

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 4, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

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

Others attending:

See attached list.

Bill Introduction:

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

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

SB 458 - Immigration Reform

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

Opponents:

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

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

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

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

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

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

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

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

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

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

State by State disability Backlog Rankings

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

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

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

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

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

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

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

Sandy Jacquot, League of Kansas Municipalities, spoke in opposition to the bill. (Attachment 8) The League's opposition is not to the underlying policy issue, but to the unfunded mandates, confusing and ambiguous language in the bill and the exposure to potential litigation and liability, and will be very difficult and costly

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

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

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

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

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

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

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

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

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

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

Opponents Written:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sister Rene Weeks, President of the Dominican Sisters of Great Bend, provided written testimony in

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

opposition to the bill. ([Attachment 37](#))

Sister Esther Pineda, CSJ, Sisters of St. Joseph, Concordia, provided written testimony in opposition to the bill. ([Attachment 38](#))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Neutral/Informational Written:

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

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

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

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

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 3-04-08

NAME	REPRESENTING
Mikey Fletcher	Students Helping Immigration Policy
Jeff Hammons	MAGIC, 4T Total Lawn
ED FOGARTY	ASPEN LANDSCAPE INC,
FRANK MALE	LAWRENCE LANDSCAPE
Lance Schelhammer II	Mid-America Green Industry Council
Chris Tilden	KDHE
Julie Frady	Myself
Karen Fitzmier	Guest
Angela Ferguson	American Immigration Lawyers Association
Angela Land	self
Misty Montgomery	Artistic Designs Lawn/Landscape
Nestor Leon	" " "
GEORGE DAVIS	AMERICAN LEGION Post 45
FRED MEYER	COMMANDER AMERICAN LEGION 4TH DISTRICT 5331 MEMBERS
Wanda Bross	Students Helping Immigration Policy
B. Mike Davidson	American Legion Post # 467
Larry L. Daniels - Murray	Self
BRUCE & JUDY BRANTON	AMERICAN LEGION POST 66 HUTCHINSON
Lori Massing	American Legion Post 68 Hutchinson
MONTY MEDAGE	AMERICAN LEGION POST 68 HUTCHINSON
FRED HOFFLINGER	AMERICAN CITIZEN
Loretta Hofflinger	American Citizen
DAMON CHRISTENSEN	AMERICAN LEGION POST 76 CONCORDIA
DAVE HAZELWOOD	AMERICAN LEGION Post 76
Jim Timmons	AMERICAN LEGION POST 23 LEAVENWORTH

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE 3-04-08

NAME	REPRESENTING
Beatrice Anzures	Kansas Catholic Conference
Joseph J. Mammant	Kansas Catholic Conference
Wm C. Achon	Office for Social Justice Arch KCK
Amy Bloukenbiller	Kansas Chamber of Commerce
Mike Calk	Society for Human Resource MGT
Tim Witsman	Wichita Independent Bus. Assn
TERRY HOWREN	KANSAS FARM BUREAU
Gamma Doller	Diocese of Dodge City
Sister Maria Luz Hernandez, ARMS	Our Lady of Guadalupe Church / Diocese of Kansas City, Kansas
Duane Simpson	KS Grain & Food Assoc.
Sister Rene Wecker, OP	Dominican Sisters of Great Bend
Sister Esther Pineda, CST	Sisters of St Joseph - Concordia
Sister Carolyn Tete, CST	Sisters of St. Joseph - Concordia
Jenni Buckley	KLA
Scarlett Hagins	KLIT
Chis Duran	KLA
Cheryl Caldwell	Topeka Chamber of Comm
J. Kent Eckles	Overland Park Chamber of Commerce
Cyndi Treaster	KDHE
Sandy Jacquet	LKM
Sister Therese Banzert	Ks. Cath. Conference
John Donley	KS Lust. Assn
Patricia Corone	SCFRE
Dalton Hermes	Hermes Landscaping Inc.
Tracy Strohm	Hermes Landscaping Inc.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 3/4/08

NAME	REPRESENTING
Mohammed Mosley	Hermes Landscaping, Inc
J. Nancy Bauman	Sisters of Charity of Leavenworth
Lizzie Bernhart	Kansas Dept of Labor
Elias L. Garcia	STATE LULAC Org.
DAN MORGAN	Builders Assn. & KC Chapter, AGC
Ed Hayes	Minuteman Civil Defense Corps
Allen Dillingham	Builders' Assoc + KC Chapter AGC
Eric Stafford	AGC of KS
Corey Peterson	AGC of KS
Nanette Lampy-Swope	KAAAC
Missy Taylor	KFE
Kathy Cook	KFE
Nancy O'Hara	Community Activist
Reg Roberts	Custom Law Shadys, Inc
Mercedes Craughwell	Concerned citizen
John Craughwell	" "
Irene Caballero	KHLAAC
Arthur Bazzant	Gov's Office
Nico VanVelzen	Kansas Chamber
Dick Stoffa	H. Vesper
Debra S. Brufis	Conlee Consulting Group
Ron Seeber	Hen Law Firm
Susan Fowler	KS East Cong UMW
Mike Hubbs	KAMU
Tom Bruno	KS Dairy Assn.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 3/4/08

NAME	REPRESENTING
Mark Deseth	KNEA
Leslie Kaufman	Ks Co-op Council
David R. Corbin	KDOR
Jacquelyn Koehler	Kansas, Inc.
Michael Hopper	Kearney & Assoc
Dustin Hopp	Pinega Smith & Assoc
Harold R Cooper	American League of MCDC
Lewie B Cooper	American Legion ACR 81
A.C. Byrd	AMERICAN REGION POST 41
Bob Corkins	KansasLiberty.com
Jeff Brandau	KBI
ROBERT BAKER	KHP
Steve Ferguson	Landmasters Landscapes Inc.
Ramon Rico	LANDMASTERS LANDSCAPE INC.
Kandy Keith	INSTANT SHADE INC.
Bill Gordon	Signature Landscapes
LAREY JAGELS	EPIC LANDSCAPE PRODUCTIONS.
Gayle Shaw	KACCT
Candy Shively	SRS
Bobbi Muram	SRS
David Dayraut	Kans Ind Oil & Gas Assn
Tim Durner	Suburban Lawn + Garden
Mura Mdivani	Immigration attorney, Mdivani Law Firm
Samara Nazir	The Mdivani Law Firm
Emily Huerkamp	Immigration Attorney, Mdivani Law Firm



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**Testimony in Opposition to Senate Bill 458
Senate and Federal State Affairs Committee
March 4, 2008 – Room 313-S**

Chairman Brungardt and Members of the Committee:

Thank you for the opportunity to testify in opposition to S. B. 458, the proposed “Kansas Illegal Immigration Relief Act.” I am Archbishop Joseph F. Naumann, D.D. of the Archdiocese of Kansas City in Kansas serving the Northeastern quadrant of the State, the Metropolitan Archbishop for the ecclesiastical Province of Kansas, and the Chairman of the Kansas Catholic Conference, the organization of our Church charged with the responsibility of advocating for public policies that respect fundamental human rights and promote the common good.

The Catholic Church in Kansas has a long history of being a clear voice for the rights of those without a voice: the unborn, the poor, the marginalized and today in particular the immigrant. Our Church shares the frustration of everyone in this room that our federal government has been unable to fix a failed immigration policy. We understand the fear and anxiety that this broken immigration policy engenders in the hearts of many Kansans.

It is our hope that those charged with leading the government of our State will not respond to these fears and anxieties by enacting legislation that will make a bad situation only worse. We believe that the enforcement only approach of S. B. 458 will not have the desired effects but will increase the burdens on those charged with law enforcement responsibilities, result in havoc for many businesses, foster desperation in the immigrant community, create an even greater underground economy and place families and innocent children at risk.

Post September 11, 2001, we are all painfully aware of the need to protect and control our borders from those who would enter our country to harm us. There is universal agreement that we should deport documented or undocumented immigrants who engage in drug trafficking, gang violence or other illegal activities. Yet, we diminish the ability of homeland security and local law enforcement to protect us from real dangers if we force them to spend precious material and human resources to hunt down those who have come to our country to pursue the American dream of working hard to improve oneself and provide for the basic needs of one’s family.

MOST REVEREND RONALD M. GILMORE, S.T.L., D.D.
DIOCESE OF DODGE CITY

MOST REVEREND JOSEPH F. NAUMANN, D.D.
Chairman of Board
ARCHDIOCESE OF KANSAS CITY IN KANSAS

MOST REVEREND PAUL S. COAKLEY, S.T.L., D.D.
DIOCESE OF SALINA

MOST REVEREND MICHAEL O. JACKELS, S.T.D.
DIOCESE OF WICHITA

MICHAEL P. FARMER
Executive Director

MOST REVEREND JAMES P. KELEHER, S.T.D.
ARCHBISHOP EMERITUS - ARCHDIOCESE OF K.C. IN KS

MOST REVEREND EUGENE J. GERBER, S.T.L., D.D.
BISHOP EMERITUS - DIOCESE OF WICHITA

MOST REVEREND GEORGE K. FITZSIMONS, D.D.
BISHOP EMERITUS - DIOCESE OF SALINA

MOST REVEREND MARION F. FORST, D.D.
RETIRED

Sen Fed & State

Attachment 1

3-4-08

A great Kansan, the late President Dwight David Eisenhower, at another moment in history when there were also very serious national security threats is reported to have said: "We will bankrupt ourselves in the vain search for absolute security." Let us not squander our resources fighting those who are not our enemies but who desire to contribute to America's vitality. Some of the proponents of legislation, which focuses exclusively on punitive measures, have referred to undocumented immigrants as invaders. If so, this is the strangest invasion in history where the invaders clean our houses, harvest our crops, care for our lawns and do many of the jobs that are considered less than desirable.

S. B. 458, in addition to placing more burdens on local law enforcement, cuts off the immigrant community from police protection by making state and local authorities enforce federal immigration rules. Forcing local police to assume an adversarial role with the immigrant community will threaten the safety of our neighborhoods and cities.

S. B. 458 also takes away an educational opportunity from immigrant children by rescinding the in-state tuition benefit that this Legislature enacted in 2004. Why would we want to deprive a young man or woman from the opportunity to develop their skills and abilities so that they will be a productive and contributing member of our society? Is it really better to have our youth hanging out on our streets with little hope for the future than in our classrooms gaining the knowledge and skills that will enable them to be productive?

I have been impressed by the members of the Kansas Legislature who make great personal sacrifices to serve the people of this State. It is my impression that the members of the Kansas General Assembly have undertaken the arduous task of running for elective office, not for financial gain or public acclaim but, because of your desire to help solve problems that threaten the common good. I believe that there is the talent in the Kansas Legislature to develop policies that can be a model for an effective reform of our current immigration policies. We need something quite different from S. B. 458 that only mimics the unsuccessful legislation of other states.

A forward thinking immigration policy would create a pathway for undocumented immigrants to earn legal status so that they would no longer be vulnerable to unscrupulous employers and would not be forced to work for low wages creating unfair competition to other American workers. An effective immigration policy reform would establish a fair and much more generous process for entering our nation legally. Such reform could require immigrants to work at gaining a proficiency in English as well as knowledge of American civics. It might include, as part of the pathway to legal status, the imposition of fines – commensurate with the offense – for undocumented immigrants who are willing to work hard, pay taxes and are already contributing to the overall well-being of our society.

Mike Farmer, the late Executive Director for the Kansas Catholic Conference, as well as an esteemed former member of this Legislature spent his last days in this world developing ideas for what he termed a Kansas Model Immigration Plan. He believed in the goodness and wisdom of the members of this General Assembly and their ability and ingenuity to develop a practical

immigration plan that addresses the real problems as well as respects the dignity and rights of both the natives and the immigrants of this great State.

The fundamental premise of Catholic social teaching is the innate dignity of the human person that is not dependent on their stage of development, age, race, sex, or place of birth. This is not a principle that requires belief in Jesus or in his Gospel, but is part of the natural law and accessible to everyone through reason. This same underlying principle can be found in the Declaration of Independence where it speaks of inalienable rights that the State does not have the authority to give or to deny but has the obligation to protect.

Part of the genius of the American experiment has been the openness of our nation to welcome people coming from other lands who share our yearning for freedom and to provide the opportunity to improve themselves through hard work. With the exception of the Native American population, our nation is a nation of immigrants and descendents of immigrants. I dare say that many of us in this room today have ancestors who stowed away on ships leaving Europe in the hope of a better future. It has been the positive contribution of successive generations of immigrants that has continually renewed and revitalized our nation.

In closing, I ask that you ponder the concluding paragraph contained in the attached joint letter signed by the four Catholic Bishops of Kansas along with the Bishops of the United Methodist Church, Kansas Area; the Central States Synod of the Evangelical Lutheran Church in America; the Episcopal Diocese of Kansas; and the Episcopal Diocese of Western Kansas;

“We ask our parishioners, other Christians, all people of faith, and all people of good will to resist fear, seize hold of hope, make justice our aim so that all living in Kansas may work together for the good and welfare of one another and not pit one against another. May we live out our Kansas neighborliness that is at the heart of the message of Jesus!”

Thank you for listening to the concerns that, I believe, are shared by many of your constituents. I will pray for wisdom for you and your colleagues as you strive to find solutions that truly protect all who call Kansas home – policies that are both humane in the treatment of the immigrant and truly work for the best interest of all Kansans. Thank you and God Bless!

Archbishop Joseph F. Naumann
Metropolitan Archbishop of the Province of Kansas
Chairman of the Kansas Catholic Conference

United Methodist Church, Kansas Area
Evangelical Lutheran Church in America, Central States Synod
Catholic Bishops of Kansas
Episcopal Church Dioceses of Kansas

February, 2008

The question was asked of Jesus *who is my neighbor?* Jesus answered with the story of the Good Samaritan. *Anyone who needs me, and whom I can help is my neighbor.* For Jesus this path of loving our neighbor brings us to an encounter with God. To close our eyes to our neighbor blinds us to God.

When Jesus speaks of the ultimate judgment, all those judged are surprised that they did not recognize *him* in those people *in need*. He reminds us that it is precisely in *those in need* that we can see him and can choose to serve him or not.

We understand that many Kansans are perplexed and troubled by the presence of a large number of undocumented immigrants in our state and country. We share their concern. Illegal immigration is not good for society or the person migrating. We urge our parishioners – and all Kansans – to reject attacks on immigrants and to work together toward a humane resolution of the problem of illegal immigration.

We acknowledge the right and necessity of our country to maintain our borders and enforce our laws. We caution that while doing so, our government must respect human rights and dignity and minimize the separation of families.

We ask President Bush and our Kansas Congressional Delegation to give serious attention to the issues related to undocumented workers, their families, and their impact on the life and economy of our country and state. We urge them to work for comprehensive reform that maintains the integrity of our borders, makes temporary visas available for those willing to work, provides fair and equitable rules and reasonable time frames for processing applications to become legal residents, offers compassionate rules and practical time frames for family reunification for legal resident aliens and naturalized citizens, sets reasonable requirements for legal residents to become citizens, and recognizes the impact of globalization and free trade on patterns of immigration.

We ask Governor Sebelius and our Kansas Legislators to resist the frustration caused by the inactivity of our Federal government and to refuse to react to a fear that seems to focus on people in our State who for the most part are here because they or their parents want to work. We ask them to work for laws that benefit and support all people of our State.

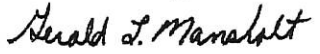
As we travel Kansas and are in and out of local parishes we meet people who are afraid...afraid of losing their jobs, homes, families. They are looking for neighbors. They work in our meatpacking plants, dairies, feedlots, service industries. They work on our ranches, construction sites, hog farms. They work. Can we continue to benefit from the fruits of their labor, on one hand, and relegate them to an underclass without full protection of the law on the other? We meet people who are afraid that our laws are not working and that something is badly broken. We know that so many of those who are fearful are at the same time instinctively neighborly. Will their fears be allayed by passing more laws that cannot work and will cast more people living in Kansas into the shadows with less trust and confidence in our laws?

