

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on February 11, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Dan Williams - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Senator Barbara Allen

Paul Morrison, Johnson County District Attorney

Jon Stewart, President/CEO Metcalf Bank

Sheila Walker, Director, Kansas Department of Revenue, Division of Vehicles

Chuck Stones, Kansas Bankers Association

Janet Schalansky, Secretary Social & Rehabilitative Services

Representative Tom Klein

Mike Hall, Pittsburg Chief of Police

Emira Palacios, Sunflower Community Action Group

Melinda Lewis, El Centro, Kansas City

Elias Garcia, Hispanic Caucus

Alberto Herdoiza, Attorney

Jim DeHoff, AFL-CIO

Mark Schreiner, Topeka

Beverly Brown, Wichita

Paul Degener, Topeka

Ann Meritt, Wichita

Hearing on **SB 16 - application requirements for drivers licenses and identification cards**, was opened.

Senator Barbara Allen appeared as the sponsor of the proposed bill. She requested it to make it more difficult to use a fraudulent driver's licenses and ID card in Kansas (Attachment 1). The bill proposes:

- requirement that all applicants to submit their social security number to obtain an driver's licenses or ID card
- one could no longer possess both a driver's license and ID card
- photo must be a colored photograph and must be verified before being place on the license
- increase in photo fee to \$4.00

Paul Morrison, Johnson County District Attorney, has noticed that there has been an increase in identity theft. He estimated that Kansas is about 50 years behind the times in requirements to get a driver's license or photo I.D. He supports the bill but doesn't believe that it goes far enough (Attachment 2).

Jon Stewart, President/CEO Metcalf Bank, deals with fake ID's every day and they are suspicious of anyone wanting to open a new account with an ID card. Bank loses are in the thousands of dollars. The proposed bill would help protect citizens of the state (Attachment 3)

Sheila Walker, Director, Kansas Department of Revenue, Division of Vehicles, explained that they would issue a temporary licenses for a period of 10-20 days while the photo and social security number is being verified. Once verification has been reached the driver's license would be sent to the person requesting it (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on February 11, 2003 in Room 313-S of the Capitol.

Chuck Stones, Kansas Bankers Association, stated that this is a multi-level, fast growing crime. He supported using biometric identifiers when receiving a driver's license or ID. Most Kansas banks require a thumb print to cash a check if it is a non-customer. **SB 16** would go a long way in helping reduce this type of crime ([Attachment 5](#)).

Janet Schalansky, Secretary Social & Rehabilitative Services, appeared in support of the proposed bill because it would keep Kansas in compliance with the Title IV-D program. She believes that Kansas is on the verge of being sanctioned by the Department of Health & Human Services because we are currently out of compliance ([Attachment 6](#)).

Written testimony in support of **SB 16** was provided by the Office of Attorney General ([Attachment 7](#))

The hearing on **SB 16** was closed.

Hearing on **HB 2039 - illegal aliens may obtain a drivers license if such person has an internal revenue service taxpayer identification number**, was opened.

Representative Tom Klein appeared as the sponsor of the proposed bill and requested an amendment which would reinsert "whose presence in the United States is in violation of federal immigration laws."

Mike Hall, Pittsburg Chief of Police, was concerned that there are many undocumented workers currently driving who don't know the rules of the road and this would ensure that they know the laws. It would also allow them to purchase insurance on their automobiles ([Attachment 8](#))

Sheila Walker, Director, Kansas Department of Revenue, Division of Vehicles, appeared in support of the proposed bill as long as **SB 16** passes because it allows for the authenticity and accuracy of the applicant to receive a driver's license or ID ([Attachment 9](#)).

Emira Palacios, Sunflower Community Action Group, appeared in support of the bill but stressed that she doesn't want a driver's license which would look different from a Kansas citizens license because it would allow those who are undocumented to be treated unfairly ([Attachment 10](#)).

Melinda Lewis, El Centro, Kansas City, appeared as a proponent of the bill because it is about public safety by promoting competent and responsible drivers ([Attachment 11](#)).

Elias Garcia, Hispanic Caucus, pointed out that hispanics are the largest ethnic minority group in the U.S.; they accounted from 3 million in the last census; it is estimated that by 2010 they will have purchasing power of one trillion dollars ([Attachment 12](#)).

Alberto Herdoiza, Attorney, he reminded the committee that until July 2000, undocumented workers could obtain a drivers license. Going back to those provisions would ensure every person knows the rules of the road and would purchase automobile insurance ([Attachment 13](#)).

Written testimony in support of the proposed bill was provided by Kansas City Office of Chief of Police, Western District Conferences, Overland Park Chief of Police and the Kansas Catholic Conference ([Attachments 14-17](#)).

Jim DeHoff, AFL-CIO, proposed two amendments. The first would add "whose presence in the United States is in violation of federal immigration laws", and the next would add additional language to clearly state that US Internal Revenue Identification Number and social security number be verified as legal from the US Internal Revenue Service & Social Security Administration ([Attachment 18](#)).

Mark Schreiner, Topeka, suggested that the proposed bill would be promoting illegal aliens and was concerned with the six month period that they have to be in the United States before they receive their Taxpayer Identification Number in order to get employment ([Attachment 19](#)).

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on February 11, 2003 in Room 313-S of the Capitol.

Beverly Brown, Wichita, opposed the proposed bill. She believed that undocumented workers used fake I.D. cards to vote in the last election and that allowing them to legally possess an driver's license would encourage this type of behavior (Attachment 20).

Paul Degener, Topeka, suggested that the proposed bill would be in violation of federal law that states that the Taxpayer Identification Number is to be used for only tax purposes (Attachment 21).

Ann Meritt, Wichita, appeared in opposition of the bill. She also because it violates several federal laws: Taxpayer ID, National Sovereignty laws and INS laws (Attachment 22).

The hearing on HB 2039 was closed.

The committee meeting adjourned at 6:30 p.m. The next committee meeting was scheduled for February 12, 2002 at 3:30 p.m. in room 313-S.



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

CHAIR: ELECTIONS AND LOCAL GOVERNMENT
MEMBER: ASSESSMENT AND TAXATION
JUDICIARY

February 11, 2003

BARBARA P. ALLEN
SENATOR, EIGHTH DISTRICT
JOHNSON COUNTY
9851 ASH DRIVE
OVERLAND PARK, KANSAS 66207
(913) 648-2704
STATE CAPITOL, ROOM 120-S
TOPEKA, KANSAS 66612-1504
(785) 296-7353

Mr. Chairman, Members of the Committee:

SB 16 is about strengthening the security and verifiability of State-issued identification, making it more difficult to obtain fraudulent Driver's Licenses and ID cards in Kansas. Passage of this bill will help enhance public safety, protect Kansans' financial privacy, and reduce fraud losses to our retail businesses.

Attached to my testimony is a chart that shows what each state requires for Driver's License and ID card issuance. Today, Kansas is one of the easiest states in the nation in which to obtain false identification. There are no security measures in place to protect Kansans, to ensure the person applying for a Driver's License or ID card really is that person. A simple photograph yields an instant, permanent piece of government issued identification.

S.B. 16 would strengthen the security requirements for obtaining a Driver's License or ID card in Kansas by:

- 1. Requiring that all applicants for a Driver's License or ID card submit their SSN on their application to obtain identification. The SSN can only be placed on the driver's license if requested in writing by the applicant.**
- 2. No longer allowing a person to legally possess both a current valid Kansas Driver's License, and a current valid ID card.**

H. JUDICIARY

2-11-03Attachment: 1

3. Requiring that after July 1, 2004, no Driver's License shall be valid until a colored photograph of the licensee has been taken and verified before being placed on the license. A color photo is already required in order to obtain a Driver's License. Identity verification would include photo comparisons to ensure that the individual applying today is the same one that applied six years ago, and is also designed to catch individuals trying to obtain multiple IDs.

4. Increasing the photo fee from \$2 to \$4. This fee increase is necessary to cover the fiscal note of the bill.

- a. The first \$1 would cover DMV costs to verify the applicant's SSN and color photograph.
- b. The second \$1 would cover DMV costs to verify "foundation documents".
- c. Expenses \$20k one-time (keypads.)

An article entitled "Driver's License Integrity" published by CSG and NCSL, dated June 25, 2002, talks about the importance of states verifying foundation documents:

Current Issues
Integrity of License Issuance

"All states verify the identity of a potential license holder before issuing a driver's license. The documents used to verify identity for this purpose are known as "foundation documents"

because they provide the building blocks of personal information on which the license is issued.

Foundation documents range from birth certificates, to utility bills, to passports, to other state's driver's licenses. The principal challenge related to foundation documents is states' ability to verify their authenticity and validity.

States do not routinely verify, for instance, that the foundation documents with which they're presented are authentic (i.e. that the document is genuine) or valid (i.e. that the document is eligible to be used). States must increase their ability to verify the authenticity and validity of foundation documents. Currently, few states actively verify foundation documents."

With the passage of SB 16, Kansas would become one of the few states currently verifying foundation documents, and would thus greatly strengthen the security of our State-issued identification.

Senate Amendments

The Senate amended the bill in two ways. First, the Senate Judiciary Committee clarified the meaning of confidential, specifying the SSN information shall not be disclosed except as allowed under K.S.A. 74-2012, the statute that dictates who has access to DMV records. According to DMV, SSN information would be considered "Highly Restricted Personal Information" under the federal Drivers' Privacy Protection Act of 1994.

Second, the Senate Committee of the Whole amended

the provision requiring an applicant to submit his or her SSN, to allow an applicant to submit a taxpayer ID # if the applicant does not have a SSN. If an applicant does not have either a SSN or a taxpayer ID #, the applicant may submit a sworn statement with the application, stating he or she does not have either.

Undocumented Workers/Illegal Aliens

The bill does not in any way alter the requirement that a person must be lawfully present in the United States, and a resident of Kansas, in order to obtain a Kansas DL or ID card. The issue of whether Kansas law should be changed to allow undocumented workers and illegal aliens to obtain a Kansas DL or ID Card is a significant – and separate – issue.

This committee has a separate bill dealing with that issue – HB 2039. Whatever your position on each of these issues, my request is that you keep the two bills separate, so that each bill may rise or fall on its own merits.

Driver's Licenses are much more than a license to drive – they allow us to open bank accounts, cash checks, write merchants checks, and step onto airplanes. They are the most widely used domestic document to verify a person's identity.

Kansas is far too lax about ensuring its Driver's License's and ID cards are secure. I urge this Committee's passage of S.B. 16. Thank you, Mr. Chairman. I will stand for questions.

DRIVER LICENSE AND ID CARD ISSUANCE - 2002

1-5

STATE	Issuance Type	Digital Technology	Original Digital System Installation	Finger or Thumbprint Capture	Biometric Verification	SSN Required	Electronic SSN Verification	Legal Presence Required *	Electronic Legal Presence Verification	Annual DL/ID's Issued	Total DL/ID Records
Alabama	Central	Photo & signature	Jun-97	No	No	Yes	on-line	Yes	No	1,149,000	4,670,000
Alaska	Instant	N/A	N/A	No	No	Yes	No	No	No	180,000	500,000
Arizona	Instant	Photo & signature	Jun-95	No	No	Yes	on-line	Yes	No	1,244,000	5,513,000
Arkansas	Instant	Photo, fingerprint & signature	Oct-94	voluntary, right index, electronic	voluntary, right index fingerprint	Yes	No	Yes	No	600,000	1,900,000
California	Central	Photo, thumbprint & signature	Mar-91	mandatory, right thumb, electronic	facial/thumbprint being considered	Yes	batch	Yes	on-line	6,409,000	24,167,000
Colorado	Both	Photo, fingerprint & signature	1994	mandatory, right index, electronic	right index fingerprint and facial in July 2002	Yes	on-line July 2002	Yes	on-line July 2002	1,400,000	4,145,000
Connecticut	Instant	Photo & signature	Jun-92	No	Facial implementation in September 2002	Yes	No	No	No	840,000	2,300,000
Delaware	Instant	Photo & signature	Apr-95	No	No	Yes	No	Yes	No	200,000	760,000
Dist. of Columbia	Instant	Photo & signature	Aug-00	Being considered	facial recognition	Yes	on-line	Yes	No	120,000	470,000
Florida	Both	Photo & signature	Nov-95	No	No	Yes	No	Yes	No	5,367,000	14,346,000
Georgia	Both	Photo, fingerprint & signature	Sep-96	mandatory, left & right index, electronic	left & right index fingerprints	No	No	Yes	No	2,400,000	5,700,000
Hawaii	ID-Instant DL-Both	Photo, thumbprint (DL), fingerprint (ID) & signature	DL - 1990 ID - 1998	mandatory, right thumb (DL), left & right index (ID), electronic	No	Yes	No	No	No	ID-60,000 DL-300,000	ID-370,000 DL-788,000
Idaho	Instant	Photo & signature	Nov-01	No	No	Yes	on-line	Yes	No	391,000	901,000
Illinois	Instant	Photo & signature	Jan-99	No	facial recognition	Yes	Being considered	No	No	3,650,000	11,700,000
Indiana	Instant	Photo & signature	1999	No	No	Yes	No	No	No	1,700,000	6,362,000
Iowa	Both	Photo & signature	Dec-95	No	No	Yes	Being considered	No	No	1,025,000	2,913,000
Kansas	Instant	Photo & signature	Jul-94	Being considered - unknown at current	Being considered - unknown at current	CDL only	Being considered	Yes	Being considered	750,000	1,975,000
Kentucky	Instant	Photo & signature	Dec-01	No	facial recognition being considered	Yes	Being considered	Yes	Being considered	1,951,000	2,900,000
Louisiana	Instant	Photo & signature	Jun-95	thumb, electronic being considered	facial recognition being considered	Yes	Both	Yes	No	1,062,000	3,624,000
Maine	Central	Photo & signature	Oct-99	No	No	Yes	on-line	Yes	No	240,000	900,000
Maryland	Both	Photo & signature	Nov-90	No	facial recognition being considered	Yes	on-line	Yes	Being considered	1,300,000	3,700,000
Massachusetts	Central	Photo & signature	1993	No	No	Yes	on-line	Yes	Being considered	1,000,000	5,100,000
Michigan	Central	Photo & signature	Apr-98	No	No	Being Considered	Being considered	No	Being considered	2,200,000	7,500,000
Minnesota	Central	Photo & signature	Jun-94	No	No	CDL only	No	No	No	1,500,000	DL 3,582,000 ID 222,000
Mississippi	Instant	Photo & signature	Jul-96	Being considered	facial recognition being considered	Yes	on-line	Yes	No	740,000	2,100,000
Missouri	Both	Photo & signature	Sep-96	No	No	Yes	on-line	Yes	No	1,893,000	4,852,000
Montana	Central	Photo & signature	1993	No	No	Yes	No	Yes	No	150,000	680,000
Nebraska	Instant	N/A	Est. 2003	No	facial recognition being considered	Yes	on-line	No	No	547,000	1,213,000
Nevada	Instant	Photo & signature	Apr-02	No	No	Yes	on-line	Yes	No	860,000	1,731,000
New Hampshire	Instant	Photo & signature	1993	No	No	Yes	No	Yes	No	265,000	955,000

DRIVER LICENSE AND ID CARD ISSUANCE - 2002

STATE	Issuance Type	Digital Technology	Original Digital System Installation	Finger or Thumbprint Capture	Biometric Verification	SSN Required	Electronic SSN Verification	Legal Presence Required *	Electronic Legal Presence Verification	Annual DL/ID's Issued	Total DL/ID Records
New Jersey	Both	N/A	N/A	No	No	Yes	Being implemented	No	Being considered	2,128,000	6,080,000
New Mexico	Instant	Photo & signature	1998	No	Being considered, unknown which type	Yes	Being considered	Yes	Being considered	468,000	1,500,000
New York	Central	Photo & signature	Nov-92	No	facial/fingerprint being considered	Yes	on-line	Yes	No	4,234,000	11,850,000
North Carolina	Instant	Photo & signature	Sep-96	No	facial recognition being considered	Yes	Being considered	No	No	1,248,000	7,085,000
North Dakota	Both	Photo & signature	Jan-96	No	No	Yes	No	Yes	No	180,000	480,000
Ohio	Instant	Photo & signature	Feb-95	No	No	Yes	batch	Yes	No	3,100,000	8,500,000
Oklahoma	Instant	N/A	N/A	Being considered, w/AAMVA standards	facial & thumb print being considered	Yes	Being considered	Yes	No	935,000	2,298,000
Oregon	Instant	Photo	Jun-97	No	No	CDL only	No	No	No	826,000	DL-2,675,000
Pennsylvania	Both	Photo & signature	1994	No	No	Yes	Being considered	Yes	No	4,129,000	8,204,000
Rhode Island	Instant	Photo & signature	In six months of 3/2002	no	Being considered, unknown which type	No	No	No	No	280,000	650,000
South Carolina	Instant	Photo & signature	Nov-93	No	No	Yes	Being considered	Yes	No	800,000	3,000,000
South Dakota	Both	Photo & signature	May-90	No	No	Yes	on-line	Yes	No	200,000	555,000
Tennessee	Both	Photo & signature	Aug-96	No	No	Yes	on-line	No	No	1,400,000	6,100,000
Texas	Central	Photo, signature & thumbs	Mar-95	mandatory, both thumbs, electronic	thumbprint being considered	DL only	Being considered	No	No	6,250,000	17,000,000
Utah	Central	Photo & signature	Sep-02	No	No	Yes	Being considered	No	No	430,000	1,900,000
Vermont	Instant	Photo & signature	1993	No	No	Yes	No	No	No	90,000	450,000
Virginia	Both	Photo & signature	1991	No	No	DL only	batch	No	No	1,000,000	5,500,000
Washington	Central	Photo & signature	Jun-01	No	No	Yes	on-line	No	No	1,600,000	4,711,000
West Virginia	Instant	Photo, fingerprint & signature	Jan-98	voluntary, right index, electronic	voluntary right index & mandatory facial	Yes	No	No	No	461,000	1,352,000
Wisconsin	Instant	Photo & signature	Oct-97	No	facial recognition being considered	Yes	Being considered	No	No	1,237,000	4,110,000
Wyoming	Central	Photo & signature	Apr-93	No	No	Yes	on-line	Yes	on-line	135,000	406,000

Additional Information:

Georgia is over the counter for renewals and centralized for first time applicants.

Louisiana uses batch SSN processing for existing DL-ID records and on-line processing for new (original) DL-ID records.

Nevada expects to be digitized by mid 2002.

New Jersey expects to be digitized by April 2003.

Maryland has over the counter transactions for walk-ins and centralized issuance for drivers renewing while absent from the state.

Ohio currently uses batch processing for SSN up till July or August 2002. By then, they anticipate using on-line verification.

Rhode Island is working on proposal to digitize.

Virginia uses centralized method for juveniles and instant for everyone else. SSN is not required for acquiring an ID and only required for DL applicants who have one.

Washington issues black & white temporary photograph when customer is at a DMV office. SSN on-line verification only used when fraud is suspected.

Abbreviations: CDL - Commercial Driver License; DL - Driver License; ID - Identification Card; N/A - Not Applicable; SSN - Social Security Number

Source of information: Survey by California Department of Motor Vehicles in mid February, 2002 with follow-ups from March through May, 2002. Legal presence requirement information from AAMVA.

Questions: Contact Steve Fong (916) 657-8715 or sfong@dmv.ca.gov, California Department of Motor Vehicles, Licensing Operations Division.

* Legal Presence Requirements Map, produced by AAMVA 02/2002.



KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

JANET SCHALANSKY, SECRETARY

January 24, 2003

Honorable John Vratil
Statehouse 255-E
Topeka, KS 66612

Dear Senator Vratil:

Thank you for meeting with Marianne Deagle, John Badger, and Jamie Corkhill on Thursday, January 23, 2003, to discuss the federal requirements for Child Support Enforcement (CSE) which are involved with Section 1 of Senate Bill 16.


There is no question about the requirement in 42 USC 666(a)(13), which clearly specifies that the State must require all applicants for driver's licenses to provide their social security number (SSN) on the application. SB 16, as introduced, will meet this requirement.

A second question is whether federal law mandates that CSE have access to the SSNs contained in Division of Vehicles records.

Since our discussions on Thursday, we have received additional information from the Regional Office of Health and Human Services, and we have learned that the federal statutes and regulations previously discussed with the Regional Office are not controlling. After consulting with their Policy Section in Washington, D.C., the HHS Regional Office furnished additional citations and stated that, in their view, CSE is required to have access to SSNs in Division of Vehicles records.

It's a general principle of administrative law that Federal agencies are allowed wide discretion when interpreting their own statutes. In light of the deference likely to be given to HHS' interpretation, we now believe that Kansas must require SSNs on driver's license applications and that any language prohibiting disclosure of the SSN to CSE would cause the CSE state plan to be found out of compliance with Title IV-D requirements.

I apologize for any confusion we may have caused. We would be glad to meet with you at your convenience to discuss this further or share the specific citations with you, if you wish. Thank you for your continued interest in this matter.


Janet Schalansky
Secretary

KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

February 5, 2003

REVISED

The Honorable John Vratil, Chairperson
Senate Committee on Judiciary
Statehouse, Room 255-E
Topeka, Kansas 66612

Dear Senator Vratil:

SUBJECT: Revised Fiscal Note for SB 16 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 16 is respectfully submitted to your committee.

SB 16 would require the Department of Revenue to collect the social security number of all applicants for a driver's license, instruction permit, or identification card. The bill also would authorize the Department to implement security measures for the issuance of driver's licenses. One such measure would be the purchase and implementation of a computer software program that could associate the applicant's photographic image with previous photographic images to verify the identity of the applicant. SB 16 would increase the photo fee from the current amount of \$2 to \$4. Furthermore, persons with a valid driver's license would no longer be able to obtain an identification card.

Estimated State Fiscal Effect				
	FY 2003 SGF	FY 2003 All Funds	FY 2004 SGF	FY 2004 All Funds
Revenue	--	--	--	\$1,500,000
Expenditure	--	--	--	\$1,145,000
FTE Pos.	--	--	--	--

The Department of Revenue reports that enactment of SB 16 would generate an additional \$1.5 million in revenue per year as a result of the increase in the photo fee from the

current amount of \$2 to \$4 as set forth in the bill. This is based on a total of 750,000 applications being processed.

Since the original fiscal effect statement was issued, the Department of Revenue has provided additional information on the fiscal effect of this bill relating to expenditures. The Department reports that the costs associated with the verification of an applicant's social security number and source data, such as cross checks of birth and death records and address information, are estimated to be \$1,125,000. This amount is based on cost estimates of \$0.25 per each social security number verification and \$1.25 per each source data verification.

For the purpose of observing the privacy of applicants, the Department states that it could provide the means for applicants to enter their own social security number in a secure manner on a keypad. If these keypads were to be installed, a one-time cost of approximately \$20,000 would be required to purchase this hardware in FY 2004. The Department estimates that approximately 20 days of computer programming time would be required to make the necessary changes to the Kansas Driver's License System to implement the bill. Any fiscal effect resulting from this bill would be in addition to amounts included in *The FY 2004 Governor's Budget Report*.

According to the Department of Social and Rehabilitation Services (SRS), it would be in danger of losing federal funding without the passage of SB 16. The Department reports that in order for the Child Support Enforcement Program (CSE) to remain in compliance with federal law, the State of Kansas must require all applicants for a driver's license to provide the applicants' social security number on their applications. Furthermore, passage of SB 16 would remove the risk that the Temporary Assistance to Families (TAF) state plan would be found out of compliance, which could result in the loss of the Temporary Aid for Needy Families (TANF) block grant for failure to provide an acceptable child support enforcement program. The loss of revenue to the Department for the administration of these programs would be approximately \$31,091,535 from the federal Title IV-D Program for CSE and \$101,931,061 from the TANF block grant for the TAF program.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Jerry Sloan/Ami Hyten, Judiciary
Steve Neske, Department of Revenue

MESSAGE FROM THE HOUSE

Announcing passage of HCR 5001.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HCR 5001 was thereupon introduced and read by title.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 2. An act concerning certain boards; relating to the terms of members thereof; amending K.S.A. 2-3709 and K.S.A. 2002 Supp. 76-3304 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed, as amended.

