

Approved: 3-17-99
Date

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairperson Rep. Gary Hayzlett at 1:40 p.m. on March 10, 1999 in Room 519-S of the Capitol.

All members were present except:

Representative Johnston, excused

Committee staff present:

Bruce Kinzie, Revisor

Hank Avila, Research

Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Senator Stan Clark

Leslie Kaufman, Kansas Farm Bureau

Others attending:

See attached sheet

SCR 1608 - urging Congress repeal Section 656 (b) of Federal Illegal Immigration Reform and Immigration Responsibility Act requiring social security numbers on state issued drivers licenses and identification cards

Chairman Hayzlett opened hearings on **SCR 1608**.

Hank Avila, Legislative Research, distributed a fact sheet prepared by the National Conference of State Legislatures showing the Social Security number requirements on personal driver's licenses from other states. (Attachment 1)

Senator Stan Clark presented testimony in support of **SCR 1608**. He told the committee the Social Security Act became law in 1935 and a year later the Treasury invented the Social Security Number. Since 1935 nearly 40 congressionally authorized uses of the Social Security number have been passed, and not one of them has been for Social Security purposes. He included attachments in his testimony showing the basis for some of the objections to this law. (Attachment 2)

In response to question from the committee if passing this resolution would have any effect of getting the act repealed, Staff stated the National Conference of State Legislatures wanted to receive these resolutions from the states to be used in getting the act repealed. Staff will find out if there are consequences of federal money being withheld if the states didn't abide by this Act.

Leslie Kaufman, Kansas Farm Bureau, stood in support of **SCR 1608**. She told the committee the Farm Bureau shares the concerns noted in this bill and requests the Committee support this resolution. (Attachment 3)

Following questions by the committee the Chair closed hearings on **SCR 1608**.

There being no opponents to this resolution Chairman Hayzlett opened **SCR 1608** for discussion and final action.

Representative Howell made a motion to pass SCR 1608 favorably and place on the Consent Calendar. This was seconded by Representative Grant and the motion carried.

Representative Larkin made a motion to introduce a House Concurrent Resolution directing the Attorney General to file a lawsuit if Section 656 (b) is not repealed by December 1st, 1999. This was seconded by Representative McKinney and the motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE, Room 519-S Statehouse, at 1:40 p.m. on March 10, 1999.

The Chair asked if there was other business and Representative Thimesch asked the committee to support him in his request for the priority formula be studied in a summer interim committee. He told the committee he was also asking for a performance audit for his district. He said it was very important that the fatality accidents should have a special weighting. Representative McKinney made a motion to ask for a summer interim study, seconded by Representative Ballou and the motion carried.

Representative McClure told the committee the Post Audit Committee would be meeting at 7:00 a.m. on March 16th and they have two requests for post audits that pertain to transportation. She urged the members to lobby the post audit committee to have these two studies done.

Chairman Hayzlett adjourned the meeting at 2:25 p.m. There are no further meetings scheduled at this time.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: March 10, 1999

NAME	REPRESENTING
Terry Mitchell	Vehicles - Revenue
Marcy Palata	Vehicles - KDOT
Sheila Walker	KDOT
Sta. Club	Legislature
Debby Fleming	Federico Consulting
Leslie Kaufman	Ks Farm Bureau



NATIONAL CONFERENCE OF STATE LEGISLATURES

SOCIAL SECURITY NUMBER REQUIREMENTS ON
PERSONAL DRIVER'S LICENSES

State	1994	1998	State	1994	1998
Alabama	Y	O	Montana	O	O
Alaska	O	Y	Nebraska	N	N
Arizona	Y	O	Nevada	Y	O
Arkansas	O	O	New Hampshire	O	N
California	N	N	New Jersey	N	N
Colorado	O	O	New Mexico	Y	O
Connecticut	N	N	New York	N	N
Delaware	Y	Y	North Carolina	N	N
District of Columbia	Y	O	North Dakota	Y	Y
Florida	N	N	Ohio	Y	Y
Georgia	O	O	Oklahoma	O	O
Hawaii	Y	Y	Oregon	N	N
Idaho	N	N	Pennsylvania	N	N
Illinois	O	O	Rhode Island	Y	N
Indiana	O	O	South Carolina	N	N
Iowa	O	O	South Dakota	Y	O
Kansas	O	O	Tennessee	O	O
Kentucky	Y	N	Texas	N	N
Louisiana	Y	O	Utah	O	O
Maine	N	N	Vermont	N	N
Maryland	N	N	Virginia	Y	O
Massachusetts	O	O	Washington	O	N
Michigan	N	N	West Virginia	O	Y
Minnesota	O	N	Wisconsin	N	N
Mississippi	Y	Y	Wyoming	Y	O
Missouri	O	O			