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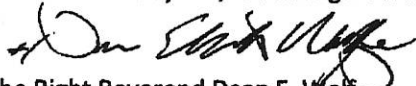
We ask our parishioners, other Christians, all people of faith, and all people of good will to resist fear, seize hold of hope, make justice our aim so that all living in Kansas may work together for the good and welfare of one another and not pit one against another. May we live out of our Kansas neighborliness that is at the heart of the message of Jesus.


Scott J. Jones

Resident Bishop, the United Methodist Church, Kansas Area



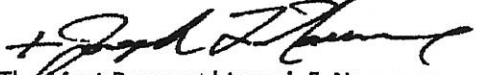
Bishop Gerald Mansholt
Central States Synod, the Evangelical Lutheran Church in America



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



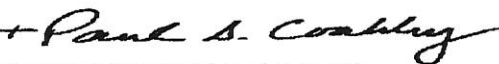
The Right Reverend James M. Adams, Jr.
Bishop of the Episcopal Diocese of Western Kansas



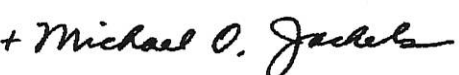
The Most Reverend Joseph F. Naumann
Archbishop of the Catholic Archdiocese of Kansas City in Kansas



The Most Reverend Ronald M. Gilmore
Bishop of the Catholic Diocese of Dodge City



The Most Reverend Paul S. Coakley
Bishop of the Catholic Diocese of Salina



The Most Reverend Michael O. Jackels
Bishop of the Catholic Diocese of Wichita

Legislative Testimony

SB 458

March 4, 2008

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Testimony before the Kansas Senate Federal and State Affairs Committee By Amy Blankenbiller, President and CEO

Thank Mr. Chairman and members of the committee for this opportunity to testify today. My name is Amy Blankenbiller, and I am the President and CEO of the Kansas Chamber.

I am here representing a coalition of 37 Kansas business organizations in opposition to SB 458. The members of the coalition can be found at the end my testimony.

While there are many issues surrounding immigration covered in this bill, we are strongly opposed to:

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

This piece of legislation requires businesses to register and use the federal government's voluntary E-Verify system for all future hires. Employers are currently tasked with obtaining identification and filing an I-9 form and we believe that adding yet another layer of bureaucratic red tape will only complicate the process.

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

We are also very concerned with sections of the bills that would remove a Kansas businesses license to participate in the Kansas economy for what could be an accidental paperwork violation.

Many, if not most, Kansas businesses can not survive even a one day suspension of their business license.

I also respectfully, but strongly caution you as lawmakers from asking businesses to change their mission. Businesses are the economic engine of Kansas. They are the job creators in this state. They were not created to enforce laws.



In a poll of 500 Kansas voters conducted just a few days ago, 62% of Kansas voters agreed that it is wrong to turn employers into policemen when it comes to illegal immigration - more than twice as many agreed as disagreed with that statement.

We have made great gains over the past few years in making Kansas a better state to own and operate a business and to have a stable job. There is much work left to do though to make us the best, and unfortunately this bill will take the state in a giant step backwards.

While we all agree the immigration system is in need of repair, we believe it can only be truly corrected at the federal level. A patch-work of state fixes will only further complicate an issue that is already tremendously complicated.

Thank you again for the opportunity to voice our opposition to this bill. We look forward to working with the committee to pass legislation that combats this issue without harming lawful Kansas businesses as SB 458 will do if it is enacted.

Associated Builders and Contractors
– Heart of America Chapter
Associated General Contractors – Kansas
City Chapter
Associated General Contractors of Kansas
Builders' Association
Dodge City Chamber of Commerce
Garden City Area of Commerce
Greater Topeka Chamber of Commerce
Home Builders Association of Greater
Kansas City
Kansas Agribusiness Retailers Association
Kansas Association of Realtors
Kansas Building Industry Association
Kansas Chamber
Kansas City Kansas Chamber of Commerce
Kansas Contractors Association
Kansas Cooperative Council
Kansas Dairy Association
Kansas Farm Bureau
Kansas Grain and Feed Association
Kansas Licensed Beverage Association

Kansas Livestock Association
Kansas Manufactured Housing Association
Kansas Pork Association
Kansas Restaurant and Hospitality
Association
Kansas Society for Human Resource
Management
Kansas Soybean Commission
Leawood Chamber of Commerce
Lenexa Chamber of Commerce
Liberal Chamber of Commerce
National Federation of Independent
Businesses – Kansas
Northeast Johnson County Chamber of
Commerce
Ottawa Chamber of Commerce
Overland Park Chamber of Commerce
Southwestern Association
Travel Industry Association of Kansas
Wichita Area Chamber of Commerce
Wichita Independent Business Association
Wichita Hispanic Chamber of Commerce

Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium and large employers all across Kansas.

March 4, 2008

**KANSAS SENATE
FEDERAL AND STATE AFFAIRS COMMITTEE
SENATOR PETE BRUNGARDT, CHAIR**

Testimony of Allie Devine on behalf of the Kansas Business Coalition
Opposing SB 458.

The Kansas business coalition (list of entities is attached to testimony of Amy Blankenbiller) strongly opposes SB 458 because the bill appears to establish a process that takes away a business' right to defend themselves or challenge accusations that the business entity knowingly hired, recruited or referred for a fee for employment an unauthorized alien. (SB 458 section 2(a) page 2 lines 16-18). This bill, like HB 2836 and HB 2680, raises serious legal and practical questions.

This bill is like a law school exam-the professor draws up an elaborate scheme of laws and the student is to identify the problems and solutions. The student gains points as he/she works through the maze. It's a game of cat and mouse-only here real people and real businesses are caught in the traps. This is NOT a game to the business community.

What ability does the business have to defend itself or its employees against allegations that the entity "knowingly hired...an unauthorized alien before the court penalizes the business by suspension or revocation of its business license?

Under Kansas licensing laws if a business violates a provision of the license, it has a right to have a hearing and confront the evidence presented and, if necessary, appeal. (See K.S.A. 77-501 Kansas Administrative Procedures Act) If an employer is charged with violating federal immigration law (8 USC 1324(a)) the federal law provides for notice; a hearing wherein the employer may challenge and present evidence, and opportunities to appeal.

TRAP 1- Section 2(e): In this proposal, an alleged violation is to be heard in the district court. (SB 458 section 2(e)). In this proceeding the judge will determine whether (1) employees of the business entity are unauthorized aliens and (2) whether the employer knowingly hired an unauthorized alien?

TRAP 2- Section 2(j) page 3 lines 15-17 says that to answer question one regarding the immigration status of the employees, the court **SHALL** only consider the federal governments' determination.

TRAP 3-Section 2 (j) page 3 lines 23-25 says that the **MOST** recent determination of the federal government is presumed to be the most accurate reflection of the employee's status.

Arizona Statute section 23-212 (H) did not include **TRAP 3** the language in Kansas SB 458 section 2(j) page 3 lines 15-25. Why do you think the drafters of the Kansas law "scrubbed" this section? Perhaps it was because the Arizona judge was concerned about the obvious due process violation because the employer and the employee did not have a right to challenge the evidence. He allowed the employer and employee to question the

Sen Fed & State

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3-4-08

federal government's evidence to give meaning to the law and what he believed would avoid due process challenges. By doing so, the judge gave the opposition a point to appeal. (*See Arizona Contractors Association, Inc., v. Napolitano et al. No. 07-17272, 17274 United States Court of Appeals, 9th Circuit*)

The drafters of SB 458 wanted to remove any doubt that Kansas employers will have the right to challenge data and appear to believe including Section 2(j) page 3 lines 15-25 will strengthen their ability to defeat any challenges Kansas businesses may bring in court. SB 458 makes it clear that whatever is in the data base of the federal government is presumed to be accurate.

Presuming the government's last statement is valid, raises a number of practical application and legal problems for business.

How many times is the federal government allowed to change a determination? Do they notify the employer or employee? Which determination is the employer to rely? When is a "determination" final? Is it final on the day that the employer checks the data base, or on the day the federal government sends documentation to the state court? What if the data base is inaccurate?

Does the mandatory participation in E-verify mean that the employer must monitor the federal data base for each employee? Is it legal for an employer to use the E-verify data base after the initial employment verification? We understand that employee status may change and that an employer upon hiring the employee should note the expiration dates of employees' documents. Does the employer subject themselves to discrimination suits if the employee is discharged based upon something that is later found to be inaccurate from the federal data base?

Does the employee get to challenge the federal government? The employee can challenge the determination in the federal system but what is the employer's fate in state court while the employee is challenging the federal determination? Does this state court proceeding against an employer continue regardless of resolution of these issues? If not, where in this proposal does it make clear that the employer's proceeding is stayed until a FINAL DETERMINATION of employee status is made by the federal government?

TRAP 4- Section 3 lines 26-30 provides that a business entity that complies in good faith by enrolling and participating in e-verify will receive a "rebuttable presumption" that they did not knowingly employ an unauthorized alien. Unfortunately, this rebuttable presumption is trumped by the rebuttable presumption (**Trap 3**) that the federal data is accurate.

TRAP 5-Removal of Affirmative Defense. Arizona law includes a provision that gives the employer and Affirmative Defense (AZ section 23-212 (J) if the employer acts in good faith and complies with the requirements of 8 USC 1324b-completion of the I-9 form. Unfortunately, the authors of SB 458 "scrubbed" this from the possible defenses of the employer.

TRAP 6-Broad or no definition of “knowing”. The judge considers whether the employer acted “knowingly”. SB 458 doesn’t define “knowing.” Does that mean the court is left to devise its own? Was this deletion of a definition an attempt to further “broaden” the already vague definition in 8 C.F.R 127a.1(l) included in HB 2836?

The federal regulation provides: *“the term knowing includes not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition. Constructive knowledge may include, but is not limited to, situations where an employer: (i) fails to complete or improperly completed the Form I-9; (ii) has information available to it that would indicate that the alien is not authorized to work, (cites omitted for brevity); (iii) acts with reckless and wanton disregard for the legal consequence of permitting another individual to introduce an unauthorized alien into its workforce or to act on its behalf.”(emphasis added)*

Please note an “improperly completed” Form I-9 (paper violation) constitutes a KNOWING action and without the protection of an affirmative defense (Trap 5) for the employer, the judge will find a violation and assess mandatory license suspensions or revocations.

TRAP 7- Mandatory Penalties of Suspension or Revocation of the business license. Page 2 lines 42-43, Page 3 lines 1-8. Arizona Governor Napolitano called the mandatory penalties “the Death Penalty” for business. There is no consideration for substantial compliance with the law. What would a suspension of a business license mean to a local nursing home? What happens to the people it serves? Does this mean a livestock operation must depopulate immediately upon suspension of its waste water permit? Does such a violation trigger violations of federal EPA laws? What if the holder of the license is a public utility? What will its customers do? Finally-which business do you want to sacrifice to learn the answers to all these questions?

Professor Kolbach indicated that the courts have ruled that states have authority to legislate in this area. Professor Kolbach failed to mention that the Arizona case is on an expedited appeal to the 8th Circuit Court of Appeals (*Arizona Contractors Association, Inc., v. Napolitano et al. No. 07-17272, 17274 United States Court of Appeals, 9th Circuit*) and that a Pennsylvania court found that federal law had preempted the area. (*Lozano v. City of Hazelton, 496 F. Supp. 2d 477*). This case is before the Third Circuit Court of Appeals. This is NOT a clearly established area of the law. Passage of this bill will buy Kansas a lawsuit. Ask yourself who stands to gain from such litigation? It is certainly not the Kansas business owners whose livelihoods are at stake.

Members of the Committee, the business coalition respects the “Rule of Law” but we do not support “Rules in Law” that remove our ability to defend ourselves.

(j) For the purposes of this section, when making a determination of whether an employee is an unauthorized alien, a court shall only consider the federal government's determination pursuant to 8 U.S.C. 1373(c). The court shall take judicial notice of any verification of the immigration status previously provided by the federal government. The court may, and at the request of a party shall, request the federal government to provide, in automated, documentary or testimonial form, a new verification of the immigration status of the employee pursuant to 8 U.S.C. 1373(c). **The most recent determination of the immigration status of an employee by the federal government shall create a rebuttable presumption as to the employee's immigration status.**

(k) For the purposes of this section, a business entity that has complied in good faith with this section through registration and participation in e-verify to confirm the employment authorization of any employee in question shall create a rebuttable presumption that the employer did not knowingly employ an unauthorized alien.

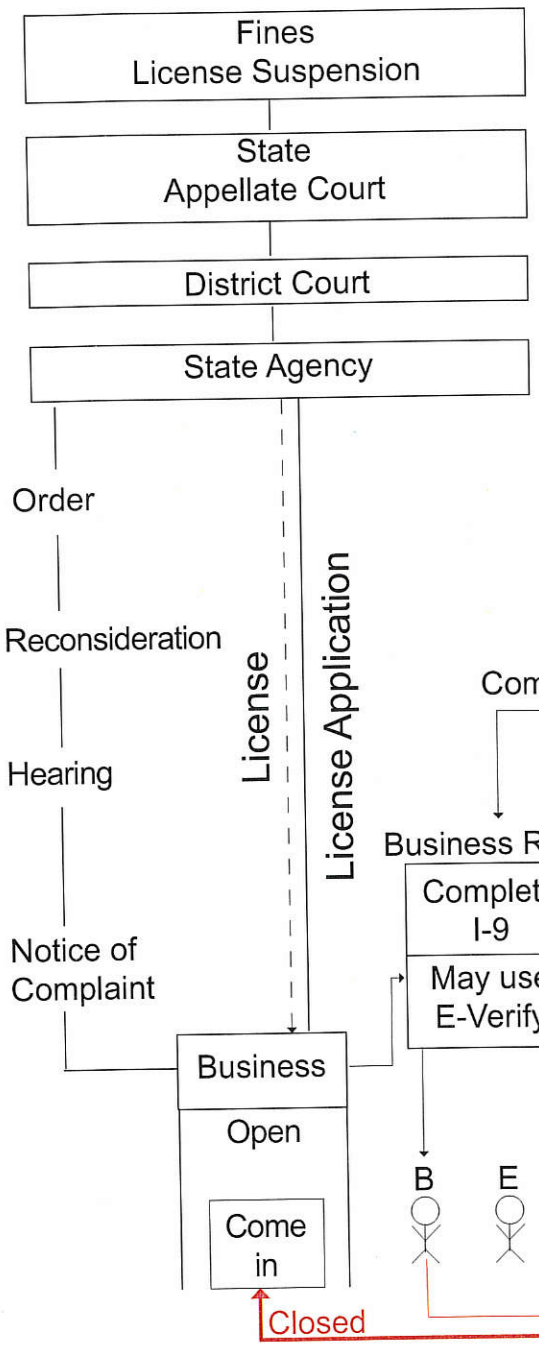
H. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United State code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to 8 United States Code section 1373(c).

I. For the purposes of this section, proof of verifying the employment authorization of any employee through the basic pilot program creates a rebuttable presumption that an employer did not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien.

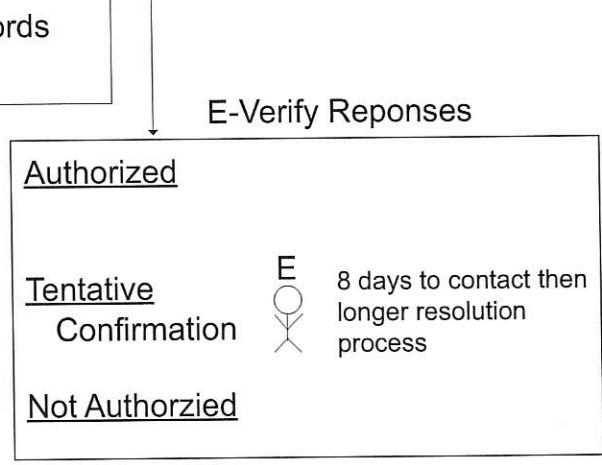
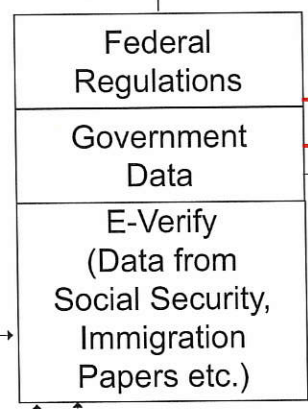
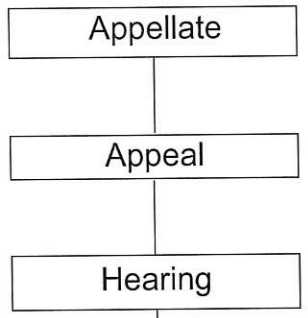
J. For the purposes of this section, an employer who establishes that it has complied in good faith with the requirements of 8 United States Code section 1324b establishes an **affirmative defense** that the employer did not intentionally or knowingly employ an unauthorized alien.

