved by the Federal Government. We strongly oppose any legislation that opens up risk to legitimate companies doing business in Kansas.

Both HB 2680 and 2836 threaten the suspension and revocation of business licenses needed to operate within Kansas. We oppose this language with concern that legitimate companies within Kansas can have their licenses suspended for minor paperwork errors. We also oppose the state mandating that Kansas businesses enroll in the Federal e-verify program.

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We believe that the first step for a sound immigration policy is to secure the border, a step that will not be resolved by the State of Kansas. Therefore, we feel this issue should be debated and resolved by the Federal Government.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim L. Sinclair", is written over a faint, larger version of the same signature.

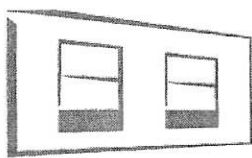
Tim L. Sinclair
Owner/President
Sinclair Masonry, Inc.

Attachment: Immigration Bullet Points

House Fed and State Committee

DOING THE RIGHT THING FOR THE CUSTOMER, EACH OTHER, AND THE COMMUNITY Feb 26, 2008

Attachment 46



Masonry Panels LLC

1957 N. Mosley Wichita, KS 67214 Phone (316) 264-8726 Fax (316) 264-8748

February 26, 2008

Mr. Chairman and Members of the Committee
House Federal and State Affairs
State of Kansas

OPPOSITION OF HOUSE BILLS 2680 AND 2836 – SUPPORT OF BUSINESS COALITION BILL

Dear Mr. Chairman and members of the committee:

We have recently started a new business that manufactures Masonry Panels. We currently ship 100% of these panels outside the State of Kansas. Our Revenue projections for the next 3 years are \$8,000,000, \$24,000,000 and \$37,000,000. We have worked with the Kansas Department of Commerce and have received support from HPIP in the amount of \$40,000. We currently expect to make capital investments of \$10,000,000 and hire over 100 new employees over the next 3 years.

Any immigration bill other than the Business Coalition Bill will drastically affect these numbers.

Immigration is a complex issue that is best to be resolved by the Federal Government. We strongly oppose any legislation that opens up risk to legitimate companies doing business in Kansas.

Both HB 2680 and 2836 threaten the suspension and revocation of business licenses needed to operate within Kansas. We oppose this language with concern that legitimate companies within Kansas can have their licenses suspended for minor paperwork errors. We also oppose the state mandating that Kansas businesses enroll in the Federal e-verify program.

The language in HB 2680 relating to contractor relationships and employer employee relationships causes concern. Why would the state not hold themselves to the same level of verification standards that private businesses are held? Also, in sections 8 and 9, there are already laws in place relating to worker classification so these sections are unnecessary. Section 11 in HB 2680 opens the door for anyone who wants to file a complaint on a company. These complaints and resulting investigations will result in financial hardships with unnecessary litigation.

We believe that the first step for a sound immigration policy is to secure the border, a step that will not be resolved by the State of Kansas. Therefore, we feel this issue should be debated and resolved by the Federal Government.

Sincerely,

Tim L. Sinclair

Owner/President, Masonry Panels LLC

Attachments: 1. Incentive Letter from KDOC 2. Immigration Bullet Points

Kansas Department of
Social and Rehabilitation Services
Don Jordan, Secretary
Public Assistance and Immigration

February 26, 2008

Mr. Chairman, thank you for the opportunity to present information regarding public assistance and immigration. Documentation of citizenship or legal status is required for all state-funded assistance programs. For programs funded with federal funds, SRS adheres to federal laws and regulations which govern citizenship documentation. This includes verification of legal status of all non-citizens through the Systematic Alien Verification for Entitlements (SAVE) system for all public assistance programs.

Human Service Assistants in SRS field offices are the gatekeepers for public assistance programs. They take steps to ensure that only eligible persons receive benefits in accordance with federal and state policy. SRS subsequently conducts state-initiated supervisory case reviews. Since 2004, 28,292 food stamp cases and 6,002 TAF cases have been reviewed. These supervisory reviews corrected twelve incorrect initial determinations, providing six eligible recipients with their benefits and preventing six ineligible persons from receiving benefits.

