

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 18, 2007 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Jim Yonally, Kansas Equality Coalition
Dr. Andrew Allison, Kansas Health Policy Authority
Michael Sharma-Crawford
Melinda Lewis, El Centro, Inc.

Others attending:

See attached list.

Jim Yonally, Kansas Equality Coalition, requested a bill introduction that would add the words "sexual orientation" to the list of prohibited discriminatory practices. (Attachment 1)

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

Continued information and discussion on Immigration Issues:

Dr. Andrew Allison, Deputy Director and Acting Medicaid Director, spoke to the committee on Immigration issues in Kansas Medicaid and the State Children's Health Insurance Program(SCHIP). (Attachment 2) The responsibilities are to provide access to quality health care to low-income Kansans, and will provide background information about who is eligible for benefits, and demonstrate the challenges the new citizenship requirement has placed on beneficiaries and the Medicaid system in Kansas.

Eligibility for Benefits

The following groups of immigrants are considered qualified aliens:

- Persons with Legal Permanent Resident(LPR) status*
- Refugees and Asylees
- Aliens Granted Parole Status for at least one year* (persons allowed entry for humanitarian reasons or public benefit)
- Aliens whose deportation is withheld
- Certain Cuban and Haitian immigrants
- Battered Aliens* (Violence Against Women Act of 2000)
- Victims of Severe Trafficking

*Except for veterans, persons on active duty in the U.S. military and their immediate families, immigrants in these categories who entered the United State on or after August 22, 1996, are prohibited from receiving benefits for five years. This is commonly know as the five-year bar.

Impact of New Federal Citizenship Requirement for Medicaid Applicants

As of July 1, 2006, new federal requirements require that all Medicaid applicants provide adequate documentation of citizenship and identification. This requirement of additional documentation for every applicant has significantly altered the application process for medical benefits. Each person applying for benefits is now required to submit either one primary document verifying citizenship and identity, such as a passport or certificate of naturalization, or two secondary documents, one verifying citizenship, such as a birth certificate and one verifying identity, such as a driver's license or school I.D. card (i.e. before an

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applicant with two children would submit an application on their own behalf and on behalf of their two children, plus the necessary income verification documentation). Now the same family would submit all of the same documents plus have to submit an additional six documents - two citizenship/identity documents per person.

The impact of the new federal law:

- Impact on beneficiaries, many of those waiting to be enrolled are eligible citizens
- Increased time and other costs of applying for Medicaid benefits creating difficulties for beneficiaries
- Many applicants who were born out of state report the need to purchase and wait for their birth records to be sent
- Individuals have had difficulties contacting state eligibility workers; due to the marked increase in phone inquiries, the phone lines have been over-capacity, not allowing individuals to get to leave a voice message or talk to a customer service rep
- Applicants are confused, as a result more cases are being delayed
- The additional documents are required to be submitted in hard copy form; the volume of physical documents that are routinely received by the Clearinghouse has more than doubled.
- Each of the documents must be verified, processed and stored for future reference, resulting in the application process becoming lengthy, complex and labor intensive, straining the processes and system
- The workload has increased significantly and the staffing has not

The problems are not unique to just Kansas; Iowa, Louisiana, Wisconsin and New Hampshire report similar experiences. KHPA will be calling on the Congressional delegation in February to assist in mitigating these problems.

The main concern is the impact of the law is falling on eligible Kansas citizens.

The committee questioned why it was more lucrative for a school cook to stay on the welfare program for her and her family than to go on the state insurance system. KHPA will get back to the committee.

Michael Sharma, Immigration Attorney, and former police officer, spoke on local law enforcement and immigration law. (Attachment 3) Immigration law is federal civil, administrative law not criminal, and 99% of local law enforcement does not have jurisdiction to inquire about an immigrant's status. Local law enforcement cannot use immigration status to detain any individual absent a request by USICE, and this detainer only allows for detention for 48 hours following the conclusion of all State and local charges. Wyandotte and Johnson County actively cooperate with USICE in the screening of prisoners for the placement of detainees, and the probation officers also cooperate actively with USICE to screen probationers. USICE resources are thin; approximately 30 agents for all of Kansas and half of Missouri. Most typical local law enforcement cooperation with USICE is on an operational or situational basis.

Melinda Lewis, Director of Policy Advocacy and Research, El Centro, Inc., (Attachment 4) provided the committee information on different topics:

- Real life examples of Kansans affected by immigration, particularly families impacted by our broken immigration laws, with a particular emphasis on children
- Efforts by local communities in Kansas to respond to new immigration
- Lessons learned from other states' experiences

Kansas is not alone in trying to fill in the gaps in federal inaction in order to meet the needs of immigrants. The idea of requiring state and local law enforcement entities to take responsibility for immigration enforcement, when states clearly lack the training and human resources to take on this significant additional function.