KEY:

Y = SSN is required to be present on the face of the driver's license

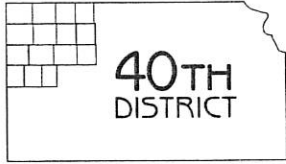
N = SSN is not present on the face of the driver's license

O = Placement of the SSN on the face of the driver's license is Optional / Request of Driver

Source: "Digest of Motor Laws." American Automobile Association (AAA), 1998.

"Items Included on Driver's Licenses." Federal Highway Administration (FHWA), January 1994.

House Transportation Committee
March 10, 1999
Attachment 1



COMMITTEE ASSIGNMENTS
 VICE CHAIR: UTILITIES
 INFORMATION TECHNOLOGY
 MEMBER: AGRICULTURE
 FINANCIAL INSTITUTIONS
 & INSURANCE
 RULES & REGULATIONS

Stan Clark

House Transportation Committee
 Senate Concurrent Resolution 1608
 March 10, 1999

Chairman Hayzlett and members of the committee-

Thank you for holding hearings on this important resolution.

The Social Security Act became law in 1935, and the Treasury Department was ordered to enforce it. A year later Treasury invented the Social Security Number; in 1962 the IRS began to require it; in 1970 all banks were required to obtain it; in 1977 food stamp applicants were required to give it and in 1982 all government loan recipients were required to relinquish it. Since 1935 nearly 40 congressionally authorized uses of the Social Security number have been passed, and not one of them has been for Social Security purposes.

We face a fundamental challenge to our system of self-government, one that has even more serious implications for the liberties of our children and grandchildren. Alexis de Tocqueville warned us 150 years ago when he warned of potential power that “covers the surface of society with a network of small complicated rules, minute and uniform... The will of man is not shattered, but softened, bent and guided; men are seldom forced by it to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes and stupefies a people till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd. It would be like the authority of a parent if, like that authority, its object was to prepare men for manhood; but it seeks, on the contrary, to keep them in perpetual childhood.”

It really takes no intelligence whatsoever to break the law; anyone can do that. But to repeal these incremental spider webs that rob us of our mental

House Transportation Committee
 March 10, 1999
 Attachment 2

and emotional humanity takes all the wit, skill and wisdom we can muster. We have no choice but to start restoring the individual freedoms that our forefathers fought and died for.

Section 656 of public law 104-208 relates to the federal take over of birth certificates, death certificates and drivers licenses (**attachment 1**). The resolution before us today relates only to the drivers license provisions – section (b). Section (b) which starts on page 6 of the attachment requires either your Social Security number to be on the License or for each of us to submit our social security number when we apply for our driver's license and the state of Kansas would have to verify the number as valid with the Social Security Administration before they could issue the license. After October 1, 2000 we would need this license to:

- Board a plane
- Use any governmental service
- Be eligible for Medicare
- Conduct bank transactions

In other words, we would need an internal passport to do everyday things we take for granted.

With this resolution we are urging Congress to repeal this law. Our foundation for objecting is that this law :

1. Violates the rights protected by the 10th amendment to the U.S. Constitution and places the citizens as sheep with the government as shepherd
2. Violates section 7 of the Privacy Act of 1974 (**attachment 2**)
3. Violates specific state and federal laws that limit the use of the social security number
4. Represents an unfunded mandate on state government

This past summer the U.S. Department of Transportation issued the implementing regulations. In October the 3000 plus page Omnibus Appropriations Bill included Section 362 which prohibited the use of funds to implement this law in the current fiscal year (October 1998- September 1999). (**attachment 3**)

Australia recently rejected a national ID after a lengthy debate, spurred along by a widely cited government memo that admitted, "It will be important to minimize any adverse public reaction to implementation of the system. One possibility would be to use a staged approach for

implementation, whereby less sensitive data are held in the system initially with the facility to input additional data at a later stage when public acceptance may be forthcoming more readily.”