Federal agencies also mandate formal quality control reviews which involve randomly sampling cases, home visits with recipients, matching data with SAVE and Social Security Administration databases, and contacts with employers and landlords. Between 2004 and 2007, federal quality control programs reviewed over 4,000 open cases and 2,700 negative (denied or closed) cases. They identified three errors. One was a \$93 overpayment to an ineligible non-citizen, which was recovered. In the other two cases, eligible non-citizens were denied benefits they were eligible for.

Federal law mandates that states provide emergency health services, public health services, child welfare and child support enforcement assistance to non-citizens not lawfully present in the United States. Because we have exhaustive verification processes in place for all other services, the proposed state legislation would have no impact on our agency operations and would have no fiscal impact.

For Additional Information Contact:
Dustin Hardison, Director of Public Policy
Patrick Woods, Director of Governmental Affairs
Docking State Office Building, 6th Floor North
(785) 296-3271

House Fed and State Committee
Feb 26, 2008

Attachment 47

Kansas Families for Education

Demanding Excellent Public Schools for ALL

Written Testimony HB2836

Committee on Federal and State Affairs – February 26, 2008

Kathy Cook, Executive Director -Kansas Families for Education

Mr. Chairman and members of the committee, thank you for the opportunity to submit written testimony. I am Kathy Cook, Executive Director for Kansas Families for Education and we submit this testimony as opposition to this legislation. We are a statewide organization made up of educators, parents, taxpayers, students, and other Kansans committed to equity and excellence in our public schools, for all Kansas students.

It is our interpretation of HB2836 that the new Section 5, particularly the definition of “benefit” (f) could have the effect of overturning Kansas’ in-state tuition policy. Our opposition to this legislation focuses specifically on this portion which would repeal in-state tuition for children who graduate from Kansas high schools, whether or not those children currently enjoy legal U.S. citizenship.

We are talking about young people who are residents of this state, whose parents pay taxes, and who pay taxes themselves. These are young people who have achieved the graduation requirements of a Kansas high school, which is no small feat, given our state’s high educational standards and the poverty in which many of these young people live.

We contend that to deny these students access to higher learning is not only detrimental to them as individuals, but detrimental to our state and our economy. The 21st century will present many challenges to our business community, and those businesses must be equipped with a well educated workforce prepared to meet those challenges. Our best strategy for ensuring that we will have the human capital we need in the future is to grow it ourselves, and we negate the importance of a well educated workforce when we attempt to deny Kansas students an opportunity for a college education.

If these students are denied in-state tuition it would take dollars away from our already under funded higher educational institutions. Many of the students are only able to afford higher education at the in-state cost, and could not attend or spend their money at Kansas universities if charged the out of state tuition rates. In addition, there is considerable evidence from other states that opening the doors of our colleges and universities to all qualified Kansas graduates will also enhance the educational climate in our secondary schools, where immigrant students study alongside their native U.S.-born peers, and where all of our children must hear the message that their hard work and sacrifice can pay off.

The Kansas instate tuition law has been challenged in U.S. District Court and the 10th Circuit Court of Appeals and upheld every time. We see no logical, rational, or legal reason to repeal in-state tuition. In fact, we maintain that education is a basic human right and the bedrock of our success as a state. We believe that the majority of Kansans embrace our immigrant population and want the students that are sitting side by side with our children in our K-12 classrooms to have the same opportunities to live the American dream by attending post secondary institutions.

I urge you to oppose House Bill 2836 and show your support for the love of freedom and the American Dream, a dream in which these immigrant children fervently share. Thank

House Fed and State Committee
Feb 26, 2008



Testimony before the Kansas House Federal & State Affairs Committee:

In Opposition to the Anti-Business Immigration Bills HB2370, 2680, 2367 and 2836

Introduction:

- Robert Mayer- President of the Mid-America Green Industry Council and Senior Facility manager of Landscape Services for a large Kansas employer.
- Mid-America Green Industry Council represents approximately 200 employers in Kansas and surrounding states.
- Our members range from small family-run businesses to large-scale employers serving the landscape maintenance and construction industry.
- We oppose these bills. We view them as anti-business and against the interests of Kansans.