One of the strategies that some states have pursued toward this end is the adoption of English as the "official" language of a state. Some states have taken an alternative approach with an "English-plus" resolution that affirms the overwhelming importance of English while encouraging mastery of multiple languages in order to best position residents to participate in a global economy where bilingualism is

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increasingly viewed as a key competitive advantage. A sample was included in the packets for the committee members.

Immigration affects the educational system at various levels; additionally some states (notably Illinois) have included other priorities with the education umbrella, including naturalization training and workforce retraining for highly-skilled immigrants who need U.S. schooling to transfer their credentials to our licensing structure.

To better inform the debate on immigration and immigrant policy, some state have undertaken fairly comprehensive economic analyses of the impact of immigrants on state budgets.

The meeting was adjourned at noon. The next schedule meeting is January 23, 2007.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 1-18-07

NAME	REPRESENTING
Luke Thompson	KHPA
Jeanine Schieferlecke	KHPA
Michael Shuman-Crawford	
Jim Yonally	KS Equality Coalition
THOMAS WITT	KS EQUALITY COALITION
Melinda Lewis	EI Control, Inc
Paul Johnson	KS Cath. Cont.
Nobie Hodgson	SRS
TERRY HODGSON	KS FARM BUREAU

Recommendation for bill to add "sexual orientation" to list of prohibited discriminatory practices.

1. Add "sexual orientation" wherever the current list appears. That list now includes race, religion, color, sex, disability, national origin or ancestry.

2. Include the following definition of sexual orientation.

"Sexual orientation" means male or female heterosexuality, homosexuality, or bisexuality by inclination, practice or expression; or having a self image or identity not traditionally associated with one's gender.

(This bill would be similar to SB 285, introduced in the 2005 legislative session.)



MARCIA J. NIELSEN, PhD, MPH
Executive Director

ANDREW ALLISON, PhD
Deputy Director

SCOTT BRUNNER
Chief Financial Officer

Testimony on:
Immigration Issues in Kansas Medicaid and the State Children's
Health Insurance Program (SCHIP)

presented to:
Senate Committee on Federal and State Affairs

by:
Dr. Andrew Allison
Deputy Director and
Acting Medicaid Director

January 18, 2007

For additional information contact:

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Sen Fed & State

Attachment 2

1-18-07

Senate Committee on Federal and State Affairs
January 18, 2007

Immigration Issues in Kansas Medicaid and the State Children's Health Insurance Program (SCHIP)

Good morning Mr. Chairman and members of the Committee. I am Andy Allison, Deputy Director of the Kansas Health Policy Authority (KHPA) and Acting Medicaid Director. Thank you for inviting me to speak today.

One of KHPA's important responsibilities is to provide access to quality health care to low-income Kansans. We take seriously the agency's statutory mission to ensure access to health care services for our beneficiaries and to be responsible stewards for the resources entrusted to us by the citizens and State of Kansas. One of our responsibilities is to provide medical assistance to U.S. citizens and qualified aliens.

I want to, first, provide you with background information as to who is eligible for benefits, and second, demonstrate the challenges the new citizenship requirements have placed on beneficiaries and the Medicaid system in Kansas.

Eligibility for Benefits

With the exception of Sixth Omnibus Reconciliation Act (SOBRA) coverage, medical assistance is available to U.S. citizens and 'qualified aliens' only. The Personal Responsibility and Work Opportunity Act and Reconciliation Act of 1996 (PRWORA) defined the immigrant populations who meet qualified alien status. The following groups of immigrants are considered qualified aliens:

- *Persons with Legal Permanent Resident (LPR) status;
- Refugees and Asylees
- *Aliens Granted Parole Status for at least one year (Persons allowed entry for humanitarian reasons or public benefit)
- Aliens Whose Deportation is Withheld
- Certain Cuban and Haitian Immigrants
- *Battered Aliens (Violence Against Women Act of 2000)
- Victims of Severe Trafficking

* Except for veterans, persons on active duty in the U.S. military and their immediate families, immigrants in these categories who entered the United States on or after August 22, 1996 are prohibited from receiving benefits for five years. This is commonly known as the five-year bar.

All persons must declare citizenship or alien-age status at the time of application for benefits. Persons claiming citizenship status must provide verification under the new provisions of the Deficit Reduction Act. Non-citizens must provide immigration status information (e.g. Green Card). This information is then verified through the Department of Homeland Security's Systematic Alien Verification of Eligibility system (SAVE). The SAVE inquiry returns information regarding the immigrant's date of entry and status.