SB 8. An act concerning the legislative post audit act; relating to certain audits of the pooled money investment board; amending K.S.A. 46-1106 and repealing the existing section also repealing K.S.A. 2002 Supp. 75-4264, was considered on final action.

On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brownlee, Brungardt, Buhler, Bunten, Clark, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Huelskamp, Jackson, Jordan, Kerr, Lee, Lyon, Morris, O'Connor, Oleen, Pugh, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Tyson, Umbarger, Vratil, Wagle.

The bill passed.

SB 16. An act concerning drivers' licenses and other identification cards; relating to application requirements; photograph fees; amending K.S.A. 8-240, 8-243 and 8-1324 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 32, Nays 8, Present and Passing 0, Absent or Not Voting 0.

Yeas: Adkins, Allen, Barnett, Barone, Brungardt, Buhler, Bunten, Corbin, Donovan, Downey, Emler, Feleciano, Gilstrap, Gooch, Goodwin, Haley, Harrington, Hensley, Jordan, Kerr, Lee, Morris, Oleen, Salmans, Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Brownlee, Clark, Huelskamp, Jackson, Lyon, O'Connor, Pugh, Tyson.

The bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT, **SB 16** is about strengthening the security and verifiability of State-issued identification, making it more difficult to obtain fraudulent Driver's Licenses and ID cards in Kansas. Passage of this bill will help enhance public safety, protect Kansans' financial privacy, and reduce fraud losses to our retail businesses.

Today, under current law, Kansas is one of the easiest states in the nation in which to obtain false identification. There are no security measures in place to protect Kansans, to ensure the person applying for a Driver's License or ID card really is that person. A simple photograph yields an instant, permanent piece of government issued identification.

Driver's licenses are much more than a license to drive - they allow us to open bank accounts, cash checks, write merchants checks, and step onto airplanes. They are the most widely used domestic document to verify a person's identify.

Kansas is far too lax about ensuring our Driver's License's and ID cards are verifiable and secure. This bill is a strong step toward preserving and protecting Kansans' safety and security. I vote YES.—BARBARA ALLEN

1 [As Amended by Senate Committee of the Whole]

2
3 As Amended by Senate Committee

4 *Session of 2003*

5
6 **SENATE BILL No. 16**

7
8 By Committee on Judiciary

9
10 1-14

11
12 AN ACT concerning drivers' licenses and other identification cards; re-
13 lating to application requirements; photograph fees; amending K.S.A.
14 8-240, 8-243 and 8-1324 and repealing the existing sections.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 8-240 is hereby amended to read as follows: 8-240.
18 (a) Every application for an instruction permit shall be made upon a form
19 furnished by the division of vehicles and accompanied by a fee of \$2 for
20 class A, B, C or M and \$5 for all commercial classes. Every other appli-
21 cation shall be made upon a form furnished by the division and accom-
22 panied by an examination fee of \$3, unless a different fee is required by
23 K.S.A. 8-241, and amendments thereto, and by the proper fee for the
24 license for which the application is made. If the applicant is not required
25 to take an examination the examination fee shall not be required. The
26 examination shall consist of three tests, as follows: (1) Vision; (2) written;
27 and (3) driving. If the applicant fails the vision test, the applicant may
28 have correction of vision made and take the vision test again without any
29 additional fee. If an applicant fails the written test, the applicant may take
30 such test again upon the payment of an additional examination fee of
31 \$1.50. If an applicant fails the driving test, the applicant may take such
32 test again upon the payment of an additional examination fee of \$1.50. If
33 an applicant fails to pass all three of the tests within a period of six months
34 from the date of original application and desires to take additional tests,
35 the applicant shall file an application for reexamination upon a form fur-
36 nished by the division, which shall be accompanied by a reexamination
37 fee of \$3, except that any applicant who fails to pass the written or driving
38 portion of an examination four times within a six-month period, shall be
39 required to wait a period of six months from the date of the last failed
40 examination before additional examinations may be given. Upon the filing
41 of such application and the payment of such reexamination fee, the ap-
42 plicant shall be entitled to reexamination in like manner and subject to
43 the additional fees and time limitation as provided for examination on an

1 original application. If the applicant passes the reexamination, the appli-
2 cant shall be issued the classified driver's license for which the applicant
3 originally applied, which license shall be issued to expire as if the applicant
4 had passed the original examination.

5 (b) (1) For the purposes of obtaining any driver's license or *instruc-*
6 *tion permit*, an applicant shall submit, with the application, proof of age
7 or proof of identity, or both, as the division may require. *An applicant*
8 *shall submit the applicant's social security number [or a taxpayer iden-*
9 *tification number if the applicant does not have a social security*
10 *number], which shall remain confidential and shall not be disclosed,*
11 *except as provided pursuant to K.S.A. 74-2012, and amendments*
12 *thereto. If the applicant does not have a social security number [or a*
13 *taxpayer identification number], the applicant shall submit a sworn*
14 *statement, with the application, stating that the applicant does not have*
15 *a social security number. The distinguishing number assigned to the li-*
16 *cence or permit may be the applicant's social security number [or a tax-*
17 *payer identification number] if the applicant so requests in writing. If*
18 *the applicant is applying for an instruction permit or driver's license and*
19 *the applicant otherwise meets the requirements for such license, the ap-*
20 *plicant shall receive a temporary license or instruction permit until the*
21 *division verifies all facts relative to such applicant's right to receive an*
22 *instruction permit or driver's license, including the age, identity, social*
23 *security number[, taxpayer identification number] and residency of*
24 *the applicant.*

or taxpayer identification number

25 (2) An applicant who submits proof of age or of identity issued by an
26 entity other than a state or the United States shall also submit such proof
27 as the division may require that the applicant is lawfully present in the
28 United States.

29 (3) The division shall not issue any driver's license to any person who
30 is not lawfully present in the United States.

31 (4) The division shall not issue any driver's license to any person who
32 is not a resident of the state of Kansas, except as provided in K.S.A. 8-
33 2.14S. and amendments thereto.

34 (5) The parent or guardian of an applicant under 16 years of age shall
35 sign the application for any driver's license submitted by such applicant.

36 (c) Every application shall state the name, date of birth, sex and res-
37 idence address of the applicant, and briefly describe the applicant, and
38 shall state whether the applicant has ~~heretofore~~ been licensed as a driver
39 *prior to such application*, and, if so, when and by what state or country;
40 ~~and~~. *Such application shall state whether any such license has ever been*
41 *suspended or revoked, or whether an application has ever been refused,*
42 *and, if so, the date of and reason for such suspension, revocation or re-*
43 *fusal. In addition to the above criteria, applications for commercial driv-*

1 make a valid gift. Any valid gift statement executed prior to July 1, 1994,
 2 shall remain effective until invalidated. The word "Donor" shall be placed
 3 on the front of a licensee's driver's license, indicating that the statement
 4 for making an anatomical gift under this subsection has been executed by
 5 such licensee.

6 ~~(c) On and after July 1, 1996.~~ Any person who is deaf or hard of
 7 hearing may request that the division issue to such person a ~~drivers'~~
 8 ~~driver's~~ license which is readily distinguishable from drivers' licenses is-
 9 sued to other drivers and upon such request the division shall issue such
 10 license. Drivers' licenses issued to persons who are deaf or hard of hearing
 11 and under the age of 21 years shall be readily distinguishable from drivers'
 12 licenses issued to persons who are deaf or hard of hearing and 21 years
 13 of age or older.

14 Sec. 3. K.S.A. 8-1324 is hereby amended to read as follows: 8-1324.

15 (a) Any resident *who does not hold a current valid Kansas driver's license*
 16 may make application to the division of vehicles and be issued one iden-
 17 tification card, certified by the registrant and attested by the division as
 18 to true name, correct age, photograph and other identifying data as the
 19 division may require. ~~Every application for an identification card shall be~~
 20 ~~signed and verified by the applicant and shall contain such bona fide~~
 21 ~~documentary evidence of the age and identity of such applicant as the~~
 22 ~~division may require.~~

23 (b) An applicant who submits documentary evidence under subsec-
 24 tion (a), issued by an entity other than a state or the United States shall
 25 also submit such proof as the division may require that the applicant is
 26 lawfully present in the United States. *For the purposes of obtaining any*
 27 *identification card, an applicant shall submit, with the application, proof*
 28 *of age or proof of identity, or both, as the division may require. An ap-*
 29 *plicant shall submit the applicant's social security number [or a taxpayer*
 30 *identification number if the applicant does not have a social secu-*
 31 *rity number], which shall remain confidential and shall not be dis-*
 32 *closed, except as provided pursuant to K.S.A. 74-2012, and amend-*
 33 *ments thereto. If the applicant does not have a social security number*
 34 *[or a taxpayer identification number], the applicant shall submit a*
 35 *sworn statement, with the application, stating that the applicant does not*
 36 *have a social security number. The distinguishing number assigned to the*
 37 *identification card may be the applicant's social security number [or a*
 38 *taxpayer identification number] if the applicant so requests in writing.*
 39 *If the applicant is applying for an identification card and the applicant*
 40 *otherwise meets the requirements for such card, the applicant shall receive*
 41 *a temporary identification card until the division verifies all facts relative*
 42 *to such applicant's right to receive an identification card, including the*
 43 *age, identity, social security number[, taxpayer identification number]*

or taxpayer identification number

Testimony to the House Judiciary Committee

Regarding Senate Bill 16

Paul J. Morrison, District Attorney - Tenth Judicial District
February 11, 2003

I have been a prosecutor for 23 years. I've been the District Attorney in Johnson County for 14 years. During my career I've prosecuted just about all types of crimes and studied and watched various crime trends. One of the most disturbing trends I've noticed in the past few years is the emergence of well thought out, deliberate "white collar" type crimes that are highly destructive to individuals, businesses and our society. Most notable of these is identity theft. We have seen a literal explosion of this type of crime, both in Johnson County and across the state.

I've heard much said over the last few years about problems with fraudulently produced and altered drivers' licenses. In most states this is a big issue as driver's licenses are the most commonly used form of identification to open bank accounts, fill out credit applications, etc. In Kansas, however, our problems are a bit different. Fraudulent and altered drivers' licenses don't seem to be such a big problem here because one can easily get authentic Kansas drivers' license using phony identification. As such, I suspect many crooks think, "why should I alter a driver's license when I can get a real one so easy?" It's for this reason that we are so supportive of Senate Bill 16. This bill addresses a simple change that will make it much more difficult for criminals to obtain a Kansas driver's license or ID card using phony identification; the requirement of a social security number by the applicant. Most of you probably don't know that among states Kansas is one of the most lax in identification requirements for the issuance of a driver's license or state ID card. By simply requiring a social security number and allowing some time for the Department of Motor Vehicles to verify that number before issuance of a permanent driver's license will be one of the most effective steps we can take in fraud prevention.

As you will hear today, the cost of implementing this bill is minimal.

This bill in its most basic form is extraordinarily simple and cost effective. It will go a long way in preventing future crime and victimization.

H. JUDICIARY

2-11-03

Attachment: 2

Kansas State House Committee on Judiciary

*Testimony of Jon L. Stewart, President & CEO
Metcalf Bank, Overland Park
February 11, 2003*

Senate Bill No. 16

Good afternoon. Thank you for the opportunity to address the Committee today on the topic of fraudulent IDs.

As noted, I represent Metcalf Bank, which has six locations in Johnson County and one in Miami County. Throughout the 40-year history of our institution, we have taken pride in offering customer-friendly service.

But please consider this. When an individual approaches one of our associates, makes a request to open a new account and then hands us an *official* Kansas Identification Card, one of the first thoughts that crosses our minds is, "Criminal activity."

And you know what? Most of the time we are right!

Certainly this is not the frame of mind we want to be in when dealing with a potential new customer . . . with any customer. Metcalf Bank strives to serve every customer in the friendly, unbiased manner of a community bank. That is our niche and sets us apart from our competitors.

But we know from experience that a high percentage of Kansas Identification Cards presented to our employees are illegitimate. These IDs are used fraudulently by criminals to procure funds from counterfeit checks, to raid the account of an unsuspecting victim or to obtain cash and checks.

We respect the original intent of the Kansas ID card program, which is to provide genuine identification to those who cannot obtain a driver's license, namely elderly or disabled persons. But the truth is, rarely do users of Kansas IDs fit this mold. It's not uncommon for users of these identification cards to drive to the front door of the bank and then present a Kansas ID card showing they have no driving privileges.

Such blatant criminal behavior is made possible by what we believe is a lenient issuance process. The State of Kansas is among the most permissive when it comes to distributing identification cards.

The application process for a Kansas identification card requires no Social Security number, no electronic Social Security number verification, no finger- or thumb-print capture. Applicants need only present a photo and signature to obtain an official identification card.

The system is literally inviting criminals to take advantage of it. And they are

H. JUDICIARY

2-11-03

Attachment:

3

This situation puts a great deal of pressure on the banking community. We have become part of the front lines of defense in identifying and, to some extent, capturing these criminals. In 2001, for example, our bank was involved in the arrest of two eastern European men attempting to open a bank account with a Kansas ID Card and a counterfeit passport. An arrest was made in the lobby of one of our banks.

Uncommon? Hardly. Our bank reports instances frequently where a Kansas ID is presented for fraudulent purposes. There have been times when these people have been arrested in our lobbies and escorted out in handcuffs.

And don't overlook the financial impact. I can tell you that Metcalf Bank's losses from fraud involving Kansas ID cards in 2001 and 2002 greatly exceeded theft from outright robberies. But we consider fraudulent use of ID cards to be robbery in its own right. And we expend time, energy and funds to guard against it. We know from experience that criminals are reluctant to provide any information that may tie them to a crime. In July 1999, Metcalf Bank joined other Kansas banks in a thumb print program for non-customer check cashing. Prior to this program we experienced frequent and significant losses due to criminals presenting and cashing checks stolen or counterfeited from our customers. Since implementing the program this form of criminal activity is non-existent at our bank. Today criminals complete the same type of crime by simply obtaining a state issued identification card and using that card to open a checking account.

While bank fraud losses number in the thousands of dollars because of fraudulent IDs, we acknowledge it is Kansas retailers who suffer the most damage from these ID abuses. When a retailer submits a check for payment to our bank and there are no funds in the account to cover the amount, we simply return the check to the retailer. When those checks are accepted based on a fraudulent ID, the retailer has no recourse other than to pass these costs on to their customers in the form of higher prices.

In closing, let me say that Kansas bankers are being forced to scrutinize and deal cautiously with the legitimate users of Kansas Identification Cards. It's not fair to these law-abiding citizens. It's not fair to us. It's not fair to Kansas.

Please help us protect our communities, our customers and our employees. Our experience indicates that law-abiding citizens do not have a problem providing proof of identity. We encourage you to change the process currently used in issuing Kansas identification cards and Kansas Drivers licenses.

Thank you. I will be happy to answer any questions you may have.



K A N S A S

JOAN WAGNON, ACTING SECRETARY

DEPARTMENT OF REVENUE
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

TO: Chairman Mike O'Neal
Members of the House Judiciary Committee

FROM: Sheila J. Walker, Director of Vehicles *Sheila J. Walker*

DATE: February 11, 2003

SUBJECT: Senate Bill 16 – Identity Security

Mr. Chairman, members of the committee, I am Sheila Walker, Director of the Kansas Division of Motor Vehicles (DMV). Thank you for allowing me to testify on Senate Bill 16. This bill does not stop anyone who is eligible to get a license today, from getting one after the bill takes effect.

Under this bill, each applicant is required to submit a Social Security number or a taxpayer identification number to the Kansas DMV, and we are required to verify that number, before issuing a driver's license, instruction permit, or ID card. The number shall remain confidential and will not be placed on the driver's license, instruction permit or ID card unless the applicant requests so in writing. At a one-time cost of \$20,000, we can install numeric keypads to enable applicants to privately enter their own Social Security number, so it does not have to be shared with examiners or overheard by the public. If the applicant does not have a Social Security number or a tax ID number, the applicant must submit a sworn statement indicating that he or she does not have one.

This bill endorses the DMV's ability to take the time necessary to verify all information presented, prior to issuing a driver's license or ID card. The applicant is to receive a temporary driver's license, instruction permit or ID card until we are able to verify all facts, including Social Security number or tax ID number, age, identity, and residency. Additionally, no applicant would be able to hold both a valid driver's license and ID card at the same time. Identity verification would include photo comparisons to ensure that the individual applying today is the same one that applied six years ago, and is also designed to catch individuals trying to obtain multiple IDs.

Finally, the bill increases the photo fee from \$2 to \$4, generating \$1.5 million annually, to pay for costs associated with photo comparison software, as well as verification of Social Security or tax ID numbers, age and residency.

H. JUDICIARY

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Attachment: 4

Senate Bill 16 – Identity Security

Page 2

February 11, 2003

While these proposed changes to Kansas' licensing laws are all in line with the national recommendations for tighter security, we recognize the big picture – before the driver's license became proof of identity, enabling Kansans to open bank accounts, write checks, and so on, it was proof that they passed the vision, written, and the behind-the-wheel tests. Not only do we have an interest in ensuring identity, driving safety is equally important.



The Kansas Bankers Association

2-11-03

TO: House Judiciary Committee
FROM: Chuck Stones, Senior Vice President

RE: SB 16

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to appear before you in strong support of SB 16. SB 16 would help assure that the person represented by a State issued drivers license or ID card is the actual person.

ID THEFT IS A CRIME OF MAJOR PROPORTIONS AND IS BECOMING A NATIONAL SECURITY ISSUE -

Identity theft has been called the fastest growing and largest monetary crime in the US today. The complementary crime of check fraud is a huge problem. Even beyond ID theft is the whole issue of positive identification verification. People try to conceal or change their ID for a wide variety of reasons. There should be a more stringent process to get an official state issued identification card. Individuals and businesses in Kansas and other states rely on these cards as correct identification. Kansas has a duty to do everything within its power to ensure that people to whom it issues any identification card is, in fact, the person they say they are.

The article from Time Magazine attached to my testimony points out that some consumer advocates estimate that as many as 750,000 identities are stolen every year. Most are stolen for personal financial gain, but some are stolen for other larger crimes. The Time article points out that people steal identities to mask their participation in a crime. The article from the ABA newspaper points out that ID theft is growing national security issue and that Congress has recognized that financial fraud and ID theft "continue to play a large role in funding the terrorist cells in this country."

THE MYTH OF CONSUMER PROTECTION -

The Legislature is NOT protecting the consumer by ignoring this problem. According to a recent AP story, ID theft is the fastest growing consumer crime and accounts for more than 40% of consumer-fraud complaints. Passing provisions such as this is protecting the consumer.

H. JUDICIARY

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Attachment:

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As you will remember the discussion of HB 2296 a few years ago, the bill that increased the penalties for check forgery and fraud, the crime of check forgery and fraud is a huge problem for every citizen, either directly or indirectly.

- According to the Wichita Business Journal, there were **\$8 million worth of check forgeries** written in Wichita in 1999; and detectives in the Topeka Police Department's Financial Fraud Unit tell us they are aware of \$2 million worth of check forgeries written in Topeka in 2000.
- According to a GAO report, "Identity Theft Available Data Indicate Growth in Prevalence and Cost", community bankers report that identity theft attributed to 56% of all check fraud.
- Forgeries involve **multiple victims**: the person whose checks were stolen, the business that cashed the check and the bank where the account is drawn on. All parties potentially face huge losses when checks are forged. In addition, losses occurred by banks and other businesses get passed on to the innocent consumer as the cost of doing business increases.

BIOMETRIC WORKS –

Biometric identifiers are the **ONLY** true identifier of a person. The KBA is among a large number of states where some banks require a thumbprint to cash a non-customers check. In the first year of the program fraud was decreased by approx 60%.

At the national level the Homeland Defense Dept. and the Attorney General office is actively investigating the use of biometric identifiers to help assure the security of the United States.

Biometric identifiers may sound a little out on the edge, but are being used increasingly to stop fraud and as the only true way to ensure identity.

We believe that SB 16 would go a long way in helping reduce this crime and we urge your support.



Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

For Release: January 22, 2003

FTC Releases Top 10 Consumer Complaint Categories in 2002

As in 2000 and 2001, Identity Theft Tops the List

The Federal Trade Commission has released its annual report detailing consumer complaints about identity theft and listing the top 10 fraud complaint categories reported by consumers. As in 2000 and 2001, identity theft topped the list, accounting for 43 percent of the complaints lodged in the FTC's Consumer Sentinel database. The number of fraud complaints jumped from 220,000 in 2001 to 380,000 in 2002, and the dollar loss consumers attributed to the fraud they reported grew from \$160 million in 2001 to \$343 million in 2002.

"The FTC provides a clearinghouse for consumers," said J. Howard Beales III, Director of the FTC's Bureau of Consumer Protection. "We are the portal through which consumers can enter complaints and receive assistance and guidance." Beales said consumers can file fraud complaints online at www.ftc.gov. Identity theft victims, or people seeking tips to avoid being a victim, can log on at www.consumer.gov/idtheft.

Beales said the increased numbers of complaints from 2001 to 2002 had several possible explanations. "One of them has to do with the success of our outreach efforts - that is, more people know where to complain about fraud and ID theft. That's important because more complaints give us a more complete picture of the types of fraud that are occurring, the characteristics of fraud victims, and the companies that are appropriate targets for law enforcement," he said.

"Another explanation - or another part of the explanation - has to do with the increase in the number of partners to Consumer Sentinel who contribute and use data for enforcement purposes," Beales said. Forty percent of the complaints in the Sentinel database come through data contributors like the Social Security Administration's Office of Inspector General, the Internet Fraud Complaint Center, the National Consumers League's National Fraud Information Center, and many, many Better Business Bureaus around the country, Beales said.

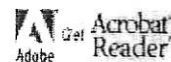
The top 10 categories of consumer fraud complaints in 2002 include:

- Internet Auctions - 13%
- Internet Services and Computer Complaints - 6%
- Advance Fee Loans and Credit Protection - 5%
- Shop-at-Home/Catalog Sales - 5%
- Foreign Money Offers - 4%
- Prizes/Sweepstakes and Lotteries - 4%
- Business Opportunity and Work-at-Home Plans - 3%

Related Documents:

[When Bad Things Happen to Your Good Name](#)

[2002 National and State Trends in Fraud Identity Theft Report \[PDF\]](#)



- Telephone Services - 2%
- Health Care - 2%
- Magazines and Buyers Clubs - 2%

Consumer Sentinel is a database established in 1997 by the FTC in conjunction with the state Attorneys General and Canada's Phonebusters. "Sentinel currently provides about 630 law enforcement agencies in the U.S., Canada and Australia with access to one million complaints. Consumer Sentinel has become law enforcement's virtual water cooler -- a place where information can be shared, investigations can be coordinated, and resources can be pooled. This makes for smarter and better law enforcement," Beales said.

The FTC has tips for consumers who want to protect themselves from fraud:

Protect your personal information. It's a valuable commodity. Only share your credit card or other personal information when you're buying from a company you know and trust.

Know who you're dealing with. Walk away from any company that doesn't clearly state its name, physical address, and telephone number. A Web site alone or a mail box drop should raise suspicions.

