

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on March 22, 2006 in Room 514-S of the Capitol.

All members were present except:
Representative Jerry Henry- excused

Committee staff present:
Alan Conroy, Legislative Research Department
J. G. Scott, Legislative Research Department
Becky Krahl, Legislative Research Department
Matt Spurgin, Legislative Research Department
Audrey Dunkel, Legislative Research Department
Susan Kannarr, Legislative Research Department
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:
Representative Ray Merrick
Kris Kobach, Professor of Law, University of Missouri (Kansas City)

Others attending:
See attached list.

- Attachment 1 Budget Committee Report on **SB 549**
- Attachment 2 Amendment to **SB 549**
- Attachment 3 Budget Committee Report on **HB 2730**
- Attachment 4 Testimony on **HB 2945** by Representative Merrick
- Attachment 5 Testimony on **HB 2945** by Kris Kobach

Discussion and Action on SB 549 - State library of Kansas board created; state library and advisory commission and Kansas library network board abolished.

Representative Hutchins, Chair of the Education Budget Committee, presented the Budget Committee report on **SB 549** and moved for the adoption of the Budget Committee report (Attachment 1). The motion was seconded by Representative Feuerborn.

Representative Hutchins moved for a substitute motion to adopt an amendment to **SB 549** to insert additional language on Page 11, Line 24 (Attachment 2). The motion was seconded by Representative Huy. Motion carried.

The Budget Committee noted that the proposed amendment pertains to the children's internet protection act and places the responsibility on the parent in determining if the minor under the age of 18 years of age may have access to the internet without use of internet filtering technology in a public library.

Representative Hutchins moved for the adoption of the Budget Committee report as amended and recommend **SB 549** as amended favorable for passage. The motion was seconded by Representative Huy. Motion carried.

Discussion and Action on HB 2730 - Kansas foster child educational assistance act.

Representative Landwehr, Chair of the Social Services Budget Committee, presented the Budget Committee report on **HB 2730** and moved for the adoption of the Budget Committee report (Attachment 3). The motion was seconded by Representative Bethell. Motion carried.

Responding to questions from the Committee, the Budget Committee noted that this bill provides

CONTINUATION SHEET

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assistance for those individuals who have aged out of foster care and do not have family or a support family. The legislation provides that the educational institution shall waive the tuition fees. Assistance with room and board, technical equipment and course required fees and books will be provided by the Department of Social and Rehabilitation Services (SRS). The student is also required to work to help with the support. It was noted that at the present time, 80 percent of the tuition is paid by SRS and 20 percent is paid by the educational institution. The legislation contains a sunset of June 30, 2008, to allow for a review of the program. The Budget Committee indicated that they did not have strong opposition to the legislation from the Board of Regents.

Representative Landwehr moved to insert the language of **HB 2730** into **SB 85**, allow for technical corrections, recommend favorable for passage and report as **House Substitute for SB 85**. The motion was seconded by Representative Bethell. Motion carried.

Hearing on HB 2945 - Eligibility of certain aliens for state and local public benefits.

Audrey Dunkel, Legislative Research Department, explained that **HB 2945** addresses verification and eligibility for citizens and non-citizens for services, defined by federal statute as state and local public benefits. The bill sets forth that persons who are not citizens and are not legal residents cannot receive benefits except for some Medicaid benefits. Proof of eligibility is required to be presented at the time of the service. Provisions of the act shall be enforced without regard to race, religion, gender, ethnicity or national origin.

Chairman Neufeld recognized Representative Ray Merrick, who testified in support of **HB 2945** (Attachment 4). Representative Merrick stated that, during a recent survey of his constituents, the one issue raised most often, pertains to services provided by the state to illegal immigrants.


Responding to Committee questions, Representative Merrick noted that there are 45,000 illegal immigrants in the state of Kansas. He felt this is a homeland security issue because it is difficult to close the borders on possible terrorists making their way into the United States. Representative Merrick stated that this legislation is an attempt to ensure that State is in compliance with federal law.

