

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 March 4, 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
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Archbishop Joseph F. Naumann, Kansas Catholic Conference
Amy Blankenbiller, The Kansas Chamber of Commerce
Allie Devine, Kansas Livestock Association
Terry Holdren, Kansas Farm Bureau
Duane Simpson, KS Grain & Feed Association & KS Agribusiness Retailers Association
Mike Aitken, Society of Human Resource Management
Tim Witsman, Wichita Independent Business Association
Sandy Jacquot, League of Kansas Municipalities
Joe Connor, Unified Government & Public Health Department, Wyandotte County
Stuart Little, Johnson County Government
Reginald Robinson, Board of Regents
Mira Mdivani, The Mdivani Law Firm
David Dayvault, Kansas Independent Oil & Gas Association
Dalton Hermes, Hermes Landscaping, Inc.
Sister Gemma Doll, Catholic Diocese of Dodge City

Others attending:

See attached list.

Bill Introduction:

Senator Gilstrap requested a bill introduction that would designate wheat as the official crop of Kansas.

Senator Gilstrap moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

SB 458 - Immigration Reform

Chairman Brungardt opened the hearing on **SB 458**.

Opponents:

Archbishop Joseph F. Naumann, Kansas Catholic Conference, spoke in opposition to the bill. (Attachment 1) The bill places more burden on local law enforcement, cuts off the immigrant community from police protection by making state and local authorities enforce federal immigration rules. Forcing local police to assume an adversarial role with the immigrant community will threaten the safety of our neighborhoods and cities. A forward thinking immigration policy would create a pathway for undocumented immigrants to earn legal status so that they would no longer be vulnerable to unscrupulous employers and would not be forced to work for low wages creating unfair competition to other American workers. Attached to the testimony was a letter signed by the Bishops in opposition to the bill from :

Scott J. Jones, Resident Bishop
the United Methodist Church, Kansas Area

The Right Reverend Dean E. Wolf
Bishop of the Episcopal Diocese of Kansas

Bishop Gerald Mansholt
Central States Synod, Evangelical Lutheran Church in America
and the Catholic Bishops from the Salina, Dodge City, and Wichita Diocese of Kansas.

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 4, 2008 in Room 526-S of the Capitol.

Amy Blankenbiller, The Kansas Chamber of Commerce, spoke in opposition to the bill. ([Attachment 2](#)) Representing a coalition of 37 Kansas business organizations in opposition of the bill, and are strongly opposed to :

- the increased mandates on business to participate in the voluntary federal program called E-Verify
- the penalties that include the removal of a business license for any length of time for what could be an accidental paperwork violation

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

Allie Devine, Kansas Livestock Association, spoke in opposition to the bill. ([Attachment 3](#)) The bill as it is written appears to establish a process that takes away a business' right to defend themselves or challenge accusation that the business entity knowingly hired, recruited or referred for a fee for employment an unauthorized alien, and raises serious legal and practical questions.

Terry Holdren, Kansas Farm Bureau, spoke in opposition to the bill. ([Attachment 4](#)) Fundamentally we believe that the regulation of immigrant labor and the enforcement of immigration law is an area that has been occupied by the federal government, and that there is little a state can do to regulate employers in this field. Three states have enacted laws or ordinances very similar to **SB 458**, and all three have pending challenges to their laws/ordinances or cases which are under appeal. There is no resolution by the federal courts that gives clear direction to a state about its ability to regulate immigration, and enacting similar legislation in Kansas only invites the same costly court challenge.

Duane Simpson, KS Grain & Feed Association & KS Agribusiness Retailers Association, spoke in opposition to the bill. ([Attachment 5](#)) Mr. Simpson provided documented information that the E-Verify system is inaccurate, incapable of detecting fraudulent use of stolen identities, and is discriminatory toward the people who follow the rules. The agencies are not capable of implementing a national mandatory program and the Social Security Administration in Kansas is the worst in the nation at handling its current caseload which means it is clearly incapable of implementing a statewide mandate. Employers who have used the system have reported numerous problems meeting deadlines and routinely fail to adequately input all of the required data. The following information and reports were provided, which are located in the Kansas Legislative Research Department:

State by State disability Backlog Rankings

Findings of the Web Basic Pilot Evaluation, Rockville, Maryland, Westat (September, 2007)

Testimony Before the Subcommittee on Social Security of the House Committee on Ways and Means, on June 7, 2007, Washington D.C. by:

Steve Schaeffer, Assistant Inspector General for the Office of Audit, Social Security Administration Office of the Inspector General

Richard Stana, Director of Homeland security and Justice, Government Accountability Office

Frederick G. Streckewald, Assistant Deputy Commissioner for Program Policy Office of Disability and Income Security Programs, Social Security Administration

Mike Aitken, Society of Human Resource Management, (SHRM) spoke in opposition to the bill. ([Attachment 6](#)) The E-Verify system cannot stop unauthorized workers using stolen Social Security numbers, fake certificates and fraudulently obtained but "legitimate" photo ID's to bypass the system and gain employment. The law where Arizona mandates employers to use the E-Verify system is countered by a law in Illinois that prohibits employers in that state from using the system; Illinois passed its law to protect workers from the significant error rate in the federal program. Arizona is currently under legal challenge in the federal courts.