Issues:

- No legal visas. Not enough American workers to fill jobs within our industry.
- The reading of these bills shows me that Kansas legislators think that there are ample visas that allow us to hire workers legally or that there are enough American workers to fill these jobs.
- In fact, there are NO LEGAL VISAS available to employers to bring seasonal guest workers here legally in Kansas.
- Significant efforts have been made and will continue to be applied to attract American workers to these seasonal jobs, but no matter how hard we try, very few apply and fewer stay even when we pay above the prevailing wage.
- Our industry is being held hostage by an H-2B disaster orchestrated by our Federal government. They have yanked the rug out from under small business men & women who want to do the right thing.
- Many of our members have done everything they can to do the right thing law-wise to hire help legally, through vigorously recruiting U.S. workers and applying for legal visas for foreign workers when American workers fail to fill the jobs.
- This year, landscape company employers in Kansas filed their Labor Certification with the Kansas Department of Commerce, advertised in the Kansas City Star and other major newspapers and entered job orders in to the Kansas Unemployment database.
- Their prevailing wages were issued and employment efforts were supervised and directed by the Kansas Department of Commerce to make sure that no American who was willing to work was overlooked.
- Kansas Department of Commerce and the Federal Department of Labor agreed that despite us paying appropriate wages and vigorously recruiting U.S. workers, there are no Americans available to fill our jobs and awarded our member company's Labor Certificates.
- With the Department of Labor authorization, landscape company's filed for H-2B visas only to discover that the Federal government failed us.
- Congress allows for only 66,000 H-2B visas per year. As expected, this cap was met on Jan. 2nd long before most of our business owners had a chance for DOL approval.
- The U.S. Congress knew of the severe labor shortage yet failed to do anything about it.

*Fed & State Committee
2/26/08*



- Thus, our employers have the labor certification issued by the government validating that there are no Americans to fill our jobs and yet they are not giving us any legal way to get the seasonal foreign workers here legally.
- What should we expect from our state legislators? Understand the issue and help us by explaining to the U.S. Congress that they are setting us up for failure.
- The federal law already punishes employers for hiring undocumented workers. The last thing that we expect from our state legislators is to jump on the band wagon and instead of helping us, threaten to punish us further.
- Before you punish, you must help us acquire the legal resources to comply with the law.

Economic Impact:

- Some of our members who are not getting their legal H-2B workers this year will have to close their businesses. Some will have to fire existing U.S workers such as office personnel and supervisors because they will not have people to support and manage.
- Many business owners have reported that they would not be able to buy equipment, tools and supplies including American truck manufactured right here in the U.S.
- Many will default on customer contracts due to lack of manpower.
- The word will go out to those U.S. workers who loose their jobs and suppliers who loose our business as to why this happened. It's because we did not get our legal workers this year.
- Our membership will know that instead of our federal and state legislators helping us get our legal workers, they competed in devising ways to punish us further for not hiring legal workers.

Request for Help:

- As legislators, you have a duty to act on behalf of your constituents.
- As your constituents, we are asking for your help in getting legal ways to hire seasonal workers by explaining it to the U.S. Congress. Please do not further punish Kansas small business men and women who are doing their best to hire legal workers but have been unable to because of Congress's irresponsibility.

Conclusion:

- In conclusion, I testify in opposition of these proposed bills.

Following the law, companies wind up in a bind

By DIANE STAFFORD
The Kansas City Star

If your landscape contractor doesn't mulch your plantings this spring ...

■ JoCoBusiness.net | H2-B Visa program

If your favorite

campground's facilities remain closed at the beginning of the summer ...

If your building's exterior painting contractor can't give you a date to begin work ...

You may be coming to grips with a little-known, little-understood guest worker program that this year is imperiling some small businesses and the services they provide.

From the lobster industry in Maine to landscape companies in Kansas City to carnival exhibitors in Southern California, thousands of U.S. business operators are sweating out their ability to keep their customers because of a limit placed by the federal government on H-2B visas.

H-2Bs are permission slips that allow manual laborers to work — temporarily and legally — in the United States for employers who sponsor their visa applications.

For this fiscal year, U.S. businesses are allowed only about half the number of H-2B seasonal workers that were hired last year.

After the cap on applications for the second half of the fiscal year was reached this month, several dozen Kansas City companies learned their applications didn't make the cut.

And, because of the way H-2Bs are allocated, even those companies that won approval won't be getting their seasonal workers until April. That late arrival date is putting many area landscape companies in a hiring and scheduling pinch.