The Chairman recognized Kris Kobach, Professor of Law, University of Missouri (Kansas City), who presented testimony in support of **HB 2945** (Attachment 5). Mr. Kobach explained that current federal law makes illegal immigrants ineligible for state and local public benefits. Mr. Kobach indicated that this legislation would save money for the State, stating that there are approximately 9,000 illegal immigrants in the K-12 education system within the State. Mr. Kobach noted that there are immigrants who are in the United States on work or school visas and who have access to public services.

Mr. Kobach stated that the Committee might consider amending **HB 2945** by adding the provisions in **HB 2850** concerning the entitlement to vote.

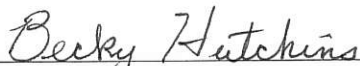
The hearing on HB 2945 will be continued.

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee will be on "call of the Chair".


Melvin Neufeld, Chair

House Education Budget Committee

SB 549



Representative Becky Hutchins, Chair



Representative Bill Feuerborn



Representative Lana Gordon



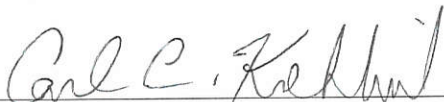
Representative Bob Grant



Representative Steve Huebert



Representative Bonnie Huy



Representative Carl Krehbiel



Representative Joe McLeland



Representative Tom Sawyer

HOUSE APPROPRIATIONS

DATE 3-22-2006

ATTACHMENT 1

House Education Budget Committee Recommendation on Senate Bill 549

The House Education Budget Committee recommends the bill favorably for passage.

Brief

SB 549, as amended, would create the State Library of Kansas Board and abolish the State Library Advisory Commission, as established by KSA 75-2546, and the Kansas Library Network Board, as established by KSA 75-3223. The duties and responsibilities of the abolished Board and Commission would be transferred to the newly created State Library of Kansas Board.

The State Library of Kansas Board would consist of 12 members: seven would be professional librarians, one would be a trustee of a public library, two would represent the general public (the 10 members would be appointed by the Governor), two would be ex officio—the Commissioner of Education and the State Librarian.

The Board would be required to cooperate, and encourage cooperation, in the implementation of the KAN-Ed network and ensure that there is no duplication of services and expenditures.

In addition, SB 549 would require that regional public library districts base the certified property tax levies relative to their budget on the preliminary abstract of property values submitted to the Property Valuation Division (PVD) pursuant to KSA 79-1604.

Background

The Senate Committee on Federal and State Affairs amended the bill to reduce the composition of the proposed Board from 14 to 12 members, and require the Board to cooperate and encourage cooperation by libraries in implementation of the KAN-Ed network.

The Senate Committee of the Whole amended the bill to require that regional public library districts base the certified property tax levies relative to their budget on the preliminary abstract of property values submitted to the Property Valuation Division (PVD) pursuant to KSA 79-1604.

The fiscal note on the original bill indicates that there would be no fiscal effect on State revenues.

PROPOSED AMENDMENTS TO SB 549
As Amended by Senate Committee of the Whole

Be amended:

On page 11, after line 24, by inserting the following:

"New Sec. 14. (a) This section may be cited as the children's internet protection act.

(b) As used in this section:

(1) "Electronic material harmful to minors" means any electronic source of print, picture, figure, image, description, film or recording which is harmful to minors, as defined in K.S.A. 21-4301c, and amendments thereto.

(2) "Internet filtering technology" means a device or technology which reduces access or exposure to internet web sites which contain or make reference to electronic material harmful to minors.

(3) "Minor" means any unmarried person under 18 years of age.

(4) "Public library" means any library maintained by a city, county, township or library district, or any combination thereof, and supported in whole or in part by public moneys.

(c) Except as provided by subsection (d), every public library shall require use of internet filtering technology for any of such library's computers while such computer is being used by a minor.

(d) A public library, or an officer, employee or agent thereof, may allow a minor to use a library computer for which internet filtering technology is not provided if the parent or guardian of such minor has given the library written consent for such minor to have access to the internet without use of internet filtering technology.