SB 458

Licenses Process

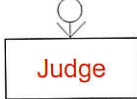


Federal Immigration Process




6 "Knowing Definition"?

1 State Court
Did B Knowingly Employ Unauthorized Alien?

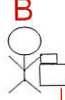
2 Judge shall only consider Federal Data 

3 Most recent federal data creates rebuttable presumption of E's status

(1) Status 

(2) "Knowingly" - "Actual knowledge or what may be inferred..."

- ✓ Business Records
- ✓ E-Verify
- ✓ I-9's Mistakes

B  **4** Rebuttable Presumption

5 No affirmative defense

7 Mandatory suspension or revocation of licenses

Bills Require Check 8 U S C 1373(c)

Law enforcement 



Goodbye license

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

RE: SB 458, the Kansas illegal immigration relief act.

**March 4, 2008
Topeka, Kansas**

**Testimony provided by:
Terry D. Holdren
National Director
KFB Governmental Relations**

Chairman Brungardt and members of the Senate Committee on Federal and State Affairs, thank you for the opportunity to appear before you today. I am Terry Holdren, National Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau associations.

I come before you today representing KFB and the 36 other businesses and associations who have joined forces to attempt to provide reasonable and workable solutions to the immigration issue in Kansas. **Our coalition does not condone or support illegal activity or the presence of illegal or undocumented aliens within the state of Kansas, nor do we support subjecting the state of Kansas to the inevitable lawsuits that will arise should you chose some of the alternatives presented to you today.**

Fundamentally, we believe that the regulation of immigrant labor and the enforcement of immigration law is an area that has been occupied by the federal government. Subsequently, we believe that there is little a state can do to regulate employers in this field.

As you know laws or ordinances very similar to SB 458 have recently been enacted in Pennsylvania, Arizona, and Oklahoma. All three of those states have pending challenges to their laws/ordinances or cases which under appeal. As of yet there is no resolution by the federal courts that gives clear direction to a state about its ability to regulate immigration. Enacting similar legislation in Kansas only invites the same costly court challenge.

As a coalition we have and will continue to oppose efforts focused on the following:

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3-04-08

- Penalties that put a businesses license in jeopardy
- Mandates of the voluntary federal e-verify system
- Subjecting contractors to liability for the status of workers of a subcontractor

So, what can the state of Kansas do to combat the crisis of undocumented workers? We believe there are several options proposed in the bills under consideration by the legislature that can effectively target bad actors and address illegal activity without risking the stability of our states economy and workforce:

Kansas should provide clear direction to businesses:

- Mandate the I-9 for all Kansas employers—giving Kansas business a clear understanding of what he rules are
 - Despite its mandate by the federal government for hires after November 7, 1986 many Kansas employers do not currently use the I-9 form
 - The Kansas Department of Labor should be tasked with making the form available and educating employers about its use
- Incentivize the use of the e-verify system by barring prosecution of businesses who use the system from any suits by employees or others who would challenge the status of an employee or penalize the employer based upon a hiring practice
- **Kansas can effectively administer these tools and achieve results!**

Target and punish employers who intentionally hire and abuse undocumented workers:

- Create the crime of Exploitation of an Employee
 - Knowingly hire a worker of without verification of employment status
 - Subject the employee to working conditions in violation of Kansas' minimum wage and maximum hours law
 - Severity level 8, nonperson felony

Identify bad actors—the individuals or employers who perpetuate the use of fraudulent documents, and punish them, not ordinary Kansans trying to make a living in business:

- Enhance penalties for crimes when documents are used to obtain employment
 - Dealing in False Identification Documents
 - Reproduction, manufacture or sale of documents when used to obtain employment
 - Severity level 5, nonperson felony
 - Identity Fraud
 - Willfully and knowingly supplying false information to gain employment
 - Severity level 5, nonperson felony
- Create the crime of Employment Identity Fraud

- Willingly presenting to an employer a false or misleading identification document for the purpose of obtaining employment in the state of Kansas
- Severity level 8, nonperson felony

On behalf of KFB and our 36 fellow coalition members, thank you for the opportunity to appear before you today and provide our thoughts about workable solutions that can address illegal immigration in Kansas. We are committed to providing a system that punishes those who would violate our laws and ensures that legitimate businesses are not subject to mandates or unnecessary penalties. We look forward to working with you to achieve this objective.

Kansas Grain & Feed Association

Kansas Agribusiness Retailers Association

Joint Statement in Opposition to Senate Bill 458
Senate Federal and State Affairs Committee
Senator Pete Brungardt, Chairman
March 4, 2008

Thank you Mr. Chairman and members of the Committee for the opportunity to testify on this important issue; my name is Duane Simpson, I am the Chief Operating Officer and Vice President of Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA). KGFA is a voluntary state association founded in 1896 with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes approximately 900 Kansas business locations and represents 98% of the commercially licensed grain storage in the state. KARA is a voluntary state association made up of over 700 business locations across the state. Our members are primarily ag retail facilities but they include agronomy services, chemical, fertilizer and seed sales and manufacturing companies, and equipment manufacturing, distribution and sales companies. Our members do not condone, support or promote the hiring of illegal aliens. However, we do not believe that businesses should be at risk of losing their business licenses when they are defrauded by illegal aliens or make paperwork errors. For that reason, both of these organizations have joined the coalition of businesses and agriculture associations opposed to Senate Bill 458. KGFA and KARA share numerous concerns about the SB 458, but I am going to focus my testimony on the E-Verify system which this bill would mandate every business in the state to use.

E-Verify – Employment Eligibility Verification Program (EEV or EEVS)

In my testimony, I will be citing the 2007 Westat report which was commissioned by the Department of Homeland Security, the June 2007 testimony before Congress of the Social Security Administration's Office of Inspector General, the Program Policy Office of the Social Security Administration, the General Accounting Office division on Homeland Security, and a July 2007 report by the American Association of People with Disabilities. I have provided copies of the reports and the complete testimony of these government officials to the committee members and staff, due to the voluminous amount of paper, the additional copies of testimony that are available for the public only list the works cited.

Statistic Quoted by Mr. Kobach

There has been a lot of debate about the capabilities of the E-Verify system in both the House and Senate over the past week. When Mr. Kobach testified before this committee last week, he challenged the committee to ask conferees for their sources. Mr. Kobach then cited a phone call that he had made to an employee of the Department of Homeland Security regarding the accuracy rate of the program. The data he cited comes from the Westat report prepared on behalf of DHS, but it does not refer to the overall accuracy of the E-Verify system. The error rate of 0.53% refers only to the percentage of employees who receive a tentative nonconfirmation (TNC) even though the data says they should be receiving a work confirmation. That data only refers to those employers who simply attempted a second time or third time to enter their data and were subsequently authorized and is only for the first half of the 2007 fiscal year. Since the Basic Pilot was converted to the web basic Pilot in October of 2004 through March of 2007 that error rate was 10%. (Westat, September, 2007 pg 57) While it appears that the program has become much more accurate in the first half of the FY 2007, those numbers can also be misleading. A large percentage of the new hires in the first half of FY 2007 were the result of employment verification services.

If the distribution of workers being verified in the first half of FY2007 had more closely represented the national distribution of newly hired workers in terms of geographic location, industry, size, and percentage of employees attesting to being noncitizens, it is likely that the percentage of workers automatically found to be work-authorized would have been slightly lower and the erroneous tentative nonconfirmation rate would have been higher. (Westat, September, 2007 pg 148)

In addition, the 0.53% rate is actually estimated to be 0.81% because not all TNCs attempt to reenter the data in the database and it is impossible to know how many of them would have been actual er-

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Attachment 5

3-04-08



816 SW Tyler, Suite 100
Topeka, Kansas 66612

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www.KansasAg.org

rors. (Westat, September, 2007 pg 57) As you can see, Mr. Kobach's statistic is does not refer to the overall accuracy of the E-Verify system, nor does it reflect the expected error rate as reported by the Westat report.

Accuracy of E-Verify

You may also remember that Mr. Kobach characterized the September 2007 Westat report as being satisfactory to Congress. Since he did not provide a citation, I will refer you to the Westat report:

The accuracy of the USCIS database used for verification has improved substantially since the start of the Basic Pilot program. However, further improvements are needed, especially if the Web Basic Pilot becomes a mandated national program – improvements that the USCIS personnel report are currently underway. **Most importantly, the database used for verification is still not sufficiently up to date to meet the IIRIRA [Illegal Immigration Reform and Immigrant Responsibility Act of 1996] requirement for accurate verification, especially for naturalized citizens.** USCIS and SSA accommodate this problem by providing for a manual review of these cases. This review is time consuming and can result in discrimination against work-authorized foreign-born persons during the period that the verification is ongoing, if employers do not follow procedures designed to protect employee rights. (Westat, September, 2007 pg xxi) **[Emphasis added]**

The report does state that the US Citizenship and Immigration Services (USCIS) is improving, but what about the Social Security Administration's database? The E-Verify system relies on the SSA database in 89% of transactions, so inaccuracies in the SSA database will affect 9 out of 10 prospective employees. (Westat, September, 2007 pg 57)

The Social Security Administration's Office of Inspector General reports discrepancies in 4.1% of records that might lead to tentative nonconfirmations and 7% of naturalized citizens had not updated their records to reflect their new citizenship status. (Streckewald, June 7, 2007 pg 3) That means 17.8 million US citizens will have an error that needs correcting when they apply for a job. (Schaeffer, June 7, 2007 pg 4) If you extrapolate that data to Kansas, about 112,000 Kansans would receive a TNC when they apply for a job. That's about the population of Olathe or the equivalent of all the constituents in 5 House districts. Of course, not all 112,000 Kansans are in the workforce and many that are in the workforce will not be applying for a job. It is clear that a significant number of Kansans will be effected by the errors in the database. According to the Social Security Administration, "As part of the process to correct our records, we need to verify the identity of the individual whose records we are updating and the information we are adding to the individual's records. That is why virtually all of these changes are made during a face-to-face interview in our field offices." (Streckewald, June 7, 2007 pg 3) Kansas currently has 13 field offices located in Kansas City, Overland Park, Lawrence, Topeka, Emporia, Pittsburg, Independence, Manhattan, Wichita, Salina, Hutchinson, Hays and Dodge City. Those field offices do more than just correct errors in the database, they help people sign up for benefits and work through caseloads for disability payments.

Limitations of the E-Verify System

We have heard a lot about how effective the program is at determining whether or not the identity given to the employer is real, we have not talked about the obvious loophole in the system – stolen identity. "EEV may help reduce document fraud, but it cannot yet fully address identity fraud issues, for example, when employees present borrowed or stolen genuine documents." (Stana, June 7, 2007 pg 3) The proponents will tell you that the new photograph screening tool can solve these problems. "The use of the photograph screening tool is currently limited because newly hired citizens and noncitizens presenting forms of documentation other than green cards or Employment Authorization Documents to verify work eligibility are not subject to the tool." (Stana, June 7, 2007 pg 8)

Using counterfeit documents. Individuals without work authorization sometimes obtain work by presenting counterfeit or altered documents. These documents are reported to be readily available for purchase in immigrant communities. (Westat, September, 2007 pg 84)

In this situation, the likelihood of employers detecting counterfeit documents depends on the quality of the documents, the employers' familiarity with immigration and other documents, and their expertise in detecting fraudulent documents. (Westat, September, 2007 pg 85)

Borrowing, buying, or stealing valid documents or obtaining valid documents with fraudulent breeder

documents. Unauthorized workers may obtain employment using valid documents belonging to another person or by obtaining such documents using fraudulent breeder documents. For example, individuals may borrow documents belonging to relatives or friends, use stolen documents, or purchase valid documents that may have been sold by the owner. (Westat, September, 2007 pg 85)

In other words, mandating E-Verify will have the unintended consequence of incentivizing illegal immigrants to obtain stolen identities in order to find employment. Those illegal immigrants will still be able to be employed while naturalized citizens will have a more difficult time getting a job.

Capability of E-Verify to Expand to a National Mandate

Many of you were present for the DHS briefing last week when the question was asked about the ability of the E-Verify system to accommodate several states mandating the program. The DHS representative responded that the database has recently been tested to make sure that it was capable of the potential number of queries and that the database easily passed the test.

What the DHS representative did not answer was whether or not the agencies were properly prepared for a broad mandated use of the program.

Every year, approximately 60 million individuals start a new job. Therefore, we would expect mandatory participation to have a substantial effect on our Agency. It is vitally important that, when Congress makes a decision regarding the implementation of a mandatory program, we have adequate lead-time and resources. (Streckewald, June 7, 2007 pg 3)

EEV Would Require an Increase in Capacity at USCIS and SSA

Mandatory electronic employment verification would substantially increase the number of employers using the EEV system, which would place greater demands on USCIS and SSA resources. (Stana, June 7, 2007 pg 6)

USCIS officials estimate that to meet a December 2008 implementation date, this could require about 30,000 employers to register with the system per day. The mandatory use EEV can affect the capacity of the system because of the increased number of employer queries. (Stana, June 7, 2007 pg 6)

USCIS has estimated that a mandatory EEV could cost USCIS \$70 million annually for program management and \$300 million to \$400 million annually for compliance activities and staff. (Stana, June 7, 2007 pg 6)

SSA officials told us they have estimated that expansion of the EEV program to levels predicted by the end of fiscal year 2007 would cost \$5 to \$6 million, but SSA was not yet able to provide us estimates for the cost of a mandatory EEV. (Stana, June 7, 2007 pg 6)

A mandatory EEV would require an increase in the number of USCIS and SSA staff to operate the program. For example, USCIS had 13 headquarters staff members in 2005 to run the program and 38 immigration status verifiers available for secondary verification. USCIS plans to increase staff levels to 255 to manage a mandatory program, which includes increasing the number of immigration status verifiers who conduct secondary verifications. USCIS officials expressed concern about the difficulty in hiring these staff due to lengthy hiring processes, which may include government background checks. In addition, according to SSA officials, a mandatory EEV program would require additional staff at SSA field offices to accommodate an increase in the number of individuals visiting SSA field offices to resolve tentative nonconfirmations. (Stana, June 7, 2007 pg 6)

The agencies are not properly staffed nor do they have the budgets to accommodate a mandatory nationwide program. The SSA has a 26.7% backlog on disability cases in Kansas, the worst in the nation. (American Association of People with Disabilities, July 31, 2007) Clearly, the 13 SSA offices in Kansas are not prepared to handle the increased work associated with a mandated use of E-Verify. Mandating E-Verify without Congress increasing staffing at the Social Security Administration offices will exacerbate the current worst in the nation status of backlogs in Kansas.

Verification Related Discrimination

Mr. Kobach testified that using E-Verify would reduce discrimination because employers would feel more comfortable hiring people who appear to "be from Mexico" and that "maybe don't speak English very well." His theory was not supported by data, and as much as we would like to believe him, the data actually points to the E-Verify system having a systematic disparate effect on Naturalized US Citizens and work-authorized foreign-born employees.