In the Kansas City area, no industry counts more on H-2B workers than the landscaping and yard care trade. By May, one landscape company owner said, it should be clear to customers which companies received their H-2B visa workers and which didn't.

To understand why H-2B workers are sought, consider the experience of Lance Schelhammer Jr., owner of **Grass-Roots Inc.**, based in Olathe. His company employs 20 to 30 U.S. workers year-round. But, when its outdoor business kicks up in March, it needs about 50 more workers for the growing season.

Last year, Schelhammer's H-2B authorizations did not come through until mid-May, so he tried to hire locally.

"It was a nightmare. It was absolutely terrible," he said. "We went to temp agencies, to day-labor agencies all over town. We ran ads all the time.

"We went through 150 workers, and only two of them lasted more than two weeks. The longest tenure out of 150 was the one worker who lasted 1½ months. Not one of the locals we hired stayed the entire season."

For about \$12 an hour, Schelhammer said, he couldn't find and keep American-born workers in the Kansas City area who would cut grass. Fortunately for his business, he added, his 55 H-2B applications were approved this year and the guest workers are expected to begin work in April.

For companies that didn't win the visa lottery this year — and there are some large area businesses among them — the alternative may be resorting to undocumented workers.

"It puts employers in a position where they almost have to hire undocumented workers," said immigration attorney Alejandro Solorio. "This is a great hardship on the companies that bring back some of the same seasonal workers year after year."

Solorio, who helps companies file H-2B applications, said that this year not one of his client companies had their applications approved.

Caught up in the explosive immigration debate, and fanned by election year politics, Congress last year declined to raise the cap, which this year allows 66,000 guest workers to work in the United States.

Next page >

To reach Diane Stafford, call 816-234-4359 or send e-mail to stafford@kcstar.com.

Recent Comments

This is just another way the lawn industry gets away without giving...

I work for a lawn and landscape company here in the kc area. I...

Ignorance is not bliss. Some of us do rely on others to help us...

I think this is the first step in controlling the imigration...

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East End again on hold over foreign workers



Jen Friebely of the Hampton Jitney company and Paul Monte of Gurneys Inn and president of the Montauk Chamber of Commerce, speak after a chamber meeting last month about the lack of legal foreign employees for the upcoming summer season. (Photo by Gordon M. Grant)

BY MITCHELL FREEDMAN | mitchell.freedman@newsday.com
4:00 PM EST, February 11, 2008

At Gurney's Inn in Montauk, one of the largest private employers in the Hamptons, general manager Paul Monte is looking to the summer with high anxiety.

He's got popular cottages, suites and rooms to let. But if he doesn't have enough staff to clean the rooms, Monte can't rent them. He's got a restaurant and a cafe. But if there isn't enough wait staff and cooks, people will have to be turned away.

The serious problem of 2007 has become even worse in 2008, and it is national in scope: For years, an estimated 66,000 to 70,000 people have been allowed into the United States as temporary, nonagricultural workers on a federal "H-2B" visa. In each of the past three years, the number of H-2B visas granted increased substantially, due to a special exemption, rising last year to a high of nearly 130,000.

Related links

H2B visas

Need for workers goes beyond waiters, gardeners

Visa Q&A

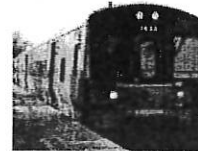
But for various reasons -- prime among them the debate over immigration reform -- those formerly allowed to come here under the program, regulated by the U.S. Department of Labor, cannot return unless Congress acts promptly.

So the hotels, inns, restaurants and landscaping businesses that have relied on those seasonal employees don't know how or where they will find replacements.

Monte's staff, for example, increases from about 200 full-time workers to 325 as the foreign nationals come in to work Gurney's busiest season.

"If I can't bump up my housekeeping staff by 30 percent in the summer, who's going to clean the rooms? If my dining room staff can't increase by 45 percent, who's going to wait on the tables?" he asked. "The more you think this through, the more you realize the impact this is going to

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The same kind of potential worker shortages are a headache for luxury hotels in Arizona and Colorado, shoreline resorts in New Jersey and Cape Cod, and even a traveling circus in Texas.

"I don't think there is a broad understanding of the kind of havoc we are looking at. In my own district there will be terribly serious consequences," said Rep. Timothy Bishop (D-Southampton). "There are any number of sectors of the economy that are dependent on this workforce, and there are districts all across the country like mine."