(e) The provisions of this section shall not be construed to:

(1) Prohibit any adult from having unfiltered or unrestricted access to the internet or an online service; or

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ATTACHMENT 2

(2) preempt the regulation of obscenity by municipalities.

(f) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

New Sec. 15. (a) Prior to receiving any grant-in-aid for calendar year 2007 pursuant to the state grants-in-aid to libraries act, a library shall certify to the state librarian that the library is undertaking action to comply with the provisions of section 1, and amendments thereto.

(b) Prior to receiving any grant-in-aid for calendar year 2008, or any calendar year thereafter, pursuant to the state grants-in-aid to libraries act, a library shall certify to the state librarian that the library is in compliance with the provisions of section 1, and amendments thereto.

(c) If a library fails to submit certification as required by this section, the library shall be ineligible to receive any grant-in-aid pursuant to the state grants-in-aid to libraries act until the library certifies such compliance.

(d) This section shall be part of and supplemental to the state grants-in-aid to libraries act.

New Sec. 16. No library shall be required to comply with the provisions of this act until such time as the state of Kansas appropriates sufficient funds to pay for internet filtering technology.";

And by renumbering the remaining sections accordingly;


On page 1, in the title, in line 15, after the semicolon, by inserting "enacting the children's internet protection act; prohibiting certain acts and providing remedies for violations;"

House Appropriations
Social Services Budget Committee

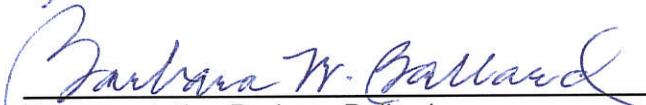
Report on HB 2730




Representative Brenda Landwehr, Chairperson




Representative Bob Bethell



Representative Barbara Ballard



Representative Jerry Henry



Representative Willa DeCastro



Representative John Edmonds



Representative Peggy Mast



Representative Arlen Siegfried



Representative Luis Ruiz

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ATTACHMENT 3

House Social Services Budget Committee

Report on Substitute for HB 2730

Brief

The Social Services Budget Committee recommends a substitute bill be passed to create the Kansas Foster Child Educational Assistance Act. The substitute bill:

- Defines Kansas educational institutions to mean any area vocational school, vocational-technical school, community college, municipal university, state educational institution, or technical college.
- Defines eligible participants as an individual who enrolls in an institution on or after July 1, 2006, the effective date of the act and is a youth who is in the custody of the Secretary of Social and Rehabilitation Services (SRS) and in a foster care placement at the time he or she turns 18 years of age; has been released from custody prior to attaining 18 years of age, after graduating from high school or completed a GED while in custody; is adopted from foster care on or after his or her 16th birthday; or left foster care subject to guardianship on or after his or her 16th birthday.
- Requires SRS to adopt rules and regulations for the administration of the program.
- Directs that eligible youth shall not be charged tuition by the educational institution but the youth remains responsible for applicable fees, such as campus fees, that are not directly connected to a specific course. Tuition will not be waived for any course that is repeated or taken in excess of requirements for completion of their education program. Any individual currently participating in the existing tuition assistance program shall continue to receive assistance until they complete their course of study or become ineligible.
- Allows the Secretary of SRS to make expenditures, within the limits of appropriations, to reimburse each participating youth for room and board, technical equipment, course required fees and books.
- Requires that a youth remain in good standing and make satisfactory progress toward completion of the requirements of the educational program in order to remain eligible for the waiver program.
- Prohibits educational institutions from delaying enrollment of a participating youth because appropriations are not available.
- Requires SRS to make an annual report to the Legislature by January 15th to account for the ways in which the purposes of the Legislation have been carried out and make recommendations on ways to improve the program to carry out such purposes.
- Establishes a sunset date of June 30, 2008.

Background

This program replaces the existing Kansas Foster Child Educational Assistance Act (KSA 74-32,161) which sunsets on June 30, 2006. The bill, as introduced, did not implement a tuition waiver program, but instead continued the program as a tuition assistance program as currently exists. The Budget Committee amended the bill to require a waiver of tuition by Kansas educational institutions, as defined in the bill. The Committee also amended the bill to require participants to pay required non-course related fees; to require an annual report by the Secretary; to prohibit an institution from delaying enrollment because of a delay in receiving funds; to strike independent institutions; and to establish a sunset date of July 1, 2008.