As anticipated by immigrant rights advocates, work-authorized foreign-born employees are more likely than U.S.-born employees to receive tentative nonconfirmations, thereby subjecting a greater percentage of work-authorized foreign-born employees to potential adverse actions arising from the Web Basic Pilot process. (Westat, September, 2007 pg 97)

The corresponding erroneous tentative nonconfirmation rate for employees who were eventually found to be work-authorized is approximately 30 times higher for foreign-born employees than for U.S.-born employees (0.1 percent versus 3.0 percent). (Westat, September, 2007 pg 97)

Foreign-born U.S. citizens are considerably more likely to receive erroneous tentative nonconfirmations than are work-authorized foreign-born persons who have not become U.S. citizens. There are dramatic differences between the erroneous tentative nonconfirmation rates for foreign-born citizens and work-authorized noncitizens. (9.8 percent of those foreign-born citizens who were eventually found to be work-authorized received a tentative nonconfirmation prior to being found work-authorized, compared to only 1.4 percent of work-authorized noncitizens) in the first half of fiscal year 2007. (Westat, September, 2007 pg 97)

As you can see, US born citizens have the lowest error rate, followed by foreign born non-citizens while naturalized citizens have the highest error rate. That means people who follow the rules and come here legally are most likely to have an error in the system.

Of course, if every employer simply follows the rules of Memorandum of Understanding with DHS, having a TNC should only cost the potential employee some time and hassle, but not cost them their job or any pay. Unfortunately, employers do take action against those employees. 22% of employers admit to restricting work assignments while employees contest their TNC, 16% of employers delayed training of employees and 2% reduced pay. (Westat, September, 2007 pg 77) Those numbers do not count the percentage of employers that use the system to prescreen employees or to conduct verifications on employees that were hired before the company implemented E-Verify. "We also found that approximately 42% of EEVS users we interviewed were not using the program as intended." (Schaeffer, June 7, 2007 pg 4)

So, up to 42% of employers are misusing the E-Verify system to the detriment of employees that receive a TNC which is 30 times more likely to happen to a foreign-born work authorized employee than to a U.S.-born citizen. Naturalized U.S. Citizens, the ones who came to the U.S. legally, followed the rules and became citizens are 7 times more likely to have a TNC than foreign-born workers that are not citizens.

Problems Reported by Employers

The law requires TNCs to be resolved within 10 days. The actual hire date to case closure date ranged from 19 to 74 days. (Westat, September, 2007 pg 78) You will remember that it is the responsibility of the employer to repeatedly check back with DHS for final confirmation. That process can take more than 2 months and failure to continue following up until a final confirmation would meet the definition of "knowingly" hiring an illegal immigrant.

In addition, 15.9% of employers report they hire too many people to make the 3-day deadline. (Westat, September, 2007 pg 76) Only 72% of long-term users meet the 3-day time frame. These are usually large employers that hire at various departments or worksites. "As a result, the hiring paperwork (including application packages, I-9 forms, and photocopied documents) frequently did not arrive at the human resources office in time for staff to enter each new employee's information into the Web Basic Pilot system within 3 days of their hire." (Westat, Septem-

ber, 2007 pg 72) An additional 2.6% report the software is too cumbersome to meet the deadline. (Westat, September, 2007 pg 76) Again, failure to meet the deadline would meet the definition of “knowingly” hiring an illegal immigrant.

In addition, “employers failed to input closure codes in 37 percent of the cases where U.S. citizens received final nonconfirmations and in 28 percent of cases where USCIS final nonconfirmations were issued.” (Westat, September, 2007 pg 79) Finally, only 15% of employers properly entered the referral date for TNCs. (Westat, September, 2007 pg 79) Again, these employers all could be found to have “knowingly” hired an illegal immigrant.

Conclusion

As you can see, the system is inaccurate, incapable of detecting fraudulent use of stolen identities, and is discriminatory towards the people who follow the rules. The agencies are not capable of implementing a national mandatory program and the Social Security Administration in Kansas is the worst in the nation at handling its current caseload which means it is clearly incapable of implementing a statewide mandate. Employers that have used the system have reported numerous problems meeting deadlines and routinely fail to adequately input all of the required data. This is not the opinion of the associations I represent or of the coalition, it is the data and conclusions reached by the Department of Homeland Security, the Social Security Administration and the General Accounting Office.

Kansas employers would be at risk of losing their business license for simple paperwork errors that are common among current E-Verify users. You will hear proponents tell you that businesses only face penalties if they “knowingly hire” illegal immigrants. I’m not a lawyer so when I hear the phrase “knowingly hire” I think that means that when an employer makes the hiring decision they actually knew the person they were hiring was illegal. But the legal definition of “knowingly hire” includes “constructive knowledge.” When I first heard the phrase “constructive knowledge” I thought the lawyers were referring to architects, carpenters and general contractors. Unfortunately, “constructive knowledge” means the business did not jump through every hoop, dot every “i” and cross every “t”. 85% of long-term users of the e-verify program failed to properly use the program – in Kansas, each of those employers could lose their business license even if they do not actually know they have hired an illegal alien until ICE knocks on their door.

The state of Illinois looked at E-Verify accuracy data and passed legislation prohibiting their employers from using E-Verify until DHS could certify that it is 99% accurate. DHS did not certify its accuracy, instead it filed suit to block the implementation of the Illinois law. That should tell this committee everything it needs to know about the reliability of the E-Verify system.

This committee needs to be cautious as it debates the various merits of this bill. I strongly urge the committee not to mandate E-Verify on every business in Kansas and I’ll stand for questions at the appropriate time.

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STATEMENT OF MICHAEL P. AITKEN

**DIRECTOR OF GOVERNMENTAL AFFAIRS
SOCIETY FOR HUMAN RESOURCE MANAGEMENT**

SUBMITTED TO

**KANSAS SENATE
COMMITTEE ON FEDERAL AND STATE AFFAIRS**

MARCH 4, 2008

Chairman Brungardt and honorable Members of the Committee. My name is Michael Aitken and I am the Director of Governmental Affairs for the Society for Human Resource Management (SHRM). On behalf of the SHRM and the Human Resource Initiative for a Legal Workforce, a coalition of HR and employer organizations, I am grateful for the opportunity to provide testimony to the Committee on this important issue, specifically SB 458.

The Society for Human Resource Management is the world's largest association devoted to human resource management. Representing more than 230,000 individual members, the Society's mission is to serve the needs of human resource professionals and to advance the interests of the HR profession. In Kansas alone, we have 2,800 individual members representing businesses across the state's economy.

The Human Resource Initiative for a Legal Workforce represents human resource professionals in thousands of small, medium and large U.S. organizations in every sector of the American economy. The HR Initiative coalition – which, in addition to SHRM, include American Council on International Personnel, College and University Professional Association for Human Resources, the Food Marketing Institute, HR Policy Association, International Public

Sen Fed & State

Attachment 6
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Management Association for Human Resources, and the National Association of Manufacturers – seeks to improve the current process of employment verification by creating a secure, efficient and reliable system that will ensure a legal workforce and help prevent unauthorized employment.

We appreciate the opportunity to offer our expert opinion on whether the state of Kansas should require the use of E-Verify, the current, voluntary employment verification system managed by the Federal government. In organizations throughout the nation, our members are on the front lines of verification challenges. We have first-hand experience in real workplaces with what is effective and what is not.

SHRM and the HR Initiative coalition support a federal electronic employment verification system. We are committed to only hiring work-authorized individuals and we have endorsed the development of an effective, efficient, national electronic employment verification system. However, the current employment verification system is in need of real reform. Until such reforms are enacted, we strongly recommend that the Kansas Legislature reject efforts to mandate the use of E-Verify, which is little more than an inadequate quick fix solution to illegal employment.

SHRM and the HR Initiative coalition believe E-Verify is the wrong choice for Kansas for several reasons.

First, E-Verify is not reliable. It uses the Social Security System database, which has a 4.1 percent data error rate. If all U.S. employers were to use the system, millions of U.S. citizens and legal residents could potentially be denied employment due to bureaucratic errors. Moreover, the error rate for work authorized foreign nationals is estimated to be as high as 10 percent, thereby opening the door to increased discrimination based on national origin.

According to testimony before the U.S. Congress by the Social Security Administration's own Office of the Inspector General, a 4.1 percent error rate in the 145 million Social Security records could result in false employment status for approximately 6 million citizens and legal

residents of the United States. By extension, tens of thousands of Kansans likely would be adversely impacted.

This error rate is unacceptable – especially when it will impact the ability of legal workers to obtain jobs. We should not place human resource professionals and their employers in the middle – subjecting them to stiff penalties if they mistakenly hire an unauthorized worker, while exposing them to potential lawsuits if they deny employment to a legal worker – all because of faulty government data and processes.

Second, E-Verify is unable to detect document fraud and identity theft. This leaves all employers vulnerable to sanctions through no fault of their own. This is because E-Verify does not verify the authenticity of the identity being presented for employment purposes, but rather only that the identity presented matches information in the Social Security and Department of Homeland Security databases.

Simply stated, unauthorized workers are using stolen Social Security numbers, fake certificates and fraudulently-obtained but “legitimate” photo IDs to bypass the system and gain employment. And E-Verify cannot stop it.

The proliferation of false or stolen documents can and does cause reputable employers to mistakenly hire individuals who are not eligible to work. At the same time, the lack of certainty and the threat of government-imposed penalties may lead some employers to delay or forego hiring legal workers who are eligible. In either case, the costs are high for both U.S. employers and legal workers.

U.S. employers, whether large or small, cannot be expected to consistently identify unauthorized workers using the existing system, but they are liable for severe sanctions if these workers find their way onto the payroll. At the same time, they are subject to claims of discrimination if they question the validity of documents too strenuously.

Employers need the right tools to verify a legal workforce. We believe employers are entitled to a quick, unambiguous, and accurate answer from the government to the query whether an employee is authorized to accept an offer of employment. Unfortunately, mandating E-Verify will not meet this need, and may make the challenges more difficult for reputable employers and legal employees.

Third, E-Verify is a paper-based system, not an entirely electronic system as its portrayed. Employers are still required to complete the paper Form I-9 after analyzing some potential 25 documents that an employee can use for identity and work authorization purposes. It is only after completing the Form I-9 that an employer enters data information into E-Verify.

Fourth, E-Verify was established by Congress as a voluntary pilot program. As such, it is ill-equipped to handle a massive influx of users.

On February 12, 2008, the U.S. Citizen and Immigration Services reported that 52,000 employers were now using the E-Verify system, and 2,000 new registrations were signing up every week. However, these numbers represent only a tiny fraction of the nearly 7 million employers in the United States. At this rate, every employer in the U.S. would be participating in E-verify in around 70 years!

E-Verify is not only far from fool-proof, it is not ready to meet the challenge of massively increasing its participant level as more and more states begin requiring participation.

Fifth, more laws in different states means more muddle and mistakes, and less security. The proposed Kansas law, when added to numerous other state and local ordinances aimed at deterring illegal immigration, is likely to create a confusing and ineffective patchwork of federal and state laws.

According to the National Conference of State Legislatures, states enacted 246 immigration-related laws in 2007 – that's triple the number passed in 2006.

Clearly, this is a reaction to the gridlock holding up immigration reform efforts in Washington. The desire to deter illegal immigration proactively by ending unauthorized employment is both understandable and laudable, and one we support. State legislatures, such as here in Kansas, feel the need to step in and do something on an issue of such great importance.

In fact, dozens of states have already acted or are in the process of considering legislation in the area of employment verification. What is resulting, however, is a confusing and complex array of laws and regulations that could make it all but impossible for multi-state businesses to obey, and that do not serve the interests of employers, employee or the country.

For example, the Arizona law that mandates employers to use E-Verify is countered by a law in Illinois that prohibits employers in that state from using the system. Illinois passed its law to protect workers in Illinois from the significant error rate in the federal program. While the state has temporarily suspended enforcement of the law, multi-state employers could ultimately find themselves in a Catch-22 situation, forced to choose between obeying the law in Arizona or Illinois.

Incidentally, it is worth noting that the Arizona law is currently under legal challenge in the federal courts. If Kansas enacts the pending legislation, thereby mandating participation in E-Verify by your state's employers, you will replicate many provisions contained in the controversial Arizona law that has been strenuously opposed by organizations representing employers, civil rights groups and legal immigrants.

Finally, since E-Verify was intended to be a pilot program, it is due to expire in November of 2008. This deadline provides Congress with a perfect opportunity to enact the next generation of employment verification -- and a system that truly works -- for employers and employees.

Toward this goal, SHRM and the HR Initiative coalition have endorsed the concept of a secure, reliable, economic, and truly electronic national employment verification system, and we are actively promoting new legislation that was introduced in the U.S. Congress on Thursday of

last week by Representative Sam Johnson (R-TX).. This legislation, entitled the “New Employee Verification Act,” will create a state-of-the-art employment verification system that can protect the identities of American citizens and give employers the tools they need to obtain fast, accurate information about potential hires.

SHRM and the HR Initiative coalition support this new federal legislation that would replace the current, ineffective verification process with Electronic Employment Verification System (EEVS). The new system would:

- Enhance security by requiring employers to verify a worker’s identity through the use of biometrics, more secure documents and document-screening tools. It also would use the State New Hire Registry, a process already mandated for use by employers to enhance child support enforcement and which has over 90 percent participation rate of U.S. employers.
- Confirm U.S. citizenship from Social Security databases and check the work authorization status of non-citizens through Department of Homeland Security (DHS) databases, giving employers a “yes” or “no” on whether employment is authorized.
- Provide employers a safe harbor through reliance on system information, along with a reasonable phased-in implementation schedule designed to achieve deterrence of illegal immigration and unauthorized employment, while providing employees needed protections against discrimination.
- Ensure privacy and accuracy by requiring direct consultation with public and private sector experts and stakeholders in designing the system, along with requiring annual reporting by the Social Security Administration and the Government Accountability Office on its operations.

SHRM and the HR Initiative coalition believe this new system could eradicate virtually all unauthorized employment – thereby eliminating a huge incentive for illegal immigration. It also will eliminate discrimination by taking the subjectivity out of the verification process.

True employment verification is the only way to ensure fair and equitable treatment for those individuals who should have access to legitimate jobs. It is essential for a legal workforce and for America's national and economic security.

We urge you to reject efforts to mandate E-Verify in the state of Kansas, and instead to support new legislation that will guarantee true employment verification.

On behalf of SHRM and the HR Initiative coalition -- and the millions of workplaces and employees we represent -- we are grateful for this opportunity to offer our views. I would be happy to answer any questions the Committee would have at this time.

6-8

House Committee on Ways and Means

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

Testimony Before the Subcommittee on Social Security
of the House Committee on Ways and Means

June 07, 2007

Good morning, Chairman McNulty, Mr. Johnson, and members of the Subcommittee. It's a pleasure to be here today to provide the Social Security Administration (SSA), Office of the Inspector General's (OIG) perspective on Employment Eligibility Verification Systems (EEVS).

Each agency involved in EEVS has its own contribution to make to the system's success. The SSA-OIG's role is to evaluate the use of SSA data within the EEVS process and recommend improvements with respect to the accuracy and security of such data. SSA's information constitutes the foundation of EEVS.

The OIG is a strong supporter of employer verification. Many of the challenges that confront us on a daily basis stem from the lack of a widely-used universal verification system, and I will address these challenges momentarily. The OIG is also, however, charged with preventing and detecting fraud, waste, and abuse in SSA programs and operations, including any verification systems that utilize SSA data. Thus, our concern rests not only with the ability of such systems to resolve issues like Social Security number (SSN) misuse and erroneous wage reporting, but with the accuracy and security of the verification systems themselves. If verification systems rely on inaccurate information, the verifications they provide are of no value; if access to verification systems is not secure, and controls over their operation are not strong, the cost (in the loss of personally identifiable information) could be significant.

As such, the OIG is working hard to support SSA and Congress' efforts to create, implement, and broaden meaningful, accurate, and secure employer verification systems, and we welcome the Subcommittee's support.