Tim Witsman, Wichita Independent Business Association, spoke in opposition to the bill. ([Attachment 7](#)) The bill mandates all businesses use the federal pilot program E-Verify, the program has an error rate of 4.1% and exposes Kansas businesses, especially small businesses who are less sophisticated and equipped to detect false documents.

Sandy Jacquot, League of Kansas Municipalities, spoke in opposition to the bill. ([Attachment 8](#)) The League's opposition is not to the underlying policy issue, but to the unfunded mandates, confusing and ambiguous language in the bill and the exposure to potential litigation and liability, and will be very difficult and costly for city officials to apply. The requirement of law enforcement officers to inquire into the

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 4, 2008 in Room 526-S of the Capitol.

citizenship or immigration status of every individual detained for a violation of law, and there is nothing to indicate how an officer is to determine legal status, except by asking the person detained. It is not clear that the state has the authority to mandate that law enforcement agencies enforce federal immigration laws.

Joe Connor, Unified Government & Public Health Department, Wyandotte County, spoke in opposition to the bill. ([Attachment 9](#)) The unified Government opposes this bill, and if the committee does decide to advance it, we would request that public health services be exempted from the bill so that we can continue to strive to provide effective public health protection in Wyandotte County and in Kansas.

Stuart Little, Johnson County Government, spoke in opposition to the bill. ([Attachment 10](#)) Johnson County Government believes the provisions of new section 5 of the bill if enacted into law would have negative impact on the public health and welfare of our community.

Reginald Robinson, Board of Regents, spoke in opposition to the bill. ([Attachment 11](#)) The Board supported the legislation of HB 2145 now codified in KSA 76-731a, because it embodied the concept of expanded education opportunity for people who live in Kansas, and who seek to enhance their ability to contribute to the well-being of our state and its economy. This legislation does not:

- allow undocumented immigrant students to attend public post secondary institutions for free, they pay the same tuition that their high school classmates pay as they attend colleges and universities
- relieve any student who seeks to benefit from the provision of the obligation to fully and completely satisfy institutional admissions requirements
- make any of these undocumented immigrant students eligible to receive ANY state or federal student financial aid; unlike their high school classmates, these students are not eligible to receive any of the support, no matter how evident or significant their financial need

Mira Mdivani, The Mdivani Law Firm, spoke in opposition to the bill, because it is anti-business and against all immigrants, including legal workers. ([Attachment 12](#)) All of the clients who have registered for E-Verify and applied for legal visas, did not get any this year. So they are in complete compliance, but they cannot get workers, so they will be laying off their Kansas-born workers and closing the doors until such time that our government will wake up and give them tools to comply with the law instead of punishing them.

David Dayvault, Kansas Independent Oil & Gas Association, (KIOGA) spoke in opposition to the bill. ([Attachment 13](#)) The E-Verify system will prove impractical for many in the oil and gas business particularly the drilling and service contractors, much of the hiring by these employees in the fields at a location where computer link up is not possible. KIOGA requested clarification on the sanctions imposed on employers who knowingly hire an illegal worker, and requested that exempting employers with ten or fewer employees and having a 30 day grace period for the verification process for larger employers would make this process less burdensome.

Dalton Hermes, Hermes Landscaping, Inc., spoke in opposition to the bill from the standpoint of almost certain peril Kansas employers will face when they are not able to hire enough workers to remain in business. ([Attachment 14](#))

Sister Gemma Doll, Catholic Diocese of Dodge City, spoke in opposition to the bill. ([Attachment 15](#)) At a town hall meeting businessmen expressed dismay that the national government had failed to achieve comprehensive immigration reform. Sister Doll asked that Kansans respond to this complex issue creatively, compassionately and in our valued tradition of good neighborliness, not only for the sake of the “least among us” (Matt. 25:40), but also to strengthen our democracy.

Opponents Written:

Robert Snyder, Central Plains Development, provided written testimony in opposition to the bill. ([Attachment 16](#))

Julie Frady provided written testimony in opposition to the bill. ([Attachment 17](#))

Sister Maria Luz Hernandez provided written testimony opposition to the bill. ([Attachment 18](#))

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 4, 2008 in Room 526-S of the Capitol.