Proponents presenting testimony on the bill included Representative Willa DeCastro and representatives of the Department of Social and Rehabilitation Services and the Kansas Youth Council. Written testimony in support of the bill was submitted by the Children's Alliance. A representative of the Kansas Board of Regents provided testimony in support of the concept of the bill but expressed fiscal concerns. Written testimony was submitted by the Kansas Independent College Association opposing the inclusion of its member colleges as part of the program.

The fiscal note for the bill as introduced indicates that the cost to the Board of Regents is estimated at \$224,000 from the State General Fund in FY 2007. No additional cost is estimated for the Department of Social and Rehabilitation Services whose budget already contains funding for the existing program. No fiscal note is available for the substitute bill.

Substitute for HOUSE BILL NO. 2730

By Committee on Appropriations

AN ACT concerning Kansas educational institutions; requiring the provision of educational benefits for certain students who have been placed in foster care; providing for payment of tuition for such students.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Sections 1 through 10 shall be known and may be cited as the Kansas foster child educational assistance act.

(b) The purpose of the Kansas foster child educational assistance act is to establish an educational assistance program under which payment of the tuition charged to eligible foster children shall be waived.

Sec. 2. As used in the Kansas foster child educational assistance act:

(a) "Kansas educational institution" means and includes any area vocational school, area vocational-technical school, community college, the municipal university, state educational institution or technical college.

(b) "Eligible foster child" means anyone: (1) Who (A) is in the custody of the secretary and in a foster care placement on the date such child attained 18 years of age, (B) has been released from the custody of the secretary prior to attaining 18 years of age, after having graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care placement and the custody of the secretary, (C) is adopted from a foster care placement on or after such child's 16th birthday, or (D) left a foster care placement subject to a guardianship under chapter 38 or 59 of the Kansas Statutes Annotated on or after such child's 16th birthday; and

(2) who enrolls in a Kansas educational institution on or after July 1, 2006.

(c) "Kansas foster child educational assistance program" or "program" means the program established pursuant to the provisions of the Kansas foster child educational assistance act which shall provide for undergraduate enrollment of eligible

foster children through the semester the eligible foster child attains 23 years of age.

(d) "Educational program" means a program which is offered and maintained by a Kansas educational institution and leads to the award of a certificate, diploma or degree upon satisfactory completion of course work requirements.

(e) "Secretary" means the secretary of social and rehabilitation services.

Sec. 3. Any eligible applicant who received assistance before June 30, 2006, under the provisions of K.S.A. 74-32,161 and amendments thereto in effect prior to June 30, 2006, and who is deemed by the state board of regents to be eligible pursuant to this section shall be allowed to remain eligible pursuant to this section and in accordance with the provisions of K.S.A. 74-32,161 and amendments thereto in effect prior to June 30, 2006, and shall continue to receive the assistance until such eligible applicant completes such eligible applicant's course of study or becomes ineligible pursuant to the provisions of K.S.A. 74-32,161 and amendments thereto in effect prior to June 30, 2006.

Sec. 4. (a) No eligible foster child who is enrolled at a Kansas educational institution and who is participating in the program shall be charged the amount of tuition charged by the Kansas educational institution for enrollment in courses necessary to satisfy the requirements of an educational program.

(b) Notwithstanding the provisions of subsection (a) an eligible foster child shall not have waived the amount of tuition waived for any course repeated or taken in excess of the requirements for completion of the educational program in which such foster child is enrolled.

(c) Within the limits of appropriations available therefor, the secretary may make expenditures to reimburse each eligible foster child who is enrolled in a Kansas educational institution and who is participating in the program for room and board, technical equipment, course required fees and books.