The ghost of de Tocqueville haunts us. A “society with a network of small complicated rules, minute and uniform... The will of man is not shattered, but softened, bent and guided.”

The citizens of Kansas want:

- minimal data collection,
- minimal linkages with other data collections and too often our Social Security number is that link
- the right to see and correct our records
- notice before our records are shared with others
- the right to know which data banks exist

Last session we changed the law relating to driver’s license identification numbers. Formerly, you were asked what your Social Security number was and if you refused they gave you a generic “K” number. Now when citizens get their driver’s license you are given a “K” number unless you sign an authorization asking that your social security number be your driver’s license. (**attachment 4**)

I ask you to pass this resolution to continue the path we started on last year. This won’t be the last time we address privacy issues this session. My **attachment 5** is an article about South Carolina officials selling the digital photographs on our driver’s license for an ID database. Robert Smith, publisher of the Privacy Journal, and NCSL’s privacy expert witness who appeared before the Information Management Interim committee this summer is quoted in the article as: “It contributes to an atmosphere where people feel they are being watched. What you create is a mug file of law-abiding citizens.” Revisors are reviewing Kansas Statutes and hopefully if legislation is needed it will be assigned to your committee.

'department' as the definition of 'department' applicable to this section is coextensive with the definition of 'Executive department' in section 101. The words 'not inconsistent with law' are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words 'or military department' are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which provided:

'All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer, or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments

''(i) Consultation with government agencies. - The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

''(ii) Selection of lead agency. - Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

''(iii) Deadline. - The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act (Sept. 30, 1996).

''(iv) Minimum requirements. - The standards established under this subparagraph -

''(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

''(II) may not require a single design to which birth certificates issued by all States must conform; and

''(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

''(2) Grants to states. -

''(A) Assistance in meeting federal standards. -

Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

''(3) Birth certificate. - As used in this subsection, the term 'birth certificate' means a certificate of birth -

''(A) of -

''(i) an individual born in the United States; or

''(ii) an individual born abroad -

''(I) who is a citizen or national of the United States at birth;

and

''(II) whose birth is registered in the United States; and

''(B) that -

''(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

''(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

''(b) State-Issued Drivers Licenses and Comparable Identification Documents. -

''(1) Standards for acceptance by federal agencies. -

''(A) In general. - A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

''(i) Application process. - The application process for the license or document shall include the presentation of

DISCLOSURE OF SOCIAL SECURITY NUMBER

Section 7 of Pub. *L. 93-579* provided that:

"(a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"(2) the (The) provisions of paragraph (1) of this subsection shall not apply with respect to -

"(A) any disclosure which is required by Federal statute, or

"(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

"(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

Attachment 2

From: Mary Torrence <MaryT@rs01.wpo.state.ks.us>
To: sclark@ink.org <sclark@ink.org>
Date: Thursday, January 14, 1999 5:43 PM
Subject: Summary of HR 4328

The summary is attached. Section 362 deals with the social security number issue. A copy of the summary of that section is below.

(Sec. 362) Prohibits the use of funds appropriated under this Act to issue a final standard under docket number NHTSA 98-3945 (relating to certain requirements for State-issued drivers licenses and comparable identification documents under the Illegal Immigration Reform and Responsibility Act of 1996).

STATE OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REVENUE
John D. LaFaver, Secretary

Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66626-0001



(785) 296-3963
FAX (785) 296-0691
Hearing Impaired TTY (785) 296-3909

Division of Vehicles

SSN Authorization

I authorize the State of Kansas, Driver License department to use my Social Security number as my Driver License/ID number.

DL Number

Printed Name

Date of Birth

Signature

DE-98 (6/98)

Attachment 84

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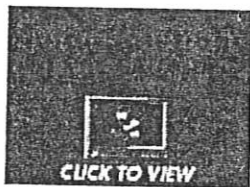


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Posing a Privacy Problem?

Driver's-License Photos Used in Anti-Fraud Database

By Robert O'Harrow Jr.
Washington Post Staff Writer
Friday, January 22, 1999; Page A01

For the first time since authorities began snapping photographs of drivers for licenses, state officials have begun selling the images wholesale, another example of the growing availability of rich troves of personal information via modern technology.

In the past several months, South Carolina has released 3.5 million digital photographs, Florida has started the process of transferring 14 million images in its files and other states have expressed interest in doing the same.