Don't rely on oral promises. Get all promises in writing and review them carefully before you make any payments or sign any contracts. Read and understand the fine print in any written agreement.

Don't pay "up-front" for a loan or credit. Remember that legitimate lenders never "guarantee" a loan or a credit card before you apply, especially if you have bad credit, no credit, or a bankruptcy.

Consumers interested in identity theft should consult the FTC's publication, "When Bad Things Happen to Your Good Name," available online at www.consumer.gov/idtheft.

Copies of consumer brochures are available from the FTC's Web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint, or to get free information on any of 150 consumer topics, call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the complaint form at <http://www.ftc.gov>. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

MEDIA CONTACT:

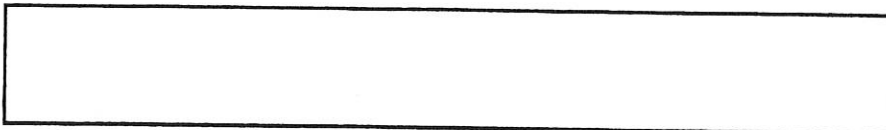
Claudia Bourne Farrell
Office of Public Affairs
202-326-2181

STAFF CONTACT:

Betsy Broder,
Bureau of Consumer Protection



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Ridge: Link driver's license, visa

BY William Matthews
March 15, 2002

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The Office of Homeland Security is urging states to establish tighter control over foreign visitors by issuing driver's licenses that expire when visas expire.

The office is drafting model legislation to require that driver's licenses issued to non-citizens be tied to visas, homeland security spokesman Gordon Johndroe said March 14. The model is to be sent to the states for consideration by legislatures.

In recent weeks, Tom Ridge, director of the Office of Homeland Security, has been encouraging governors and other state officials to take steps to improve the security and authenticity of driver's licenses.

In a conference call with state officials March 7, Ridge told state emergency management officials that he hopes motor vehicle departments can be electronically linked to databases maintained by the federal Immigration and Naturalization Service. That would enable state workers to check the immigration status of foreign nationals who apply for driver's licenses and issue licenses that would expire when visas expire.


Such capability also could enable the states to help keep better track of visiting foreigners.

INS has asked Congress for \$380 million to build an entry and exit data system to keep track of foreign visitors. The system may include biometric identification information such as fingerprints or eye scans of visa holders. Such information also could be included on driver's licenses.

Ridge's telephone remarks came about 10 days after he urged governors attending a National Governors Association meeting to draft model legislation setting standards for more secure licensing procedures. By coming up with their own standards, Ridge said, the governors would avoid having standards forced on them by Congress.

Driver's licenses became a source of concern after the Sept. 11 terrorist attacks because most of the terrorists used such licenses — obtained

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The American Association of Motor Vehicle Administrators is pressing Congress to pass a law requiring states to adopt more uniform standards for driver's licenses and stricter procedures for issuing them.

AAMVA officials said they want licenses to include security features that make counterfeiting more difficult, and they want some form of "unique identifier," possibly a biometric identifier such as a fingerprint or eye scan.

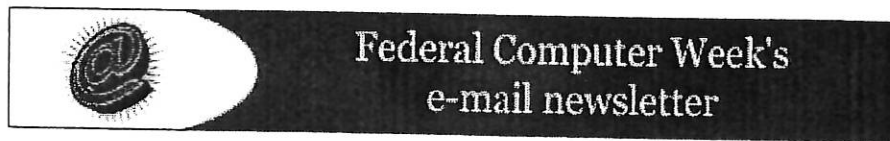
The AAMVA also wants much more thorough verification of a license applicant's identity before a license is issued. To accomplish that, the association wants Congress to earmark as much as \$100 million for a computerized Driver Record Information Verification System that would enable federal and state agencies to more readily share information they have collected on drivers.

Thus, identification verification might involve cross-checking data submitted by license applicants with government databases that contain names, addresses, passport numbers and Social Security numbers, law enforcement records and INS data, AAMVA officials said.

The association also wants state driver's license databases to be interconnected so that licensing officials can check to see whether applicants already have licenses from other states.

Privacy advocates oppose high-tech licenses backed by interconnected databases, fearing driver's licenses will come to be used as national identification cards.

Johndroe said the model legislation the Office of Homeland Security is drafting "isn't intended to lead to a national ID card; it is intended to strengthen homeland security."



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Bank Operations

institutions in the United States use one or more methods to evaluate identification documents and other information presented by prospective customers. The most sophisticated services, including Identity Chek from Primary Payment Systems, a majority owned subsidiary of Concord EFS Inc., are used to determine whether a driver's license is valid, if another individual has also used that license number, whether the Social Security number presented by a prospective customer is consistent with that customer's age or whether the same number is in use elsewhere. The system also can verify whether another individual has recently claimed the same address.

To illustrate the power of these risk management approaches, and their potential to enhance national security, Primary Payment Systems conducted research based on information released publicly about the 19 terrorist hijackers. Of the 12 hijackers for whom more information was available than simply a name, 11 were identified as "suspicious" by finding duplicate or invalid driver's licenses and Social Security numbers, and by cross-matching names, addresses and birth dates. Of course, to be effective, tools like this must be used consistently at every account opening and other transactions, such as adding other parties to an existing account.

Services also exist to detect fraudulent checks presented for deposit. Check verification services can scan the MICR information on a check and compare the account information to various types of databases. Some databases contain "negative" information that might indicate a higher likelihood of return, such as incidents of fraud or insufficient funds. Others are known as "positive databases" and are more comprehensive, contain information about account status and overall check writing patterns—such

as volume and frequency—as well as any fraud or NSF returns.

Everyday Transactions

Combating fraudulent transactions requires a comprehensive set of measures covering every point in the transaction. A number of practical tools, many already in place, are available for managing risk here as well.

Perhaps the most basic, and most popular, is the PIN used with ATM and point-of-sale debit transactions. So long as a cardholder keeps his or her PIN secret, a PIN-secured transaction is among the safest forms of payment. Surprisingly, 11 percent of cardholders report that they have for-

Combating fraudulent transactions requires a comprehensive set of measures covering every point in the transaction.

gotten their PIN and still others have simply gotten out of the habit.

For signature-debit transactions there are tools available for managing potential fraud as well. One option is to compare transactions against databases that detect irregular behavior or spending patterns.

Detecting an outbreak of counterfeit cards and moving quickly to take appropriate actions to halt the transactions can be a matter of critical importance, especially for smaller financial institutions. Fortunately, several services are available (from your EFT network and from outside vendors) to provide an early warning of possible counterfeit cards.

Not all fraud is as sophisticated as counterfeiting debit cards. Indeed,

Identity Theft

Evolving Into a National Security Issue

By John Ginovsky

Raise your hand if you, or anyone you know, have had a credit card or other bank account abused by a complete stranger — in other words, have become a victim of identity theft.

The odds are, your hand is raised.

That's the experience of Robert Douglas, an identity theft expert who's talked with thousands of people around the country, and who has advised numerous banks and federal agencies about the subject.

"When I talk to groups and ask if anybody has been a victim or knows a victim, it's always more than 50 percent of the [attendees], and sometimes substantially more," Douglas said.

(Douglas, who is CEO of American Privacy Consultants Inc., Alexandria, Va., will speak on this subject during the ABA Regulatory Compliance

Conference, June 2-5, in New Orleans. For more information, call 1-800-BANKERS.)

Since Sept. 11, identity theft has taken on a much more sinister, much more serious aspect than before.

"Congress is aware that financial fraud and identity theft ... continue to play a large role in funding the terrorist cells in this country," Douglas said during ABA's recent teleconference, "Identity Theft: Protect Your Customers and Your Bank."

"And it's no mistake that one of the first [private

sector entities] on Sept. 12 that President Bush called upon to act in this regard was the financial services industry," he added.

To that end, Douglas stressed, "This issue needs to become just

that this is going to become a priority in the banking industry."

Douglas generally advises banks to concentrate on four "T's" when putting into place an effective anti-identity theft program.

■ Teach awareness — "Employees need to know

why this is important, why this is a priority, from financial losses to the institution and also to the damage it's doing to American

ID THEFT

as important as sales and marketing in banks. Compliance departments and security departments need more resources. Mostly they need more direction from the board of directors on down,

See Identity Theft/Page 2

TipOff



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Identity Theft Help
The Federal Trade Commission has unveiled a new form to help victims of identity theft.2

Credit Union Monitor
ABA's Keith Leggett explains why federal credit unions should directly compensate their boards.3

Grassroots Lobbying
ABA's Sharon Raymond discusses the importance of bankers' involvement in political advocacy.5

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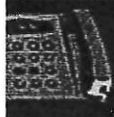
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Wednesday, Jan. 23, 2002

Identity Theft: Could it Happen to You?

New statistics suggest it may be only a matter of time. A security expert offers tips on protecting yourself

BY JESSICA REAVES

Imagine this: Someone out there knows your name, your credit card information, your bank account numbers and your social security number. They are pretending to be you — running up outrageous bills, even committing crimes — and as far as your banks, creditors and various authorities are concerned, they *are* you.

It may sound like the plotline of a hackneyed Hollywood thriller, but hundreds of thousands of Americans may have already been victims of identity theft. Last year alone, the Federal Trade Commission logged more than 85,000 complaints from people whose identities had been pirated. That may only be the tip of the iceberg; some consumer advocates suggest as many as 750,000 identities are stolen each year.

See pg 2

What, exactly, is identity theft? How does it happen? And how can you protect yourself against this growing trend? TIME.com spoke with Ted Claypoole, a technology lawyer concentrating in financial services and security at the firm of Womble Carlyle Sandridge and Rice in Charlotte, North Carolina.

TIME.com: You don't seem particularly shocked by these figures.

Ted Claypoole: No, I'm not. It's actually frighteningly easy to steal someone's identity in this day and age. And the key is in the numbers that have come to identify all of us.

Your online identity consists of numbers and other information that describes you — it's not really you, of course, but to anyone online it is

4

you. In other words, if someone can use your social security number, which is really the key to identity theft, and find your financial information, like a bank account number or credit card number, they can begin to build an identity of someone online who has a lot of your characteristics.

So what pieces of information are particularly key to identity?

There are three basic ways to authenticate oneself: One is something you know. Two is something you have. Three is something you are.

Something you know is easy: it's a password, a personal identification number that no one else should have. Something you have is an ATM card or an ID card at work. Something you are can be your handwriting, your fingerprint or your DNA sample, depending on how detailed you want to get. Some very advanced systems use GPS to pinpoint where you are, but that's a different level of technology.

*

Anyone who understands identity theft knows these things — so if they can get hold of this information, they can fake your identity.

Many people are particularly concerned about using credit cards to make online purchases. Is it safer to use credit cards in person than online?

I don't see a bigger problem with using a credit card online than using it offline. It's just as big a risk to make a credit card transaction at a restaurant as it is to make a transaction on a trusted web site.

What's the motive behind identity theft? I can imagine people wanting to steal money, but beyond that I'm at a loss.

You're right, the purpose is generally to steal money, or account information, or credit, or someone's good name.

Another reason people steal identities is to mask their participation in a crime. The more convincingly a criminal can establish he is someone else, the more likely it is the authorities won't come after that criminal.

*

Okay. Now for the important information. What can any of us do to shield ourselves from identity theft?

There are things that are standard, generally accepted methods of keeping information secure that lots of people don't follow.

- Using credit cards is generally safer than allowing access into other accounts. The credit card system has safeguards built in to protect users from fraud. If someone steals your credit card number, you're out 50 bucks and

some hassle. With a debit card, you could be cleaned out completely. Using cash is also not a bad thing.

- Never give out your social security number. Except for government or big-ticket items, no one should be asking for that number. Credit card numbers and social security numbers should never be used to make charitable contributions.
- Never give out any information about yourself over the phone, particularly to anyone who's called you.
- Try to avoid writing your bank account numbers on anything.
- Rip up pre-approved credit card notices, because that's one of the ways this can happen — they'll take the notice, change the address, and build credit using your name and identity.
- Read your bank statements. You'd be amazed by how many people just toss those statements without checking for strange transactions.

Some people are going to read this and start worrying about shredding every piece of personal information that comes across their desk. How nervous should this threat make us?

There's no reason to be paranoid; there's just reason to be careful. If someone wants desperately to target you, they can probably get a lot of information about you — so you just need to minimize the criminal's opportunities to get that information. You can make yourself a harder target, and that's probably your best defense.



[Click here to return to the original story](#)

Thieves pilfering personal identities

1:05 a.m.
1/24/2002

By David Ho
The Associated Press

WASHINGTON -- Identity bandits victimized thousands of people last year, stealing their financial information and branding some with criminal records. This fast-growing crime accounts for more than 40 percent of consumer-fraud complaints.

The Federal Trade Commission said Wednesday that identity theft complaints far exceeded other areas of fraud, such as deceptive Internet auctions and lotteries. The figures come from a government database of more than 200,000 complaints collected in 2001 from more than 50 law enforcement and consumer groups.

Privacy advocates say the number of people victimized by identity theft may be as high as 750,000 a year.

"We've seen an explosion in this crime and it's not going away," said Beth Givens, director of the Privacy Rights Clearinghouse, a San Diego-based consumer group.

Givens said consumers should look at their credit reports twice a year, shred personal documents before throwing them away, and cleanse wallets of old receipts and printed Social Security numbers.

However, she cautioned, "You could take all the preventative steps and still become a victim."

One identity thief's actions made the world believe that Chicago lawyer Ted Wern wasn't only a deadbeat, but a criminal.

"He took my name and information and started running amok with it," Wern said.

He thinks the thief went through his mail or garbage for the information in 1998.

Using Wern's name and Social Security number, the ID thief applied for

and got at least four credit cards and ran up nearly \$50,000 in bills. The thief also opened a checking account with a Georgia bank and wrote thousands of dollars in bad checks.

Then, whenever the thief was pulled over for a traffic violation without a license, he started giving out Wern's information, building a litany of charges, including a drunken driving arrest in Ohio.

He was released, but that encounter led authorities last year to arrest Terre A. Stevens for the identity fraud crimes. This month he was sentenced to six months in prison and four years of probation, according to court officials in Mansfield, Ohio.

"I am angry, but in many cases theft of your identity is something you can't control," Wern said. "You have to just do your best to clear it up."

It cost the average victim more than \$1,000 to clean up the mess left by identity thieves, the FTC said.

The high number of identity theft complaints last year may partly reflect the FTC's increasing emphasis on investigating this kind of fraud and its use of toll-free numbers to receive those complaints, said Howard Beales, the agency's director of consumer protection. Consumers can call toll free (877) FTC-HELP or (877) ID-THEFT.

After identity theft, the top consumer fraud complaints of 2001 were problems with Internet auctions and deceptive trial offers and charges from Internet and computer services.

Credit card fraud accounted for 42 percent of identity theft complaints, followed by scams where telephone or utility accounts were created in a person's name without his or her knowledge.

In some cases, hackers have been able to penetrate big corporations' databases and download credit card numbers and other data.

The District of Columbia had the highest rate of identity theft in 2001 with 77 victims for every 100,000 people. California and Nevada followed with 45 and 41 victims per 100,000 people, respectively.

Sue Ann Mills, 52, had her identity stolen from her home in Columbus, Ohio, when two burglars broke in and stole her purse, which contained her driver's license and Social Security card.

She called to cancel her credit cards, but not before the young thieves attempted and failed to use her cards to buy PlayStation video game consoles. They were never caught.

"It's a very scary situation," she said. "They don't want your furniture or your crystal, they want your identity."



For Immediate Release
Office of Homeland Security
January 7, 2002

Specifics of Secure and Smart Border Action Plan

ACTION PLAN FOR CREATING A SECURE AND SMART BORDER THE SECURE FLOW OF PEOPLE

1) Biometric identifiers

Jointly develop on an urgent basis common biometric identifiers in documentation such as permanent resident cards, NEXUS, and other travel documents to ensure greater security.

2) Permanent Resident Cards

Develop and deploy a secure card for permanent residents which includes a biometric identifier.

3) Single Alternative Inspection System

Resume NEXUS pilot project, with appropriate security measures, for two-way movement of pre-approved travelers at Sarnia-Port Huron, complete pilot project evaluation and expand a single program to other areas along the land border. Discuss expansion to air travel.

4) Refugee/Asylum Processing

Review refugee/asylum practices and procedures to ensure that applicants are thoroughly screened for security risks and take necessary steps to share information on refugee and asylum claimants.

5) Handling of Refugee/Asylum Claims

Negotiate a safe third-country agreement to enhance the handling of refugee claims.

6) Visa Policy Coordination

Initiate joint review of respective visa waiver lists and share look-out lists at visa issuing offices.

7) Air Preclearance

Finalize plans/authority necessary to implement the Preclearance Agreement signed in January 2001. Resume intransit preclearance at Vancouver and expand to other airports per Annex I of the Agreement.

8) Advance Passenger Information / Passenger Name Record

Share Advance Passenger Information and agreed-to Passenger Name Records on flights between Canada and the United States, including in-transit flights. Explore means to identify risks posed by passengers on international flights arriving in each other's territory.

9) Joint Passenger Analysis Units

Establish joint units at key international airports in Canada and the United States.

10) Ferry Terminals

Review customs and immigration presence and practices at international ferry terminals.

11) Compatible Immigration Databases

Develop jointly an automated database, such as Canada's Support System for Intelligence, as a platform for information exchange, and enhance sharing of intelligence and trend analysis.

COORDINATION AND INFORMATION SHARING IN THE ENFORCEMENT OF THESE OBJECTIVES

23) Integrated Border and Marine Enforcement Teams

Expand IBET/IMET to other areas of the border and enhance communication and coordination.

24) Joint Enforcement Coordination

Works toward ensuring comprehensive and permanent coordination of law enforcement, anti-terrorism efforts and information sharing, such as by strengthening the Cross-Border Crime Forum and reinvigorating Project Northstar.

25) Integrated Intelligence

Establish joint teams to analyze and disseminate information and intelligence, and produce threat and intelligence assessments. Initiate discussions regarding a Canadian presence on the U.S. Foreign Terrorist Tracking Task Force.

26) Fingerprints

Implement the Memorandum of Understanding to supply equipment and training that will enable the RCMP to access FBI fingerprint data directly via real-time electronic link.

27) Removal of deportees

Address legal and operational challenges to joint removals, and coordinate initiatives to encourage uncooperative countries to accept their nationals.

28) Counter-Terrorism Legislation

Bring into force legislation on terrorism, including measures for the designation of terrorist organizations.

29) Freezing of terrorist assets

Exchange advance information on designated individuals and organizations in a timely manner.

30) Joint Training and Exercises

Increase dialogue and commitment for the training and exercise programs needed to implement the joint response to terrorism guidelines. Joint counter-terrorism training and exercises are essential to building and sustaining effective efforts to combat terrorism and to build public confidence.

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Return to this article at:

<http://www.whitehouse.gov/news/releases/2002/01/20020107.html>

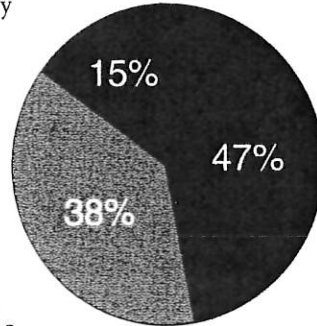
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But while community banks have pushed forward despite a slumping economy, issues on the horizon promise new challenges. Chief among these is the increasingly complex legislative and regulatory environment in which they must maneuver. Last year, brought more regulation, including new customer identification rules as outlined by the USA PATRIOT Act and enhanced corporate governance responsibilities as dictated by the Sarbanes-Oxley Act (see story, page 26).

In addition to these new guidelines, community bankers were once again called upon to defend their disclosure practices as it relates to consumer privacy and data sharing (sparked, in part, by recent legislative action in California) as well as weigh in on the ever burdensome CRA examination process. A recent

What impact, if any, would significantly further stock market declines have on lending demand at your bank?



47% say it will result in a decreased demand for loans

38% say it will result in increased demand for loans

15% say it will have no impact

Source: Phoenix Management Services

Community bankers report that identity theft attributed to more than half (56 percent) of all check fraud.

Source: GAO report, "Identity Theft Available Data Indicate Growth in Prevalence and Cost."

What are the top-five management issues community bankers consider important to their institution's continued success:

- 1) Retaining key employees—91%
- 2) Developing new sources of revenue—86%
- 3) Expanding services for small businesses—68%
- 4) Offering Internet banking services—68%
- 5) Measuring customer profitability—68%

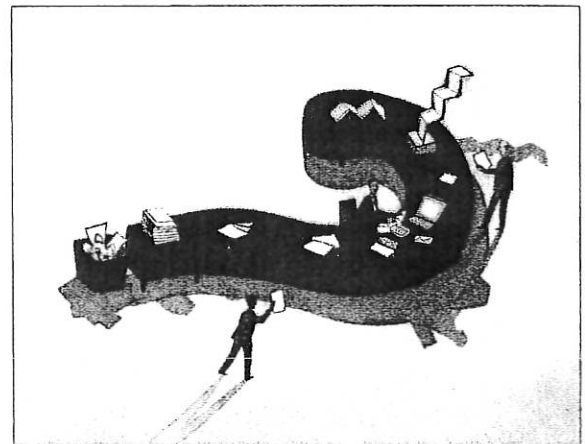
Source: Grant Thornton Survey

survey conducted by ICBA and Grant Thornton revealed that community banks can expect related costs for CRA compliance to more than double when they cross the \$250 million in asset threshold and move into the large bank category.

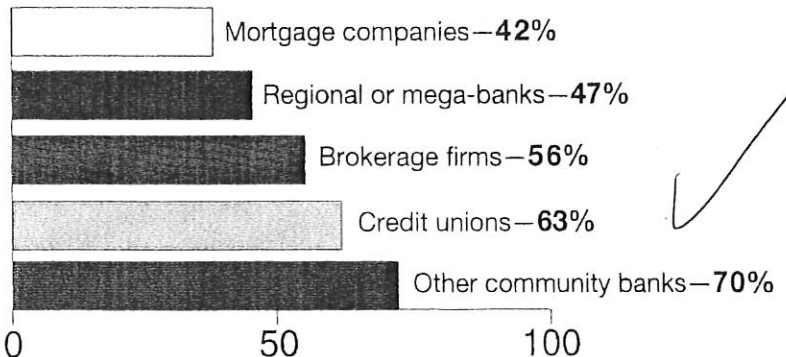
In the final analysis, 2002 proved once again that despite the obstacles facing the industry, community banks continue not only to survive but also thrive. Let's all hope that 2003 is at least as good. **IB**

* Figures are for banks with assets of \$100 million to \$1 billion. Source: FDIC

Nicole Swann is Independent Banker's senior editor.



What competitors do community bankers view as their biggest threat?



Source: Grant Thornton Survey

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

House Judiciary Committee

February 11, 2003

**S.B. 16: Drivers' Licenses and Other Identification
Cards**

Integrated Service Delivery
Janet Schalansky, Secretary

The seal of the Kansas Department of Social and Rehabilitation Services is visible in the background of the central box. It features a circular design with a sunburst at the bottom right, a field of stars in the center, and the words 'KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES' around the perimeter.

For additional information contact:
Office of Planning and Policy Coordination
Marianne Deagle, Director

Docking State Office Building
915 SW Harrison, 6th Floor North
Topeka, Kansas 66612-1570
phone: 785.296.3271
fax: 785.296.4685
www.srskansas.org

H. JUDICIARY

5-11-03

Attachment: 6

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

House Judiciary Committee
February 11, 2003

S.B. 16: Drivers' Licenses and Other Identification Cards

Mr. Chairman and members of the committee, I appear before you today to speak in support of S.B. 16.