Sixth Omnibus Reconciliation Act (SOBRA) Coverage for Emergency Care. State Medicaid programs are required to provide coverage of emergency services to individuals otherwise eligible for Medicaid except for the

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alien-age requirements. To qualify, the individual must have incurred a documented medical emergency. For pregnant women, labor and delivery is a qualifying emergency. However, there is no prenatal coverage under SOBRA. Persons in this group must meet the categorical, as well as financial, qualifications of other Medicaid applicants. About 30-50 persons are determined eligible for SOBRA coverage each month.

Refugee Medical Assistance (RMA). Refugees who meet Medicaid and SCHIP eligibility criteria are eligible as a qualified alien. A refugee is an individual fleeing religious or political persecution in their home country. Individuals who are not eligible for Medicaid may receive coverage through the Refugee Medical Assistance program (RMA) for their first 8 months in the United States. Medical Assistance under RMA is 100% federally funded. KHPA works with the Kansas Department of Social and Rehabilitation Services (SRS), the state agency authorized to receive funds from The Office of Refugee Resettlement (ORR), to administer RMA. About 50 refugees were covered under the special RMA program in calendar year 2006.

Limited English Proficiency (LEP). Public benefit programs receiving federal funds, including medical programs, are required under Title VI of the Civil Rights Act of 1964 to provide translation and interpreter services to persons who are not able to clearly speak, read or understand the English language. Language option services must be provided at no cost to both applicants and recipients of these programs and are made available at the individual's request. KHPA, as well as partner agency SRS, utilize private contractors for both translation and interpreter services. LEP requirements also extend to KHPA contractors, such as Maximus, EDS, and the managed care organizations.

Translation Services for Written Communication. Vital documents, such as application forms, must be translated and available in languages where 1000 persons or more are likely to be encountered. For other language groups, materials can be translated 'as-needed'. However, it is usually most cost effective to have materials routinely available in common languages. For example, the HealthWave application is available in 10 languages.

Interpretation Services for Oral Communication. KHPA relies heavily on bi-lingual staff in the HealthWave Clearinghouse and SRS Regional Offices for oral communication with the LEP population. Where staff are not available a professional, over-the-phone interpreter service is used. Minor children are never allowed to act as interpreters.

Impact of New Federal Citizenship Requirements for Medicaid Applicants

As I mentioned before, we work to provide medical benefits to low-income Kansans. In light of those who are eligible for benefits, there have been additional requirements added by the federal government to ensure those who qualify receive these benefits. I want to share with you the impact the implementation of these new requirements has had on Kansans seeking access to health care services.

New Federal Requirements. As of July 1, 2006, new federal requirements require that all Medicaid applicants provide adequate documentation of citizenship and identification.

The requirement of additional documentation for each and every applicant has significantly altered the application process for medical benefits. Each person applying for benefits is now required to submit either one primary document verifying citizenship and identity such as a passport or certificate of naturalization, or two secondary documents, one verifying citizenship, such as a birth certificate and one verifying identity, such as a drivers license or school I.D. card. For example, in the past, an applicant with two children would submit an

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application on their own behalf and on behalf of their two children, and the necessary income verification documentation. Now, the same family would submit all of the same documents plus they need to submit an additional six documents -- two citizenship/identity documents per person.

How Beneficiaries are Impacted

Affecting caseload projection. As a result of the impact on beneficiaries, the number of individuals enrolled in Kansas Medicaid or SCHIP has fallen significantly since the requirements went into effect. Caseload in the two programs combined was 308,994 in June 2006 and 285,134 in January 2007. We estimate that 18,000-20,000 of this decline is a direct result of the new verification requirements. Of this drop, 2,381 individuals are those whose applications or renewal cases have been closed because they could not provide the newly required documents in a timely fashion. Another 16,000 or more are waiting to enroll in the program, or have fallen off the program while waiting to be re-enrolled, as a result of the large backlog of cases the new requirements have created. Many of those waiting to be enrolled are eligible citizens. Recent experience indicates that the majority of children and families with pending applications will qualify for coverage under the new requirements when we are able to complete processing. Unfortunately for many Kansans, much of those that have dropped in caseload between June 2006 and December 2007 consist of eligible and correctly-identified citizens.

Affecting beneficiaries. This new mandate affects beneficiaries in many ways. Significantly increased time and other costs of applying for Medicaid benefits have created difficulties for beneficiaries. Although KHPA has made arrangements to electronically "match" with Kansas state birth certificate records, many applicants who were born out of state report the need to purchase and wait for their birth records to be sent. Those denied coverage or who are waiting for their applications to be reviewed may experience increased out-of-pocket health costs and reduced access to service.