As stated earlier, each participant in today's hearing brings his or her own goals and perspectives to the table. Immigration issues are not, by themselves, part of the OIG's mission, appearing nowhere in our statutory mandate. That said, however, the immigration issue is inextricably linked to SSN misuse and SSA program integrity, which are at the heart of the OIG's mission. These issues take on several forms, each of which poses a significant challenge to SSA and the OIG, and each of which would be significantly aided by broader, more reliable, more secure verification systems. Specifically, there are two closely linked areas relative to EEVS in which our mission overlaps with that of the Department of Homeland Security (DHS):

- Ensuring accurate wage reporting and minimizing SSN misuse; and
- Ensuring that verification systems are accurate and secure.

I will touch briefly on some of our work in each of these areas.

Accurate Wage Reporting and SSN Misuse

6-8

Accurate wage reporting is critical to the determination of individuals' eligibility for, and amount of, various Social Security benefits and payments.

First, we need to keep in mind the types of wage reporting problems encountered by SSA:

- An invalid name and SSN combination is reported, causing the earnings to be placed into the Earnings Suspense File (ESF) until resolved;
- A valid name and SSN is reported, but the earnings do not belong to the SSN owner and therefore needs to be removed from the Master Earnings File and placed in the ESF at a later time; and
- An SSN issued for nonwork purposes is used for work, in which case SSA is required to post the earnings and report the instance to DHS, even though the earnings may not qualify the worker for future benefits.

The ESF, SSA's repository for misreported wages, has been a frequent topic of testimony before this Subcommittee. As of October 2006, the ESF had accumulated about \$586 billion in wages and 264 million wage items for Tax Years (TY) 1937 through 2004. In TY 2004 alone, the ESF grew by \$66 billion in wages and 9.5 million wage items. Each wage item posted to the ESF represents a possible error in the calculation of someone's Social Security benefits or payments, and each represents a cost to the taxpayer incurred in trying to correct the misreported wage item. Our Office of Audit has conducted numerous studies touching on the ESF issue, including in-depth studies of industries particularly prone to misreporting, such as the agricultural, restaurant, and service industries. We continue to seek ways to help SSA stem the tide of erroneous wage reporting; none of our recommendations, however, will ever be as effective as truly meaningful verification of employees.

In addition to the ESF, the Master Earnings File (MEF), SSA's repository of theoretically correct wage reports, is also affected by misreported wage items. An ongoing audit, which we anticipate will be issued later this year, seeks to determine whether:

- wage items associated with SSN misuse are being posted to the Master Earnings File; and
- the Agency has established effective controls to detect such postings and prevent future occurrences.

Early work in this area has identified a number of cases where the valid name and SSN of individuals has been used by another party to work in the economy. This type of misuse is difficult to detect under the current verification systems and SSA will learn about it only when the SSN owner reports this misuse of their information.

We have a second audit, also to be released later this year, reviewing cases referred to SSA from the Internal Revenue Service (IRS) after individuals have disclaimed wages at an IRS office. We believe valid names and SSNs are being misused for work purposes.

SSA also encounters wages reported under "nonwork" SSNs assigned to noncitizens. While SSA has dramatically reduced the issuance of nonwork SSNs over the years, millions of nonwork SSNs are still in circulation. Each year employers report earnings to SSA under these nonwork SSNs and SSA is required to post them to the MEF. SSA is also required by law to annually report work activity under nonwork SSNs to DHS to assist DHS in its worksite enforcement efforts. Currently, SSA is reporting over half a million such individuals each year, with each reported case representing a potential violation of both Social Security and immigration laws. Recent changes in SSA's programs under the *Social Security Protection Act of 2004* further complicate this situation, since work reported under a nonwork SSN will be posted to the Master Earnings File but may not always qualify the earner for future benefits.

The OIG has conducted a number of audits on the nonwork SSN process. Overall, we have found that while SSA's data on noncitizens' work authorization status is not always current, the majority of the earnings items reported to the Agency under nonwork SSNs appear to relate to noncitizens working in the economy without proper work authorization. For example, our June 2006 audit on the top 100 employers reporting earnings under nonwork SSNs found that during TYs 2001 through 2003, a total of 109,064 noncitizens worked under nonwork SSNs for these 100 employers. The employer categories with the most nonwork wage postings were government, retail, and universities. After reviewing a sample of these nonwork SSNs, we found that we could not confirm work authorization for 63 percent of the individuals in our sample.

While DHS has primary jurisdiction over immigration matters, our jurisdiction over SSN misuse is in many ways parallel to DHS's worksite enforcement efforts, and we have worked with Immigration and Customs Enforcement (ICE) on a number of joint investigative projects. In these cases, the OIG's role is often limited, but can result in significant accomplishments, particularly when the employer is the target. When we can stop employers from hiring individuals who may be using others' SSNs or working under a nonwork SSN, the impact on SSA programs and operations can be significant.

In past hearings, DHS officials have noted that SSA earnings data can assist their Agency with its mission. However, restrictions on data sharing related to the Internal Revenue Code and Privacy Act limit our ability to provide this assistance to DHS.

Ensuring the Accuracy and Security of Verification Systems

A year ago, the former Chairman of this Subcommittee, Jim McCrery, asked the OIG to look at three aspects of SSN verification systems—the accuracy of the data upon which the verification systems are based, the controls over the verification programs, and the experiences of the employers who use the verification systems.

In our first review, we looked at SSA's Numident file, which contains relevant information about Social Security numberholders, including name, date of birth, place of birth, and citizenship status. These data are used in the EEVS. Mr. McCrery asked us to assess the accuracy of SSA Numident fields that are relied on by EEVS, for each of the following U.S. populations: (1) native-born citizens, (2) foreign-born citizens, and (3) non-citizens.

We reviewed 810 randomly-selected Numident records in each of the three populations for a total of 2,430 records. Although we found SSA's information to be generally accurate, we identified some discrepancies that could result in incorrect feedback to employers attempting to determine the employment eligibility of their workers. Specifically, of the 2,430 Numident records reviewed, 136 contained discrepancies in the name, date of birth or citizenship status of the numberholder or we determined that the numberholder may be deceased. As a result, we estimated that discrepancies in approximately 17.8 million (4.1 percent) of the 435 million Numident records could result in incorrect feedback when submitted through EEVS.

Because our tests included SSNs that were assigned decades ago, we recognize that some numberholders would no longer be working and would not attempt to correct their SSA and/or immigration records. However, if even a portion of the estimated numberholders whose Numident records contained discrepancies were required to visit an SSA office to correct their information, the Agency's workload may significantly increase until such time as the affected records were corrected.

In our second review, we gathered information on the experiences of employers who had used SSA's

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Social Security Number Verification Service (SSNVS) and EEVS. We interviewed program users at 100 employers—50 each from SSNVS and EEVS—to assess their satisfaction with the two programs. The 100 employers were in industries such as temporary employment, food, retail, and government. We found that 92 percent of the SSNVS users and 100 percent of the EEVS users interviewed rated the programs as “Excellent,” “Very Good,” or “Good.” In addition, at least 98 percent of the users from both programs indicated their employers were very likely to continue using the programs.

About 14 percent of the SSNVS users and 10 percent of the EEVS users we interviewed reported that they experienced minor problems using the two programs. In most of these cases, the users reported that SSA and/or DHS staff were able to resolve their problems timely. We also found that approximately 42 percent of EEVS users we interviewed were not using the program as intended. While the program is intended to verify the work authorization of newly-hired employees within 3 days after they are hired, some employers conducted verifications for longstanding employees or individuals who were not yet hired. We could not determine whether these employers misunderstood EEVS requirements or just simply ignored the policy. If DHS determines these other types of verifications should be allowed, legislative changes may be needed.

In our third review, we assessed controls over SSA’s SSNVS and EEVS to monitor potential abuse by employers as well as SSA and DHS’s experience to date with this monitoring. We found that SSA had established effective controls over access and use of sensitive data in its SSNVS program. For example, SSNVS had controls over the application process to verify (1) the applicant’s personal information, (2) the company’s Employer Identification Number, (3) the applicant’s authorization to use the service on behalf of the company, and (4) the applicant’s employment with the company. SSNVS also had controls to detect anomalies in SSNVS usage and potential misuse of the program. For example, SSA’s monitoring resulted in four investigations of misuse of the program as well as the deactivation of one user’s access to the program. EEVS did not have the same level of controls, in part because (1) the application process did not request some of the identifiers used by SSNVS to monitor the applicants, and/or (2) the information provided by the applicant during the registration process was not validated.

We also reported that DHS officials have met with officials from SSA and the IRS to discuss potential enhancements to EEVS as well as avenues for greater cooperation. DHS officials also stated that future meetings will discuss some of the monitoring and applicant verification activities already being performed under SSNVS. We believe continued coordination between DHS, SSA, and IRS would lead to more effective controls to minimize the potential misuse of EEVS.

We are also completing a fourth review in which we are assessing controls over all of SSA’s employee verification programs, be they electronic, paper, or via phone and fax, as well as EEVS. This review will also highlight best practices. As part of this audit, we will ensure that employers are receiving a consistent reply from all of the verification services. In addition, our review will determine whether SSA knows who is requesting the verification when it receives a telephone call or fax, and the level of monitoring performed to ensure that problem employers cannot access SSA’s data. We expect to issue this report in the next few months and as always, will share a copy with the Subcommittee.

It is critical that any verification system used to combat SSN misuse, inaccurate wage reporting, unauthorized work, SSA program fraud, and immigration violations be accurate and secure. Through reports such as those I’ve discussed today, our efforts to ensure the reliability of the data used by EEVS and the functionality and security of EEVS help employers report accurate wages to SSA and minimize the improper use of SSNs.

Thank you, and I’d be happy to answer any questions.

6-11



Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

**Senate Committee on Federal and State Affairs
Testimony by Tim Witsman on
SB 458
March 4, 2008**

Thank you very much for the opportunity to appear before you today. I am Tim Witsman, President of the Wichita Independent Business Association and the Kansas Independent Business Coalition.

Are WIBA and business organizations in general supportive of enforcing federal immigration laws? Yes.

Is immigration a federal issue? Yes. "The United States Chamber of Commerce has filed a lawsuit to enjoin Oklahoma's immigration law from interfering with federal law that comprehensively regulates the employment of unauthorized workers."

Should businesses be forced to use the e-Verify system on penalty of losing their business licenses? In November a 254 page evaluation of e-Verify commissioned by the U.S. Citizenship and Immigration Services and conducted by Westat failed to meet the accuracy standards set by Congress. The report stated: "Most importantly, the database used for verification is still not sufficiently up to date to meet the [Illegal Immigration Reform and Immigrant Responsibility Act of 1996] requirement for accurate verification, especially for naturalized citizens."

Is it a good idea for there to be twenty million illegal aliens in the United States? No.

Has the federal government failed to meet the challenge of creating a workable system to permit the level of legal immigration required by our economy and to prevent illegal immigration? Yes.

Is it feasible or the right thing for our economy to deport twenty million people? No. There are only two developed countries that have population replacement rates sufficient to prevent population decline – Israel and the United States. It is immigration that permits the United States population to grow. For those who fear, whether they voice it or not, an overwhelming of the native born by immigrants there are demographic facts that refute the argument. Once a country, regardless of its religion, ethnicity, or traditions, reaches the stage of having a developed economy the fertility rate slows to below replacement. A prime example is Mexico. As the Mexican economy has grown and strengthened over the past 20 years the fertility rate among Mexican women has dropped from seven children per woman to three.

Should Kansas be among the first states to threaten businesses with loss of their licenses? No. It is an unpleasant and ugly irony when governments that provide incentives for people to enter the country illegally seek to punish businesses for hiring them, even unintentionally. We have a system where the governments reward illegal immigrants but would punish businesses if they went to work and contributed to the economy. It is difficult for businesses to forget when we reluctantly agreed to participate in the Streamlined Sales Tax Program as a pioneer. Kansas businesses went through the effort and cost of changing to a destination sourcing system, only to have more populous states refuse to make the conversion.

SB 458 mandates all businesses use the federal pilot program known as e-Verify. This system, at its best has a 4.1% error rate, which equates to about 10,000 incorrect reports on an annual basis in Kansas. Despite attempts to provide safe harbor protection for Kansas businesses, the reality is this proposed legislation exposes Kansas business, particularly small businesses who are less sophisticated and equipped to detect false documents. In addition, Kansas creating a system different than the federal verification only places additional administrative burdens on Kansas employers. Though this might be worthy, it does add costs to doing business in Kansas.

The members of WIBA believe there are reasonable and appropriate steps to address illegal immigrant problem at the state level. HB 2921 provides a mechanism to incent businesses to use e-Verify, increased penalties for identity theft and fraud, and penalties for the exploitation of illegal aliens. To do more than this is to be destructive to Kansas businesses, in particular small business.

I would be happy to answer any questions you might have.



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
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TO: Senate Federal and State Affairs Committee

FROM: Sandy Jacquot, Director of Law/General Counsel

DATE: March 4, 2008

RE: Opposition to SB 458

Thank you for allowing the League of Kansas Municipalities to testify on behalf of its 585 member cities in opposition to SB 458. This bill is directed in various aspects to those individuals who are unlawfully in the United States. The League's opposition is not to the underlying policy issue, but to the unfunded mandates, confusing and ambiguous language in the bill and the exposure to potential litigation and liability. We believe this bill has mandates that will be very difficult, and possibly costly, for city officials to apply.

This bill requires the verification of all new employees through the use of the e-verify system. It has the additional requirement in Section 2 of prohibiting the municipality from doing business with contractors unless the contractor is registered with and using the e-verify system for its employees. Much has been said in these hearings about the accuracy or inaccuracy of the e-verify system. Two things are clear, however. Use of the system has the potential to deny jobs to lawful workers. Further, there is a cost to use the system and the inevitable upgrades to the system will only serve to increase the costs. These are mandates that will add to the cost of providing services to municipalities.

This bill, in addition, requires law enforcement officers to inquire into the citizenship or immigration status of every individual detained for a violation of law. There is nothing to indicate how an officer is to determine legal status, except by asking the person detained. If the individual indicates that he or she is not a citizen or national, then the law enforcement officer must verify the legal status. First, despite the proponents' assertions to the contrary, it is by no means clear that the state has the authority to mandate that law enforcement agencies enforce federal immigration laws. Second, this provision risks making our communities less safe because of the chilling effect it will have on the reporting of crime in the immigrant community. Community trust is a very important factor in policing and such provision will erode that trust, making law enforcement a far more difficult task.

In addition, this bill has the potential to subject cities to discrimination and 42 U.S.C. § 1983 lawsuits. Because of the complexity of the immigration status categories and what documentation is sufficient to show legal status, it is possible that law enforcement officers may use racial profiling to determine who to question. The risk is great that municipalities and even state agencies will be sued for violating the civil rights of those lawfully in the country. In addition, lengthening every detention to inquire into or verify legal status has the potential to

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violate detainees' Fourth Amendment rights, also resulting in potential lawsuits. It is important to remember that most immigration status violations are civil, not criminal.

Since there is no way for the State to immunize cities from lawsuits under federal law and the United States Constitution, unless the State is prepared to indemnify cities against such litigation and potential damage awards for complying with the bill's requirements, the legislation is ill-advised and should not be adopted.

The limitation on providing public benefits is extremely confusing and will be difficult for cities to apply. First, under this bill, cities will have to verify that anyone who is not a citizen of the United States, or cannot prove that he or she is a citizen of the United States, is lawfully in the country. This will involve using the Homeland Security SAVE system, which is a fee service to check residency status. In addition, local governments will need to understand exactly what documents will suffice to show the type of immigration status of the individual. Thus, there will be a cost to local governments in implementing the bill that will likely require much training for city officials. City officials who in good faith attempt to comply with the requirements of this bill could violate various civil rights of individuals, subjecting cities to liability. In addition, the bill exempts certain benefits that are required by federal law to be offered. It then, however, goes beyond the language of the federal law to define public benefits as any of the enumerated services "under which payments, assistance, credits or reduced rates or fees are provided." It is not clear from the language how broadly this must be interpreted and what those terms mean in the context of the bill. The bill does not require the public agency to provide the benefit for it to be covered by the requirements, so if a social service agency receives public funds, does the service it provides become a public benefit? If so, must the social service agency verify the legal status of those receiving the service?