Nestor Leon, Artistic Lawn & Gardens, provided written testimony in opposition to the bill. ([Attachment 19](#))

Angela Ferguson, Missouri/Kansas American Immigration Lawyers Association, provided written testimony in opposition to the bill. ([Attachment 20](#))

Emily Haverkamp, The Mdivani Law Firm, provided written testimony in opposition to the bill. ([Attachment 21](#))

Mathew A. Spurgin, Litigation Counsel, Kansas Corporation Commission, provided written testimony in opposition to the bill. ([Attachment 22](#))

Leslie Kaufman, Kansas Cooperative Council, provided written testimony in opposition to the bill. ([Attachment 23](#))

Christy Caldwell, Vice President Government Relations, Greater Topeka Chamber of Commerce, provided written testimony in opposition to the bill. ([Attachment 24](#))

Tim Stroda, President & CEO, Kansas Pork Association, provided written testimony in opposition to the bill. ([Attachment 25](#))

Eric Stafford, Associated General Contractors of Kansas, Inc., provided written testimony in opposition to the bill. ([Attachment 26](#))

Chris Wilson, Executive Director, Kansas Building Industry Association, provided written testimony in opposition to the bill. ([Attachment 27](#))

Wesley Galyon, President, Wichita Area Builders and Contractors, provided written testimony in opposition to the bill. ([Attachment 28](#))

Paul Kane, Executive Officer, Tulsa Home Builders Association, provided written testimony in opposition to the bill. ([Attachment 29](#))

Jim Kistler, President/CEO, Associated Builders and Contractors, provided written testimony in opposition to the bill. ([Attachment 30](#))

Donald G. Saylor, President & CEO, Kansas Restaurant & Hospitality Association, provided written testimony in opposition to the bill. ([Attachment 31](#))

J. Kent Eckles, Vice President, Overland Park Chamber of Commerce, provided written testimony in opposition to the bill. ([Attachment 32](#))

Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association, provided written testimony in opposition to the bill. ([Attachment 33](#))

Phil Perry, Director of Governmental Affairs, Home Builders Association of Greater Kansas City, provided written testimony in opposition to the bill. ([Attachment 34](#))

Sister Linda Roth, Sisters of Charity of Leavenworth, provided written testimony in opposition to the bill. ([Attachment 35](#))

United Methodist Women of the Kansas East Conference, Susan Fowler and Sue Luttrell, provided written testimony in opposition to the bill. ([Attachment 36](#))

Sister Rene Weeks, President of the Dominican Sisters of Great Bend, provided written testimony in opposition to the bill. ([Attachment 37](#))

Sister Esther Pineda, CSJ, Sisters of St. Joseph, Concordia, provided written testimony in opposition to the

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 4, 2008 in Room 526-S of the Capitol.

bill. ([Attachment 38](#))

Dan Morgan, The Builders Association and the Kansas City Chapter, AGC, provided written testimony in opposition to the bill. ([Attachment 39](#))

Wes Ory, President, Heritage Lawns, Ltd., provided written testimony in opposition to the bill. ([Attachment 40](#))

Dwayne Lukowski, Owner, Artistic Designs, provided written testimony in opposition to the bill. ([Attachment 41](#))

Lance Schelhammer, Grass - Roots, Inc., Olathe, provided written testimony in opposition to the bill. ([Attachment 42](#))

Robert Mayer, Mid America Green Industry Council, provided written testimony in opposition to the bill. ([Attachment 43](#))

Reg Robertson, Custom Lawn and Landscape Inc., Olathe, provided written testimony in opposition to the bill. ([Attachment 44](#))

Carlos Gomez, President/CEO, Hispanic Chamber of Commerce of Greater Kansas City, provided written testimony in opposition to the bill. ([Attachment 45](#))

The Kansas Contractors Association provided written testimony in opposition to the bill. ([Attachment 46](#))

Elias Garcia, Policy Advocacy Director, State LULAC Organization, provided written testimony in opposition to the bill. ([Attachment 47](#))

Nancy Ochoa, Concerned Citizen, provided written testimony in opposition to the bill. ([Attachment 48](#))

Mark Desetti, KNEA and Kansas Association of School Boards, provided written testimony in opposition to the bill. ([Attachment 49](#))

Trinidad Galdean, Kansas Society of Human Resource Management, provided written testimony in opposition to the bill. ([Attachment 50](#))

Kathy Cook, Executive Director, Kansas Families for Education, provided written testimony in opposition to the bill. ([Attachment 51](#))

Kara Lineweber, Public Policy Associate, El Centro, Inc., Kansas City, Kansas, provided written testimony in opposition to the bill. ([Attachment 52](#))

Neutral/Informational Written:

Cyndi Treaster, KDHE, Director Farm Bureau Worker Immigrant Refugee Health, provided written testimony as informational to the bill. ([Attachment 53](#))

Ed Klumpp, Kansas Association of Chiefs of Police, provided written testimony as informational to the bill. ([Attachment 54](#))

Chairman Brungardt closed the hearing on **SB 458**.

The meeting was adjourned at 12:05 pm. The next scheduled meeting is March 5, 2008.