(d) Each eligible foster child who is enrolled in a Kansas educational institution and who is participating in the program shall be responsible for all fees charged by the Kansas educational institution that are not directly related to and required for the courses in the educational program of the eligible foster child

Sec. 5. In order to remain eligible for participation in the program, an eligible foster child shall remain in good standing at the Kansas educational institution where the eligible foster child is enrolled and shall make satisfactory progress toward completion of the requirements of the educational program in which the eligible foster child is enrolled.

Sec. 6. No Kansas educational institution shall delay enrollment of an eligible foster child who is participating in the program because appropriations are not available therefor.

Sec. 7. The secretary shall adopt rules and regulations for administration of the Kansas foster child educational assistance act.

Sec. 8. On or before January 15, 2007, and January 15, 2008, the secretary shall publish an annual report on the Kansas foster child educational assistance act and shall present the report to the legislature. The annual report shall specifically account for the ways in which the purpose of this act have been carried out and the recommendations shall specifically note what changes are necessary to better address the purposes described in this act.

Sec. 9. The provisions of sections 1 through 9 shall expire on June 30, 2008.

Sec. 10. Any eligible foster child who received a tuition waiver before June 30, 2008, under the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008, and is deemed by the state board of regents to be eligible pursuant to this section and the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008, shall be allowed to remain eligible and continue to receive the waiver of tuition in accordance with the

provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008, until such eligible foster child completes such eligible foster child's course of study or becomes ineligible pursuant to the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

representative 27th district
6874 west 164th terr.
stilwell, Kansas 66085

state capitol, 330-N
Topeka, Kansas 66612-1504



Ray Merrick
Speaker Pro Tem

HB 2945
Oral Testimony

When we discuss illegal immigration, often the debate centers on the lack of enforcement and the rule of law. This bill focuses on both.

Clearly, many of our state policies give incentive to illegal immigrants to come to Kansas and benefit from all we have to offer. Closing this opportunity by limiting what resources illegal aliens can take from our legal population and legal immigrants is an initial step we can take. This bill gives Kansas tools to enforce federal laws which are already in place.

Tools of Enforcement

Requiring ID – gives authority to our healthcare workers to check the validity of a patient’s legal status.

Affidavit for those without ID – protects an individual who needs services but simply does not have their ID available.

Requires reporting to Department of Homeland Security – gives our healthcare workers the ability to report illegal aliens instead of ignoring the problem.

Allows for agencies to make the verification process more efficient – gives flexibility to state agencies enforcing this law to create the most effective means of verification.

Gives whistle blowing power to any individual who thinks this is violated – enables individuals to hold the state accountable in enforcing this law.

I know there are others here who can speak to the technical questions much better than I. But the bottom line is that we as a state complain that illegal immigration is a federal problem while we sit here and do nothing. This is a first step in a practical effort to take away incentives for illegal aliens to come to our state and benefit from our legal taxpayers’ resources.

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DATE 3-22-2006
ATTACHMENT 4

**Statement of
Kris W. Kobach
Professor of Law
University of Missouri (Kansas City)**

**Before the Appropriations Committee
Kansas House of Representatives**

Regarding H.B. 2945

March 22, 2006

HOUSE APPROPRIATIONS

DATE 3-22-2006
ATTACHMENT 5

Chairman and Members of the Committee, I come before you today in my capacity as a Professor of Constitutional Law, Legislation, and Immigration Law at the University of Missouri—Kansas City School of Law. During 2001-2003, I served as Counsel to U.S. Attorney General John Ashcroft at the Department of Justice. In that position, I was the Attorney General's chief advisor on immigration law and border security. I come before you today to explain the legal environment into which H.B. 2945 fits

There are many reasons to support the enactment of H.B. 2945. Today I will explain the legal impact of H.B. 2945, then elaborate on why it is good policy for the state of Kansas

I. Compliance with 8 U.S.C. § 1621.

As is plain from the language of H.B. 2945, it restricts the provision of state and local public benefits to illegal aliens. However, it is important to understand that *H.B. 2945 does no more than is already required by federal law*. Under federal law, illegal aliens are *already ineligible* for the state and local public benefits described in H.B. 2945.