Bishop's office estimates that businesses in his district, which covers the East End, employed well over 1,000 H-2B workers last year.

Under the H-2B program, workers prescreened by federal officials are allowed into the country to work for up to 10 months in jobs that their employers certify they cannot otherwise fill. An annual cap of 66,000 new workers on H-2B visas was imposed more than a decade ago. But, under an exemption passed by Congress that took effect in May 2005, any worker who had come into the United States under an H-2B visa in any of the three previous fiscal years could return and not count against the cap.

Congress did not renew the exemption for this year, causing the current dilemma posed by lack of returning seasonal employees. The nonrenewal stemmed from several reasons -- including strong opposition from the Congressional Hispanic Caucus, which views the H-2B program as a Band-Aid solution to comprehensive immigration reform.

"I can appreciate that many businesses -- from health providers to landscapers, and from the hospitality industry to the fishing industry -- need Congress to address H-2B visas," said Rep. Joe Baca (D-Calif.), who chairs the caucus. "I recognize that H-2B visa fixes are an important part of the immigration crisis, but that should be just another check mark in the column as to why this Congress must take real action on immigration reform."

With anxious constituents sending up flares, more than 90 members of Congress, both Republicans and Democrats, sent a letter to President George W. Bush in late January, imploring him to lift the cap through an executive order. So far, Bishop said, they have not gotten a response.

A White House spokesman said Friday that the request would require review by the Department of Homeland Security.

A House bill to renew the H-2B exemption is stalled in committee, as the time needed to process any additional H-2B visa applications grows short. "There is a general consensus that it has to be resolved by April 1 if it is to have any impact this summer," Bishop said.

Last year, East End business owners' nerves -- and bottom lines -- were frayed by an H-2B visa issue, but for a different reason.

Because of delays in processing H-2B workers' applications, landscaping businesses, restaurants, pool service firms and other seasonal businesses had to try frantically to find enough employees as the summer season began. Eventually, the foreign nationals got the visas, but businesses already had lost customers, incurred overtime costs and discovered that there was no local labor market to tap for replacement workers.

Pearl Kamer, chief economist for the Long Island Association, said the loss of seasonal workers would hurt the East End's economy at a time when more people are likely to be vacationing locally because of high gasoline costs and a weak dollar.

"Long Island economic growth has been extremely modest over the last year or so -- 5,100 new jobs in the 12 months ending in November," Kamer said. "Tourism is one of the few growth industries on Long Island."

Melinda Rubin of Hampton Bays, an immigration attorney who handles more than 60 H-2B applications a year, predicted a dearth of seasonal workers "will completely hurt Montauk. Most of the businesses out there will be shut off from workers ... that whole town is tourism."

Monte, from his oceanfront vantage point, considered the impact both on his inn and elsewhere.

"Everyone is pulling out their hair," he said. "This is forcing everyone in the country to compete for the same insufficient workforce."

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APPROVED BY
U.S. DEPARTMENT OF LABOR
Employment and Training Administration