The buyer is Image Data LLC, a small New Hampshire company that wants to build a national database of photos and personal information to help retailers prevent identity theft -- a fast-growing crime in which fraud artists use victims' personal information to run up bills in their names or empty their bank accounts.

Image Data's computers can flash the photo of person named on a credit card or a check to a small screen near a cash register when a transaction begins. Company officials say the service could head off billions of dollars in fraud by giving clerks an instant, tamper-proof way to verify the identity of customers.

The company's desire for the personal data contained in motor vehicle files is far from novel. Such records are routinely sold by many states and have become a computerized staple for direct marketers, information services and others in recent years.

But by adding photographs into the mix, Image Data has crossed into new territory, raising on the one hand the possibility of improved security for consumers and retailers and, on the other, new questions about personal privacy.

While it has long been customary or a legal requirement to restrict access to driver photos to law enforcement authorities, company officials pledged to handle their new storehouse of digital pictures carefully. "What we're looking for is security of the entire process," said Image Data spokeswoman Lorna Christie. "This is a great example of how technology can be used to protect citizens and business."

Attachment 5

The nascent service, already operating on a limited basis in South Carolina, is part of a growing number of surveillance and identification systems that take advantage of computers, electronic networks, personal information, video images, fingerprints and other identifying data, generally in the quest for security.

Law enforcement authorities, for example, now use computer-assisted cameras to "read" license plates of cars that have run through red lights. Casinos use such cameras to watch for faces of con artists or card sharps in their digital picture files, and police in Britain are trying them out in public areas to automatically scan for known criminal suspects.

Some automated teller machines now require users to offer a finger for scanning rather than a bank card to get access. And growing numbers of banks, including First Union, require some people to provide a thumbprint before cashing their checks.

Some critics worry that Image Data's plans will create a sense of unwanted surveillance for many people. Privacy activists fear that once photos are released by authorities in digital form, they will be used for other purposes by private detectives or telemarketers who want to match a face to other personal information.

"It contributes to an atmosphere where people feel they are being watched," said Robert Smith, publisher of the Privacy Journal. "What you create is a mug file of law-abiding citizens."

Consumer advocates complain that drivers in Florida and South Carolina were not asked permission for their images to be sold, even though those states had long restricted access to such photos.

Image Data bought the photographs for about a penny each. Those images will be cross-referenced to personal information gleaned from public and private sources. In addition to a name and address, the company's databases will hold an individual's Social Security number, age, sex, race and other details from a driver's file, as well as limited information about each transaction.

That database will come into play whenever a customer at a participating retailer attempts to use a credit card or check. Identifying data will be sent to Image Data computers, which will respond by sending a photo back to a small screen mounted discreetly near a cash register. The transaction will proceed only after a clerk verifies the customer's identity.

Christie said the new service has already deterred some fraud at stores in South Carolina, where a pilot program is being used to confirm the identities of people using checks. The program in Florida is scheduled to begin later this year. She said Image Data has taken pains to protect privacy, noting the company employs encryption and other secure technology to prevent clerks from capturing and preserving the images.

Attachment 5

Christie said other personal information in the company's database will not accompany the photographs. In addition, she said, contracts with the states also prohibit the company from using the data for any purpose other than fraud prevention.

Officials in the District, Maryland and Virginia have no plans to sell driver photographs, and rules in all three jurisdictions restrict who can see the images.

Reaction to the idea has been mixed where it has become public. Florida state Rep. Tom Feeney, a Republican who sponsored the legislation making the sale of images possible, said the Image Data service will deter fraud and related crimes. "Once the word gets out to the criminal element, you'll probably have less wallets ripped off and purses stolen," Feeney said. "I think nine out of 10 people will think of that as a positive."

But officials in New Hampshire and Louisiana firmly rejected initial efforts by Image Data to acquire state data two years ago after expressing privacy concerns and complaining that photos taken for one purpose should not be used for another.

"The New Hampshire legislators said no to what we considered an unacceptable invasion of people's privacy," said state Rep. Neal Kurk, a Republican who said the opposition to True ID was bipartisan. "This is one step beyond information. It is the essence of who I am."

A Columbia, S.C., retailer, Bill Yancey, manager of the Belk Department Store, described identity fraud as "an ongoing problem" and said True ID "sounds like it has some merit" for helping. But he worries that customers, especially those loyal to the store, might be put off. His store is not among those testing the service. Image Data declined to provide names of retailers that are.