During the past seven years, Kansas has made many changes in child support laws and procedures to keep the Child Support Enforcement Program in compliance with Title IV-D, especially with the requirements flowing from federal welfare reform legislation. Today, one final change in Kansas law is needed to assure that we remain in compliance and avoid the loss of IV-D federal funding. That change is to clearly require all applicants for a driver's license to furnish their social security number on their driver's license application. It is not necessary to display the social security number on the face of the license itself, just on the application to receive a driver's license.

We have been advised by the U.S. Department of Health and Human Services that existing Kansas law does not fully meet the federal requirement set out in 42 U.S.C. 666(a)(13), sometimes referred to as Section 466(a)(13) of the Social Security Act. The relevant portion of the federal statute states:

[E]ach state must have in effect laws requiring...that the social security number of...any applicant for a...driver's license...be recorded on the application....

I regret to say that we are on the verge of being sanctioned by HHS. If HHS formally finds the Kansas IV-D state plan out of compliance, all Title IV-D federal funding will be denied until the State comes into compliance. According to federal calculations, that loss would total over \$31 million per year, an average of nearly \$8 million per quarter. Additionally, the Temporary Assistance for Needy Families (TANF) block grant funding is at risk. For federal fiscal year 2002, TANF funding was \$101 million.

In February 2002, the Government Accounting Office issued a report (#GAO-02-239) that listed Kansas as one of six states not requiring SSNs on ALL driver's license applications. Because HHS is charged with responsibility for

insuring that Congressional mandates are followed by the states, this report forced HHS to take action. Although HHS representatives have expressed their desire to resolve the driver's license issue amicably, they have been clear and firm in stating that Kansas is at serious risk of being found out of compliance.

Last year Senate Bill 559, a measure similar in purpose to the bill being considered today, was debated on its merits. It would have met the Title IV-D requirement now at issue, and we were very hopeful that a crisis with HHS would be averted by its enactment. We were naturally quite disappointed when that bill failed to pass in the closing days of the 2002 Session.

Our next step was to request an exemption from HHS, on the basis that our existing driver's license laws were substantially similar to those mandated, and that it would not be cost-effective to require Kansas to strictly comply with the federal requirement. We believed our application had a good chance of approval, as all applicants for commercial licenses must submit their social security numbers and all applicants who wish to use their SSN as their driver's license number – about 45% of the applicants – are already furnishing their social security numbers to the Division of Vehicles voluntarily. We were quite disappointed when HHS denied our application for exemption. Had it been possible to appeal that decision, we probably would have done so, as we believe that our application had merit. Federal law specifically prohibits such appeals.

Shortly after federal welfare reform laws were enacted in 1996, the federal Office of Child Support Enforcement adopted a special procedure to give states one final opportunity to meet state plan requirements before the flow of federal money would be cut off. The procedure, set forth in Action Transmittal #OCSE-AT-97-05, dated April 28, 1997, requires HHS to send states a "Notice of Intent" announcing that HHS intends to find the state plan out of compliance and to withhold all federal funding for the IV-D program. Any State receiving a Notice of Intent is permitted to initiate an appeal at that point, which postpones the imposition of sanctions, but it is the final step before the loss of federal funds occurs.

HHS issued the notice of intent to Kansas on October 28, 2002.

We are pursuing administrative hearing rights with HHS concerning the Notice of Intent. As long as HHS continues to prefer compliance over sanctions and does not set the matter for hearing before the end of the 2003 Session, we are hopeful that the formal declaration of noncompliance will be held in abeyance. If the needed amendment in Section 1 of S.B. 16 is enacted, the proposed sanction by HHS becomes moot. If the Legislature fails to amend K.S.A. 8-240, however, the odds

are *against* Kansas prevailing in its appeal. The loss of these critically needed federal funds will become a reality.

The fiscal problems for the State that would be associated with losing more than \$31 million of funding would be staggering. The hardships that many families would suffer due to the curtailment or elimination of our child support "safety net" – CSE's services to families struggling to become and remain independent of public assistance – would be equally devastating and discouraging.

I therefore urge you to report Senate Bill 16 favorably for passage.



Room 276, Federal Office Building
601 East 12th Street
Kansas City, Missouri 64106

February 10, 2003

Kansas House of Representatives
Judiciary Committee
Kansas State Capitol
300 SW 10th Street
Topeka, Kansas 66612

Honorable Members of the Judiciary Committee:

The purpose of my testimony today is to call your attention to a serious matter involving the State's Child Support Enforcement (CSE) program. Kansas is not in compliance with Section 466 (a)(13) of the Social Security Act (the Act). This section is titled "Recording of Social Security numbers (SSN) in certain family matters." It states "the state must have in effect laws requiring procedures for the collection and recording of Social Security numbers of any applicant for a driver's license." Section 466 of the Act requires that each state must have in effect laws requiring the use of certain procedures such as expedited process. Expedited processes mean administrative or expedited judicial processes, or both, which increase effectiveness and meet specified processing times.

It is important to emphasize that the law requires the SSN to be recorded on the application, not the actual license. The intent of the law is to enable the Child Support agency to access SSN's in order to locate the addresses, income and assets of hard-to-locate noncustodial parents. Locating individuals involved in Child Support cases can be complicated by the increasing mobility in our society. This tool is specifically available to CSE professionals involved in this endeavor.

A formal notice of intent to disapprove the Kansas IV-D plan was issued on October 28, 2002. Should Kansas fail to pass the required legislation and come into compliance, further Federal payments under Title IV-D of the Act will not be made until State IV-D plan amendments are submitted and approved. Additionally, the State's Temporary Assistance for Needy Families (TANF) block grant under Title IV-A of the Act may also be at risk. Section 402 (a) (2) of the Act provides that the chief executive officer of the State must certify that the State will operate a Child Support program under an approved IV-D plan as a condition of eligibility for a TANF block grant under title IV-A of the Act.


Page - 2

The suspension of all Federal funding for the CSE program, as well as the TANF block grant, would seriously affect the State's ability to serve this population. According to the most recent expenditure reports for Federal Fiscal Year 2002, the Federal share of expenditures for the IV-D program, including estimated incentive payments, were \$31,091,535; and authorized TANF funds were \$101,931,061. Passage of Senate Bill 16 would bring the State into compliance with Section 466 (a) (13) of the Social Security Act, and Federal funds for the Child Support program would no longer be in jeopardy.

A study conducted by the General Accounting Office (GAO) reported that the majority of state Child Support officials believe that collecting SSN's on driver's license applications is a useful tool. One reason cited by states is that these SSN's are especially useful for finding self-employed and unemployed noncustodial parents so that child support can be collected.

However, while mandating the recording of SSN's on driver's license applications would help improve State Child Support operations, my primary concern today is to emphasize the necessity of Kansas being in compliance with its IV-D State plan. Passing Senate Bill 16 will do this.

Sincerely,



Linda K. Lewis
Regional Administrator



State of Kansas

Office of the Attorney General

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

PHILL KLINE
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215
FAX: 296-6296

February 11, 2003

To: House Judiciary Committee
From: Attorney General Phill Kline

Re: SB 16

Chairman O'Neal and Members of the Committee:

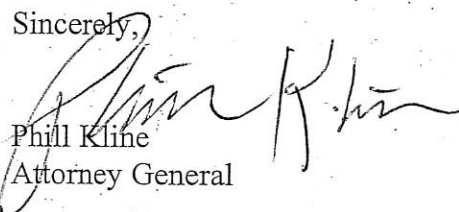
I want to thank you for the opportunity to provide written testimony concerning SB 16. I want to applaud Senator Allen and other supporters of this bill for addressing the issue of identity theft.

Identity theft is one of the fastest growing crimes in Kansas today. Any victim of this crime can attest to the difficulties and frustration involved in attempting to resolve the situation. As public servants, we have an obligation to curb the threat of ID theft.

While I support SB 16, I would like to share an additional thought concerning the application process. When an applicant provides a social security number, it should be done in a highly secure fashion. There has been mention of providing electronic keypads that would transmit the applicants SSN directly to the appropriate individual. This procedure would reduce the number of individuals who have access to the social security number, thus minimizing the risk of theft.

In closing, I support SB 16. I believe that the passage of this legislation will reduce the threat of identity theft in Kansas.

Sincerely,


Phill Kline
Attorney General

H. JUDICIARY

2-11-03
Attachment: 7

Tuesday, February 11, 2003

Position Statement on the Issue of Driver's License Accessibility
Dr. Penny Armstrong, PACO President, Pittsburg, Kansas
Police Chief Mike Hall, PACO Vice President

Pittsburg Area Community Outreach, PACO, is a community-based organization that was founded in 1998 to help ease immigrants' transition into the community. PACO has a 34-person Board of Directors from a wide cross section of Crawford County, who donate their time and their personal and professional resources for projects that promote two-way integration of the community.

Today, PACO continues its efforts on the front line, working with the issues of assimilating immigrants into our community.

We appreciate the opportunity to advocate for changes to the Kansas driver's license and identification card law. The single greatest problem we hear from our immigrant population is their inability to obtain a driver's license. As you are aware, HB2641 became law July 1, 2000, and changed the driver's license and identification card statute to read that the applicant must first prove "... that the applicant is lawfully present in the United States."

The adoption of HB2641 has created some very practical problems for law-abiding immigrants and for law enforcement in Pittsburg, including:

- 1) Southeast Kansas does not have a public transportation system. Our experience has been that immigrants who are employed in the community and in the region will drive to work and will drive their children to school. Most immigrants are otherwise law-abiding people who would get a driver's license if they could. As long as there is work available, we remain certain that they will drive either with or without a driver's license. If they have no driver's license and they are not carrying other identification, it can be difficult and time consuming to learn their identity. The police department does not keep records of the ethnicity of drivers as that is considered to be racial profiling.
- 2) Those driving without a driver's license cannot purchase insurance or tags. They have not demonstrated to state motor vehicle licensing officials that they are capable of driving safely and that they know the rules of the road. They have not passed the vision screening that is part of the Kansas licensing procedure. When unlicensed, uninsured drivers hit other cars, they may leave the scene of the accident.
- 3) The other driver's insurance company assumes the cost of an uninsured motorist's accident. Additionally, the state loses any revenue that might be generated from driver's license and tag sales. The insurance companies actually

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lose twice; first, by not selling insurance and, second, when their client is in a crash with an uninsured motorist. This is clearly more an insurance issue than an immigration issue.

4) Another area where we have been impacted is effective use of officers' time. I cannot quantify the additional time officers have spent with unlicensed drivers. Since the law changed in July, 2000, the police department has encountered a larger number of non-English speaking drivers who are not licensed. Officers have been trained in Command Spanish for emergencies. However, that is simple one-way communication, officer to driver, while waiting for a \$25 an hour interpreter to arrive at the scene. With a licensed driver, a ticket can be given and everyone goes on about his or her business. The current statewide budget shortfall makes this possible savings particularly important to local law enforcement agencies.

The importance of homeland security is frequently used as a reason for denying driver's licenses to undocumented immigrants. We think that there may be as many as 1500 unlicensed drivers in our area, although we have no way of confirming any numbers. We argue that allowing them to have driver's licenses could, in fact, enhance security, road safety, and would be an economic benefit to the state as well. We would have a record, including photograph, of who they are and where they live. We would know that they have passed a driving test and that they know what rules of the road they are required to follow. They would be able to purchase car insurance, a boon for the insurance companies, and the State of Kansas would have more money in its coffers because of the increased number of fees that it would collect.

The issue of immigration is irrelevant at the state level. The Kansas Legislature cannot correct or control undocumented immigration through its action of restricting driver's licenses. Immigration is strictly the responsibility of the federal government, to be handled by the U.S. Department of State, the new Department of Homeland Security, and the reorganized I.N.S. It is also important to understand that it is discriminatory for local police officers to inquire about someone's legal status and that several police departments have been successfully sued because their officers questioned immigrants' legal status.

On behalf of the PACO Board of Directors, we appreciate this opportunity to advocate for changes to the Kansas driver's license and identification card law. We believe that Kansas needs safe roads, insured cars and drivers, and registered and tagged vehicles as well as the security of knowing who our drivers are and where they can be located. Changes in the law would provide a safer environment for law enforcement officers and economic advantages for everyone from private citizens to the state government.

Pittsburg Area Community Outreach (PACO)

Board of Directors

January 21, 2003

1. Penny Armstrong, Language Acquisition Specialist and PACO (President)
2. Marty Beezley, Pittsburg City Commissioner (Mayor)
3. Colleen Brooks, Migrant Even Start Coordinator - Family Resource Center
4. Pat Clement, Director, Pittsburg Public Library
5. Anne Emerson, State Director, Senator Sam Brownback
6. Dee Ann Felter, Director, Adult Education Center (Secretary)
7. Allen Gill, Pittsburg City Manager
8. Janis Goedeke, R.N., Crawford County Health Officer
9. Gina Gregerson, Masonite Corporation
10. Linda Grilz, Frontenac City Commissioner
11. Mike Hall, Pittsburg Chief of Police (Vice-President and Treasurer)
12. Seunghee (Dorothy) Ham, R.N., New Horizons
13. Yun Duk (David) Ham, Community Member
14. Susy Hammons, Community Member
15. Krissie Holcombe, Human Resources Director, Sugar Creek Packing Company
16. Mendy Hulvey, Deputy Chief, Pittsburg Police Department
17. Monica LaForte, Migrant Education Coordinator, USD 250
18. Garry Lassman, Pittsburg City Commissioner
19. Rick Little, Occupational Health, MCMC
20. Sandee McChristy, Women's Services, MCMC
21. Ruth Miller, Principal, Westside Elementary School
22. Matthew Montague, Music Department, Pittsburg State University
23. Luz Marina Montano, Family Resource Center
24. Mary Carol Pomatto, Assistant to the President, Pittsburg State University
25. Tom Pryor, Emergency Services, MCMC
26. Cheryl Rajotte, ARNP, Community Health Clinic, MCMC
27. Bill Scott, Pittsburg Fire Chief
28. Bob Scott, Cultural Liaison, Mental Health
29. Judy Scudamore, Pittsburg Area Community Foundation
30. Cathy Stockard, MCMC Congregational Health Ministry
31. Olive Sullivan, The Morning Sun and Amanacer
32. Kirk Warren, Plant Manager, Sugar Creek Packing Company
33. Steve Wade, Publisher, The Morning Sun
34. Matt Wendt, Assistant Superintendent, USD 250

Honorary PACO Executive Board Members

1. Gene Bicknell, National Pizza Company
2. Bill Flack, Sugar Creek Corporate Office
3. Lynda Foss, Sugar Creek Corporate Office
4. Michael John, Sugar Creek Corporate Office
5. Bill King, Lakeside Elementary School
6. Scott Procopio, Sugar Creek Corporate Office



K A N S A S

JOAN WAGNON, ACTING SECRETARY

DEPARTMENT OF REVENUE
DIVISION OF VEHICLES

KATHLEEN SEBELIUS, GOVERNOR

TO: Chairman Mike O'Neal
Members of the House Judiciary Committee

FROM: Sheila J. Walker, Director of Vehicles *Sheila J. Walker*

DATE: February 11, 2003

SUBJECT: House Bill 2039 – Individual Taxpayer Identification Number (ITIN)

Mr. Chairman, members of the committee, I am Sheila Walker, Director of the Kansas Division of Motor Vehicles (DMV). Thank you for allowing me to testify on House Bill 2039.

This bill allows anyone who cannot prove legal presence to still be eligible for a Kansas driver's license if they have obtained an individual taxpayer identification number (ITIN) from the Internal Revenue Service (IRS).

We have discussed this change within the Kansas Department of Revenue and the Division of Vehicles, and we believe we could use the taxpayer ID number effectively.

Because of our position on public safety, we would support this change. We have said all along that our preference is that every driver behind the wheel of a car be familiar with the rules of the road, passing a drive test and written test, and be insured.

The added safeguards outlined in Senate Bill 16 would give us the balance we would need to ensure the authenticity and accuracy of ID documents in order to positively and uniquely identify all applicants from Kansas – regardless of their nationality.

As I concluded in my previous testimony, not only do we have an interest in ensuring identity, driving safety is equally important. We have the capacity to implement verification of tax ID numbers required under House Bill 2039, and we would support this change.

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DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA
Voice 785-296- 3601 Fax 785-291-3755 <http://www.ksrevenue.gov>

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1528 N. Broadway Wichita, Ks 67214
(316) 264-9972 - Fax: (316) 267-3580
E-mail: info@sunfloweract.com
Website: www.sunfloweract.com

Judiciary Committee Hearing
House Bill # 2039
February 11, 2003

Good afternoon, my name is Emira Palacios I'm a member of Sunflower Community Action's Hispanos Unidos Chapter and a Co-Chair of National People's Action.

First of all I'd like to thank Rep. O'Neal and all of you members of this committee for giving us the opportunity to be heard today and to express our concerns on this issue, which is so important to us.

I am here today hoping to convey a very simple but honest message from our undocumented immigrant community. We are here to say that we've come to work and to build a better life for ourselves, and a better future for our children. While we are here making a living we also buy homes, cars and pay taxes. Although we make up a very important part of Kansas workforce and economy, we are denied one of the most essential necessities of a working Kansan, the ability to obtain a Driver's license in order to drive a car legally, purchase insurance and prove our identity.

As someone who was undocumented for ten of the sixteen years that I've lived in this country, I cannot begin to tell you the fears and struggles that an undocumented person must face while living here. Even after we've submitted our paperwork to INS and spent thousands of dollars to try to adjust our status, we must still suffer the long waiting process that sometimes offers nothing but a waste of time and hard earned money.

In spite of the uncertainties and struggles undocumented families face, they continue to come here, hoping to find a better life. In my work with the Wichita school district I talk to newly arriving families everyday and I hear the same stories over and over again. They will continue to drive because they must in order to get to work, take their kids to school and do all the basic things they need to do to survive.

We know that under the current atmosphere and the threat of war, you must make very tough decisions. We respect those decisions if they will make our country safer because this is also our home. However we urge you not to make those decisions based on unfounded fear and ignorance.

We believe that Rep. Klein's bill 2039 offers a solution that assures that only drivers residing in this state with the proper identification may obtain a driver's license. Our Hispanic community stands firmly behind this proposal. We refuse to accept any type of driver's license that will look different and make us the target of more harassment and prejudice. Again thank you for your time and your support of this bill.

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February 11, 2003

Chairman O'Neal and Honorable Members of the House Judiciary Committee,

Today, you have heard many testify to what HB2039 is about—public safety, liability insurance, the tools law enforcement officers need to protect our communities, affording Kansas taxpayers the right to drive safely and legally, extending the basic human right of self-identity, protecting the integrity of the Kansas driver's license. As you keep these objectives in mind, please allow me to briefly clarify what HB2039 is *not* about.

It is *not* about noncitizens voting; before any Kansan can present a driver's license at the polling place, he/she must have registered with the Secretary of State's office, provided a Social Security Number, signed an affidavit attesting to U.S. citizenship and eligibility to vote, and, if not a natural-born citizen, provided the date of naturalization.

It is *not* about immigrants claiming public benefits; a driver's license is not and never has been sufficient proof of eligibility for public benefits for the small number of immigrants who fall into certain immigration statuses eligible for such benefits.

It is *not* about undocumented immigrants seeking employment; any employer who accepts a driver's license as sufficient proof of work authorization is blatantly violating U.S. immigration law governing work authorization and seriously misconstruing the purpose of a driver's license.

It is *not* about encouraging unauthorized immigration; countless studies of transnational migration have confirmed that international economic, social, and political realities shape the life-changing decision to cross national borders, and it is a dubious logic that assumes that a driver's license privilege will lure someone to the United States, or that lack of the same will convince a would-be immigrant to stay in desperately violent, poor, or repressive situations in other countries.

In fact, it is *not* about immigration at all; the state of Kansas and all localities within it have no authority to enact or enforce immigration law.

It is not about ways to divide groups of noncitizens, affording different driver's license privileges to some than to others. Similar schemes to issue distinctive licenses for immigrants based on immigration status have been successfully challenged in court in other states, and they represent an unacceptable compromise that would be too expensive, unwieldy, and divisive to work here.

Finally, HB2039 is *not* about undocumented immigrants taking union jobs or undercutting union wages; to the extent to which this occurs, it is not affected by immigrants' access to, or lack thereof, driver's licenses but rather is due to the seemingly insatiable thirst of some employers for cheaper, more vulnerable, and more easily exploitable labor. Unfortunately, this can only be addressed through federal immigration laws that replace our failed system of employer sanctions with meaningful strategies for undocumented workers to achieve legal residency. Without such reform, some employers, even in Kansas, will use vulnerable workers who lack even the most basic rights to lower every worker's standard of living. This is exactly why the National AFL-CIO has called for an end to employer sanctions and a repeal of laws, including the prohibition on access to driver's licenses, which serve only to scapegoat immigrants rather than to enact sound public policy in the best interest of all who work and live in the United States.

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What this law is about, and the only truly authentic way to frame the issue, is public safety and the duty of the government of the state of Kansas to ensure that people who operate motor vehicles on its roads are competent and responsible drivers.

Thank you for your consideration of HB2039 and for your attention to my comments.

Sincerely,

Melinda K. Lewis

Melinda Lewis

Special Projects Director

El Centro, Inc.

Kansas City, Kansas

Testimony

Judiciary Committee

February 11, 2003

Elias L. Garcia, Chr.

Democratic Hispanic Caucus

Mr. Chairman and honorable members of the Judiciary Committee, my name is Elias L. Garcia and I am here representing the membership of the Kansas Democratic Hispanic Caucus in support of HB 2039 amending HB 2135. It is our position that this bill is reasonable and one that we wholeheartedly support. There are many stories of why and how HB 2135 was enacted into law. Bottom-line its is the law, and it's a bad law. This is why we are here today to add our voice the many that **implore you to support HB 2039.**

Honorable members of the Judiciary committee, I speak before you not only as a property owner/taxpayer, Division Head for the City of Topeka, or as a member in good-standing of this Topeka community, but above all I stand before you as one who comes from an immigrant household. My parents did not have all their documentation, but they were law abiding individuals who worked hard every single day of their lives and taught their 14 children to worship God and obey the law. I will further share with you that these values were not unique to our home, these are the values that are in place in the vast majority of Hispanic/immigrant households throughout Kansas and these United States.

In a land where both political parties and indeed government in general, utilizes the buzz word INCLUSION to demonstrate political correctness. Why is it that laws which divide communities, laws that erect barriers, and laws that make law-breakers out of common folk, LAWS like HB 2135... why are these laws enacted?

Ladies and gentlemen, throughout the development and history of our great nation, Hispanics have time and again proven their value and loyalty to this country. There is no way you separate the Hispanic community from the American way of life. Currently 1 our of every 8 individuals in the U.S. is Hispanic, with another generation it will be 1 out of 4. Hispanics are the largest minority in the United States numbering 37 million people. The Hispanic economic base is 500 billion dollars and with in ten years it will reach 1 trillion dollars. Perhaps the most poignant fact I can share with you is that the Hispanic community has been awarded the Medal of Honor more times than any other ethnic group in the history of the United States.

Friends, we are not the enemy! Yet after the events of September 11 we are being viewed in the same light as those who are. There is no way you can believe any thing other than the impact of the Hispanic community on this country has been POSITIVE. This has been our legacy but the real potential of community lies in our future. We are the socio-economic and political El NINO of this country, and for many non-Hispanics this is most unsettling - and I guess you really can't blame them. El Nino is a scary thing. All that raw power—how can it ever be harnessed? The answer is simple INCLUSION!! Lets go beyond political correctness and build those structures that will channel all our respective energies toward the betterment of our society and this country. Lets give people the opportunity to participate in society and earn their standing as productive citizens of Kansas.

