

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 26, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Rae Anne Davis, Work Force Development
Secretary Jim Garner, Department of Labor

Others attending:

See attached list.

Final Action:

SB 577 - Radon awareness law and radon certification program

A balloon with Senator Barnett's amendments was reviewed by staff for the committee. (Attachment 1)

A balloon with the Realtors amendment was provided by staff and reviewed by the committee. (Attachment 2)

Senator Barnett moved his amendment. Senator Reitz seconded the motion.

Senator Vratil moved a substitute amendment with the Realtors balloon. Senator Ostmeyer seconded the motion. Senator Brownlee offered a friendly amendment to be included to "be in bold font" on page 1c. Senator Vratil seconded the motion. The entire motion carried.

Senator Vratil moved to include in Senator Barnett's proposed amendment, the language changes starting on page 3, line 32 and to the end of the bill. Senator Lynn seconded the motion. Senator Brownlee offered to be included in New Section 5 (b) the secretary has the authority to establish fees. Senator Vratil seconded the friendly amendment. The entire motion carried.

Senator Francisco moved to add the word "owns" on page 4 line 13. Senator Lynn seconded the motion. The motion carried.

The Revisor will implement the changes and the committee will review at a later date.

Kathie Sparks, Principal Analyst, Legislative Research Department provided the committee an overview on Immigration Issues, I-9, and E-verify. (Attachment 3)

Form I-9

The responsibility for employment verification arises from the Federal Immigration Reform and Control Act of 1986. The Act requires each employer to have in their records a completed Form I-9, Employment Eligibility Verification, for each and every employee, including U.S. citizens hired after November 6, 1986. The form is also to be completed for:

- providers of domestic services that are sporadic, irregular, or intermittent in a private household
- providers of services for an employer as an independent contractor, i.e., one having an independent business, contracting to do work according to the contractor's means and methods, being subject to the employer's control only as to results, setting one's work hours, providing tools necessary to do the job and having authority to hire and fire
- providers of services for the employer, under a contract, subcontract, or exchange entered into after

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November 6, 1986. (In such cases, the contractor is the employer for I-9 purposes; for example, a temporary employment agency.)

The Form I-9 is not filed with the U.S. government, the requirement is for the employers to maintain I-9 records in their own files for three years after the date of hire or one year after the date the employee's employment is terminated, whichever is later. The form is published in English only, must be completed no later than the close of business on the first day of work, and the employee's signature holds him or her responsible for the accuracy of the information provided

According to the Immigration and Naturalization Services website, employers are not required to be document experts, and are held to a reasonableness standard. The website does not give a definition of "reasonableness" for this purpose.

E-Verify Program

The federal Department of Homeland Security (DHS) and the Social Security Administration (SSA) are jointly conducting the E-Verify program. The Program involves verification checks of the SSA and DHS databases, using an automated system to verify the employment authorization of all newly hired employees. The program has been in operation since November 1997 under the Basic Pilot Program and was extended in 2003 until November 2008, expanded to all 50 states and the District of Columbia, and was renamed the E-Verify Program in 2007. The program is voluntary for all employers except for the federal contractors which are required to participate by DHS; and the states of Georgia, Colorado, Oklahoma, and Arizona, have enacted legislation that mandates the use of E-Verify; state agencies participate in the program in the states of Idaho, North Carolina, Pennsylvania, and Missouri. Weakness in the E-Verify Program are:

- Insufficient resources to expand the program - the agency does not currently have the resources to expand the program to all private and public employers throughout the country if it were to become mandatory.
- Inability to detect Identity Fraud - fraudulent use of identification belonging to others remains a significant impediment to the program
- Erroneous Non confirmation Results - employees have received erroneous tentative non-confirmation results from the program, and the employees, employers, and government have incurred costs in resolving these errors
- Noncompliance with program procedures - some employers may not fully understand the requirement of the program, while a few others may abuse the system

Federal Immigration Benefits

Undocumented immigrants under 8 USCS 1611 are not eligible for any federal benefit except:

- Assistance for health care items and services that are necessary for the treatment of an emergency medical condition
- short-term, non cash, in-kind emergency disaster relief
- Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases
- Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General
- Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development

Any non-citizen who does not meet the definition of qualified alien is considered a non-qualified alien for the purpose of determine eligibility for benefits. "Undocumented" or illegal immigrants fall into the non-qualified category, as do aliens considered to be non-immigrants such as students or foreign visitors, and others who are lawfully present in the United States, such as applicants for asylum. The Welfare Reform Act and legislation amending it address qualified aliens' eligibility for three categories of federal benefits:

- Food stamps
- SSI
- Other federal means-tested public benefits

All these benefits have other eligibility criteria that individual recipients, including qualified aliens, must meet. SOURCE: <http://ncinfo.iog.unc.edu/pubs/electronicversions/pg/immi.htm>

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Melissa Doeblin, Assistant Revisor of Statutes, provided the committee an overview of **SB 458**. (Attachment 4)

Rae Anne Davis, Director of Work Force Development, Department of Commerce, updated the committee on the Work Force needs of Kansas Employers. (Attachment 5) The state's overall unemployment rate continues to hover around four per cent; one quarter of all counties have an unemployment rate at or below three percent. This indicates a labor force shortage, all but two of the 26 counties are in the western half of the state. Labor shortages are a very real issue for Kansas businesses and communities, and the recruitment and retention of business to the state; the very first question asked is regarding the availability of a workforce for the jobs that would be created. The shortage of workers is an obvious concern and examples were provided about the existing workforce shortage in Kansas.

Jim Garner, Secretary Kansas Department of Labor, briefed the committee on the Kansas Labor Market. (Attachment 6) The information covered three areas:

Labor Force

The labor force is made up of all the people age 16 and over who are in the labor market. The Kansas labor force participation rate stood at approximately 71 % in 2007, compared to 66% percent nationwide; the unemployment rate in Kansas in December 2007 was 4.0%, compared to 4.8% nationwide. This indicates that Kansas employers may have difficulty recruiting employees and meeting further demands for workers.

Population

The state added 71,128 people for a 2.64% population gain from July 2000 to July 2006, according to U.S. Census Bureau estimates. The metropolitan areas of the state grew by 14,815 people or a 6.39% increase while the non-metropolitan counties fell by 33,687 or a 3.20% decline during the same time. While the metro areas of the state have grown, the western and southeastern areas have experienced an overall population decline.

Immigration

The Kansas Department of Labor doesn't compile information on the number of immigrants, either legal or undocumented in the state or in the workforce. However, the methodology used by the Pew Hispanic Center is as statistically and academically rigorous as possible when attempting to estimate the number of undocumented workers in the U.S. According to a study by the Pew Hispanic Center there are approximately 40,000 to 70,000 undocumented migrants in Kansas. Of these, the national average shows the majority were from Mexico (56%) and there are more adult males (49%) than adult females (35%), with children accounting for the rest. Nationwide, the Pew Center estimates that 4.9% of the nation's workforce is comprised of undocumented workers, with their employment concentrated more than average in farming, cleaning, construction and food preparation occupations. In Kansas, somewhere between 2% and 4% of the workforce may be comprised of undocumented migrants.

The meeting was adjourned at 11:56 am. The next scheduled meeting is February 27, 2008.