"All of the sudden seeing your photo flashing up there, as though you did something wrong? . . . I could see a negative reaction," Yancey said. "Although the idea has some merit for a retailer, I'm not sure it would go over."

The Florida Retail Federation also is keeping an open mind about the service. But spokeswoman Lori Elliott said some members worry it may be too expensive. Leaders of the group have just begun a campaign promoting the use of thumbprints on checks to help ward off fraud.

Others said few people in Florida and South Carolina have had a chance to object. In South Carolina, state officials approved the sale with little fanfare. In Florida, which previously had sharply restricted the use of driver photographs, legislation enabling the sale was approved after little debate.

Sandy Lambert, the director of Florida's division of driver licenses, said she didn't know about the change until after it was already approved. "It all happened right at the end of the session," Lambert

Attachment 5

said.

Image Data's Christie acknowledged that neither the company nor the states have told drivers how their photographs would be collected and used. But she and state officials noted the arrangement is perfectly legal, even under the new federal Driver's Privacy Protection Act, which took effect last year.

That law, which has come under fire in federal courts as possibly unconstitutional, imposed new restrictions on the use of state driver records. Exemptions include anti-fraud initiatives and do not require the states to allow drivers to opt out.

Christie said concerned drivers can call the company and request that their photographs not be circulated to stores in the new network.

That's not good enough for Robert Biggerstaff of South Carolina. He's angry that no one asked if his driver's photograph could be used. Biggerstaff, a computer specialist and engineer, said such systems are often vulnerable to hackers. He believes it would take relatively little for someone to tamper with the system and begin downloading photographs at will. "If it shows up on a screen, I can capture it," he said. "Yes, there are definitely good things that could come out of [the service]. But why don't we do it with consent? Why don't we have a choice?"

Jim Hatchell, president of the South Carolina Merchants Association, saw a demonstration of the service and believes it will catch on in the state. "It's very impressive," he said, adding the screen showing the photographs is about the size of a business card.

As for privacy concerns, he doesn't think most people will care. "There'll be a few letters to the editor. There'll be a few calls to the radio shows, talking about Big Brother and all that," he said. "I don't think it will be a problem."

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Attachment 5



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TRANSPORTATION

RE: Sub. SCR 1608 - urging Congress repeal Section 656 (b) of the Federal Illegal Immigration Reform and Immigration Responsibility Act requiring social security numbers on state issued drivers licenses and identification cards.

**March 10, 1999
Topeka, Kansas**

**Prepared by:
Leslie J. Kaufman, Assistant Director
Public Affairs Division
Kansas Farm Bureau**

Chairman Hayzlett and members of the House Transportation Committee, thank you for the opportunity to appear before you today and express Farm Bureau's support for SCR 1608. I am Leslie Kaufman. I serve as the Assistant Director of Public Affairs for Kansas Farm Bureau.

Farm Bureau has many concerns with the implementation of Section 656 (b) of the Federal Illegal Immigration Reform and Immigration Responsibility Act requiring social security numbers be placed on state driver's licenses and identification cards. Our concerns mirror those articulated in Sub. SCR 1608.

In January, agriculture producers representing the Farm Bureau members in all 50 states and Puerto Rico met in Albuquerque, New Mexico and approved policy positions which will guide the American Farm Bureau Federation (AFBF) during 1999. Kansas farm and ranch Farm Bureau members were active in this policy process.

Farm Bureau opposes any proposal to establish a national identification card that would be used for any purpose affecting U.S. citizens. As noted in Sub. SCR 1608, the federal requirement that social security numbers be noted on drivers licenses or identification cards raises questions regarding a national ID system.

AFBF policy insists the federal government and its agencies respect state laws. Many states, including Kansas, do not require persons to have their social security number on the state issued drivers license. Section 656 (b) of the Federal Illegal Immigration Reform and Immigration Responsibility Act would mandate states note the social security number on a license or ID card or verify the number with the social Security Administration.

Farm Bureau shares the concern noted in Sub. SCR 1608 that Section 656 (b) creates an unfunded mandate. Farm Bureau opposes federal legislation which mandates programs unless federal funding for such programs is provided on a continuing basis.

Because of these concerns, Farm Bureau respectfully requests the Committee support Sub. SCR 1608 requesting Congress repeal Section 656 (b) of the Federal Illegal Immigration Reform and Immigration Responsibility Act. Thank you.