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Driving privileges were never the issue which served as impetus for language of HB 2641, Immigration was the issue. We have to separate the two out in order to not place widespread and undue hardships on members of the Kansas Hispanic Community and even more importantly, not to place Kansans at risk due to safety considerations surrounding this issue.

During the 2001 Interim Special Committee on Judiciary I have gone on record noting my opposition to language found in Section 15 of HB 2641. I noted the following for their review and consideration, including but not limited to:

- LOST STATE REVENUES: Non-compliance with state Driving Laws by Hispanics mean significant reduction in the collection of fees associated with the Department of Revenue – Drivers License Bureau.
- From a SAFETY perspective the question then becomes “*Do we want non-licensed, non-insured drivers driving around our public streets*” I for one say NO. I say give everyone the opportunity to comply with driving laws without the undue bias or hardship of a legal residency requirement.
- State Revenue Department employees who will be applying this law do not have proper training, thus judgments and decisions made by these individuals will be based solely on the appearance of an applicant. Enforcement will be skewed, subjective, capricious, and arbitrary as it is clear that those state employees charged with enforcing this statute will not apply it evenhandedly throughout Kansas communities. This legislative initiative is bad public policy and public law.
- Given the implementation of this law and the judgments that are made by Department of Revenue employees that is based solely on appearance, one can reasonably conclude that this law which requires proof of residency as requisite for a DL does, in fact, promote racial profiling (Example: If a blond haired, blue eyed individual applies for a DL are they going to be required to provide proof of residency --- in all likelihood NO)
- Any reasonable person would conclude that on its face, this language is discriminatory and its effect and impact disproportionately targets Hispanics (purposeful or otherwise)
- This law and its requirements force what are otherwise ordinary law abiding citizens to choose between complying with driving laws or providing for their families. Documented workers and undocumented workers alike have to go to work every day and provide for their families and driving is a must, albeit even though it means breaking the law,
- Also, in the final analysis, we must consider the fact that “who pays the societal cost for the all those non-insureds?”. WE DO, WE ALL DO – through higher insurance premiums!

Members of the committee I will share with you all that my parents were undocumented. I share this with you because I believe its important for you to know that not just my family, but also members of the millions of Hispanic families across this nation are vested in this country. One day in the not to distant future, members of our respective national, state and local governments will be forced to come to terms with the realization that the future of this country is inextricably linked to that of the future of the Hispanic community.

Government and constituents alike must realize that we are partners in this society, stakeholders in our collective futures and as such we must search out new ways to work together in manner that protects the human rights of all individuals, documented and undocumented residents alike, and afford all of Gods children respect and dignity as they go in search of the American Dream.

In closing, Honorable committee members, please understand that the houses in which Americans live, the roads on which Americans ride, the food they eat, and the services they receive depend in large part on the work of Hispanic/Latino immigrants, both legal and illegal. I will leave you with these facts:

- Hispanics are the largest ethnic minority in the U.S. – 13% of U.S. population
- U.S. Hispanic Population is 37 million
- 3 million Hispanics undercounted in last Census
- 8 million undocumented individuals in this country
- By 2010 Hispanic purchasing power will reach 1 Trillion dollars
- Immigrants make up 11% of U.S. population (all immigrants, not just Latino)
- Immigrants account for 34% of domestic employees
- 23 % of farmers and fishermen
- 21% of assembly line workers
- 18% of service industry workers

Thank you for the opportunity to address your committee and thank you in advance for supporting efforts to establish Kansas as a leader in a new American cultural coalition that is the United States of America. Please support Sub. for H.B. 2135

LAW OFFICES
C. ALBERT HERDOIZA
ATTORNEY AT LAW / ABOGADO

3111 STRONG AVENUE
KANSAS CITY, KANSAS 66106
FAX: (913) 432-4464
(913) 432-4484

Testimony of Cesar Alberto Herdoiza before the 2003 Special Committee on Judiciary.

Re: Drivers License Privileges for Immigrants

Date: February 11, 2003

Background of Speaker:

Attorney: Statewide practice since 1981 with active involvement representing Hispanics. In excess of 300 active civil cases throughout the State of Kansas.

Board memberships:

El Centro, Kansas City, Kansas

Past member of the Kansas Advisory Commissions on Hispanic Affairs (K.A.C.H.A.) Appointed by Governor Graves

Radio program: Kansas City, Kansas 1480 AM La ZZ
Host of "Consulta el Abogado" (Consult the Attorney). A live radio show where legal matters of importance to the Hispanic community are discussed every Friday from 10 a.m. to 11 a.m.

Issues: Protection of borders; not condoning illegality and illegal behavior. Kansas's drivers license, a privilege and not a right. Why should we give an illegal alien a driver's license?

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Many people's first impression when they hear a proposal to provide illegal aliens with the privilege of a Kansas driver's license is mixed or sometimes negative.

But Kansas is made up of hard-working common sense people. And once the reasons in favor of such a law are set out for discussion, few people fail to recognize that the proposed amendment is truly in their self-interest and in the self-interest of the State of Kansas.

Reasons for favoring proposed amendments found in HB 2039.

No.1 The law in Kansas has never precluded a Kansas driver's license being issued to any person who was not lawfully present in United States until its amendment in July 2000. This bill was passed with little or no input from citizens in the State of Kansas and was simply made part of a larger bill and passed.

No.2 An individual who cannot obtain a valid Kansas driver's license cannot obtain automobile Insurance. I used to have one or two people come in a month who got a ticket for no insurance, no driver's license and we would have to go and get them insurance and a drivers license so that they could get their tickets resolved and go ahead and drive legally. Now we get at least 15 or more a week of these individuals. The increased fines do not help to keep people from driving. As a consequence, thousands of people with more and more people added every day are driving with no liability insurance throughout the State of Kansas. If they cause an automobile accident, they cannot compensate the victim of the accident.

No.3 Every person who first learns the "rules of the road" before getting behind the wheel of a car creates greater safety for all of us. To get a driver's license in Kansas you must first pass a written test and then a driving test to show that you understand the rules of the road and are able to drive a car safely. Unfortunately individuals who are not required to undergo this procedure are simply getting into cars and driving. They are not going to leave Kansas because they were not able to get a driver's license. The effect is that people are driving around without knowing the rules of the road. For example: Coming to a complete stop at both sides of a bus when it is letting your children off. Another example occurs when people do not understand English well and do not understand the signs or what they say. I have had individuals and have heard of others who have been involved in car accidents when they went up an exit ramp and thought it was an entry ramp because they saw the words DO NOT ENTER but did not understand and thought the sign meant ENTER or DO ENTER. Simply knowing the difference between a flashing red light and a flashing yellow light are essential. Or knowing the meaning of signs regarding railroad stops, yield signs or school zones. And because I have represented both injured Highway workers and Police officers in my practice, I know how important it is to know that you need to slow down in road or highway work zones or when a police officer is detaining an automobile on the roadside. These and other "rules of the road" are essentials for anyone driving on our roads today.

No.4 The State of Kansas is losing revenue from Personal Property taxes not being collected from individuals who are not able to get a drivers license and therefore cannot obtain automobile insurance and therefore cannot pay Personal Property taxes on the automobiles they are driving. It is my understanding that in Tennessee, a similar legislative change added \$558,233.00 in additional State revenue during the first year that immigrants could apply for a driver's license. With the large deficits the State of Kansas is facing we can not afford to waive this source of personal property tax.

No.5 A loss of profits is being suffered by the insurance carriers who provide automobile insurance in the state of Kansas. With post 9/11, Arthur Anderson, Enron, etc. and the reduction in reserves due to the drop in the stock market, can we afford to keep the additional premium payments from being made by undocumented drivers that are willing and able to pay them?

No.6 Lack of proper Kansas identification makes it easier for habitual violators to avoid prosecution in as much as they can simply use a false name each and every time they are stopped by the police. A valid driver's license would better allow record keeping regarding everyone's driving history, which is not now possible.

No.7 The present law targets Hispanics for special inquiry and discriminatory treatment when applying for or renewing their driver's license in Kansas. Non-Hispanics applying for drivers licenses are typically not requested to provide birth certificates, passports or other identification proving their lawful status in the United States. However, if you look Hispanic, have a Hispanic surname or have a Spanish accent you will not get a driver's license unless you can prove you are legally present in United States. This, while all along you watch your non- Hispanic brethren remain in line and proceed to obtain their driver's license without such proof. This is humiliating for many Hispanics and naturally causes resentment.

No.8 The Hispanic population in Kansas is growing. The mean age of Hispanics in this state is under 25 years of age. The Hispanic community welcomes the opportunity to involve itself in the political process. Politicians of both parties would be prudent to begin courting this growing vote in the State of Kansas. Supporters of this proposed amendment might well use that support as an inroad to approaching and gaining the Hispanic vote in their own districts.

No.9 One of the negatives recently heard is that individuals will use a driver's license to get a job. This is simply untrue and false on its face. The I-9 which is required by employers to be filled out when hiring an employee specifically indicates that a drivers license does not qualify as one of the mandatory requirements to form a basis for identity regarding their legal status in the United States.

No.10 Kansas is made up of hard working citizens with common sense and independent minds. Can we deny the economic benefits that Hispanics, and yes, undocumented workers have brought to our agricultural pursuits, meat packing plants, highway and roads, new home construction, general construction and to our Service Industries? Of course not. Then what benefit do we derive from denying undocumented drivers a driver's license in Kansas?

Other States have either passed or are proposing similar changes to their laws. This is simply a realistic approach. I ask this body to deliberate in favor of this amendment.



POLICE DEPARTMENT

OFFICE OF THE CHIEF OF POLICE



Ronald Miller
Chief of Police

February 7, 2003

Representative Michael O'Neal, Chairman
House Judiciary Committee
Kansas State Capitol Building 170-W
Topeka, Kansas 66612

Dear Chairman O'Neal,

As a Kansas Chief of Police I am concerned about public safety as are many other Chiefs and Sheriffs in Kansas. I want to express support for legislative proposals making non-citizens eligible for drivers' licenses in order to reduce the number of unlicensed and uninsured drivers in our state. Legislation that makes knowledge of Kansas driving laws, positive identity, and ability to safely operate a motor vehicle effectively serves the citizens of the state of Kansas.

This legislation would make Kansans safer by reducing accidents caused by drivers unfamiliar with driving laws and would protect our citizens in the event of an accident by reducing the number of uninsured drivers. In addition, the change would have positive fiscal impact for the state, including potentially lower auto insurance premiums, additional revenue from licensing fees, and potentially reducing public expenditures for medical care for the uninsured. This law also recognizes economic realities in this state. Expanding opportunities to obtain drivers' licenses is not incongruent with homeland security considerations; on the contrary, allowing law enforcement to positively identify individuals within our state will help law enforcement to identify potential threats and reduce our vulnerability and raise the feeling of security of citizens and non-citizens alike.

Possession of a drivers' license should not entitle the holder to any benefits related to employment, voter registration, or public benefits. The state is not empowered to make immigration laws but it can take legislative action to protect the safety of its residents and to effectively administer its transportation system. A bill to allow non-citizens access to licenses is a measure designed to respond to concerns of law enforcement and protect drivers and passengers on our roads.

This law should specifically address that immigrant applicants applying for a driver's license must present proof of positive identity. Specifically, an original birth certificate, passport, or other government issued identification should be required as well as a social security number or an individual taxpayer identification number pending application for a social security number used to double-check against the identity document. In addition, an address in the state of Kansas supported by a utility bill, official school record or other government document should be a requirement. Standard written testing, a demonstration of proficiency driving a vehicle and an understanding of enough English to pass the road, as well as the ability to understand road signs should also be a requirement.

Sincerely,

Ronald Miller
Chief of Police

H. JUDICIARY



Western District Conference

a Conference of Mennonite Church USA

P. O. Box 306 North Newton, KS 67117

Phone: (316) 283-6300

FAX: (316) 283-0620

e-mail: wdc@mennowdc.org



February 11, 2003

ATT: Senator Steineger

As a representative from the Western District Conference of the Mennonite Church I want to add our voice to those who support House Bill 2039.

As part of a faith community concerned about the welfare of all, including those who are sometimes marginalized, we feel this bill will work for the good of those who need and want the opportunity to work and support their families. To assure those who are properly identified, though undocumented citizens to possess a valid drivers license, we feel is not only in the best interest of those needing such a license but is in the best interests of the larger community as well. These people need to be able to drive legally to go to their places of work. And in so doing this will enable them to secure proper insurance and provide greater security for these individuals as well as economic advantage for our state.

As people of compassion and advocates for opportunities for the all, we urge passage of this bill.

We thank you, our legislators, for your sensitivity to the specific needs of individuals as well as for the good of all citizens of Kansas.

Sincerely,

Harold R. Regier, Chair
Western District Mennonite Conference
Peace and Social Concerns Committee

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John M. Douglass
Chief of Police
Overland Park Police Department
12400 Foster, Overland Park, KS 66213
913 327-6935

House Judiciary Committee
Tuesday, February 11, 2003
House Bill 2039

Mr. Chairman and Members of the Judiciary Committee:

Whether we agree with this immigration or not, it has already occurred. It is the policies of this country concerning immigration which have created the dichotomy we find ourselves in. Many individuals have come to our area seeking employment and the financial security that our economy has to offer. They have in turn been instrumental by taking jobs in the service industry and many other positions which otherwise would have gone unfilled. They have paid rent, bought goods, worked in our stores and participated in most economic facts of life. For us to deny or to reject what has happened by beginning to deny them the basic tenets of our society will not and cannot reverse the migration that has taken place. What it does, however, is force individuals to live outside the legitimacy of our society. It forces them to be a silent part of the community, living in the shadows and never fully realizing their potential in our society. If we deny them the basics, such as driving, they will simply drive illegally. If we deprive them of education, then a part of our society will be uneducated. If we deny them medical care, then a part of our society will be sick and infectious. And if we deny them the freedoms necessary to live, we will deny ourselves the founding principles of this country. They, in turn, will seek government services in a different way. Because they cannot turn to their government for help, they will seek services in less legitimate ways. We will soon find ourselves with a part of our society where our government is not in control. I truly believe if we continue down this path, we sow the seeds of injustice and one day we will reap the whirlwind.

2.11.03



6301 ANTIOCH • MERRIAM, KANSAS 66202 • 913-722-6633

February 11, 2003

TESTIMONY IN FAVOR OF HB 2039

Representative Mike O'Neal, Chairman
House Judiciary Committee

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify this afternoon in favor of HB 2039. My name is Mike Farmer and I am the Executive Director of the Kansas Catholic Conference.

I would like to quote from a document entitled "Resolution on Immigration Reform" issued by the National Conference of Catholic Bishops on November 16, 2000.

"While we recognize the right and acknowledge the responsibility of the U.S. government to secure our national borders and do not condone or encourage undocumented migration into the United States, we nevertheless affirm the dignity of undocumented persons who live in our midst and make every effort to ensure that their human rights are respected and protected. Until such time as the global community effectively addresses the root causes of undocumented migration, individual nations must confront the presence of undocumented persons in a manner which upholds their basic dignity and human rights."

As you know, thousands of undocumented individuals work in Kansas every day of the year. The issue here is whether we want those who are gainfully employed in Kansas to be able to drive legally on our roads and highways and to be properly insured. While the federal government works to resolve the various immigration issues, we in Kansas can take positive steps to "...affirm the dignity of undocumented persons who live in our midst and make every effort to ensure that their human rights are respected and protected." Please vote to recommend HB 2039 favorable for passage.

Thank you.

H. JUDICIARY

2.11.03

Attachment: 17

Kansas AFL-CIO

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Betty Vines
Dan Woodard*

February 7, 2003

Kansas House of Representatives
Judiciary Committee
Representative Mike O'Neal, Chairman
Re: HB 2039

February 11, 2003
3:30 - 5:30 PM

Chairman O'Neal and Committee Members,

I am Jim DeHoff, Executive Secretary of the Kansas AFL CIO. I appear on behalf of the 100,000 members who belong to our association.

The Kansas AFL CIO sees two major problems with HB 2039. On Page 4, Line 4 (I) the following language was stricken from the present law, "whose presence in the United States is in violation of federal immigration laws." We believe this needs to be re-inserted. We also believe that additional language needs to be added that clearly states US Internal Revenue Identification Numbers and Social Security Numbers will be verified as legal from the US Internal Revenue Service and Social Security Administration.

I have attached information for your review concerning individual tax identification numbers. This is from the Center for Immigration Studies. I hope you will take the time to read this information before you vote on HB 2039. It will give you a total different outlook on HB 2039.

In closing, I want you to know that the National AFL CIO and the Kansas AFL CIO support legislation in Congress to legalize all illegal workers in the United States. We feel this is the only way to help these workers who have entered the United States illegally. It is time these workers have the same protection as American workers now have.

Thank you for the opportunity to present our views on this very important issue.

Submitted by:

Jim DeHoff
Kansas AFL CIO



H. JUDICIARY

2-11-03

Attachment: 18



Giving Cover to Illegal Aliens IRS Tax ID Numbers Subvert Immigration Law

October 2002

By Marti Dinerstein
(mdinerstein@earthlink.net)

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Through its issuance of Individual Tax Identification Numbers (ITINs), the Internal Revenue Service (IRS) appears to be blind or indifferent to the reality that it has:

- created an official U.S. tax number that illegal aliens are using as identification, thereby making it easier for them to meld unnoticed into our society;
- endangered homeland security by issuing ITINs to illegal aliens, without adequately ensuring that they are denied to terrorists, criminals on the FBI database, and those under deportation notices;
- exceeded its traditional role as a tax receiver and processor by marketing the ITIN to illegal immigrant communities;
- failed to provide adequate safeguards to prevent illegal aliens from receiving tax benefits to which they are not entitled;
- subverted U.S. immigration laws by withholding information from the INS and SSA about fraudulent activity of illegal aliens;
- provided an ID vehicle that advocates hope will be used to "regularize" illegal aliens; and
- withheld from public review data that is relevant to determining the economic contribution of illegal aliens to U.S. society.

The events of September 11, 2001, were a wake-up call to the American people that something must be done to protect our core identity documents. They were shocked to learn that 18 of the 19 terrorists possessed either state-issued or counterfeit driver's licenses or ID cards and all 19 had obtained Social Security numbers (SSNs) — some real, some fake. The hijackers simply tapped into an enormous market for fraudulent documents that exists because nine million people have successfully breached our borders and now reside here illegally. Their presence has spawned widespread document and identity fraud that threatens our ability to distinguish illegal aliens from U.S. citizens and legal foreign residents.

This realization jolted Congress, many state legislatures, state motor vehicle departments, and the Social Security Administration into taking a variety of steps to protect the integrity of driver's licenses and Social Security cards — the two most widely used identity documents in the United States — from misappropriation by illegal residents. Much remains to be done, but real progress has been made.

Ironically, however, the IRS, a division of the Treasury Department, is simultaneously working to provide illegal aliens with a U.S. government-issued identity number that obviates the need for a Social Security number. It is called the Individual Taxpayer Identification Number (ITIN). Very little public information about these numbers has been made available, even though the IRS began issuing them in July 1996, and over 5,500,000 of them have been issued.

SSA Attempts to Stem Fraud

Employers are required by law to verify that an employee has a valid SSN. The Social Security Administration has long been aware that millions of people living illegally in the United States have obtained SSNs fraudulently using a variety of means. It has systematically taken steps to limit the purposes for which an SSN can be issued and to better validate the underlying "breeder" documents presented to obtain a SSN. In May 2002, SSA announced a new initiative, a beneficial by-product of which has been to identify people working illegally in the United States. The program's purpose is to reduce the size and growth of what is known as the Earnings Suspense File (ESF).

When employers file annual withholding tax reports, SSA matches the report from the employer to the name, address, and SSN provided by an employee. So-called "mismatches" are posted to the ESF, which contains information on \$327 billion in wages accrued between tax years 1937 and 1999. In 1999 alone, the ESF grew by 8.3 million W-2s and \$39.4 billion in wages. A recent SSA report indicated that 96 per cent of ESF wages had been posted since 1970, about the time that an unprecedented number of illegal immigrants began arriving in the United States.¹

This year SSA sent out over 750,000 letters to employers of approximately seven million workers whose names did not match the SSN provided.² Employees who cannot provide a credible reason for the mismatch either voluntarily seek employment elsewhere or are terminated. Unfortunately, the SSA has no legal authority to levy fines and penalties against either employees who fraudulently obtain a SSN or against employers who repeatedly submit large numbers of wage reports with incorrect SSNs. They must rely on the Internal Revenue Service (IRS) to do so, and audits have revealed this rarely happens.³

The IRS Provides "Official" Identification to Illegal Aliens

The IRS's seeming lack of interest in protecting the integrity of the Social Security number from fraudulent use pales to insignificance, however, when faced with the reality that it is responsible for providing a backdoor way for millions of illegal aliens to receive a U.S. government-issued identity number. And it is doing so despite the fact that in 1999 the Treasury Department's Inspector General for Tax Administration said the decision by the IRS to issue these Individual Taxpayer Identification Numbers (ITINs) to illegal aliens "seems counter-productive to the Immigration and Naturalization Service (INS) mission to identify illegal aliens and prevent unlawful entry."⁴

Genesis of ITINs. The audit report referenced above said that a 1994 IRS investigation uncovered significant compliance problems "with the \$80 billion annual nonresident alien U.S. investment income." In response, the IRS created an ITIN for non-resident aliens in order to match information documents showing dividend, interest and other income earned by individuals to the tax returns they file. The IRS began issuing ITINs in July 1996.

Either at the program's inception or shortly thereafter, the IRS seems to have expanded the initial purpose of the ITIN by making a policy decision to issue it to resident aliens, including individuals residing illegally in the United States. The audit report referenced above questioned this policy to "legalize" illegal aliens.

Significant portions of the report were deemed to be so sensitive they were redacted from the public document, in part because it is felt that some information could be used to facilitate fraud by illegal aliens. Once an IRS report has been redacted, it stays that way. Therefore, the full text of the 1999 Inspector General for Tax Administration's report on ITINs is still not available for public review. No follow-up report was issued.

Illegals get undeserved tax benefits. The 1999 report appears to include extensive commentary on the ITIN applications of 340,000 illegal aliens, but most of it was redacted. The IRS's objective may be to collect tax revenue from the broadest base possible — a laudable goal. Ironically, however, this has resulted in the IRS ignoring illegals' presence in the United States. One of the reasons why illegals are issued ITINs is that IRS regulations determine resident alien status based on "substantial presence" in the United States, not legal residence. Thus, illegal aliens who file tax returns are treated in the same way as legal foreign residents and receive the same tax benefits, such as spousal exemptions, child and education tax credits. The one exception seems to be the Earned Income Tax Credit, which is available to legal permanent residents but which the IRS decided would not be available to illegal aliens.

Intended or not, it is clear that a significant number of illegal aliens are receiving the Earned Income Tax Credit. This is talked about quite openly by their advocates. Moreover, in its publications the IRS is signaling that this is a problem. One of three bullet points at the top of Form W-7 used to apply for an ITIN reads: "Receipt of an ITIN does not make you eligible to claim the earned income credit (EIC)."⁵

Further, a section describing the Earned Income Tax Credit on the IRS web site lists six rules that must be followed. "Rule 1. You Must Have a Valid Social Security Number (SSN). . . You cannot get the EIC if, instead of an SSN, you (or your spouse if filing a joint return) have an individual taxpayer identification number (ITIN). ITINs are issued by the Internal Revenue Service to noncitizens who cannot get an SSN."⁶

It is an unfortunate fact of life that U.S. citizens routinely claim tax deductions and credits to which they are not entitled. It is a cat and mouse game that presumably the IRS wins more often than not. However, there was language in the Inspector General's 1999 report implying that both "revenue protection issues" and "operational problems during the implementation" period resulted in the ITIN being vulnerable to fraud. It is possible that the IRS system was programmed in a way that makes it very difficult to prevent payment of the Earned Income Credit if a resident alien unauthorized to work in the United States claims it.