The other issues raised by this bill include the chilling effect it would have on services to children born in the United States to those unlawfully in the country. In addition, it would discourage preventative health care, prenatal care and other non-emergency health care provided by local health agencies.

For all of the above-stated reasons, the League urges this committee not to report SB 458 favorably. I will be available to answer questions at the appropriate time.



Public Health Department

Joseph M. Connor, Director

619 Ann Avenue
Kansas City, KS 66101-3038

Phone (913) 321-4803
Fax (913) 321-7932

Testimony in Opposition to SB 458
Senate Federal and State Affairs Committee
March 4, 2008, 10:30 p.m., Room 526 South

SB 458 would put an unfair burden on the Unified Government Public Health Department to provide services to the residents of our community. The Unified Government opposes this bill but if the committee does decide to advance it we would request that public health services be exempted from this bill so that we can continue to strive to provide effective public health protections in Wyandotte County and in the State of Kansas.

Citizenship status verification for the public benefit programs that we administer would limit our ability to meet many of the Ten Essential Public Health Services as listed on page two. It also places a large administrative burden that will increase our costs to do business and reduce our efficiency.

An example of the negative impact on our services would be highlighted in our Prenatal Collaborative. In December, 2006 we transitioned from providing direct patient care to a nursing case management model. Our target population is the uninsured and over the last 3 years 90-97% of the women served are of Hispanic origin. The Prenatal Collaborative is our link (Essential Service #7) for people to a needed personal health service.

One of the health status indicators (Essential Service #1) for Wyandotte County that highlights the need for this collaborative is the rate at which prenatal care is accessed in the first trimester. For the years 2004-2006 the State of Kansas average is 79.3%. Over that same period the rate in Wyandotte County is 67.2% and for Hispanic women in Wyandotte County the rate is 52.4%. The Healthy People 2010 goal is 90%.



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There are Ten Essential Public Health Services as a part of the National Public Health Performance Standards Program that public health departments are striving to achieve.

Those ten services are:

1. Monitor health status to identify and solve community health problems.
2. Diagnose and investigate health problems and health hazards in the community.
3. Inform, educate and empower people about health issues.
4. Mobilize community partnerships and action to identify and solve health problems.
5. Develop policies and plans that support individual and community health efforts.
6. Enforce laws and regulations that protect health and ensure safety.
7. Link people to needed personal health services and assure the provision of health care when otherwise unavailable.
8. Assure competent public and personal health care workforce.
9. Evaluate effectiveness, accessibility and quality of personal and population-based health services.
10. Research for new insights and innovative solutions to health problems.

STUART J. LITTLE, Ph.D.
Little Government Relations

House Federal and State Affairs Committee

Testimony on Senate Bill 458

March 4, 2008

Mr. Chairman Brungardt and Members of the Committee,

My name is Stuart J. Little and I appear today on behalf of Johnson County Government in opposition to one portion of SB 458. The Johnson County Board of County Commissioners discussed the issue of immigration related bills on Thursday, February 21 and asked me to appear today to express their concerns about one portion of the bill. Johnson County Government believes the provisions of new section 5 of SB 458 if enacted into law would have a negative impact on the public health and welfare of our community.

As you are aware, county government serves as the front line of the state, local, and federal efforts to meet citizens' needs for a wide range of social, family, public health and other services. Additionally, county government has a duty to enforce the laws, punish offenders, and generally protect the public welfare. The costs to the state and the county to provide these services are great and they strain the resources of both levels of government to meet the present and ever-increasing demands for services.

As the Committee debates the impact and benefits of Senate Bill 458, the Johnson County Board of County Commissioners believes the impact of new section 5 of the bill, beginning on page five, would have a social, public safety, and potential public health impact in excess of current cost of providing these services. Currently the various divisions of Johnson County are exploring what are the cost of providing services and supervision to illegal aliens. Some of the considerations the BOCC must weighing for example, include: aliens with communicable diseases which would go unaddressed; children and newborns in need of services who will otherwise "touch" the public system in the future, such as the public school system; offenders both adult and juvenile who are currently service sentences or on supervision who would be removed from the system. What would be the administrative costs of determining citizenship?

We welcome your thoughtful consideration of how this legislation in new section 5 will impact the duties and responsibilities of the social services and public safety in your counties.

I would be glad to stand for questions at the appropriate time.



KANSAS BOARD OF REGENTS

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**Senate Federal and State Affairs Committee
March 4, 2008**

Testimony in Opposition to SB 458

**Reginald L. Robinson
President & CEO**

Chairman Brungardt, Ranking Member Gilstrap, and Members of the Committee, I appreciate the opportunity to appear before you to offer views on behalf of the Kansas Board of Regents regarding SB 458 – legislation that would prohibit certain undocumented immigrants from attending the state’s public postsecondary institutions at in-state tuition rates. I know you have many conferees to hear from today, so I will keep my testimony brief.

As Members of this Committee may know, the Board of Regents strongly endorsed the adoption of HB 2145 (now codified at KSA Section 76-731a), the original legislation that granted certain undocumented immigrants the opportunity to attend the state’s public postsecondary institutions at in-state tuition rates, when it was considered and ultimately approved during the 2004 Legislative session. The Board supported this legislation because, in the Board’s view, it embodied the concept of expanded educational opportunity for people who live in Kansas, and who seek to enhance their ability to contribute to the well-being of our state and its economy.

The Board supported HB 2145 because it believed that its enactment would work to enhance the likelihood that students who either graduate from Kansas high schools or earn state-issued GED certificates will attend one of the state’s institutions of higher education.

The Board supported HB 2145 because it believed further, that given the remarkably competitive and increasingly global economic environment that confronts us, Kansas truly needs a highly educated workforce if it is to remain competitive and reach its full potential. The Board believed additionally that measures such as HB 2145, which remove barriers to higher education access, are critically helpful and important in that regard.

The Board supported HB 2145 based upon its belief that in its final form, it represented a carefully-crafted piece of legislation that could achieve the goals I outlined above, yet still remain consistent with Federal law in this area. I would note, parenthetically, that there is pending federal legislation that would make it easier for states to achieve the goals I’ve outlined. That pending legislation is titled the Development, Relief, and Education for Alien Minors (DREAM) Act, and I might note that United States Senator Sam Brownback has long supported this proposal.

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The Board supported HB 2145 because it concluded that the fiscal consequences flowing from the provision would be minimal and likely positive. The students who benefit from this provision are students who, but for the opportunity this law presents, would be unable to pay the out-of-state tuition that would be required of them. Some who are concerned about the impact of this law have concluded that as a result of the opportunity those students are seizing to attend our institutions at in-state rates, the institutions are "losing" the marginal dollars represented by the gap between that in-state tuition figure and the out-of-state rates these students would otherwise be required to pay. That analysis is absolutely incorrect.

As I've said, the reality is that confronted with the prospect of those out-of-state rates, these students would be unable to bear those costs. They would lose their opportunity to advance their education, the institutions would lose the in-state tuition that they are currently collecting from these students, and the state would lose the many benefits from the enhanced contributions these students would make as a result of the education they would obtain. Information regarding the number of students currently benefiting from the law is attached to my testimony.

For all of the reasons that the Board supported the enactment of HB 2145, it must now oppose SB 458. The Board's embrace of HB 2145 was enthusiastic and unanimous, and the Board is pleased that this door to educational opportunity has been partially opened. And, in that regard, I would note that I have offered my perspective regarding what HB 2145 IS. As you consider the piece of legislation before you today, I think it is also critically important for everyone to understand what HB 2145 is NOT.

Contrary to what I have heard from many:

HB 2145 is NOT a law that allows undocumented immigrant students to attend public post-secondary institutions for free. These students who come from our state's high schools must still pay tuition. They must pay the same tuition that their high school classmates pay as they attend our state's colleges and universities.

HB 2145 does NOT relieve any students who seek to benefit from the provision of the obligation to fully and completely satisfy institutional admissions requirements. Like all of the Kansas high school graduates who attend our institutions, these students must demonstrate their capacity to do the work.

Finally, HB 2145 does NOT make any of these undocumented immigrant students eligible to receive ANY state or federal student financial aid. Unlike their high school classmates, these students are not eligible to receive any of that support, no matter how evident or significant their financial need.

The Board of Regents believes that the enactment of HB 2145 represented an important step in helping Kansas to produce the kind of workforce it will need to maintain the economy and quality of life we want in our state. The Board supports the continued operation of HB 2145, and opposes any effort to repeal it.

Mr. Chairman, thank you for giving me the opportunity to appear before your committee today.

Kansas Board of Regents
Reported Number of Students Enrolled Under Provisions of K.S.A. 76-731a
Fall 2004 through Fall 2007 (20th Day Enrollment Submission)

Institution		2004	2005	2006	2007
Public Universities:	Emporia State University	0	4	4	9
	Fort Hays State University	1	1	6	7
	Kansas State University	3	4	4	7
	Pittsburg State University	0	1	2	2
	University of Kansas	2	4	8	11
	Washburn University	0	0	0	0
	Wichita State University	1	21	5	10
	Total:	7	35	29	46
Community Colleges:	Allen County	-	0	1	1
	Barton County	-	3	2	1
	Butler County	-	14	28	31
	Cloud County	-	0	0	0
	Coffeyville	-	4	0	0
	Colby	-	0	0	0
	Cowley County	-	2	2	2
	Dodge City	-	0	0	0
	Fort Scott	-	0	0	0
	Garden City	-	5	7	10
	Highland	-	0	0	2
	Hutchinson	-	2	2	6
	Independence	-	0	0	0
	Johnson County	-	51	40	69
	Kansas City KS	-	4	10	32
	Labette	-	0	0	0
	Neosho County	-	1	2	1
	Pratt	-	1	1	2
	Seward County	-	94	35	36
	Total:	30*	181	130	193
Technical Colleges:	Flint Hills Technical College	0	3	0	1
	Manhattan Area Technical College	0	0	0	0
	North Central KS Technical College	0	0	0	0
	Northeast KS Technical College	0	0	0	0
	Northwest KS Technical College	0	0	0	0
	Wichita Area Technical College	0	1	4	0
	Total:	0	4	4	1
Technical Schools:	Kansas City KS Area Technical School	0	1	6	2
	Kaw Area Technical School	0	0	0	0
	Salina Area Technical School	0	0	0	1
	Southwest Area Technical School	0	0	0	0
	Total:	0	1	6	3
GRAND TOTAL:		37	221	169	243

* In 2004, Community College data was collected as a sector-wide total instead of by individual institution.

Notes: Data Self-Reported By Institution.
K.S.A. 76-731a became law July 1, 2004.

Testimony of
Mira Mdivani
Immigration Attorney

Against Kansas Senate Bill 458

Good afternoon. My name is Mira Mdivani. I practice immigration law with the Mdivani Law Firm in Overland Park, Kansas. Most of my practice is assisting U.S. employers with I-9 immigration compliance, E-verify and work visas. I testify in opposition to Kansas Senate Bill 458.

I. Reasonable Government

Our business-related immigration policy is unreasonable. All it does is THREATEN AND PUNISH employers. It does not provide legal tools for employers to comply with the law. The federal government and the states compete on who can punish more. Going back in history, unreasonable immigration policy was listed in the Declaration of Independence as one of the reasons we wanted a different government, not the oblivious King. Looking forward, all three presidential candidates are for more reasonable immigration policy, including work visas.

II. Need vs. Reality

In Kansas, many businesses are in a labor crunch They would love to hire Americans, but Americans are not applying or not staying on those jobs. These employers need legal visas. The federal government makes it illegal to hire undocumented workers with knowledge. OK. So can Kansas Employers Hire Legally? No, There is NO WAY: NO legal visas to be had. None whatsoever. I have enclosed the work visa count and visa bulletin showing no visa availability this year.

IV. E-Verify

E-Verify that you want to mandate now, is so prone to error at this time that even the Federal Government who is set on introducing it, is holding off until improvements are made. In some states, E-Verify is illegal, such as Illinois, where state legislature prohibited employers from using it.

V. All My Business Clients Want to Hire Legally

Our clients who have registered for E-Verify and applied for legal visas, did not get any this year. So they can be proud of themselves: they are in complete compliance.

Also, they have no workers to work for them. No one to cut the grass, no one to roof. No one to paint. What can they do?

They wish they could out source to Mexico or China, but see, they can't: their business is providing services in Kansas. So they will be laying off their Kansas-born workers and closing the doors until such time that our government will wake up and give them tools to comply with the law instead of punishing them. I testify against this bill because it is anti-business and against all immigrants, including legal workers.

Visa Bulletin

Number 116
Volume VIII
Washington, D.C.

VISA BULLETIN FOR MARCH 2008

Visas Home
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Questions about
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A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **March**. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by February **8th** in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the first applicant who could not be reached. Only applicants who have a priority date before the cut-off date may be allotted a number. Numbers necessary during the monthly progress a cut-off date, supplemental numbers will be honored only if the priority date falls before the cut-off date.

Code of Federal Regulations
Immigration and Nationality Act
Foreign Affairs
Visa Policy
Congressional Testimony
Links to Relevant Legal and Policy Web Sites

migration and Nationality Act (INA) sets family-sponsored preference limit of 14,000 and employment-based preference limit for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is earlier than the cut-off date listed below.)

Fam-ily	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPP-INES
1st	15FEB02	15FEB02	15FEB02	01JUL92	01MAR93
2A	15APR03	15APR03	15APR03	01MAY02	15APR03
2B	08FEB99	08FEB99	08FEB99	01APR92	01FEB97
3rd	15MAY00	15MAY00	15MAY00	15JUL92	01APR91
4th	15JUL97	01DEC96	01NOV96	15NOV94	22FEB86

***NOTE:** For March, 2A numbers **EXEMPT from per-country limit** are available to applicants

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from all countries with priority dates **earlier** than 01MAY02. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAY02 and earlier than 15APR03. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIP-PINES
Employment-Based					
1st	C	C	C	C	C
2nd	C	01DEC03	U	C	C
3rd	01JAN05	01DEC02	01AUG01	01MAY01	01JAN05
Other Workers	01JAN02	01JAN02	01JAN02	01JAN02	01JAN02
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.


Employment Third Preference Other Workers Category: Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW cut-off date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to



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Related Links:

[Press Release: USCIS Reaches H-1B Cap, 4/3/2007 \(41KB PDF\)](#)

[Press Release: USCIS Reaches H-1B Exemption Cap, 5/4/07 \(39KB PDF\)](#)

[Press Release: USCIS Issuance of Receipts for H-1B Cap Cases On-Going, 5/11/07 \(27KB PDF\)](#)

[Press Release: USCIS Issues Service Center Receipting Update, 5/24/07 \(33KB PDF\)](#)

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Current Cap Count for Non-Immigrant Worker Visas for Fiscal Year 2008

What is a "Cap"?

The word "Cap" refers to annual numerical limitations set by Congress on the numbers of workers authorized to be admitted on different types of visas or authorized to change status if already in the United States.

H-1B

Established by the Immigration Act of 1990 (IMMACT 90), the H-1B nonimmigrant visa category allows U.S. employers to augment the existing labor force with highly skilled temporary workers. H-1B workers are admitted to the United States for an initial period of three years, which may be extended for an additional three years and, in some cases, beyond, if an a/s application is pending.

An H-1B nonimmigrant (with the exception of certain fashion models) must have a bachelor's degree or higher (or equivalent) in the specific specialty. The H-1B visa program is used by some U.S. employers to employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field and a bachelor's degree or its equivalent. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. The H-1B visa program also includes certain fashion models of distinguished merit and ability and up to 100 persons who will performing services of an exceptional nature in connection with Department of Defense (DOD) research and development projects or coproduction projects. The current annual cap on the H-1B category is 65,000. Not all H-1B nonimmigrants are subject to this annual cap.

H-1B Employer Exemptions

H-1B nonimmigrants who are employed, or who have received an offer of employment, by institutions of higher education or a related or affiliated nonprofit entity, as well as those employed, or who will be employed, by a nonprofit research organization or a governmental research organization are exempt from the cap.