APPLICATION
FOR
ALIEN EMPLOYMENT CERTIFICATION

OMB Approval No. 1205-0015

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM
PRINT legibly in ink or use a typewriter. If you need more space to answer questions in this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT																			
1. Name of Alien (Family name in capital letter, First, Middle, Maiden)																			
Multiple (25) unnamed Aliens																			
2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country)								3. Type of Visa (If in U.S.)											
Not in the United States of America								NA											
The following information is submitted as an offer of employment.																			
4. Name of Employer (Full name of Organization)								5. Telephone											
[Redacted]								(785) 843-4370											
6. Address (Number, Street, City and Town, State ZIP code)																			
600 Lincoln St. Lawrence, KS 66044, USA																			
7. Address Where Alien Will Work (If different from item 6)																			
Multiple worksites within Douglas County, Kansas																			
8. Nature of Employer's Business Activity		9. Name of Job Title		10. Total Hours Per Week		11. Work Schedule (Hourly)		12. Rate of Pay											
Landscaping		Landscape laborer		40 0-5		7:00 a.m. 5:00 p.m.		a. Basic \$ 8.00 per hour b. Overtime \$ 12.00 per hour											
13. Describe fully the job to be performed (Duties)																			
Maintain grounds using hand and power tools to mow, prune, edge, blowing, planting and irrigating.																			
14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 13 above.					15. Other Special Requirements														
EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)															
	00	0	0	NA Major Field of Study NA															
TRAINING	No. Yrs.	No. Mos.	Type of Training																
	0	0	NA																
EXPERIENCE	Job Offered		Related Occupation		Related Occupation (specify)														
	Yrs.	Mos.	Yrs.	Mos.	NA														
16. Occupational Title of Person Who Will Be Alien's Immediate Supervisor					17. Number of Employees Alien Will Supervise														
President					0														
<p>1. Qualified workers cannot be found in the United States</p> <p>2. Division of Foreign Labor Certification Policies have been observed.</p> <p>3. This certification is valid from 1/3/08 through 12/1/08</p> <p>(Date) <i>Thomas C. [Signature]</i> (Certifying Officer)</p>																			
<p>ENDORSEMENTS (Make no entry in section - for Government use only)</p> <table border="1"> <thead> <tr> <th colspan="2">Date Forms Received</th> </tr> </thead> <tbody> <tr> <td>L.O.</td> <td>S.O.</td> </tr> <tr> <td>R.O.</td> <td>N.O.</td> </tr> <tr> <td>Ind. Code</td> <td>Occ. Code</td> </tr> <tr> <td>Occ. Title</td> <td></td> </tr> </tbody> </table> <p>Landscaping & groundskeeping workers</p>										Date Forms Received		L.O.	S.O.	R.O.	N.O.	Ind. Code	Occ. Code	Occ. Title	
Date Forms Received																			
L.O.	S.O.																		
R.O.	N.O.																		
Ind. Code	Occ. Code																		
Occ. Title																			

Replaces NA 7-50A, B and C (Apr. 1970 edition) which is obsolete.

ETA 750 (Oct. 1979)

C-07302-33124

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U.S. Department of Labor **Employment and Training Administration**
Chicago National Processing Center
844 N. Rush Street
12th Floor
Chicago, IL 60611



FINAL DETERMINATION FOR REDUCED NUMBER CERTIFICATION

January 31, 2008

~~GREEN WILSONVILLE~~
~~LAWRENCE LANDSCAPE, INC~~
600 LINCOLN ST
LAWRENCE, KS 66044

ETA Case Number: C-07362-33124

State Case Number:

Number of Openings: 25

Occupation: Laborer, Landscape

Period of Certification: April 01, 2008 - December 01, 2008

The Department of Labor has made a final determination on your application for certification of temporary alien employment pursuant to Title 20, Code of Federal Regulations, Part 655.

The Application for Alien Employment Certification, Form ETA 750A, has been certified and is enclosed. We are granting certification for 23 job opportunities and reducing certification by 2 job opportunities. The number of positions has been reduced by the number of U.S. workers that applied for the position through the State Workforce Agency Job Order KS8232333 and were hired by the employer.

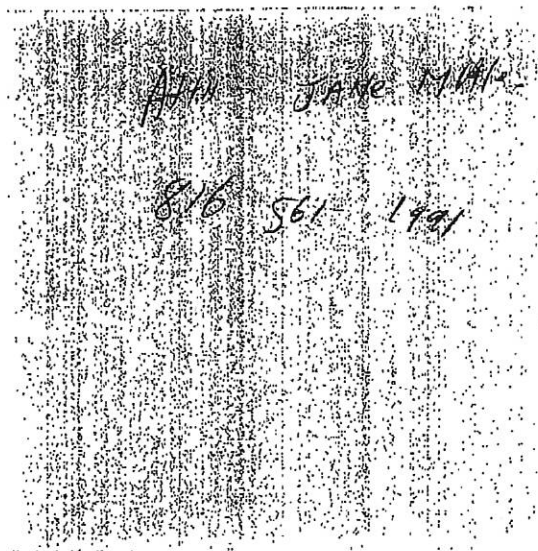
Upon receipt of this notification, you will need to submit the appropriate Form I-129 which is required in conjunction with an H-2B temporary labor certification application. The USCIS I-129 form can be obtained at <http://www.uscis.gov>.

Sincerely,

Marie Gonzalez
Certifying Officer

CC: ~~LAWRENCE LANDSCAPE, INC~~

Attachments: Form ETA 750A



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