IRS shields illegals from INS. This same audit report said that issuing ITINs to illegal aliens may take on greater significance if the IRS were to come under the scrutiny of Congress. "Illegal alien presence in the United States is a congressional concern which is addressed by legislation in the Welfare Reform Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996."⁷

The Inspector General's audit also pointed out that the IRS has a policy of shielding illegal immigrants from exposure to the Immigration and Naturalization Service (INS), which appears to be in contravention of the express wishes of Congress. "The IRS provides disclosure protection to illegal alien applicants. The Congress has clearly stated how the federal government is to communicate between agencies concerning illegal aliens. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 . . . states that information concerning illegal alien status should be provided to the INS notwithstanding any other law." Subsequent exposition revealed that IRS management believed its own regulations guaranteed the confidentiality of tax return information and did not intend to share any returns with the INS.⁸

If that is still the position of the IRS, it is even more untenable today. The USA Patriot Act of 2001, passed overwhelmingly by Congress in response to the terrorist attacks on America, explicitly calls for greater information sharing among government agencies, law enforcement and the intelligence community.⁹

It is not clear if the IRS regulations regarding confidentiality relate specifically to divulging tax information, such as income, number of dependents, etc., or if they also forbid the IRS from sharing even the taxpayer's name and identification number with another government agency.

It also is unclear if copies (redacted or not) of the Inspector General's 1999 report were shared with Congressional committees responsible for oversight of the IRS. The report was addressed to the IRS Commissioner and noted that copies also were being sent to IRS managers affected by the report's recommendations. This distribution approach differs from that followed by the Inspector General for the Social Security Administration, who also addresses his reports to the Commissioner while simultaneously distributing copies to a long list of members of Congress whose committees presumably have oversight over SSA.

IRS ignores fraudulent use of SSNs. Illegal aliens have been warned by advocates not to use the ITIN when applying for employment, as it would expose their illegal status. All publications from both the IRS and the SSA say that an individual can have either an ITIN or an SSN, but not both. But since employees suffer no penalty for using fraudulent SSNs, they continue to do so. Similarly, since employers benefiting from cheap labor also suffer no penalty, they continue to hire illegal aliens without checking the validity of their SSNs. Once someone is hired, employers begin to withhold taxes.

It is believed that far more ITINs have been issued than annual tax returns filed and that illegal residents who file returns do so to claim refunds. If so, presumably they use the ITIN provided by the IRS as their identifier on the 1040 Form, attaching the W-2 form provided by their employer. The catch is that their fraudulently obtained SSNs appear on the W-2 forms. Illegal aliens can obtain a SSN in a variety of ways. They can make up a number, steal or borrow someone else's, buy a counterfeit Social Security card, or obtain a valid Social Security card fraudulently.¹⁰ What is abundantly clear is that they are not entitled to it.

Knowing that the ITIN would not be necessary if the SSN were legitimate, apparently the IRS has been processing the returns anyway — ignoring this clear violation of its own rules. It could not be determined if there is a penalty attached to using both numbers simultaneously or if the IRS notifies the SSA about the possibility of a fraudulently obtained SSN. If the IRS does not do so, it would appear that the agency is undermining the integrity of Social Security numbers and U.S. immigration law and could be endangering homeland security.

"For Tax Purposes Only"?

One of three bullet points in the "Before you begin" section on the W-7 form to apply for an ITIN is the following message: "This number is for tax purposes only." That seems fairly straightforward. Yet, it is clear that advocates for illegal immigrants are aggressively pushing use of the ITIN as identification for many other purposes. The website of the National Employment Law Project (NELP), contains a section titled "How Can the ITIN be Used to Show Identity?": "There has been growing interest among immigrants and their advocates in using the ITIN as an alternative to the SSN. Indeed, many immigrant groups are successfully advocating for the use of identity documents other than a SSN in order to obtain drivers' licenses and consumer benefits." NELP goes into extensive detail explaining how illegal immigrants can get around using Social Security numbers.¹¹

Numerous newspaper articles describe how the ITIN is being used to open banking accounts and, in some states, obtain driver's licenses.^{12, 13, 14}

The most astonishing example is a news release from Fifth Third Bank, headquartered in Ohio. Announcing an initiative to better serve the unique needs of the Hispanic community, Bradley F. Stamper, President and Chief Executive Officer proudly boasts: "Our first step — and it's a crucial one — is to start accepting new means of ID for persons otherwise shut out of the U.S. banking system. Starting now, Fifth Third will honor the Matricula Consular Card issued by the Government of Mexico and the Internal Revenue Service's Taxpayer Identification Number as legal identification for immigrants who lack proper identification to open savings and checking accounts."¹⁵

Matricula consular. Most media stories link the ITIN to the burgeoning use of the matricula consular, a photo ID being issued by the Mexican government to its citizens living illegally in the United States. The Mexican government has been lobbying state and local governments as well as banks to accept the matricula as official identification. But banks need an official U.S. tax number in order to open an interest-bearing account and, by definition, illegal aliens are not legally entitled to a Social Security number. So the Mexican government is pushing the ITIN as an acceptable alternative and, apparently, the IRS has raised no objection.

Other than noting on its own publications that the ITIN is "for tax purposes only," the IRS seemingly has made no effort to contact banks or their regulators or state motor vehicle departments to let them know that the ITIN is not being authenticated in a way that makes it safe as identification. This omission endangers homeland security.

No Risk for Illegals

Media stories and immigrant advocates contend that the IRS has embarked on an aggressive marketing effort to achieve widespread distribution of the ITIN within illegal immigrant communities.¹⁶

The *Chicago Tribune* reported on April 15, 2002, that the "IRS issued more than one million tax IDs last year, up 20 percent from 2000. The agency has issued 4.9 million IDs since it adopted the policy in 1996. [NOTE: As of October 2002, the IRS had issued over 5.5 million ITINs.] Officials presume that most have been issued to illegal aliens, although other people use the IDs as well, such as foreign businessmen working in the United States on short-term projects or foreign relatives still awaiting Social Security numbers. . . . This year, the Chicago IRS office and volunteers have issued thousands of ID numbers through workshops and office visits. Almost 300 immigrants, mainly from Mexico but also from the Middle East and Eastern Europe, pack a typical workshop. The agency is also increasing the number of tax preparers and banks authorized to process ID applications."¹⁷

Departure from traditional role. This activism seems a strange departure from the IRS's traditional passive role of receiver and processor of income tax returns. It is one thing for the IRS to interpret its regulations in a way that results in issuing ITINs to illegal aliens. But it is quite another matter to seek them out and cater to them, thereby making a mockery of U.S. immigration laws. It raises the question as to who authorized this policy and at what level it was approved.

The IRS has designated "acceptance agents" who are authorized to assist applicants in obtaining ITINs. IRS's website describes acceptance agencies as entities, such as colleges, financial institutions, accounting firms, etc. The "etc." is important because it is believed that some acceptance agents are touting the fact that the IRS will not share information with the INS.

This development was anticipated in the 1999 Inspector General's ITIN audit report, which recommended that: "The IRS needs to include Privacy Act notification on the Form W-7 application form. The Privacy Act notification provides the warning that information can be provided to the Department of Justice within the parameters set by IRC 6103." IRS's management response to this recommendation was clear cut and affirmative. "A Privacy Act Notice will be added to Form W-7."¹⁸ The estimated implementation date was August 31, 1999. As of September 2002, there was no Privacy Act notice on Form W-7.

The *Chicago Tribune* reported: "Despite growth in the tax IDs, experts say many immigrants will get the IDs only after assurances that immigration authorities will not be involved. . . . 'They think they will get deported,' said Salvador Gonzalez, director of the Midwest Tax Clinic, a Chicago non-profit agency that helps immigrants obtain the IDs. 'But now people are losing their fear, and I am very, very happy about this.'"¹⁹

Groups that advise advocacy organizations on legal issues also convey the same message, although more carefully couched. In a paragraph titled "What are the risks in applying for and using the ITIN?" the National Employment Law Project gives the following advice: "It is not in the IRS's tax collection interest to disclose information to the INS. Thus far, advocates have not learned of any specific situations where the IRS has shared information with the INS. However, there is no guarantee that IRS or a state agency would not share this information with the INS."²⁰

Delegating Authority to Third Parties

The Inspector General's report also warned that the IRS had put itself into a bind by permitting acceptance agents to function in a dual role, acting on the IRS's behalf as well as the illegal immigrant's. It said that the implementation of the acceptance agents program had gone beyond its regulatory purpose and their role in facilitating the ITIN application process should be re-examined.²¹ The current IRS application procedures for becoming an acceptance agent indicate there are two categories — acceptance agents and certifying acceptance agents.

The regulations say: "The role of an acceptance agent is to facilitate the application process and issuance of TINs to alien individuals and foreign persons. An acceptance agent performs this duty by forwarding the completed Form W-7 (together with required documentary evidence) to the IRS."²²

This contrasts with the significant authority delegated to a "certifying acceptance agent." "A certifying acceptance agent is a person that is authorized under the agreement with the IRS to submit a Form W-7 to the IRS on behalf of an applicant, without having to furnish supporting documentary evidence. Instead, when submitting a Form W-7 to the IRS, a certifying acceptance agent certifies to the IRS that it has reviewed the appropriate documentation evidencing the ITIN applicant's identity and alien status, and that it is maintaining a record of such documentation."²³ This situation seems somewhat akin to our embassy in Saudi Arabia delegating responsibility for visa interviews and document review to local travel agencies — a much-decried practice that has since been discontinued.

Higher stakes. Since the events of 9/11, the Social Security Administration has limited the purposes for which it will issue an SSN and has built more safeguards into authenticating the documents presented to obtain one. Over at the IRS, however, very little public information exists as to how carefully the agency or its acceptance agents authenticate the documents presented to obtain an ITIN. Perhaps they do not feel it is necessary to do so, because the IRS knowingly gives them to illegal aliens.

But the attacks of September 11th, coupled with evidence that Taxpayer Identification Numbers are being used as IDs to obtain driver's licenses and open bank accounts, raise the stakes considerably. Issues relating to benefit fraud pale beside those surrounding homeland security. It is not known if ITINs are easily available to citizens of countries that harbor terrorists or to resident aliens appearing on the FBI's criminal database or to the more than 300,000 aliens who absconded after being served with deportation notices.

Other agencies that provide ID documents, specifically the INS and SSA, have been operating in the glare of Congressional hearings to assure those documents are available

only to citizens and legal aliens. It is difficult to understand why the IRS, the only agency that is knowingly offering an official government ID to illegal aliens, has escaped scrutiny.

Amnesty for Illegals Who "Pay Taxes"?

Advocates contend that illegal immigrants work hard in jobs Americans will not take, pay taxes, contribute to society, and thus should be able to earn their way to legal status. This concept, euphemistically called "earned regularization," would create opportunities for illegal aliens to receive lawful permanent resident status by earning "credits" in a number of ways, including by paying taxes.

The withholding of taxes is involuntary. Federal, state, and local income taxes and Social Security taxes are withheld from paychecks by employers. Workers have no say in the matter. But taxes withheld are not necessarily taxes paid. The United States has a progressive income tax that applies very low tax rates to low-income households. In fact, millions of households pay no federal tax at all. It is believed that the vast majority of illegal residents who file a tax return using an ITIN get full or partial tax refunds because of the low level of their earnings. Indeed, some erroneously receive the Earned Income Credit, intended to supplement the income of the working poor. Thus, ironically, by issuing ITINs the IRS may actually be *reducing* the tax revenue received from illegal aliens.

Providing an amnesty of some sort to illegal aliens is opposed by a majority of Americans.²⁴ There has been little support to do so in the current session of Congress. However, the concept is still being pushed by illegal immigrant advocates, by the Mexican government and by elected officials eager for political support from the large Hispanic community living in the United States.

The principal argument these advocates make on behalf of an amnesty is that illegal aliens pay taxes. It is true that taxes are withheld for many illegal aliens, but it is involuntary. Census data show that a high percentage of Hispanics earn very low wages. If illegal aliens were to be "regularized" and authorized to work in the United States, it is highly likely that they would pay little or no income tax. The IRS has important data relating to how many illegal aliens have been issued ITINs, how many have filed tax returns, and the net amount of tax that was paid after exemptions, credits, and refunds. This aggregated information needs to be made available to the public, so that if Congress ever debates the merits of another amnesty for illegal aliens, it can do so based on facts, not platitudes.

IRS Blind to Risks

It appears that in 1996 the IRS decided to treat illegals as "resident aliens" based on their "substantial presence" in the U.S. That decision made illegal aliens eligible for ITINs. Presumably the IRS's goal was to maximize tax revenues, and it assumed — mistakenly — that the ITIN would be used for tax purposes only. Due to start-up operational problems and subsequent poor administration of the ITIN program, the IRS sustained self-inflicted wounds related to benefit fraud. But, inexplicably, the IRS seems not to have altered its ITIN policies in any meaningful way.

There are many ITIN-related problems that need to be addressed by IRS management and by the Congressional committees with oversight of tax and immigration matters. By far the most urgent issue relates to homeland security. It could be fixed overnight. It is essential that

the use of ITINs be strictly limited to tax purposes only. The IRS, or perhaps the Treasury Department of which it is a part, should immediately issue a directive to that effect and widely disseminate it to other federal agencies, state and local governments and their associations, the American Association of Motor Vehicle Administrators, financial institutions' regulators and trade associations, and any other entities that are known to be accepting the ITIN as a form of identification.

September 11 taught us just how important it is to be able to distinguish American citizens and legal foreign residents and visitors from those who have no legal right to be in our country. No security measure is foolproof, but safer is safer. The American people have a right to expect that their government is systematically shutting down any impediments that threaten the integrity of our identity documents.

End Notes

¹ Office of the Inspector General, Social Security Administration. "Recent Efforts to Reduce the Size and Growth of the Social Security Administration's Earnings Suspense File," p. 2. May 2002.

<http://www.ssa.gov/oig/ADOBEPDF/A-03-01-30035.pdf>

² AILA Backgrounder on Social Security and Immigration. "Posted on AILA InfoNet at Doc. No. 38IP2004 (Aug. 9, 2002)."

<http://www.aila.org/contentViewer.aspx?bc=9,722,723,1480&st=38IP2004>

³ "Recent Efforts to Reduce the Size and Growth of the Social Security Administration's Earnings Suspense File," *op. cit.*, p. 7.

⁴ Office of the Inspector General for Tax Administration. "The Internal Revenue Service's Individual Taxpayer Identification Number Program Was Not Implemented in Accordance with Internal Revenue Code Regulations," September 1999.

<http://www.ustreas.gov/tigta/reports/094505fr.html>

⁵ Form W-7. Department of the Treasury, Internal Revenue Service. "Application for IRS Individual Taxpayer Identification Number." <http://www.irs.gov/pub/irs-pdf/fw7.pdf>

⁶ <http://www.irs.gov/formspubs/page0,,id%3D12460,00.html>

⁷ "The Internal Revenue Service's Individual Taxpayer Identification Number Program Was Not Implemented in Accordance with Internal Revenue Code Regulations," *op. cit.*

⁸ *Ibid.*, p. 4.

⁹ Jenks, Rosemary. "The USA Patriot Act of 2001: A Summary of the Anti-Terrorism Law's Immigration Related Provisions," *CIS Backgrounder*, December 2001.

<http://www.cis.org/articles/2001/back1501.html>

- ¹⁰ Dinerstein, Marti. "America's Identity Crisis: Document Fraud is Pervasive and Pernicious," *CIS Backgrounder*, April 2002. <http://www.cis.org/articles/2002/back302.html>
- ¹¹ "Immigrants and the Individual Tax Identification Number (ITIN): How Can the ITIN be Used to Show Identity?" p. 1. National Employment Law Project and National Immigration Law Center, revised May 2002. <http://www.nelp.org/pub79.pdf>
- ¹² Avila, Oscar. "Tax ID numbers open door wider for illegal immigrants," *Chicago Tribune*, April 15, 2002.
- ¹³ Brewington, Kelly. "Banks' New Services Target Mexican Customers," *The Sun Sentinel*, July 8, 2002.
- ¹⁴ Ingram, Carl. "Davis: Let migrants drive. Policy: He supports licenses for work related travel while also safeguarding public security," *Los Angeles Times*, March 28, 2002.
- ¹⁵ http://www.53.com/news/archive_2002.htm#040202b
- ¹⁶ <http://www.ilw.com/lawyers/immigdaily/letters/2002,0709-Dean.shtm>
- ¹⁷ "Tax ID numbers open door wider for illegal immigrants", op. cit.
- ¹⁸ "The Internal Revenue Service's Individual Taxpayer Identification Number Program Was Not Implemented in Accordance with Internal Revenue Code Regulations," op. cit., p. 39.
- ¹⁹ "Tax ID numbers open door wider for illegal immigrants," op. cit.
- ²⁰ "Immigrants and the Individual Tax Identification Number (ITIN): How Can the ITIN be Used to Show Identity?", op. cit., p. 3.
- ²¹ "The Internal Revenue Service's Individual Taxpayer Identification Number Program Was Not Implemented in Accordance with Internal Revenue Code Regulations," op. cit., pp. 3, 10-12.
- ²² Revenue Procedure 96-52, sec. 4.01. <http://www.unclefed.com/Tax-Bulls/1996/RP96-52.PDF>
- ²³ Revenue Procedure 96-52, sec. 6.01, op cit.
- ²⁴ "Attitudes Toward Amnesty: Zogby Poll Examines Support Among Different Constituencies." *CIS Backgrounder*, September 4, 2001. <http://www.cis.org/articles/2001/back1201.html>
See also: Saad, Lydia. "Americans Clearly Oppose Amnesty for Illegal Mexican Immigrants." Gallup News Service, Poll Analyses, September 6, 2001; and "New Poll Finds That a Majority of Americans Oppose Illegal Amnesty and Favor Immigration Enforcement." Federation for American Immigration Reform, August 30, 2001.

<http://www.fairus.org/html/07469108.htm>

Marti Dinerstein is President of Immigration Matters, a public policy analysis firm in New York and is a fellow at the Center for Immigration Studies. She is the author of America's Identity Crisis: Document Fraud is Pervasive and Pernicious, CIS Backgrounder, April 2002.

Mark Schreiner
1235 SW Washburn Ave
Topeka, KS 66604
234-6925

Private Citizen

Opposed to HB 2039

I would like to thank the committee for hearing my testimony.

I would like to ask, with all due respect, are you people nuts?

I want to assure you that I am not opposed to this legislation on racial grounds. My granddaughter is part Hispanic, and I would argue, successfully, that she is the most beautiful grandchild of anyone in this room. I also love her and her father dearly.

We are turning a blind eye to the fact that this is a promotion of illegal aliens. People who have taken extreme measures to come to this state, knowing that they are in violation of the law. It is a federal issue, nothing the state can do about it.

Immigrants have traditionally taken the jobs that people in this country do not want, and I believe that is the case here. Illegal immigrants are taking jobs in meat packing, janitorial, construction, and other areas where others do not want to work. I am not afraid that they are taking a job I need. I would bet anything from dollars to donuts that I could have any of those jobs I wanted. I don't want them.

We want these immigrant in our state. There is little doubt in my mind about that. My concern is that we are encouraging immigrants to be selective in what laws they violate. It is okay to violate some laws, but not others? That makes no sense to me.

I want to know what the real reason behind promoting drivers licenses for illegal aliens is? If it is to make sure people are responsible, you are missing the mark! I would promote making it a felony to drive without insurance. Then, the feds will take care of those illegals who do.

I have driven with no drivers license. I have driven with no insurance. I have driven with illegal tags. I was never caught! Illegal immigrants surely believe they will not get caught, either.

The only reason I have insurance now is because I have a bank account. If I were a transient, with no stake here, I would probably continue drive without insurance and with illegal tags. It certainly is not because of any laws you create. It is my concern for my self interest.

H. JUDICIARY

2-11-03

Attachment: 19

The fine you impose for illegal tags is less than the cost for legal tags. The fine you impose for no insurance is less than what the cost for insurance. The fact that I was never caught proves how ineffective you are!

I would like to see the State work toward legal immigration. We have jobs here. There are people outside this country who want those jobs. The majority of them do not want to live here. They wish to come here for money that can be sent home. But that is beyond the scope of this bill.

If the purpose of this bill is to create responsible people, good luck. There are far too many legal citizens driving with no drivers licenses, no insurance and illegal tags. This bill is not even a treatment of the symptom. You are avoiding a real problem.

If this bill is really to make it easier for illegal aliens to reside in Kansas, then let's say that. Let's just open the floodgates and announce that Kansas is a safe haven for illegal persons.

If that is the case, then as far as I am concerned, that is you pandering. You are acting in the best interest of yourselves or your party, but not in the best interest of Kansas. You are going to make this safe haven not only for those illegals we all desire, but also the illegals we do not, namely the mafia gangs and terrorists who are bent on the destruction of this country.

I want you to think about the future Kansas you are now creating. I really don't care for myself, because I can move to Colorado, Montana, or Alaska, but I really do care about what you do now that will create the world my granddaughter lives in, not only in Kansas, but in the whole United States, too.

My name is Beverly Brown. I am from Wichita, KS.

I come today to oppose legislation that would make it law for illegal immigrants to be able to get a Kansas Drivers License. If Americans went to foreign countries, we would not be able to get a drivers license there, unless we gave up our United States citizenship. Likewise, we should stand up against such a law.

By allowing illegals to have Kansas Drivers Licenses would only open the door to other frauds such as voter fraud. We already have identity fraud and it is climbing. The illegals coming here like the obituaries, so that they can steal one's name, birthdate, etc. If they can't come to America legally, then what are they hiding? The thing is, they don't know a German name from an Irish name, ect.

As a Poll Booth worker, there were illegals who voted in these past elections. What I am going to ask the State of Kansas to do is purchase machines that look like computers. (for every precinct) Each person who comes to vote would have to touch it. The computer would tell:

1. If the voter was illegal.
2. If the person was an American Citizen.
3. If that person was registered to vote.
4. If that person was a criminal.
5. If that person had voted more than once during each election.

If Americans went to another country, they would not be able to vote. So the illegals should not be able to vote in Kansas, or anywhere else in America. Nor should a person be allowed to hold duo citizenships and be allowed to vote in their country and in America.

If this fraudulent bill was to pass, it would only weaken Homeland Security. I feel that, the illegal immigrants would abuse the Kansas Drivers Licenses, the same way that the visas are being abused by the terrorists, ie remember September 11 2001!! May I remind you that the terrorist who tried to blow up the Twin Towers in 1993 went to Wichita State University. That doesn't say much for Kansas, does it?

When my great, great, great grand parents came to America from Germany and Sweden, they came legally. When they got here they said, "We are in America. We will learn to speak English and live the American way." And they did. They were law abiding citizens.

To come to America is a privilege, NOT a right. America is a land of laws. If some of you on this committee vote for this fraudulent bill, it would be a conflict of interest on your part. I ask that you NOT vote for it. This is my opinion.

THIS IS AMERICA . LOVE IT OR LEAVE IT!!!!

THANK YOU.

H. JUDICIARY

2-11-03

Attachment: 20

W. Paul Degener
518 NW 56th St.
Topeka, KS 66617-1311
(785) 246-0215

SUBJECT: HB 2039: Illegal Aliens May Obtain a Drivers License

Mr. Chairman, members of the committee. My name is Paul Degener, I am a resident of Shawnee County. I am a concerned citizen and am opposed to this legislation.