Since the verification requirements took effect, individuals have had difficulties contacting state eligibility workers. Due to the marked increase in phone inquiries, the phone lines have been over-capacity, not allowing individuals to get to leave a voice message or talk to a customer service representative. This has resulted in a number of individuals not receiving necessary medical attention. For instance, a woman can have applied for HealthWave and not yet hear back from the Clearinghouse. She is pregnant and has doctor appointments. It is important for her to have coverage to keep her and her child healthy. But without HealthWave, she has to pay her own bills – which she is unable to afford – or forgo her doctor's appointments. There are numerous examples of these situations that may ultimately wind up costing the health care system more in the long run.

How Enrollment Process is Impacted

Applicants are confused. As a result, more cases are being delayed and we receive many more customer service phone calls. Since June, the number of customer service calls to the Kansas Family Medical Clearinghouse per month has more than doubled from 23,000 to 49,000, the number of voicemails has increased by ten times from 1,200 to 11,000, and the number of faxes has doubled to 6,000.

These additional documents are required to be submitted in hard copy form. The sheer volume of physical documents that are routinely received by the Clearinghouse has more than doubled. Each of these documents must be verified, processed and stored for future reference. As a result, the application process has become much more lengthy, complex, and labor intensive. Our processes and systems are strained.

While the workload has increased significantly, staffing has not. And, our backlog of applications has risen dramatically.

Although we expect these problems to be ongoing, we also expect that the first year of this requirement will be the most difficult, because each month this year the Clearinghouse will be conducting verifications for not only the 3,500 new applicants, but also for the 5,000 current beneficiaries who are scheduled for their annual eligibility review. After the verification has been performed for all current beneficiaries, the information will be kept on file for future annual reviews, and the requirements will only affect new applicants.

Steps KHPA is Taking to Mitigate Problems

KHPA has taken measures to deal with some of these issues. We have reallocated resources within our existing contract with MAXIMUS. However, reallocation has not been sufficient to remedy the situation. As a result, KHPA has made a supplemental request to add 21 additional staff to the Clearinghouse for FY 2007 and FY 2008. The Clearinghouse is vital to our mission. Without additional funding, we will place an unfair burden on Kansans who need these services the most. We must continue to provide access to health care for low-income Kansans, and funding these 21 positions is a necessity as we move forward in the future.

We have also secured access to reliable interfaces that can provide some of the information required. The Kansas Department of Health and Environment has granted KHPA secured access to vital statistics information and to their immunization registry to avoid the need to obtain hard copies of birth certificates and identification records. We have also secured access to enrollment information with the Department of Education to serve as identification documentation for children.

These problems are not unique to Kansas. Iowa, Louisiana, Wisconsin and New Hampshire report similar experiences. For example, Virginia reports they have seen about 12,000 children who have been dropped from the state's Medicaid caseload since July 1, 2006.

Therefore, we will be calling on our Congressional delegation in February to assist us in mitigating these problems. On February 14, we will be leading a delegation of Board members and Legislators to Washington, D.C., where we will provide our delegation with an update on the impact of these new laws, suggest policy alternatives, and recommend a Congressional review of the legislation. The impact of these new federal requirements are not only affecting our employees and adding to their workload, but it is affecting Kansans, the very people you and I serve.

While we understand that the new law targets illegal immigrants, we must point out that the impact of the law in our state is mostly falling on eligible citizens. We concur with the statement of the Iowa Department of Human Services that "...There is no evidence that the decline is due to undocumented aliens leaving the program. Rather, we believe that these new requirements are keeping otherwise eligible citizens from receiving Medicaid because they cannot provide the documents required to prove their citizenship or identity...."

We are particularly concerned about the impact on unsuccessful or delayed applicants who may have difficulty accessing health care services, and the impact on safety net providers who will ultimately bear many of the costs for those who are uninsured.

Summary

The Kansas Health Policy Authority believes every Kansan should have access to care. That is why there are programs in place to provide qualified individuals—including qualified aliens—health care assistance. However, as we have demonstrated to you today, there are issues that threaten eligible Kansans from receiving accessible health care. We want to work with you and our Congressional delegation to mitigate the problems we have experienced under the new federal citizenship requirements for Medicaid. If interested, I also invite you to join me in D.C. on the 14th.

Thank you for your time, and I am available for questions.