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), popularly known as the "Welfare Reform Act of 1996." In that act, Congress included numerous provisions designed to ensure that illegal aliens do not receive public benefits at the federal state or local level. Those provisions are found primarily in 8 U.S.C. § 1621. Specifically, Congress stated that an illegal alien "is not eligible for any State or local public benefit." 8 U.S.C. § 1621(a). Public benefits are defined under federal law as "any grant, contract, loan, professional license, or commercial license ... any retirement, welfare health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government." 8 U.S.C. §1621(c)(1)(A)-(B). Exceptions are made for emergency medical services, emergency disaster relief, and immunizations. 8 U.S.C. § 1621(b).

When it passed the Welfare Reform Act of 1996, Congress expressly spelled out its objectives. 8 U.S.C. § 1601(2) states: "It continues to be the immigration policy of the United States that (a) aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and (b) the availability of public benefits not constitute an incentive for immigration to the United States." A few subsections later in the Code, Congress reiterated its purpose: "***It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.***" 8 U.S.C. 1601(6) (emphasis added). Congress was determined to remove the magnetic effect of public benefits in the illegal immigration crisis.

The effect of H.B. 2945 is to ensure that Kansas complies with its obligations under federal law. It simply requires public officials to verify the legal status of those aliens who seek benefits. This can be accomplished easily and in a matter of minutes via telephone or internet using the Systematic Alien Verification for Entitlements (SAVE) program operated by the U.S. Department of Homeland Security.

H.B. 2945 also serves to shield state officials from potential violations of federal law. When state officials look the other way, or decline to ascertain whether or not an alien who seeks benefits is lawfully present in the United States, they not only run the risk of violating 8 U.S.C. § 1621, they enable illegal aliens to remain in the country with impunity.

Some activists who disagree with the enforcement of federal immigration laws may wish that they could change the status of illegal aliens; however it is not within the authority of any state to give illegal aliens the "right" to remain in the state or receive benefits prohibited by federal law. As the U.S. Supreme Court stated nearly 60 years ago: [S]tates ... can neither add to nor take from the conditions lawfully imposed by Congress

upon admission, naturalization and residence of aliens in the United States or the several states.” *Takahashi v. Fish & Game Commission* 334 U.S. 410, 419 (1948). This is an area of exclusive federal authority—in which it is impermissible for states to act in ways that defeat federal objectives. Doing so violates the Supremacy Clause of Article VI of the U.S. Constitution.

II. The Legal Authority of States to Verify and Report an Alien’s Status

Because immigration is an area of law in which the federal government maintains preemptive authority, Congress was careful to expressly pave the way for states to verify the status of aliens seeking public benefits. Congress gave the states explicit authorization to do so in 8 U.S.C. § 1625: “A State or political subdivision of a State is authorized to require an applicant for State and local public benefits ... to provide proof of eligibility.”

Congress also provided that states would have a clear legal avenue for reporting to federal authorities illegal immigrants who seek public benefits. Indeed, Congress prohibited states from concealing this information if they discover it. 8 U.S.C. § 1644 states that no government entity may be “in any way restricted, from sending to or receiving from [federal immigration officials] information regarding the immigration status, lawful or unlawful, of an alien in the United States.”

III. Recent Federal Judicial Precedent Confirms the Authority of Kansas to Enact H.B. 2945

Three federal District Courts have reviewed the authority of states to enact statutes like H.B. 2945. The most recent decision came out of the District of Arizona in the case of *Friendly House v. Napolitano* in 2005. In that case the Court upheld Arizona’s Proposition 200, which contains language very similar to H.B. 2945. The Court concluded that Congress clearly intended that states should verify the status of aliens seeking public benefits and that Proposition 200 was not preempted by federal law. The Court also concluded that the state did not deny aliens due process when it restricted their access to public benefits.

A year earlier, in 2004, the District Court for the Eastern District of Virginia found that a Virginia policy denying postsecondary education benefits to illegal aliens was permissible under federal law. The Virginia policy adopted federal standards for classifying aliens, just as H.B. 2945 does, and therefore it was also on secure constitutional grounds. *Equal Access Education v. Merten*, 305 F. Supp.2d 585, 603 (2004).