Even though the legislation itself does not use the term, illegal alien, the full history of this bill spells it out in no uncertain terms. (Enclosure 1) **“Illegal aliens may obtain a drivers license if such person has an Internal Revenue Service taxpayer identification number.”**

This proposed legislation allows for illegal aliens to apply for a Kansas Drivers license if they show proof of lawful presence in the United States or have obtained an internal revenue service individual taxpayer identification number (ITIN). I would invite your attention to enclosure 2, from the Internal Revenue Service Web Page which addresses this issue. In part it states that the ITIN is a tax processing number and is to be used for federal income tax purposes ONLY. Assuming that federal rules mean something, this piece of legislation is not in conformance with federal regulations.

This is not to insult anyone's intelligence, however I fail to recognize what we do not understand about the term illegal. Webster defines illegal as unlawful, criminal, illegitimate, illicit and wrongful. Why are we even entertaining such legislation? This bill would do nothing but encourage more illegal behavior. It infuriates me to know that if I commit an illegal act, I would have to pay the price commensurate with the crime. With this legislation, we want to reward those who would break our laws. This makes no sense.

According to the Capital-Journal, 30 activists stormed the governor's office demanding she meet with them and support this legislation. It is difficult to imagine that these types of activities would be condoned. This same article quotes Mr. Palacios saying, "The law as it is now makes criminals out of hard working people." These people are already criminals, they are in this country and this state illegally, granting them the privilege of obtaining a drivers license will not change that.

Have we looked at the possible ramifications of this legislation?

1. As a result of motor voter laws, every person who is issued a drivers license is automatically registered to vote. With the passage of this legislation we would be granting illegal aliens the right to vote. The last I heard convicted felons are stripped of their right to vote. The rationale of this double standard escapes me.

2. The federal government is responsible for providing for the common defense. So far they have been unable or unwilling to close our borders, allowing an influx of illegal aliens,

H. JUDICIARY

2-11-03

Attachment: 21

leaving us to deal with the situation. Granting these people the privilege of obtaining a drivers license is not the answer.

I would like to know the driving force behind this legislation:

If we do not pass this bill is the federal government going to blackmail the state of Kansas by withholding so called federal dollars?

Do we want to pass this bill in hopes of gaining votes from illegal aliens?

Are we succumbing to pressure from lobbyist groups?

Is this just another move toward reducing our great country to third world status?



I urge you to kill this bill in committee. Thank you for your time.

Sincerely,


Paul Degener

Enclosures:

as

 Kansas Legislature 2001-2002	 photo of the Kansas flag
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Last three actions on bill 2039

Bill by Klein
 Illegal aliens may obtain a drivers license if such person has an Internal Revenue Service taxpayer identification number.
 01/21/2003 H Introduced -HJ 58
 01/22/2003 H Referred to Judiciary -HJ 60
 02/05/2003 H Hearing: Tues., 2/11/2003, 3:30 pm, Rm 313-S

See [Bill History Legend](#) for abbreviations and explanations.



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Individuals

Individual Taxpayer Identification Number

What is ITIN?

An ITIN, or IRS Individual Taxpayer Identification Number, is a tax processing number. An ITIN is issued by the U.S. Internal Revenue Service (IRS) to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) issued by the Social Security Administration (SSA). An ITIN is a 9-digit number, beginning with the number "9", formatted like a SSN (NNN-NN-NNN). The temporary IRS Number previously assigned is no longer valid.

What is the purpose of an ITIN?

The ITIN is for tax purposes only. The issuance of an ITIN does not:

- entitle the recipient to Social Security benefits or the Earned Income Tax Credit (EITC);
- create an inference regarding the individual's immigration status;
- give the individual the right to work in the U.S. Any individual who is eligible to be legally employed in the U.S. must have a SSN.

When completing the tax return (Form 1040, 1040A, 1040EZ, 1040NR, 1040NR-EZ), the individual will enter their ITIN in the space for the SSN.

How do I know if I need an ITIN?

If you must file a U.S. tax return or you are listed on a tax return as a spouse or a dependent and you do not have, and cannot obtain, a valid SSN you must apply for an ITIN. The IRS no longer accepts "SSA205c", "applied for", "NRA", blanks, or previously issued IRS temporary numbers. Include your ITIN on the return to ensure prompt processing and receipt of any refund. New Internal Revenue Regulations require including a valid Taxpayer Identification Number (TIN) on all U.S. federal income tax returns. Each person listed on the return must have a valid TIN (either a SSN or an ITIN). If a return requesting a refund is filed without a SSN or ITIN for the primary filer and spouse, the refund will be delayed until they obtain an identification number. If a dependent SSN/ITIN is missing, the exemptions will be denied and refunds will be adjusted accordingly. If you are previously issued a temporary IRS Number, you must now apply for an ITIN.

How do I apply for an ITIN?

To obtain an ITIN, you must complete IRS [Form W-7](#), *Application for IRS Individual Taxpayer Identification Number*. You may complete and sign a Form W-7 for a dependent as long as you indicate your relationship to the applicant by checking the parent or guardian's box in the signature area of the application. However, other dependents and spouses must complete and sign their own Forms W-7. The Form W-7 requires supporting documentation substantiating foreign/alien status, true identity and continued existence of the applicant. If you, your spouse and/or dependents require ITINs, you must submit separate Forms W-7 and supporting documentation. You may mail the documentation, along with the Form W-7, to the Philadelphia IRS Campus, present it at IRS field offices, or process your application through Acceptance Agent authorized by the IRS.

Are ITINs valid for work purposes?

No. **ITINs are for federal income tax purposes ONLY.** Alien individuals who are legally admitted to the U.S. for permanent residence or other categories which authorize U.S. employment are eligible for SSNs. Individuals who are eligible for SSNs do not qualify for ITINs.

What are Acceptance Agents?

Acceptance Agents are entities (colleges, financial institutions, accounting firms, etc.) Who are authorized by the IRS to assist applicants in obtaining ITINs. They review the applicant's documentation and forward the completed Form W-7 to IRS for processing.

For more information on ITIN check out Publication 1915 , *Understanding Your IRS Individual Taxpayer Identification Number*.

February 11, 2003

Ann E. Meritt, President and Founder of South Central Coalition of Americans Together
Spokes person for a broad network of organization for legal immigration reform in this USA.
We oppose the HB-2039 which by this amendments provisions allows illegal immigrants to obtain a Kansas State Driver's License.

Honorable Members of this Judiciary Committee of the House,

I, Ann E. Meritt, who is the President and representative for SCCAT whose founding address is Haysville, Kansas. This organization has connection to links to a vast network of support of Immigration Reformer especially legal guidance from an organization made up of lawyers and legal officials. Our coalition has membership from all over our nation as well as American Citizens abroad in other countries is supported solely by donations for the research that is shared for its members and supporters.

We wish to present to the following legal reasons for why these bill's amendments to rules and laws sections K. S. A. 8-237, 8-240, and 8-1324 and repealing the existing sections pertaining to issuance of driver's licenses and identification cards under an act relating to the division of vehicles. The changes that are proposed by Rep. Tom Klein will enable any and all future illegal immigrants who come to this state for the purpose of obtaining a Kansas State Driver's License. Which can and will increase this illegal immigrant population exponentially very rapidly with in this states border at the detriment of our already burdened state budget for social and education services?

We wish to point out the number of Federal Laws that would be violated by this state's law makers in changing our laws regarding obtaining driver's licenses for the benefit of illegal immigrants. The first Federal Laws that would be violated are the IRS Rules for the ITIN or Individual Taxpayers Identification Number. The rules clearly state in Federal Publication 1915 catalog number 22533M who can get them, from whom they can be obtained, for what they are used for, and for what they are not to be used for with in its directions. They can be obtained by legal immigrants, students with education Visas, diplomats and their family members. These ITIN's can be obtained from colleges, financial institutions, and accounting firms by providing verifiable identity for filing out form W-7. This ITIN is to be used for withholding of taxes from earned wages and for applying for refunds for over payment of taxes. This ITIN is not to be used for receiving Social Security, Earned Income Credit, create inference regarding the individual immigration status, and does not give the individual the right to work in the U.S. This last statement would seem to state that this ITIN's should not be used to get a drivers license to go to work or to obtain training for work to us.

The next Federal Law, this bill if it becomes law, which would be affect, is National Sovereignty Laws. These laws establish our nations sovereignty over being in control of our borders the rules guarding the protection of this nation and her people and principalities outside her borders by our laws and officials. That as a nation has the right to make laws pertaining to this nation without interference of other nations or governments to violate our laws and sovereignty as a nation.

The Matricula Consular Identity Card various countries are currently selling that and their governments consulates within our sovereign borders are fraudulent because there is no background checks for verification of the individuals who applied for them. It seems from many individuals that this is a form of stealth amnesty since our own government refused to grant amnesty to these individuals of these nations. That these MCIC's may and most likely be used for obtaining our Kansas State Driver's Licenses is of great concern to our government and the GSA or Federal General Services Agency.

These Consulates of these nations have flouted are nation's sovereignty by going to many financial institutions and local city and state governments to make requests for there MCIC's acceptance for many things including state driver's licenses. These Consulates again have flouted our nation's sovereignty by not going through proper Federal State Department channels.

Which brings us to the fact that many of these cards have turned up with same picture but different names. These MCIC's in multiples have been found on many individuals who have been caught by our nations border guards at our borders. Those financial institutions who have accepted these cards a proof of identity are ultimately helping the USA dollars to go there countries and not stay within our sovereign borders for the benefit of our economy.

This also brings in the case of these MCIC's owners on whether they might be involved in smuggling and drug cartels. If Kansas Lawmakers allow the use of this MCIC for verification of identity for obtainin
would they unknowingly allow these criminals more access to various parts of our state a
there by their use of motor vehicles. Some of these same illegal immigrant's using our st

H. JUDICIARY

2. 11. 03

Attachment: 22

This illegal immigrant then comes back with more illegal immigrants, smuggling of other things, and drugs as has been reported by some of our border patrols.

The last Federal Laws that are affected by this bill becoming law are the INS Laws or Bureau of Immigration and Naturalization Service Agency. An illegal immigrant is not suppose to live, work, or receive any pay in this country because it is prohibited by our Federal Laws of Immigration. By allowing these illegal immigrants to obtain Kansas Driver's Licenses, are we not violating a few of these laws? The businesses, which knowingly hires these illegal immigrants who drive can drive to work, can be heavily fined for allowing them to work at all. The Federal Government for these violations of INS Laws can sue such businesses for multiple reasons.

If illegal immigrants can get Kansas Driver's Licenses then there will be a flood of illegals coming here to get them. This flood of illegal immigrants will increase problems of more joblessness, more demands on social services, and increase the population of our schools with more poorly educated or illiterate children. This mass invasion of illegal immigrants will take services away from Kansas Citizens because of budget restraints and Federal guidelines. Some states who have allowed illegals to get driver's licenses can attest to this problem even to an increase of identity theft and other crimes. One of the biggest problems that will affect all Kansans is increased accidents with uninsured drivers and their vehicles. Kansas has the no fault clause in its insurance laws but how much can a Kansas Insurance Company afford if the other accidents tend to be a majority of non insured drivers. This has been occurring in California for some time now with the increase of their illegal immigrants.

The newest problem that illegal immigrant driver's licenses have caused is a scam of these drivers is to not registering the vehicles so if the vehicle is involved in an accident the injured party has to sue the original owner for the liability limits of their insurance policies. The insurancing companies deny the claims because according to their records the vehicle was sold to another individual. This leaves only the original owner to be sued for his assets and financial ruin. In more and more cases the driver who caused the accident has already escaped over the border knowing full well that the country he came from does not recognize our laws and ignores us concerning their citizens.

In conclusion honorable members of House Judiciary Committee Representatives we wish you to understand that many states are denying these identity cards and rights to driver's licenses in their states to stop or curtail this mass invasion of illegal immigrants and their families and relatives. It is because of the effect of the lowering of income levels of pay and the fact that they are losing more tax money because these individuals are low income. These lower incomes put more stress on the state's charities, health services, and educational institutions like state funded public schools. This mass migration of illegal immigrants to these states creates difficulties with established taxpaying citizens, their families, and their children. We hope that we have established the aforementioned legal reasons for this bill not to go forward into law in the state of Kansas.

**South Central
Coalition on**



**Americans Together
Inc. np 2002**

South Central Coalition of Americans Together, Inc. np 501c

(Legal Immigration Reform)

Incorporated as a division of the Riverside Well Water Home Owners Association of Wichita and Riverside Unconsolidated
P.O. Box 344

Haysville, Kansas 67060-0344

Phone:(316) 516-0087 Fax: (316) 524-8534

E-mail: scatincnp@aol.com

Web site under development

Preamble: We as an established coalition of all ethnic and vocational backgrounds from many states, as citizens seek to share information for the soul purpose of legal removal of all illegal immigrants or immigrants who will do harm to others within the sovereign borders of the United States. We feel in so doing the research and networking of information from other organizations this will give our elected officials the necessary background to create new laws to strengthen and enforce our sovereign laws within the borders of the United States.

1. We legally oppose any illegal immigrant who wishes to destroy our country through crime and duplicity.
2. We legally oppose any illegal immigrant that resides within municipalities and unlawfully receive succor and assistance from charities, companies, businesses, and individuals.
3. We legally oppose any illegal immigrant who will not respect our culture, heritage, flag, English Language, Constitution, and established state laws and tenets there of in other acts or provisions of same.
4. We legally oppose companies, corporations, and local state businesses who knowingly use illegal immigrants for jobs that could be held by naturalized citizens and citizens of the United States of America.
5. We legally oppose another countries who violate our sovereign rights by the disrespect of our laws and institute their own laws in defiance of our professional officers who enforce our laws.
6. We legally oppose any cultural organization, association who refuse to recognize that any and all illegal immigrants are a detriment to this nation and her people.
7. We legally oppose any politician or person of elected authority who does not enforce our laws regarding illegal immigrants within their domain.
8. We legally oppose the tenets and provisions of the Federal Family Reunification Act, which are being misconstrued by those officials to perpetuate a chain affect of bringing more immigrants.
9. We legally oppose illegal immigrants who will work within the borders of various states without regard to the consequences to our economic foundation.
10. We legally oppose any illegal immigrant who knowingly destroys property, animals, and structures to enforce intimidation against either naturalized citizens or citizens of the United States.
11. We legally oppose known cultural organization who use threats of harm and intimidation toward their cultural citizens in regard to the adherence of our local, state, or national laws.
12. We legally oppose those cultural organizations who oppose our holidays and practice of these celebrations established by Federal mandate for the United States.
13. We legally oppose the giving of rights to illegal immigrants any documents or licenses which are guaranteed only to citizens, naturalized citizens, legal immigrants, students with educational Visas, and technical or professional H1B individuals.
14. We legally oppose amendments to existing state laws, which will allow illegal immigrants to continue to reside, train, work, and recreate within our state in direct violation to Federal Laws governing this nation.
15. We legally oppose those individuals or organizations who obtain state or Federal grants to assist, train, or provide living places for illegal immigrants.

Motto or Creed: Through knowledge we unify all races, cultures, and people of this nation with national purity and pride.

• GENERAL INFORMATION •

What is an ITIN?

An ITIN, or Individual Taxpayer Identification Number, is a tax processing number that became available on July 1, 1996, for certain nonresident and resident aliens, their spouses, and dependents. The ITIN is only available to individuals who cannot get a Social Security Number (SSN). It is a 9-digit number, beginning with the number "9", formatted like an SSN (NNN-NN-NNNN). The temporary IRS Number previously assigned is no longer valid.

What is the purpose of an ITIN?

ITINs are only used for federal income tax purposes.

The issuance of an ITIN does not:

- entitle the recipient to Social Security benefits or the Earned Income Tax Credit (EITC);
- create an inference regarding the individual's immigration status;
- give the individual the right to work in the U.S.

When completing the tax return (1040, 1040A, 1040EZ, 1040NR, 1040NR EZ), the individual will enter their ITIN in the space for the SSN.

How do I know if I need an ITIN?

If you must file a U.S. tax return or you are listed on a tax return as a spouse or a dependent and you do not have, and cannot obtain, a valid Social Security Number, you must apply for an ITIN. As of January 1, 1997, the IRS will no longer accept "SSA205c," "applied for," "NRA," blanks, or previously issued IRS temporary numbers. For all U.S. tax returns filed after December 31, 1996, including your ITIN on the return will ensure prompt processing and receipt of any refund. New Internal Revenue Regulations require including a valid Tax Identification Number (TIN) on all U.S. federal income tax returns. Each person listed on the return must have a valid TIN (either an SSN or an ITIN). If a return requesting a refund is filed without an SSN or ITIN for the primary filer and spouse, the refund will be

delayed until they obtain the identification number. If a dependent SSN/ITIN is missing, the exemptions will be denied and refunds will be adjusted accordingly. If you are eligible for an SSN, you should get one. If you were previously issued a temporary IRS Number, you must now apply for an ITIN.

How do I apply for an ITIN?

To obtain an ITIN, you must complete IRS Form W-7, *Application for IRS Individual Taxpayer Identification Number*. You may complete and sign a Form W-7 for a minor dependent. Nevertheless other dependents and spouses must complete and sign their own Forms W-7. The Form W-7 requires documentation substantiating foreign/alien status and true identity for each individual. If you, your spouse and/or dependents need ITINs, you may submit separate Forms W-7 and documentation at the same time. You may either mail the documentation, along with the Form W-7, to the Philadelphia Service Center, present it at IRS walk-in offices, or process your application through an Acceptance Agent authorized by the IRS.

How Can I get a Form W-7?

- Call 1-800-TAX-FORM (continental U.S. only). Bulk quantities may also be ordered through this number.
- You may use a personal computer to download the Form W-7 from the IRS bulletin board, (accessible at modem number 703-321-8020) or by visiting our World Wide Web site at <http://www.irs.ustreas.gov>.
- Visit the nearest IRS office.

What are Acceptance Agents?

Acceptance Agents are entities (colleges, financial institutions, accounting firms, etc.) who are authorized by the IRS to assist applicants in obtaining ITINs. They review the applicant's documentation and forward the completed Form W-7 to IRS for processing. A list of Acceptance Agents is available through Customer Service at your nearest IRS office, and are also listed on our World Wide Web site at: http://www.irs.ustreas.gov/prod/ind_info/agents.html

Taken from IRS Publication 1915 page 1



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Warner and Virginia license fraud

Since taking office last year, Gov. Mark Warner has repeatedly promised that Virginia will do its part to aid the nation's war against terrorism. But his administration appears to be working behind the scenes to kill legislation that would end the state's reputation as a mecca for immigration fraud by requiring applicants for drivers licenses to prove they are legally in the United States.

Seven of the 19 terrorist hijackers who murdered 3,000 Americans on September 11 had Virginia identification cards, even though they did not live in the state. Today — more than 16 months after those attacks — foreign nationals living in Virginia can still renew their drivers' licenses without having to show that they are legal U.S. residents. Legislation to end this practice passed the Virginia House of Delegates last year, only to be killed in the Senate.

Once again this year, a bill has been introduced in the General Assembly to change this situation. The measure, sponsored by Sen. James "Jay" O'Brien, Fairfax County Republican, and Delegate David Albo, Fairfax County Republican, would require that those who apply to renew their drivers' licenses present documents showing that they have a legal right to live in the United States, such as a visa or permanent residency card.

It "would be a big help to the FBI and other law-enforcement agencies if we could guarantee that a license or ID card issued by Virginia was legitimate and only for the time [the owner] was legitimately in the country," said Thomas Drumm, a retired FBI agent with nine years of terrorism-fighting experience.

Last week, the Virginia Senate's Courts of Justice Committee heard testimony in support of the bill from Laurie Manel, a Canadian citizen now living in Northern Virginia. Mrs. Manel (whose story was previously reported in The Washington Times), described how she went to the Department of Motor Vehicles (DMV) office in Manassas and was not asked to present identification, even though she brought with her a Social Security card and another card showing she is a permanent U.S. resident. When she complained to the head of that DMV office about the lax verification procedures, Mrs. Manel was brushed off by an agency official, who told her that "that's the way the [Warner-appointed] head of the DMV wants it."

After listening to such testimony, the Courts of Justice panel voted 10-4 in favor of the O'Brien-Albo legislation. Two of Mr. Warner's staunchest liberal allies, Northern Virginia Democratic Sens. Linda Puller and Richard Saslaw, were among those voting for the bill.

While Mr. Warner has yet to take a position on the legislation, which has come under fire from some immigrant-rights groups, his administration seems to have settled on a strategy for killing the bill: sending DMV bureaucrats out to tell the General Assembly that the legislation will cost too much to implement. Last month, DMV put the price at slightly above \$1 million. The agency now asserts that it will cost \$5.6 million a year to implement, and suggests that, in an age of austerity, this would be too expensive.

Even assuming the \$5.6 million figure is true, a point that Mr. O'Brien sharply contests, the General Assembly and Mr. Warner need to find the money — a minuscule amount given the reality that the state has an annual budget in excess of \$20 billion. It's time for Mr. Warner to show some leadership and cooperate with lawmakers like Messrs. O'Brien and Albo in passing legislation to abolish Virginia's current practice of issuing drivers' licenses to illegal aliens.

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Saturday, Feb. 8, 2003

and don't worry about dirty fingers

THERE ARE many good-sounding arguments against tracking, "profiling," fingerprinting, and registering of aliens and citizens alike. All one need do is mention "database," and images of Orwellian telescreens and chip implants flash across some folks' delicate minds.

Others recoil at the thought of a national information base that tracks credit-card purchases, but consider that such traces are already used by police--generally after crimes have been committed--to track and locate criminals. The federal government is not concerned that you bought Twinkies on sale at Food Lion and has little use for such data. However, a purchase of ammonium nitrate and a few blasting caps just might (rightfully) get the attention of a federal agency.

Terrorists love IDs. Most seem to have dozens of passports, driver's licenses, national ID cards--you name it. Anyone who can surf the Net can obtain or manufacture good-quality cards that identify them as anything from the Lost Dauphin of France to George W. Bush.

Thus, the utility of widespread fingerprinting. Because of government (including military) service, many citizens already have several copies of their prints on file.

We do not balk at all about fingerprinting native-born, law-abiding Americans who hold higher security clearances than James Bond, but mention printing aliens and suddenly the whine goes up that we are compromising someone's rights. Please, someone, direct me to the part of the Constitution that addresses the "rights" of noncitizens.

If you are not yet convinced of the efficacy of having a clue who is in our fair land and knowing what the hell he or she is up to, consider this:

Mexican consulate staff recently posed as U.S. immigration agents and interfered with a murder, drug, and smuggling probe. This act was called "a total violation of national sovereignty, and a huge security risk."

Choudhry G. Muhammad and Mohammad Rana (whereabouts unknown) operated a human smuggling ring successfully breaching our borders about 40 times, bringing in Pakistani nationals from Canada in trucks.

The Matricula Consular card, issued by Mexican consulates, is

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Temperature: 27.8 °F
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WFLS news

- Terror Alert : Awareness heightened (Friday, 12:55)
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Associated Press news

- Terror Alert Raised to Orange Level
- U.S. Tells Diplomats to Leave Mideast
- Blast at Bogota Club Kills More Than 20
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- NASA Examines Photo for Shuttle Damage
- Bush Asks to Put Moussaoui Trial on Hold
- Dow Closes Down 65, Nasdaq Loses 19
- Kings Clobber Hurricanes 8-2

Virginia news

- Jury finds Massey subsidiary liable in coal dust case
- Dome over coal stockpile at Massey mine tears, deflates
- Senate, administration reach deal on appointment

Other news

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and don't worry about dirty fingers

proliferating like the flu virus and is recognized by some screw-loose local and state governments. If you are a terrorist, felon, or illegal alien, don't leave home without it. Better yet--they're cheap--get several.