FEDERAL AND STATE AFFAIRS COMMITTEE

LOCAL LAW ENFORCEMENT AND IMMIGRATION LAW

- Immigration law is federal civil, administrative law not criminal. 8 U.S.C. §§1101 et seq
- 99% of local law enforcement does not have any jurisdiction to inquire about an immigrant's status.
- Local law enforcement cannot use immigration status to detain any individual absent a request by USICE – 8 CFR 287.7
- This detainer only allows for detention for 48 hours following the conclusion of all State and local charges.
- Wyandotte County and Johnson County actively cooperate with USICE in the screening of prisoners for the placement of detainees.
- Wyandotte County and Johnson County probation officers also cooperate actively with USICE to screen probationers.
- State and local governments can enter into an agreement with the Attorney General to enforce immigration law 8 USC 1357(g) – see attachment
- Local enforcement of immigration law could impede the ability to maintain traditional law enforcement functions
- Immigration laws are subject to change by the Board of Immigration Appeals, All US Circuit Courts, US Supreme Court and Congress in addition to internal policy changes.
- Immigration Laws can and do change on a daily basis.
- Most typical local law enforcement cooperation with USICE is on an operational or situational basis.
- USICE resources are thin approximately 30 agents for all of Kansas and ½ of Missouri.
- USICE District office is in Kansas City, Mo with satellite offices in Wichita, Kansas and Springfield, Missouri.

8 U.S.C. §1357(g)

(g) Performance of immigration officer functions by State officers and employees

(1) Notwithstanding section 1342 of title 31, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5 (relating to compensation for injury) and sections 2671 through

2680 of title 28 (relating to tort claims).

(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State -

(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.

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January 17, 2007

Chairman Pete Brungardt and Honorable Members of the Senate Federal & State Affairs Committee
Kansas State Capitol, 522-S
Topeka, KS 66612

Chairman Brungardt,

Thank you for the opportunity to talk with you today about issues facing immigrants in Kansas and, perhaps more importantly, about strategies that the state may explore as we work towards our goal of integration. Immigration has worked for our state, and our country, for generations, and I fully believe that it can continue to enrich our economy, strengthen our communities, and reinvigorate our democracy in the years to come. While there are admittedly undesirable individuals in any population, and immigrants are no exception, much of the problems with immigration stem from systemic disorder, not from individual failings. I recognize the tremendous frustration you must feel as elected officials responsible to a constituency with legitimate and very understandable concerns about the state of our nation's immigration system, while you lack the power to address the underlying causes of those very problems. I further believe that, if the Kansas Legislature had the power to reform our nation's immigration laws in fundamental ways, you would. My challenge today, however, is to help you on your journey to better understanding of the status quo as you try to do what the states have been doing in regards to immigration for decades: chipping away around the edges, attempting to 'make lemonade' with the mess we've been handed.

You have received an enormous amount of information on the topic of information in the past three days. During my time this morning, I will attempt to add some elements that have not been discussed as of yet while also offering myself as a resource as you continue to study and debate these issues in the coming months. Specifically, I have been asked to discuss the following topics:

- Real-life examples of Kansans affected by immigration, particularly families impacted by our broken immigration laws, with a particular emphasis on children
- Efforts by local communities in Kansas to respond to new immigration
- Lessons learned from other states' experiences

On Tuesday, I saw many of your faces reflect the same mixture of surprise and disgust that I see so often when I talk about family immigration issues to groups around Kansas. I have spent a lot of time doing that over the past six years, particularly to faith groups, civic organizations, local government entities, and youth. It is always simultaneously sad to have to share the harsh realities of how immigrant families are treated in our country and heart-warming to see people's concern for these families', and our nation's, well-being when they learn the truth. I want to share a few absolutely true stories that put a Kansas face on some of the data that Ms. Mdivani shared with us earlier this week. Where I am using only first names, it is because I could not reach the individual in order to get permission to share his/her story in this particular venue. These individuals would not ask for your pity, just some understanding of their struggles. Their stories are ones of hardship but also hope, as their strong families, faith, and belief in a better tomorrow motivated their decision to strike out for a new country and continue to propel them forward.

--Ana is a U.S. citizen who has lived most of her life in Emporia, Kansas. She works two jobs to

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...rt her family—her husband and their two beautiful daughters. For the past four years, her husband has been ... the Dominican Republic, his country of origin. He returned there during the process of applying for his Lawful Permanent Residency and has been awaiting his chance to return. Two years ago, Ana made the heart-breaking decision to send her daughters to live with her husband and his family, even though they speak very little Spanish and are native-born U.S. citizens. She was worried that they would forget their father, who has not even been allowed to visit since his return to the Dominican Republic, but her greatest problem was childcare—Ana has no family in Emporia and, as the family's sole breadwinner (her husband has only been able to find sporadic work, mainly because he speaks very broken Spanish after spending most of his life in the U.S.), her two jobs left her children without adequate supervision for much of the day. Now Ana only sees her husband and children during the two weeks at Christmas and two weeks in the summer when she takes vacation.

--During the summer of 2005, I received a phone call at my office from an irate-sounding elderly woman from Shawnee, Kansas. She yelled that she 'needed to talk with someone about immigration.' When she calmed down enough to explain the problem, I learned that both of her two primary paid caregivers, with whom she had developed a very close relationship, were being deported. One was Guatemalan and had recently lost her appeal of her asylum case and the other was Mexican and had been working illegally in the U.S. I explained that there was no way that she could petition for these women to stay and had to listen to her tears as she talked about how they were the only people who had really cared about her during the last few lonely years of her life.