H-1B Advanced Degree Exemption

The H-1B Visa Reform Act of 2004, which took effect on May 5, 2005, changed the H-1B filing procedures for FY 2005 and for future fiscal years. The H-1B Visa Reform Act of 2004 also makes available 20,000 new H-1B visas for foreign workers with a Master's or higher level degree from a U.S. academic institution. Such persons are statutorily exempted from the annual cap.

	Cap	Beneficiaries Approved	Beneficiaries Pending Petitions Received	Beneficiaries Pending Petitions yet to be Received	Total	Date of Last Count
H-1B (FY 08)	58,200 ¹	-----	-----	-----	Cap Reached	4/2/2007
H-1B Advanced Degree Exemption (FY 08)	20,000	-----	-----	-----	Cap Reached	4/30/2007

¹ 6,800 visas are set aside during the fiscal year for the H-1B1 program under the terms of the legislation implementing the U.S.-Chile and U.S.-Singapore Free Trade Agreements. Unused numbers in this pool can be made available for H-1B use with start dates beginning on October 1, 2007, the start of FY 2008. USCIS has added 5,800, the projected number of unused H-1B1 Chile/Singapore visas to the FY 2008 H-1B cap.

H-1B1

An H-1B1 is a national of Chile or Singapore coming to the United States to work temporarily in a specialty occupation. The law defines an H-1B1 specialty occupation as a position that requires theoretical and practical application of a body of specialized knowledge. The beneficiary must have a bachelor's degree or higher (or equivalent) in the specific specialty. The combined statutory limit is 6,800 per year. 1,400 visas are set aside annually for nationals of Chile, and 5,400 for nationals of Singapore.

H-2B

The H-2B visa category allows U.S. employers in industries with peak load, seasonal or intermittent needs to augment their existing labor force with temporary workers. The H-2B visa category also allows U.S. employers to augment their existing labor force when necessary due to a one-time occurrence which necessitates a temporary increase in workers. Typically, H-2B workers fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service/processing, and resort/hospitality services.

The Save Our Small and Seasonal Businesses Act of 2005 (SOS Act) divided the annual numerical limitations of 66,000 into two halves. USCIS regulations allow for filings 6 months in advance. However, H-2B petitioners first must obtain a temporary labor certification from the Department of Labor (DOL). DOL regulations stipulate that the application for temporary labor certification may not be filed more than 120 days in advance of the need for the employee to ensure the accuracy of the labor market test. Thus, USCIS normally begins receiving H-2B petitions with employment start dates in October in June or July.

What is the H-2B numerical limit set by Congress?

The H-2B numerical limit set by Congress per fiscal year is 66,000. USCIS notes that, as of October 1, 2007, Congress has not amended the "returning worker" provisions of the Save Our Small and Seasonal Businesses Act of 2005 (SOS Act) to cover FY 2008.

Until October 1, 2007, if a petition was approved only for the purpose of extending an alien's stay in H-2B status, or only for change or addition of employers or a change in the terms of employment, the worker was not counted against the numerical limit at that time. By contrast, an alien who changes nonimmigrant status to H-2B was generally counted against the annual H-2B cap.

Why does USCIS authorize more H-2B workers than the statutory limit?

USCIS adjudicates H-2B petitions based on the facts presented by the petitioner in the petition. If the alien beneficiaries of the H-2B petition are abroad, USCIS then sends the approved petitions to the Department of State (DOS) for consular processing. Employers, however, may decide after submitting an H-2B petition that the aliens on whose behalf it petitioned are no longer needed. In such cases, DOS will not issue the aliens an H-2B visa. In other instances, some aliens never appear at the consular post for their H-2B visa interview following petition approval. DOS may also deny some H-2B visa applications even though USCIS has approved petitions for these workers. Similarly, DHS Customs and Border Protection (CBP) may determine at a port-of-entry that the beneficiary of an approved H-2B petition is inadmissible and refuse to admit the alien to this country.

Because of such "drop outs," the number of potential H-2B workers authorized to work by USCIS will exceed the actual number of visas issued based on petition approvals -- the basis of the statutory limit.

	Cap	Beneficiaries Approved	Beneficiaries Pending	Beneficiaries Target ¹	Total	Date of Last Count
H-2B 1st Half	33,000	----	----	----	Cap Reached	9/27/2007
H-2B 2nd Half	33,000 ₂	----	----	----	Cap Reached	1/2/2008
H-2B Annual (FY 08)	66,000 ₃	----	----	----	----	----

¹ Refers to the estimated numbers of beneficiary applications needed to reach a cap, with an allowance for withdrawals, denials and revocations.

² A shortfall in the 1st half would be made up in the 2nd half.

³ Visas issued plus beneficiaries changing status already in the United States.

H-3

The H-3 nonimmigrant visa category is for aliens who are coming temporarily to the U.S. to receive training (other than graduate medical education or training). The training may be provided by a business entity, academic, or vocational institute. The H-3 nonimmigrant visa category also includes aliens who are coming temporarily to the U.S. to participate in a special education training program for children with physical, mental, or emotional disabilities. There is a limit of 50 visas per fiscal year allocated to H-3 aliens participating in special education training programs. As of November 29, 2007, one of these H-3 visas had been approved with a start date in FY 2007.



Kansas Independent Oil & Gas Association
800 SW Jackson Street – Suite 1400
Topeka, Kansas 66612

Testimony to the Senate Federal & State Affairs Committee
Senate Bill 458
AN ACT enacting the Kansas illegal immigration relief act

David M. Dayvault
President, Kansas Independent Oil & Gas Association
Chief Financial Officer, Abercrombie Energy, LLC

March 4, 2008

My name is David M. Dayvault. I am the President of the Kansas Independent Oil & Gas Association (KIOGA) and the Chief Financial Officer of Abercrombie Energy, LLC. KIOGA is a trade association representing over 1,400 oil and gas producers and related service companies in the state of Kansas. Abercrombie Energy, LLC produces oil and gas in 35 Kansas counties and until recently operated five rotary drilling rigs in Kansas, Oklahoma and Texas.

KIOGA recognizes that the control of our borders and problems related to illegal immigration are serious problems with ramifications well outside the workplace. As the Kansas legislature entertains legislation to help solve these problems we hope that it does so in a manner which recognizes the burdens that certain solutions can place on an employer and the high cost to the employer of making a mistake.

Central to the concept of SB 458 is that each employer should use the system e-Verify. Use of this computerized system at the time of hiring would create a rebuttable presumption that the employer has acted in good faith and has not willfully hired an undocumented worker.

The e-Verify system will prove impractical for many in the oil and gas business particularly the drilling and service contractors. Much of the hiring by these employees in the field at a location where computer link up is not possible. Much of this hiring is done on a moments notice and may be done by someone who is not proficient in using a

computer. The manager of the drilling rig, known as a toolpusher, is responsible for keeping three crews of at least four workers working continuously during the drilling of an oil or gas well. While the rig hands are paid wages starting at \$18.00 per hour or above turnover is high because many individuals find that they don't like the work once they've tried it. Working on an oil rig is hard work, dirty and in many circumstances in unpleasant weather. When an employee quits a replacement must be found on short notice. Often if a worker can't show up for his shift he sends a substitute. The new worker will present his documents to the toolpusher and the toolpusher will make copies of these in the course of the day and this information is sent to the home office at least weekly. Verification procedures can then be done in the home office and if a discrepancy is discovered, the worker is asked to straighten out the matter. In some cases he is able to do so but in most cases this may be the last that the employer sees of this worker. In any event the verification process may not be complete for a week or two after the initial hiring. Use of the e-Verify system at the time of hiring is impractical under these circumstances.

As you consider this legislation we believe that exempting employers with ten or fewer employees and having a thirty day grace period for the verification process for larger employers would make this process less burdensome.

The bill would impose sanctions upon employers who knowingly hire an illegal worker. We have concerns as to what knowledge would be attributable to the employer. We are concerned that knowledge of an employee's status held by a fellow employee, but not reported to management, could be evidence of non-compliance. We would like to see clarification of this matter such that only the knowledge of the individual involved in the hiring process would be attributable to the employer.

SB 458 requires all employers to submit an affidavit to the Department of Revenue accompanying their tax return stating that not only they but all of the independent contractors which they have utilized during the year are registered with e-Verify and are using the system. Absent this certification the employer would lose the Kansas income tax deduction for any payments to such an independent contractor. Kansas oil and gas companies typically use hundreds of independent contractors due to the wide geographical area covered by their operations and the wide variety of services needed to continue to operate an oil and gas well. Many of these subcontractors are very small and a substantial number are one person operations. Many of these contractors would not be able to use the e-Verify system for reasons stated above and would have no need to use the system if they were not employers themselves. Obtaining the documentation that each contractor was properly utilizing the system would be extremely burdensome for most employers in our industry. We recommend that these provisions of the bill be removed in their entirety.

We are also concerned about the consequences of failure to comply. The bill imposes penalties of loss of business licenses including the forfeiture of one's articles of incorporation. Without discounting the seriousness of this matter, this level of sanction is disproportionate to the level of the offense. The loss of a business license will result in

layoffs to employees who have been legitimately hired and the loss of the product or service to the general product. The consequences in many areas of Kansas would be far-reaching should the employer be one providing a vital service which could not be replaced easily in that location. We would prefer to see a schedule of progressive sanctions whereby the loss of business license could not occur except in the most egregious cases of non-compliance.

Most Kansas businesses genuinely want to comply with our immigration laws. When we are deceived by false documents this creates a problem for us as well as we must find another worker. As this legislation progresses please be mindful of the burdens it may place upon employers and the costs associated with those burdens.

Testimony
Senate Federal and State Affairs Committee
Dalton Hermes, Owner
Hermes Company, Inc.
March 4, 2008

Thank you to the committee for this opportunity to testify. My name is Dalton Hermes, owner of Hermes Company, Inc. I am a life-long resident of the state of Kansas and an active contributor to the Kansas community.

My company has supported the Kansas economy for almost forty-five years. I testify today for myself as a business owner and on behalf of nearly one hundred Kansas residents employed by my company. I am respectfully testifying my opposition to Senate Bill No. 458 (SB 458).

My company is in the landscape and nursery industry. We provide a service to the community and are a producer of agricultural product. The most critical resource this company must have, to provide these goods and services, is an ample supply of low-skilled and semi-skilled labor, to work on a seasonal basis. A resource we have not been able to secure, without the significant use of legal immigrant labor, despite continuous and exhaustive efforts to employ U.S. citizens in these occupations.

SB 458 prescribes a number of penalties for business found to have hired unauthorized workers. Once again, I am not speaking as an employer hiring unauthorized workers. My company has utilized both the H2A and H2B visa program, for over 10 years, to employ legal immigrant guest workers. I am protesting this proposed legislation from the standpoint of almost certain peril Kansas employers, such as myself, will face when we are not able to hire enough workers to remain in business.

As I am sure you are aware, the federal government dictates the number of guest worker visas, such as H2A and H2B available to employers, and they have failed to allow for a sufficient number to meet the demands of U.S. businesses. At the same time, legislation is now being proposed at the state level, as in SB 458, placing additional obstacles to hiring. Employers are caught in the middle and find themselves with no means to employ the number workers needed.

As long as there are an insufficient number of guest worker visas available, countless upstanding employers will be faced with the devastating fact they are not able to find enough authorized workers to remain in business. They will be in this situation because there are simply not enough U.S. workers to fill these jobs. I know this is true of the landscape industry and of many other industries such as ours (i.e. construction, restaurant, hospitality, agriculture) that need a high percentage of labor to operate their businesses.

Many opponents to immigrant labor claim U.S. workers will not take these jobs because of the low wages paid in such occupations. This is simply not true. Our company pays starting wages in the range of \$8.35 - \$15.00 per hour, which is well above the federal minimum wage. Our colleagues in the construction industry pay union workers \$35.00 per hour and more and are still unable to fill all their positions at those rates. This is not a wage issue; it is a supply issue.

As our elected officials and stewards of the state of Kansas, it is imperative you gather the correct facts before passing any new legislation. It is necessary to know the current net impact the immigrant workforce has on the Kansas economy and the full impact this proposed legislation would have on the economic stability of the state. It would be irresponsible to pass such legislation on speculation and emotion.

There is much criticism that immigrant workers, especially unauthorized workers, are a drain on our social service system. However, I believe the data would reveal there is a net gain. Immigrant workers, and their employers contribute a tremendous amount of income taxes, unemployment taxes, social security taxes etc. that fund programs made available to U.S. citizens, but not to immigrant workers.

I believe research, on the impact of measures as proposed in SB 458, will reveal a devastating economic outcome for the state. Countless Kansas businesses would be crippled or destroyed; jeopardizing income they bring to the state and the livelihood of the Kansas residents they employ.

If I am unable to find enough workers to stay in business, the almost one hundred Kansas residents I do employ will lose their jobs, many who have worked for my company for 15 years or more.

My company alone directly contributes almost \$ 750,000.00 to the Kansas economy. This figure is comprised of payroll taxes, unemployment taxes, real estate and property taxes, sales and use taxes, licensing fees etc. This \$ 750,000.00 is the amount of revenue the state receives directly from my business, it doesn't count for the additional revenue received from the Kansas residents gainfully employed at my company. If I am unable to hire enough workers to operate my company, the state of Kansas will lose this revenue. I urge you to consider the revenue that will be lost from the hundreds of other companies contributing to the Kansas economy.

Over the past several decades, the federal government has allowed the problem of unauthorized workers to continue because they know our country must have immigrant labor to survive. We are following the federal laws as they currently exist and will continue to abide by federal law. This is a problem for the federal government to solve and they will solve it. The dialogue has already begun. Until such time a federal solution is found, imposing additional piecemeal legislation at the state level will only create more complexity to an already very complex problem. A problem that needs a meaningful, effective and comprehensive solution, at the federal level.

Until the federal government defines a comprehensive solution, I would encourage the state of Kansas to look at alternative solutions to those proposed in SB 458. Solutions to achieve some of the same desired objectives without destroying Kansas business. In fact I believe there are solutions to be found that could actually expand business and the state economy. I am certain the Kansas employers such as myself, would welcome the opportunity to seek those solutions together.

I would like to reiterate I am not in favor of hiring unauthorized workers. I am in favor of legislation that will provide upstanding Kansas businesses the legal means to hire a sufficient number of workers to stay in business. Furthermore, I am not in favor of businesses that may hire unauthorized workers with blatant disregard for our current laws (i.e. not paying them through documented payroll systems, paying insufficient wages, avoiding taxes, not collecting required documentation etc.).

I am in favor of U.S. business providing jobs and opportunity to U.S. citizens first, and we do. In fact, we have been approved to utilize H2A and H2B workers only because the Department of Labor agrees we have done and continue to do everything we can to hire U.S. workers.

I have invested forty years of my life and all of my personal assets in this company. A company that consistently contributes, to the Kansas economy. It is disheartening to contemplate the very community I have supported all these years, may take away my ability to continue this business, and my support of the Kansas economy and the Kansas residents I employ. In your role, I know you all want the state of Kansas to thrive. I am confident we can work together to find solutions to real immigration reform while allowing Kansas businesses and the Kansas economy to flourish.

Thank you.

TESTIMONY TO SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

I, Sister Gemma Doll, testify against SB458 on behalf of the Most Reverend Ronald Gilmore, Bishop of the Catholic Diocese of Dodge City. I thank the Federal and State Affairs Committee for hearing me, esp. my Western Kansas neighbor Senator Ostmeyer. As the Coordinator of Cultural Formation, I work to build bridges between the Anglo and Hispanic communities. Therefore, I experience on a daily basis that immigration and the immigrant labor force impact every phase of life for Western Kansas.

Last fall at a Town Hall meeting with Congressman Jerry Moran, immigration dominated the conversation. Businessmen expressed dismay that the national government had failed to achieve comprehensive immigration reform. One large agricultural producer went so far as to say if comprehensive immigration reform happened tomorrow, it would be too late.