For the second time this year, armed Mexican Army units chased American Border Patrol agents after crossing into U.S. territory.

A Nigerian man accused in Australia of operating an international fraud syndicate had 31 California driver's licenses, 68 credit cards, and five passports--all bearing different names.

If national security is not enough to convince you that fingerprinting may be useful, consider the difficulty of perpetrating identity theft if credit cards were fingerprint-based.

Only two things are required to have a nation: borders and laws. Far, far too many illegals with both good and bad intentions are ignoring both our laws and our borders.

Those who thumb their noses at our sovereignty should soon find that only a fool violates our borders with impunity.

BOB SARGEANT is a defense expert who lives in Spotsylvania County.

Date published: 1/25/2003

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GSA bars Mexican ID cards

By Jerry Seper
THE WASHINGTON TIMES

The General Services Administration has suspended recognition of identification cards issued by the Mexican government to its nationals in this country, pending an investigation by the State Department, GSA and other federal agencies.

The "matricula consular cards," used by Mexican nationals to obtain social services and establish bank accounts and used as legal identification for those who have been detained by police, have been issued to hundreds of thousands of Mexican nationals in the United States, including those here illegally.

"The matter of foreign consular identification cards is under discussion both within the State Department and among federal government agencies, including the General Services Administration," the GSA said in a statement made public yesterday.

"While this matter is under deliberation, GSA has suspended the trial acceptance of consular identification cards for admittance to certain federal facilities," the statement said. "GSA will no longer accept consular-issued identification cards as a means of identification, pending further study."

The laminated, digitally coded cards cost \$29, are good for five years and can be obtained from any of the 65 Mexican consular offices in this country by presenting a birth certificate, an official ID photo and proof of residency, such as a copy of an electricity, water or telephone bill.

About the size of a driver's license, the cards contain the bearer's photograph, name, address, date and place of birth, signature and the official seal of Mexico. More than 750,000 cards, which do not list the person's immigration status, were issued by Mexico in the past year.

Law-enforcement authorities said more than a million Mexican nationals, including hundreds of thousands of illegal aliens, have obtained the identity cards.

Some illegal aliens arrested by the U.S. Border Patrol have been found to have multiple cards — each containing the cardholder's picture, but with other names and personal data.

The cards continue to be recognized by some state and local officials, and by a growing number of banks and police agencies nationwide.

Wells Fargo, Bank of America and J.P. Morgan Chase were first in 2000 to recognize the cards as a form of identification to open bank accounts — hoping to gain a portion of the financial business of Mexican nationals in this country, who sent home an estimated \$9.5 billion last year.

The GSA suspension means the cards will no longer be accepted for identification purposes at federal facilities, including the Phillip Burton Federal Building in San Francisco, where House Minority Leader Nancy Pelosi, California Democrat, endorsed a four-month pilot program last month authorizing acceptance of the cards as legitimate forms of identification.

Mrs. Pelosi's office did not return calls for comment.

According to the GSA statement, once the State Department, GSA and other agencies complete their investigation, a formal recommendation will be made to

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...and security agencies to ensure the integrity of the information contained in the cards and the security of the document itself.

The statement said GSA will then reconsider its policy concerning acceptance of the cards at federal buildings.

The cards have sparked anger among law enforcement authorities, several members of Congress and various immigration experts.

Last week, a dozen House members questioned the propriety of the cards, saying in a letter to Secretary of State Colin L. Powell that Mexico had undertaken "a massive lobbying effort" to persuade local authorities to accept the cards for identification purposes.

"While the issuance of national identification cards is nothing new, providing them with the express purpose of evading U.S. law is something entirely different," the lawmakers said. "The active lobbying of local and state governments by consuls of foreign countries is, at least, a breach of international protocol deserving of a serious response by our government."

In addition to Mexico, the lawmakers said El Salvador, Guatemala and Honduras also had increased efforts to provide similar identification cards, though officials at the Salvadoran Embassy in Washington said yesterday that their country had not issued any consular cards and had no intention of doing so.

The letter to Mr. Powell was signed by Republican Reps. John T. Doolittle and Dana Rohrabacher of California, Tom Tancredo of Colorado, Nathan Deal and Charlie Norwood of Georgia, Todd Akin of Missouri, Walter B. Jones Jr. of North Carolina, John Sullivan of Oklahoma, Sam Johnson and Lamar Smith of Texas, and to Ann Davis and Virgil H. Goode Jr. of Virginia.

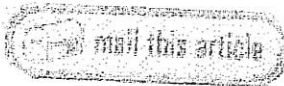
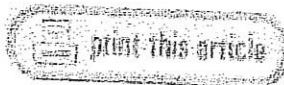
Dan Stein, executive director of the Washington-based Federation for American Immigration Reform (FAIR), said the only people who have a need for the consular-issued identification cards are illegal aliens.

"Legal immigrants can get valid U.S. documents, like state-issued driver's licenses, while visitors can prove their identity with a passport and a valid visa," he said.



Mr. Stein also questioned whether accurate background checks were being made by the Mexican government officials who issue the cards.

"We know that corruption is prevalent in the Mexican government, and yet we are relying on a chain of faceless Mexican bureaucrats to vouch for the identities of millions of people, about whom the only thing we know for certain is that they've broken our immigration laws," he said.

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NOTICE OF LEGAL CONCERNS & POSSIBLE LIABILITY ON THE ACCEPTANCE BY PUBLIC ENTITIES OF A FOREIGN GOVERNMENT ISSUED IDENTIFICATION CARD

According to published reports, several public entities in Colorado now honor, will likely soon honor, or have under consideration a plan to honor, the *matricula consular* as a suitable form of identification for the disbursement of services by agencies. ^[1]

As is well known, and as has been widely reported, the *matricula consular* is an identification card issued by the Government of Mexico, through its consulates, to Mexican nationals illegally residing in the United States.

Friends of Immigration Law Enforcement (FILE), and a variety of legal experts in Colorado and around the U.S., are of the opinion that no state, county, city and county, incorporated city or town, school district, special improvement district, or any other kind of district, agency, instrumentality, or political subdivision of the state organized pursuant to law (hereinafter, "any public entity") may adopt any policy that authorizes, utilizes, recognizes, or incorporates (hereinafter, "accepts") the *matricula consular*.

After careful consideration, FILE has determined that any such policy 1) is illegal, 2) is unconstitutional, 3) exposes the public entity to civil liability, and 4) is irresponsible public policy.

1. FEDERAL STATUTORY VIOLATION

Since only illegal aliens have need of the *matricula consular* for identification purposes or to access city services (all legal residents having the right to official U.S. identification), any public entity or its representative that accepts the *matricula consular* is in violation of Section 274 of the Immigration and Nationality Act, which provides criminal penalties for any act that "encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law." ^[2]

"Encourage" and "induce" include actions that permit illegal aliens to be more confident that they could continue to reside with impunity in the United States, or actions that offer illegal aliens "a chance to stand equally with all other American citizens." ^[3] To prove that a state or local government agency "encouraged or induced" illegal Mexican aliens, all the government needs to establish is that the agency knowingly helped or advised the aliens, or emboldened them, or made them more confident in their continued illegal residence in the United States. ^[4]

The courts have held that INA §274 is to be broadly construed both as to the those persons subject to criminal liability under the statute, ^[5] and as to the types of activities covered therein. ^[6]

Furthermore, Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996^[7] (as amended by the Illegal Immigration and Immigrant Responsibility Act of 1996)^[8] prohibits non-qualified (illegal) aliens from receiving most "Federal public benefits." Any policy that accepts the *matricula consular* for the purpose of doling out city services explicitly violates this provision of federal law insofar as the services to illegal aliens are paid for with federal funds.

Preempted on Constitutional Grounds

The courts have long recognized that by Article I, Sec. 8 of the U.S. Constitution (the Commerce Clause), Congress has "plenary power" over all aspects of immigration law, including "the right to provide a system of registration and identification" for aliens, because "the entire control of international relations" is invested in the national government.^[9] Courts have repeatedly held that no governmental authority may establish any policy that relates to immigration other than Congress and authorized federal agencies, and that the "(p)ower to regulate immigration is unquestionably exclusively a federal power."^[10]

Thus, an official local policy to accept an official foreign national identification document issued to aliens present in the United States in violation of Federal law improperly annexes powers to any public entity that are rightfully Congress' and the policy is therefore unconstitutional.

In a Supreme Court decision striking down a Pennsylvania alien registration statute, it was held that the "Federal Government...is entrusted with full and exclusive responsibility for the conduct of affairs with foreign sovereignties[, and that o]ur system of government is such that the interest of the cities, counties and states, no less than the interest of the people of the whole nation, imperatively requires that federal power in the field affecting foreign relations be left entirely free from local interference. The Court ruled that "where the federal government, in the exercise of its superior authority in this field, has enacted a complete scheme of regulation . . . states cannot, inconsistently with the purpose of Congress, conflict or interfere with, curtail or complement, the federal law, or enforce additional or auxiliary regulations."^[11]

Therefore, no public entity as defined above may make any rule, regulation or policy that speaks to the presence in the community of foreign nationals, and, thus, a "*matricula consular* policy" is preempted on constitutional grounds.

Furthermore, such a policy has also been determined unconstitutional *specifically* in relation to public benefits because it violates "the exclusive federal power over the entrance and residence of aliens."^[12]

Civil Liability Exposure

Entering the United States without inspection (illegal entry) is a criminal offense under 8 U.S.C. 1325. Providing public services to such an alien in "knowing and reckless disregard" of the alien's illegal status amounts to *aiding and abetting* a crime, and is a criminal violation in and of itself. By the INA §274(a) aiding and abetting statute,^[13] the distinction is eliminated between principles and accessories in alien smuggling crimes. And courts have held that aiding and abetting also relates to conduct while the illegal alien is in the United States.^[14]

Furthermore, aiding and abetting an illegal entrant in his continued illegal residence in the United States constitutes a dangerous and unreasonable risk to the health and safety of the public, since, among other reasons, unlike legal entrants, an illegal entrant is not subject to a criminal background or health check before entering the United States.

Moreover, when such aid is administered via official acceptance by any public entity of the *matricula consular*, by which possession any public entity, or any person acting under the authority of any public entity, would or should have known in the exercise of reasonable care that the person holding the card is an illegal alien, the public entity, or its officers, can be said to be negligent.

For these reasons, official acceptance of the *matricula consular* by any public entity can be said to be dangerous and negligent, and, therefore, the public entity, and its officers or representatives, may not enjoy sovereign immunity under the Colorado Governmental Immunity Act—especially since the grant of governmental immunity in Colorado is to be strictly construed and its waiver is to be liberally or deferentially construed.^[15]

Consequently:

If any illegal entrant, whose illegal presence in the United States can be shown to have been encouraged, induced, harbored, and/or aided by any public entity, commits a crime while illegally present in the United States, during the commission of which an American citizen suffers personal injury, FILE will attempt to help the injured party bring a personal injury suit against the public entity, and, to the extent allowed by law, against its officers, individually and severally, for damages.

Irresponsible and Unpopular

The growing acceptance of the *matricula consular* by various institutions in the United States constitutes a "stealth amnesty" for illegal aliens. FILE believes this de facto amnesty 1) is illegal, 2) generates more illegal immigration, 3) provides a magnet that lures Mexican nationals illegally to cross the dangerous U.S./Mexican border—often with fatal results, 4) is not supported by the people of Colorado or of the United States, and 5) threatens the domestic security, and undermines the general welfare of the Nation and its citizens.

Officials in the Mexican government openly assert that the growing acceptance by U.S. institutions and political units of the *matricula consular* is essentially an "amnesty" for Mexican nationals illegally residing in the United States.^[16] The Mexican government has undertaken as a matter of policy an aggressive campaign to press American political entities and other institutions into recognizing this card. Any public entity or institution that submits to the demands of the Mexican government is aiding a foreign government's subversion of American law and a foreign government's improper interference in domestic politics—a clear violation of the principle of national sovereignty, of the constitutional prohibitions summarized above, and of the democratic wishes of the American people, who oppose amnesty by wide margins.^[17]

We insist that any public entity that currently accepts the *matricula consular* cease and desist forthwith. And, in all good faith, we caution any public entity that is considering acceptance of the card that there are serious legal concerns and liability issues attached to such acceptance.

Craig Nelsen, Director
Friends of Immigration Law Enforcement
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Omaha, NE 68108-0122

(402) 341-0565

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- [1] *City begins accepting Mexico IDs; Move eases access to services*, Denver Post, October 04, 2002
- [2] 8 U.S.C. §1324(a)(1)(A)(iv)
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- [5] *U.S. v. Zheng*, No. 01-15551 (11th Cir. Sept, 2002)
- [6] *Patel v Ashcroft*, No. 01-3365 (3rd Cir. June, 2002)
- [7] Public Law 104-193
- [8] Public Law 104-208
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- [12] *Graham v. Department of Pub. Welfare*, 403 U.S. 365 (1971) (USSC+)
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- [14] *U.S. v. Mussaleen*, 35 F.3d 692 (Cir. 2nd (N.Y.), 1994.
- [15] *Springer v. City and County of Denver*, 990 P.2d 1092 (Colo. App. 1999), rev'd on other grounds, 13 P.3d 794 (Colo. 2000).
- [16] *Using a Bottom-Up Approach, Mexico Pushes ID for Migrants*, The Wall Street Journal, October 25, 2002
- [17] 60 percent to 29 percent, Harris Poll, August 15 - August 22, 2001

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Notice of Legal Concerns & Possible Liability on the Acceptance by Public Entities of a Foreign Government Issued Identification Card

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COMMENTARY



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The silent 'invasion'

Illegal immigration has become a deadly problem

By Bill Wasz

Published 2/5/2003 12:01:00 AM

Last year, the Immigration and Naturalization Service (INS) reported 376,000 arrests of illegal immigrants in the State of Arizona alone.

This is just the ones they apprehended, and only for Arizona. This is just one of the four states which border Mexico, so it's safe to assume the rough estimate of all four states combined to be 1.5 million last year. And this is a "kind" estimate using the INS's own figures.

Well folks, I'm sorry to say that one million five hundred thousand people is equivalent to the population of any one of the major cities in America. Also, this rough estimate isn't only "kind," but low in number to the actual, realistic amount of illegal immigrants that flow through our borders, like water through a cracked dam.

I believe, a few million people illegally cross our borders each year. Most through Mexico, but the beaches of Florida are proving to be a fruitful venture as well. Canada? Relatively few, I'm sure. These numbers, however, should be frightening to the citizens of the U.S. Each and every body that enters the U.S. illegally costs all of us money.

Jobs are lost to their eagerness to work for next to nothing. Health care insurance skyrockets from their use of hospitals without insurance. Social Security and welfare agencies provide assistance to these people, utilizing money that should be allocated for our own citizens. Plus, the jails and prisons in California, Arizona, New Mexico and Texas are full of illegal aliens who committed crimes against the citizens of the U.S.

Their crimes are paid for by the taxes of U.S. citizens, and by the private sector. First we pay for the direct losses caused by their crime, but that is just the beginning. Taxpayers must foot the bill for court costs, the public defender's fee, the cost of keeping them in custody, plus health care.

The INS knows it may catch one illegal out of every ten that slide across the border. Their job they do of patrolling the borders is so terrible the only way to fix it is to overhaul the whole system. They have proven to have little deterrent effect on illegal entry into the U.S.

And now, with the dawn of a new age -- "terrorism" has been brought to our soil. Brought to us, via our own lackadaisical security, which not only allowed the Sep. 11 hijackers entry, but also helped them learn how to fly aircraft.

In the last twenty-five years, our government has let so many people have access to this country, via "legal entry," that it's created a burden to society on a whole. Student visas, tourist visas and political asylum became the ruse from which numerous undercover terrorists have penetrated our soil.

Many student visas are issued to foreign students who utilize our superior colleges and universities to broaden their education, learn our way of life and routines, then launch their "war" upon us.

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Many of the terrorists who are wanted by our country have an education paid for with federal grants and scholarships.

The Pakistani who orchestrated the kidnap and murder of Wall Street Journal reporter Daniel Pearl was educated at the University of California Sacramento. It was mentioned briefly in new reports with no information on why he was allowed to have a student visa. Some of his professors stated that "he was a quiet and well-mannered student." No kidding? If I wanted to go to Saudi Arabia and learn their culture, while their government footed most of the bill, I'd be "quiet and well-mannered" too.

Most politicians are afraid to publicly address the issue, because somewhere along the way it has become politically incorrect to speak out against any type of immigration -- legal or illegal. California offered an initiative on the ballot for illegal aliens to be able to apply for, and receive, a California driver's license. Former Gov. Pete Wilson opposed it and the activists called him a "racist."

The California candidates for governor last year refused to comment on the initiative, solely because they feared being labeled racist. They would not address the billions California spends each year on services for illegal immigrants, because they fear offending certain racial groups. Their fear costs billions of dollars a year, just in California alone.

The Federal Bureau of Prisons reported a total inmate population of 165,000 last month. One third of this amount, 55,000, are illegal. How is it that one third of the Federal Prisons are full of illegal aliens? And let's not forget California, Arizona, New Mexico, Texas and Florida. Whatever happened to the "good old American criminals?"

Crime is on a rise, but maybe it's not our own causing the rise. Apparently, using the government's own figures, the foreigners are relishing in the criminal element via murder, robbery, burglary, rape and a vast array of other felonious acts against our citizens. That fact alone should be insulting enough, however, since the U.S. citizens are footing the bill for their incarceration and treatment the insult is doubled. Yet, they continue to pour across the border at such a rate they cannot even be counted accurately.

Don't worry though, because if they aren't here to take your job, or suck up your health insurance, then they're just going to rob you or kill you. Or better yet, we'll pay for their Harvard degree, maybe in Nuclear Science, send them back home full of knowledge, then they can build a real nice intercontinental ballistic missile, complete with a thermal nuclear warhead, and then launch it on us. Probably while they're eating a McDonald's Big Mac and listening to a Britney Spears CD. God Bless America.

If 360,000 illegal immigrants can cross into just one state the year AFTER the Sep. 11 attack, something is terribly wrong.

An entire army of terrorists could enter our country. They could come over a few at a time, unarmed, and coordinate an attack once ten thousand of them show up. They would not need to bring any guns, because they could buy them in L.A. from a street gang.

Yes, they are costing us multi-billions of dollars each and every year. And the numbers are drastically on the rise. But the money is secondary; we can make more money. We are good at that.

What we cannot replace is our family members who may become victims to these illegal, and legal, immigrants which are flowing undisturbed into our country. If they do not commit acts of terrorism, then they are filling up our prisons by committing individual felonies against our citizens. And yes, they take our jobs and cause our health insurance to shoot through the roof. It needs to end. The government needs to address it -- soon. Otherwise, we may find all the immigrants rising up at once, and then it will be way too late.

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Los Angeles Daily News, Local View, January 23, 2003

Consular ID cards threat to national security.

By Hal Netkin

It has been just under a year and a half since 9/11, and the gravity of the situation has still not set in with the L.A. City Council.

Six months ago, thirteen out of fourteen L.A. City Council members voted to launch a six month trial to officially accept the Mexican Matricula Consular card as a valid ID. These wallet size IDs are issued by the Mexican Consulate to Mexican nationals without conducting fingerprint, criminal, or medical background checks and are NOT verifiable by any local law enforcement agency.

Other U.S. cities have already begun accepting the IDs, but with strong memories of 9/11, New York City and New York State, with one of the fastest-growing Mexican populations in the nation, are not about to join them. Citing security concerns, New York Police Department officials said they had rejected requests from the consulate to accept the new "Matricula Consular," or consular ID card, as proof of identity for Mexican immigrants.

To receive the IDs, Mexicans need only produce a Mexican birth certificate, any other form of Mexican identification such as a voter or school registration card, and a local utility bill as proof of residency, and pay the consulate a \$29.00 filing fee. Although the Mexican consulate lauds the impossibility of forging the high-tech card, forged Mexican birth certificates and other forms of IDs are easily obtained for about \$25.00 from one of the many forged document vendors in the MacArthur Park area of Los Angeles.

Although the IDs do not necessarily mean that the bearers are illegal immigrants, they are the only ones in need of such a card since any legal immigrant can legally obtain a valid California ID or driver's license.

By deciding to honor a foreign identity document and enter into a cooperative effort with a foreign government, the city council is taking an active role in making immigration policies. In an email exchange with ex-police officer Councilman Dennis Zine (who voted for the six month ID trial), I asked how an LAPD officer could run a "make" on someone who presents the ID. It didn't surprise me that he didn't have an answer.

With no way for an LAPD officer to verify such an ID, I could only conclude that Zine and the other council members (except Hal Bemson) believe that a Sham ID is better than no ID, in spite of District Attorney Stephen Cooley's and County Supervisor Antonovich's warning to the Los Angeles County Supervisors – who have already voted to permanently accept the IDs – of the security risk to the public.

According to the January 15, 2002 issue of the Daily News, Janice Maurizi, a director in the county's District Attorney's Office, said that the cards give a form of legitimacy to people living here illegally. She emphasized the cards are not accepted by immigration officials and could allow criminals from Mexico to endanger public safety.

Shortly after I brought to the attention of the entire City Council that it wouldn't be long before illegals from other countries would also want to jump on the sham ID band wagon, Guatemala's Los Angeles Consulate announced in July 2002 that the Guatemalan Congress had approved a "Tarjeta de Identificacion Consular." Then on July 25, 2002, the Chicago Tribune reported that the Polish Government was working on an identification card for Polish immigrants in the U.S. More recently, Peru, El Salvador and China's consulates are interested in having ID cards for their own nationals residing in the U.S. Is there any question that every other country including countries like Pakistan and Saudi Arabia will also get on the unverifiable ID band wagon?

Unquestionably, the vast majority of Mexican illegal immigrants are not a security threat, but the council knows that without any kind of verifiable background check, local law enforcement cannot distinguish between a "good" illegal immigrant and a "bad" one.

But if national security is of no concern to the council, lawsuits ought to be. The acceptance of the card is in violation of federal law by encouraging illegal immigration to Los Angeles. The city and its employees

could face legal liability in lawsuits from people injured by a Mexican card carrying person in Los Angeles illegally.

When the Los Angeles City Council meets shortly to decide by vote whether to permanently recognize the Matricula Consular ID Cards as valid ID, they should take public safety into consideration and vote no.

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Hal Netkin is a community activist living in Van Nuys. E-mail him at Lawatchdog@pacbell.net

Subj: **Juan Martinez "We have lost"**
Date: 5/31/02 3:45:02 PM Central Daylight Time
From: Germaneyes21
To: PANSEYANN
CC: Germaneyes21

You Have Lost

May 21 2002 at 10:31 PM

Score 1.0 (1 person) Juan Martinez (no login)

You gringos are pathetic. Half of you complain about us being here and the other half are making us very welcome. We are lucky to have the Democrats, media and lawyers on our side. Reconquista is alive and well. We already have control of several states in the southeast, south and southwest, you conservatives are loosing the battle. We are taking over your country without combat. We will become dominant through procreation. While the whites are aborting a good percentage of their children, we are producing thousands of sweet little Latinos every day. We build your homes and construct your roads. We work in your airports restaurants and stores. We are inserting ourselves into your government, law enforcement and engineering positions. Your government has no incentive to curtail Mexican immigration into the US. It would be political suicide to do so, especially for the Republicans. We control a large portion of your economy. Face it; by the year 2020 we will be the majority. Our culture will dominate. You should start taking Spanish lessons now.