--Jorge and his wife have PhDs in engineering (he in electrical, she in civil) from Colombia. They came to the United States not because of economic necessity, as so many do, but because, as academics, they were targets in that country's 40-year+ civil war. Two of her brothers 'disappeared', and they had received numerous threats. After two years in Kansas City, Kansas, they received asylum and work authorization, but they are still awaiting their Lawful Permanent Residency. In the meantime, to support their two young boys, he works stocking shelves at an Apple Market, and she cleans office buildings and provides childcare from their homes. Both struggle to master English and break into their careers here while meeting all of their family's financial needs.

--Juan will graduate in May from Kansas State University with a Bachelor's Degree in Business. He received his Associate's Degree from Dodge City Community College while still in high school and hopes to be a banker in western Kansas. His father, who has worked legally in the United States since the 1980s, applied for Juan and his mother and brother to receive their Lawful Permanent Residency when Juan was only 10, but he was not able to come to the U.S. until late junior high. He received his work visa in August after his high school graduation and celebrated by finally getting a job and a driver's license, elated to finally be a 'normal' Kansas teenager. Kansas' in-state tuition law allowed him to enroll in school that fall, and he finally got his green card midway through his first spring semester, 9 years after his father's original application.

--Inosencia Urbina, from Garden City, KS, in her own words in a letter to Senator Sam Brownback: My husband came to the United States to work legally in 1991. I took care of our four children in Mexico until 2000, when my youngest daughter and I finally got permission to come and stay with him as permanent residents. Those were very difficult years for us. My children really don't know their father very well, because he was always here working. Soon, I learned that, because my other children were older, they would have to wait even longer to be able to join us. We are still waiting. My oldest daughter has married, even though that makes it more difficult for her. She was in love and could not wait any longer to start her family. We have two beautiful granddaughters that I hardly ever get to see. I so wish that I could be there taking care of them so that my daughter could work and we could live as a family should. I am 62 years old, and I am so afraid of dying without being all together. My husband is studying hard for his citizenship, which will allow him to apply for our oldest daughter, but it is difficult for him. He is 61 years old and injured from him years of very hard labor. My message is simple: please stop destroying families. At least let us be together as a family, after all of the years that my husband has worked hard for this country. We are still close at heart, but the distance is so hard on us. We care about our family more than anything, and we just want the government to care about our family, at least a little.

--Alma's husband worked in meat-packing plants around Kansas for more than 17 years, first on a work visa and subsequently with a green card, after his employer sponsored him. His wife and children endured more than 15 years of separation from him, finally coming to Emporia in 2003 on a temporary visa as their application for permanent residency was pending. Her husband died suddenly of a heart attack in April 2005, and their petition for permanent status died with him. Additionally, because they did not yet have Lawful Permanent Residency, they are not eligible for any Social Security survivor benefits, despite his almost two decades of tax contributions. They had to leave the United States within six months of his death or risk deportation, so they have returned to Mexico and struggle to survive.

I could tell you more stories like these for the rest of the day—of Nicholas and Laura who turned dilapidated buildings in Kansas City, Kansas into a thriving restaurant and bakery and now provide English classes for all of their employees so that they can cater to immigrant and native U.S.-born customers; of Andrea, who taught herself English in three years, graduating from high school with a 3.96 GPA and set to begin her internship in architecture at a Kansas City firm this summer; of a Korean woman from Leavenworth, Kansas who was deported after falsely taking the blame for her teenage son's marijuana plants in the backyard (who will never be allowed to return to the United States); of employers from Pittsburg to Hays to Lawrence to Hutchinson who have called to express their frustration with delays and their dismay at finding out that a treasured worker is here illegally.

At El Centro, Inc., much of our concern focuses on children in immigrant families, many of whom are U.S. citizens, and ways that our state can ensure that some of their parents' struggles are not repeated in the next generation. Our research suggests that more than 60% of Latino immigrant families are of mixed status, where at least one person lacks permanent authorization and at least one is a U.S. citizen (often a U.S.-born child, although this can take many forms). Most of the evidence about outcomes with immigrant children is very positive—they mostly learn English, do well in school, and view the United States as *their* country. We face challenges, though, in reaching citizen children with undocumented parents, who tend to avoid any contact with officials, in ensuring that underresourced schools meet the needs of students who arrive in older grades, as they struggle more academically, and providing opportunities and role models for these young people, who serve as bridges between their parents and society yet need help navigating some of the options available to them.