Eight years earlier, in the case of *LULAC v. Wilson*, the District Court for the Central District of California articulated the same principle. In reviewing a California law denying benefits to illegal aliens that had been passed prior to PRWORA, the Court found that “benefit denial provisions were not an impermissible regulation of immigration and therefore withstand scrutiny under the first DeCanas test.” *LULAC v. Wilson*, 908 F.Supp. 755 (C.D. Cal. 1995).

The authority of states to enact statutes like H.B. 2945 has been confirmed, and reconfirmed again, by the federal courts. Not surprisingly, several states have already taken action to ensure that they are in compliance with federal law by enacting statutes similar to H.B. 2945. The first was Arizona, which enacted Proposition 200 in 2004. Virginia followed, with a law that is almost identical to H.B. 2945, in 2005. And earlier this month, Oklahoma became the third state to enact such a law. Kansas is one of many states considering similar legislation this year.

IV. H.B. 2945 Protects the State Against Fraudulent Identity Documents

Section 2(e)(1) of H.B. 2945 includes a very helpful and necessary provision. It limits the types of foreign identification that aliens may provide to establish their identity to passports or other documents that are specifically designated by treaty. This would prohibit aliens from using the notorious matricula consular cards that have been obtained fraudulently by thousands of criminals using false identities. The FBI testified before

Congress about the rampant abuse of the matricula consular on June 23, 2003. In that testimony the Director of the FBI's Office of Intelligence reported that criminals of many nations routinely abused the matricula consular issued by the Government of Mexico using fraudulent names and addresses. As the Office of Intelligence reported: "The Department of Justice and the FBI have concluded that the Matricula Consular is not a reliable form of identification, due to the non-existence of any means of verifying the true identity of the card holder." These cards not only facilitate criminal enterprises, they also facilitate terrorism: "The ability of foreign nationals to use the Matricula Consular to create a well-documented, but fictitious, identity in the United States provides an opportunity for terrorists to move freely within the United States without triggering name-based watch lists that are disseminated to local police officers."

Of critical importance here is the fact that any alien who is lawfully present in the United States will have in his possession a passport or green card. The use of a matricula consular card to obtain public benefits is completely unnecessary for any alien who is residing legally in the United States.

V. The Addition of Provisions Ensuring that Only Citizens Vote in Kansas Elections

H.B. 2945 is an excellent bill as it stands. However, I suggest that the committee consider improving it by adding the provisions of H.B. 2850, submitted by Representative Kinzer. H.B. 2850 is germane; it concerns what is unquestionably the most important privilege or benefit of citizenship—voting. H.B. 2850 ensures that this most important privilege of citizenship remains exclusively in the hands of citizens. It does so by requiring proof of citizenship at the time of registration to vote; however, people already registered would not need to re-register. Kansas would not be the first state to combine provisions ensuring that illegal aliens do not unlawfully obtain public benefits with provisions ensuring that aliens do not vote; Proposition 200 in Arizona also combined public benefits provisions with sections ensuring that only citizens vote.

By amending H.B. 2945 to include the provisions of H.B. 2850, this committee would be taking a prudent step to combat an increasingly significant problem across the country. In the past decade, a few counties in Kansas have seen the arrival of large numbers of aliens, legal and illegal. Some of those same counties have also been the location of recurring accusations of voter fraud. The provisions of H.B. 2850 would protect this most treasured privilege of citizenship against abuse.

In conclusion, H.B. 2945 ensures that Kansas complies with federal immigration laws concerning state benefits. It also contributes to the restoration of the rule of law in immigration. It is no secret that the federal government is having difficulty enforcing our nation's immigration laws. Consequently, it is important that states work to assist the federal government, rather than impede the federal government, in this effort. H.B. 2945 accomplishes exactly that, removing incentives for illegal aliens to remain in Kansas in violation of federal law. There are essentially two great magnets that draw illegal aliens into this country—jobs and public benefits. H.B. 2945 ensures that the power of the latter magnet is greatly reduced in Kansas.