The story of immigration in Kansas is also the story of how our resilient, innovative, and welcoming communities are dealing with these changes and finding solutions to the problems that come with change. State policy regarding immigrants must take into account strategies to assist these local communities if we are to make immigration really work for our state in the years to come. In Pittsburg, Kansas, a community initiative to promote integration has achieved national recognition. The Pittsburg Area Community Outreach provides training for police, school district personnel, and the private sector on immigration matters and cultural competence. They hold regular 'welcoming' sessions where they help families sign up for library cards and immunizations, orient newcomers to local ordinances, provide information about church services and other community offerings, and introduce the police. A citizen group in Hutchinson has formed to provide information about the Minuteman organization and to promote dialogue about immigration that avoids inflaming fears and prejudices (Project Aware). The Dodge City Chamber of Commerce has undertaken a campaign to recruit immigrant-owned businesses as members and to address some of their concerns about licensing and marketing while engaging them in conversations about civic participation, storefront upkeep, and other community priorities. A group in Kansas City, Kansas recruits law students to provide free legal assistance to immigrant workers, particularly regarding theft of wage and other workplace exploitation as well as reporting employers who regularly violate wage and hour laws, in partnership with the US Department of Labor. A church in Lawrence hired a bilingual case manager to work with families who attend the church to help link them to community resources, including helping them to prepare for the naturalization exam. Emporia State University undertook a research project to attempt to quantify the economic impact of immigrants in the local area, in terms of taxes paid, consumer power, and services received, in order to better inform the local debate over the costs and benefits of immigration. These are just some of the examples of efforts undertaken, often without significant resources, as Kansans continue to display the pioneer spirit that sets us apart.

Kansas is not alone in trying to fill in the gaps in federal inaction in order to meet the needs of immigrants, address citizens' concerns about illegal immigration, and respond to local communities overburdened with their lone efforts. While certainly I would never argue that Kansas should blindly follow the lead of any other state, as I sincerely believe that our unique circumstances, as well as the resourcefulness of our residents and policymakers, position us well to be leaders in this and other policy areas, there are lessons that can be learned from other states' experiences. In the interest of time and clarity, I will summarize some of the most prominent examples of state action in each of four major areas considered by state legislatures relating to immigrants: eligibility for public benefits, employer sanctions and local/state law enforcement, English and integration policy, and education, as well as interesting studies in various states of the impact of immigrants on that economy. You have more information about each of these areas in the packet of materials I compiled for your review, and I would be happy to find additional details on any of these areas that particularly interest you.

Immigrants and eligibility for public benefits

As you have heard, non-citizens are eligible for very few means-tested benefits until they have either become U.S. citizens or accumulated at least five years in the United States as Lawful Permanent Residents. Even then, those who are still in the process of applying for citizenship or sponsoring other family members to come to the United States must be very careful about applying for such benefits as Temporary Assistance to Needy Families, Supplemental Security Income, subsidized housing, or several other programs, as receipt of these benefits can be used against them in their application for sponsorship and/or naturalization (because they are deemed 'public charges'). Despite this fact and complete lack of evidence that unauthorized immigrants (both those here legally but not eligible for benefits as well as those here illegally) are fraudulently receiving benefits, several states have enacted or are currently considering measures that would require additional verification of status for those applying for benefits. Colorado, Arizona, Georgia, and Virginia are the most prominent examples. In each of these states, the impact has been disturbing—there are no cost savings to realize, as those now excluded from benefits were not eligible to receive them in the first place, and costs to administer the programs increase substantially with the new verification requirements (Colorado is a dramatic example of this). There are some additional effects for U.S. citizens who have difficulty complying with the verification rules, as well, particularly native U.S.-born individuals who do not possess their birth certificates, as the recent experience with the proof of citizenship rule under Medicaid has demonstrated. This is a prime example of legislation aimed at immigrants, presumably those here without legal status, which actually impacts citizens instead. Other states, notably Illinois and Washington, have used state dollars to provide some benefits, especially Medicaid and children's health insurance, to immigrants who are not federally eligible (especially LPRs with fewer than 5 years in the U.S., although other immigrants are sometimes eligible as well). And several states have undertaken specific outreach campaigns to inform immigrant families of their U.S.-born children's eligibility for benefits, since utilization tends to be quite low in those families. A chart listing immigrants' eligibility for all federal public benefit programs, some articles about the impact of other states' policies, and some research about immigrants' low use of public benefit programs are included for your review.

Employer sanctions and local/state law enforcement

One of the most vexing areas of immigration policy relates to employment, as you have heard, particularly because jobs are recognized as the primary motivation for international migration in today's economy. Frustrated with confusing federal regulations and sporadic and often illogical enforcement (the targeting of Swift, a company that had volunteered to use DHS' Basic Pilot program, for the recent raids is an example), states have stepped in recently to enact their own penalties for unlawful hiring and, in some cases, have required state and local law enforcement officials to take on immigration enforcement duties, either in the context of employment or more generally. Perhaps unfortunately, the area of employer sanctions (specifically adding additional penalties for unlawful hiring) is one area specifically preempted by the federal government, where state action is prohibited. States may, however, require the use of Basic Pilot or withhold state benefits

from companies found by ICE to have violated employer sanctions, although the high error rate of Basic Pilot makes it a fairly unattractive tool. Particularly troublesome is the idea of requiring state and local law enforcement entities to take responsibility for immigration enforcement. Clearly these departments lack the training and human resources to take on this significant additional function, one that often proves too difficult for even the federal agents specifically charged with this duty. Additionally, many law enforcement professionals feel that taking on this task would, in addition to distracting them from their primary mission of community safety, impair their ability to collect intelligence from within immigrant communities. For this reason, police departments across the country, including several in Kansas, have opposed any effort to delegate this responsibility to them. To date, Alabama, Florida, and some counties in other states have entered into Memoranda of Understanding with the Department of Homeland Security to receive training in immigration enforcement, which does not include any enforcement of employer sanctions policies. Some quotes from law enforcement entities around the country on this topic, a study commissioned in Arkansas to determine the cost implications of such a policy, and some general considerations of state/local enforcement of immigration are attached.

English and integration policy

One of the most profound challenges faced by local communities dealing with demographic change relates to language and the powerful role that it plays in facilitating the integration of newcomers into a locality. Clearly, one's rapid acquisition of English is strongly correlated with economic success and full participation in the local society. States obviously have a vested interest in encouraging all new immigrants, then, to learn and use English as soon as possible. One of the strategies that some states have pursued towards this end is the adoption of English as the 'official' language of a state or, in a companion policy, adopting 'English-only' laws (they differ in name but often not substantially in impact, depending upon the exceptions allowed). Unfortunately, these policies have shown no real impact on English acquisition rates when one compares states that have made English the official language to those that have not. Some of these statutes, including one in Alaska and one in Arizona, have been invalidated by the courts for violating Equal Protection and free speech rights. Others have found that the unanticipated problems associated with such a declaration outweigh the presumed benefits—Iowa, for example, had to stop using its Latin state motto, Utah could not print signs in multiple languages during its hosting of the Olympics, and some states have run into considerable problems with Native American tribes and users of American Sign Language, in particular. When one crafts Official English legislation to include all of the exceptions necessary to ensure that state government can continue to operate effectively in our modern society, including for public health and safety, international commerce and tourism, information dissemination, and service delivery, the resulting statute is nearly meaningless, a symbolic gesture of preference of English that fails to significantly impact the underlying issue, which is the need for additional efforts to ensure that individuals quickly learn English. Some states have taken an alternative approach with an 'English-plus' resolution that affirms the overwhelming importance of English while encouraging mastery of multiple languages in order to best position residents to participate in a global economy where bilingualism is increasingly viewed as a key competitive advantage. A sample resolution is included in your materials along with a chart showing other states' policies on English and a listing of state offices specifically designed to support immigrant integration.

Education

Immigration affects the educational system at various levels, from K-12 systems to higher education to community-based adult education. Additionally, some states (notably Illinois) have included other priorities within the 'education umbrella', including naturalization training and workforce retraining for highly-skilled immigrants who need U.S. schooling to transfer their credentials to our licensing structure. For the most part, states have taken a pragmatic, future-oriented approach to educational issues, reflecting an understanding that society will be best poised to benefit from immigrants' contributions if they are well educated. In addition

to Kansas, nine states have policies that allow some immigrant students (including undocumented youth) to pay in-state tuition rates at state colleges and universities if they meet other requirements. At least five other states are considering similar policies this year. Notably, even the most restrictive bills regarding access to public services (for example, AZ and GA) have specifically clarified that higher education is not included.

Documenting the economic impact of immigrants on states

In order to better inform the debate on immigration and immigrant policy, some states have undertaken fairly comprehensive economic analyses of the impact of immigrants on state budgets. Most notable for its scope and methodology is a report by the Texas Comptroller, although studies in Missouri and Colorado have also added to this discussion. Additional reports are underway in a few states, as lawmakers seek data with which to truly understand the cost/benefit analysis of immigration and potential areas on which to build, and areas of concern to address. A few of these state reports are included in the packet for your consideration.

I sincerely appreciate, again, your attention to these important issues and the seriousness with which you have engaged some of the key challenges facing our state. I would encourage you to share with our Congressional delegation your recommendations for changes to federal law and also look forward to working with you as you explore options for the state, within our powers, to address this important question of the current age. If I can be of any assistance to you in this work, I stand most willing to do so.

Most sincerely,

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