I invited this gentleman to testify with me today. He deferred, not because of time constraints or lack of interest. He is afraid to visibly express dissent to this proposed anti-business, anti-immigrant legislation because he would likely be among the first to be audited for hiring practices. He insists that he does his best to follow the law. But he is keeping a low profile to avoid fear among his workforce and the possibility of fines, whether justified or not. It is fear that prevents you from hearing from our most successful and productive Kansans. This kind of legislation in a social context of racism weakens our democracy.

Another businessman is seriously considering shutting down a \$500,000/yr livestock operation because he cannot find adequate workers. This is a loss to the local community, a loss to tax revenue, a loss of population. As other producers confront the same dilemma, one-by-one business shuts down, one-by-one a school closes. Our Western Kansas communities slowly hemorrhage to death.

An underground labor market puts thousands of unskilled workers at risk for exploitation and deprives the State from significant tax revenue. If we had an established system that allowed workers to acquire visas legally, a system accessible to both employers and workers, this would eliminate the need for people to risk their lives crossing the border and would enable employers to hire workers legally. It would also go a long way in reducing the amount of crime along the border and let the Border Patrol focus on real security issues. The number of H-2B visas available today is woefully inadequate. At least 200,000 and probably more are needed for temporary workers in restaurants, hotels, construction, etc. not to mention both temporary more permanent workers in agriculture.

I ask you to resist the frustration resulting from the inactivity of our Federal Government. Kansans deserve better from our legislators. I urge you to enact laws that benefit and support all people of our State.

I trust you are aware that the Government Accountability Office and the Social Security Administration's Office of Inspector General have found significant weaknesses in E-Verify, including unacceptably high error rates and employer misuse of the program. Can fear be allayed by passing more laws that cannot work and push Kansans to have less trust and less confidence in our laws? I join with other Christian leaders and people of good faith who honor the dignity of every human person and urge you to resist fear, to refuse to pit one against another, and to work together for the common good.

We Kansans can and must respond to this complex issue creatively, compassionately and in our valued tradition of good-neighborliness, not only for the sake of the "least among us" (Matt. 25:40), but also to strengthen our democracy.

THANK YOU

Thank You for letting me speak today

I would like to start by saying that I'm very proud of all of you for having the courage to tackle this issue. This is a very emotional issue for all of the participants, whether you would like some sort of policy change regarding immigration or you would like the federal government handle this issue at a federal level, both have brought about this great debate. I have lived in San Diego for 20 years and now in Wichita for the last 12. I have experienced the good and the bad of our current immigration policy. There seems to be a lot of opinions as to the effect that this issue is having on our state. Unfortunately I'm not sure what is the truth. We seem to be lacking much of the information we need to make an intelligent decision. What impressed me when I moved here was the fact that we are led by good old family values. Racism in my opinion was not a problem here. I pray that this issue does not let us see Racisms ugly head.

What I would really like to ask all of you is to please be responsible with your decision. Please do not let the emotional part of this issue take over of our logic. We need to see how this will play out in Oklahoma. What I have seen first hand is many of their communities are experiencing terrible economic conditions and it is only the tip of the iceberg. I have spoken to several local companies that have been buying up much of the equipment of companies in Oklahoma. Even the Republican counter parts are referring to the new laws as an event equal or worse then the dust bowl. Let us lead with level heads and wait and see the true ramification of their laws. We are in a very good position to have someone else make all of the mistakes for us. Then we can learn and make our decision process much more informed. There will be expensive litigation as well as costly economic consequences. This is a time when cool heads will prevail. Let us set an example how government can lead with reason and not emotional abandon. We also must look at the moral and caring side of our people. These people are not terrorist they just want to better their lives. We must figure out how to give our employers the tools to obtain the workers that they obviously need. Just to punish them is a short sighted solution and not a long term answer. If you want to see change lets all get together and force the federal government to fix our broken immigration system. The people that we want to condemn for coming here illegally would love to follow our rules if we gave them good rules to follow. They would love to not work in fear, drive legally with insurance, pay taxes and have an opportunity to live our dream. We do not have to grant them citizenship, but allow them to work under our rules. Lets not fool ourselves into believing that we can do a better job then our federal government. There is a good reason that we have lived with this problem for over 20 years and our government has basically done little to

control this issue. They know the disaster that would take place if they decided to try to fix what has been broken for years. Please do not fool yourself into believing that there will not be major consequence for our actions. So I beg you all to act responsible on this issue and lets all work together to get our government to start to fix what has taken so many years to create. Our government has a sad history of going from one extreme to the other and many times the results are disasterous. Let us not forget that many of our ancestors have come to this country to find that American dream and trust me they did not all come here legally. Let us wait and see what the true consequences are to come to pass in Oklahoma and some of the other state that have jumped into the fire. We can learn so much from their mistakes. We still could take all of the good things that we have learned and come together with a solution. In a time when everything we seem to see divides us as a society. Lets not let this divisive issue consume us and keep us from addressing our pressing issues. If we work as a team, both sides of this issue can come up with a working plan to address this issue. So you can go back to your constituents and tell them that you fully plan on addressing this issue. You are going to gather all the necessary information including the report that will show the true impact that our immigrants create on our state. We can use this issue not only cross party lines but bring this state closer together not divide us. So please be patient as we work through this issue and avoid the possible economic consequences. Let us avoid lengthy and costly litigation. Let them know that we are watching closely what is going on in our neighboring states. I know in my heart that you will show the people of Kansas that we lead with intelligence and not emotion. That we will not make the same mistakes that our neighbors are making. We will make the decisions that are best for all Kansans. We are experiencing a stable economy at this point lets be diligent in our actions not to derail this economy. May god bless

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**Senate Federal & State Affairs Committee
Chairman and Committee Members**

SB 458

March 4, 2008

Julie R. Frady

OVERVIEW

Introduction

Economic Considerations

- Oklahoma & Arizona suffering unexpected economic and social losses because of their new laws. Many legal residents and US citizens leaving the state in addition to illegal aliens.
- Colorado has spent over \$2 million to enforce its new law, yet has saved nothing.
- Texas, with a larger percentage of illegal aliens in its population than Kansas, has found that illegal aliens there are of greater benefit than cost to that state.
- Examples and internet link given to read actual report done by the Texas Comptroller on the impact of illegal aliens to the Texas state budget and economy.

Solution: A careful and thorough analysis of *both* costs and benefits to Kansas' economy from illegal aliens *before* rushing to pass laws that could end up causing more harm than good.

Social Considerations

- My personal experience with illegal aliens from when I lived in Texas; how I knew them.
- Most illegal aliens are not as they are commonly depicted. The ones I knew were grateful to our country and did not wish to hurt anyone. They were decent people with a solid work ethic and an astounding level of creativity and resourcefulness. There were the type of people that – except for their illegal status – we normally would want *more* of in our society.
- The illegal aliens from Mexico that I knew wanted to have come here legally. Many people assume that Mexican illegal aliens have blatant disregard for our laws and just don't want to go through the process of entering legally. In reality, they are desperate and believe they have little choice if they are to provide for their families. Immigration law is not the same for everyone; the typical Mexican poor who come here illegally have little realistic chance of entering our country legally, even if they were to go back and submit the right paperwork.
- Most Hispanic immigrants who plan to stay are trying to assimilate and learn English, but it is their children who are doing it more quickly and thoroughly. This is the way it has been with almost all immigrant groups throughout US History, regardless of national origin.
- Internet link with information and statistics from Census data from 1890, 1980, 1990, and 2000 which shows that English fluency is actually rising, in spite of what many people think.
- Why did those here illegally not stay in Mexico to work for a better life there? Their answer when I asked that question.
- True criminals (murder, etc.) do exist, but they are not the norm.

Conclusion

- In spite of fear mongering rhetoric, most individuals here illegally are not bad people who deserve to be demonized or treated like invaders or terrorists.
- We need realistic and humane solutions that will appropriately address the real problems Kansas faces from illegal immigration, and not exaggerated or imagined ones.
- The problem of illegal immigration is more complex than sound bites suggest and can only be solved by comprehensive immigration reform at the federal level. In the meantime, Kansas should not hastily pass laws out of fear or anger that could have unintended or undesirable economic or social results.

Senate Federal & State Affairs Committee
Chairman and Committee Members
SB 458
March 4, 2008
Julie R. Frady

Chairman and Committee Members, thank you for the opportunity to speak to you today. My name is Julie Frady. I've been a resident of Kansas since 1993. I'm here in opposition to SB 458.

I am descended from German and English immigrants, some of whom came through Ellis Island, others of whom fought in the American Revolutionary War. My husband and I adopted two daughters from China, and we had to jump through a lot of immigration hoops for them to come here legally and be US citizens. I have even lived and studied in Spain, so I know more about the sacrifices in time, money, and tedious paperwork that are required to "be legal" both here and abroad than many of my fellow Americans. I am conservative, with a high regard for the law; I think we must secure our borders and work to eradicate illegal immigration. And yet, *I have read SB 458 and think that overall it could cause more harm to Kansas than good.*

I therefore urge you to vote *against* SB 458, and instead push for thorough and reliable studies in order to determine what illegal aliens actually cost – and contribute to – Kansas' economy and society *before* any laws are passed. Then, we will know better what laws Kansas needs without doing too little or going too far. Arizona and Oklahoma – often touted as models for strict anti-illegal alien legislation – are suffering unexpected economic and social losses in tax revenue and labor supply because of their new laws. According to *The Denver Post*, Colorado's new law that bans all taxpayer spending on illegal immigrants (except what is required by federal law) was expected to cost less than \$7,000 to enforce; however, so far Colorado has spent more than \$2 *million* to comply with the law, but has not saved even \$1. We would do well to take a careful look before we leap onto such a bandwagon.

Many of those here illegally have been here for years, and they contribute more than many think. They have children who are US citizens or who were so young when brought here that the USA is all they remember. Many illegal aliens do not live in the stereotypical "all illegal family," but rather in "mixed status" families, where some family members are here legally while others are not. Thus, even if we were to succeed in driving all illegal aliens out of Kansas, we may well be surprised at how many legal residents and US citizens leave with them – and as with Oklahoma and Arizona, we may not like the results.

On the other hand, Texas, where I used to live and which has a larger percentage of its population as illegal aliens than does Kansas, has found that illegal aliens there contribute millions more to its economy than they consume, and that the state would suffer a decline in revenue, economic competitiveness, and employment were all illegal aliens to suddenly leave – including a loss of \$17.7 *billion* to the Gross State Product. This report does not even figure in the additional losses from legal residents and US citizens leaving with their illegal alien family members. (Go to <http://www.window.state.tx.us/specialrpt/undocumented/> to read the Texas' Comptroller's Report on the impact of illegal aliens to the Texas state budget and economy.)

Please support a careful and thorough analysis of *both* costs and benefits to Kansas' economy from illegal aliens *before* rushing to pass laws that could have unintended and undesirable effects.

In addition to the economic losses we could face, there are also social considerations. My personal experience with illegal immigrants from when I lived in Texas has convinced me that most of those here illegally are not as they are commonly depicted. Rather, they are individuals who have a lot to offer our society if given the chance.

When I first moved to Texas, I sought out Spanish speakers to keep up the Spanish skills I had learned in Spain. I did not know at first that many of my new friends were here illegally, for they did not fit my stereotype of “illegal alien.” They went to church, had high morals, and disdained hand-outs. They asked me to teach them English, even though some of them already spoke English fairly well. Through my job in a missions organization, I had daily contact with missionaries who lived and worked on both sides of the Texas/Mexico border. Though the work we did had nothing to do with immigration (legal or illegal), I did have to go to the border area several times, where I saw first-hand the conditions that have driven so many to our country.

Not one of the illegal immigrants I befriended were on welfare, nor wanted to be. None were happy about having broken our laws to get here, and except for being here and working without authorization (which I never knew the particulars of), they strove to obey the law and do right. They were not part of an “invasion” bent on trying to reclaim land for Mexico; in fact, when I asked them how they felt about the Mexican-American War and Mexico losing half its land, most said that was a long time ago and it didn’t matter now. Others told me that they were *glad* the US has that land, because if it still belonged to Mexico, it would be in the same miserable conditions from which they had fled. Rather, they were grateful to our country and wanted to contribute to our society. None of them wanted to hurt anyone. They just wanted to be able to work hard for a decent wage and feed their children properly. They were decent people with a solid work ethic and an astounding level of ingenuity and resourcefulness. I could count on them when I needed help. They were, in fact, the type of people that – except for their illegal status – we normally would want *more* of in our society.

The illegal immigrants I knew said they wanted to have come here legally. That surprised me at first, since I naively thought that all they had to do was fill out the proper paperwork and “get in line.” What I didn’t know then was that immigration law is not the same for everyone. Current law has different quotas and regulations for different countries of origin, with some countries given extra favor while others are virtually shut out. During my time in Texas, I also met an INS Adjudicator through a mutual friend. I asked her a lot of questions about options for the typical Mexican illegal alien, and she told me that the vast majority had little realistic chance of entering our country legally, even if they were to go back home and submit the right papers.

Most of the Hispanic immigrants (legal and illegal) that I knew were trying to assimilate and learn English. This is a slow process, however, and, just as it was with our own ancestors, it is the children and grandchildren of immigrants who assimilate and learn English best. History shows us that most first-generation immigrants have almost always failed to learn English fast enough or well enough to satisfy the native-born Americans of their day, regardless of nation of origin. One only has to read what Benjamin Franklin wrote to see that accusing new immigrants of refusing to assimilate or learn English is older than our country itself. (See “*Observations Concerning the Increase of Mankind, Peopling of Countries, Etc.*”, 1751; and “*The Support of the Poor*,” a letter to Peter Collinson, May 9, 1753.) If one simply substitutes the word “Mexican” for “German” in his text, it reads like something we would hear some say today. What history also shows us, however, is that in spite of Americans’ fears, assimilation did and does happen.

(Go to <http://ourworld.compuserve.com/homepages/JWCRAWFORD/census02.htm> to see that a larger percentage of the US population speaks English today than was the case a century ago, that English fluency among school-age children who speak another language has *risen* 60% in the last 10 years, and other findings based on Census data from 1890, 1980, 1990, and 2000.)

I think most Americans who are so angry about illegal immigration have never gotten to know actual illegal immigrants, and thus don't know what they are really like – so they believe the rhetoric proclaimed loudly and often by fear mongers using images of war and skewed statistics to scare us. Most Americans don't know that the vast majority of illegal immigrants don't *want* to break our laws. Nor that the typical Mexican poor who cross into our country illegally can't just “go back and stand in line” for they do not have access to a line to stand in. Thus, most Kansans do not know that for the majority of those we find in Kansas illegally, it is not because they have no regard for the law or just couldn't be bothered to jump through the right hoops – they would have come here legally had that been possible, but were desperate and believed they had little choice if they were to provide adequately for their families. This doesn't make illegal immigration “OK,” but it should make it more understandable.

I asked my friends why they had not stayed to work for a better life in Mexico. They told me they thought that only a whole scale bloody revolution would change anything there, but that that would not happen until the memory of how horrific the Revolution of 1910 was faded. If they had thought things could get better by protesting and demanding change short of that, they would have stayed and done so, for that is far easier and less frightening than uprooting – or being separated from – your family and risking death to cross illegally into an unfamiliar place where you do not yet understand the language and where you must live in the shadows, always fearful of discovery. No normal person would go through all that comes from entering our country illegally if they thought there was a better way to get here – or to survive where they were – yet the majority of those here illegally are “normal people.” This doesn't mean that we must look the other way when it comes to illegal aliens, but it should mean that when we look at them we do so with some measure of compassion, realizing that *there but for the grace of God go I*.

Of course there are those who are true criminals – those who deal drugs, steal, rape, and murder. They need to be tracked down, punished, and deported. But they are not the norm, sensationalist headlines notwithstanding. After all, the typical illegal alien who just wants to provide for his family and stay out of trouble wouldn't sell newspapers.

There *are* real problems to illegal immigration, and we should deal with them. But I don't think they are as dire as many believe, and most individuals here illegally are not bad people who deserve to be demonized or treated like invaders or terrorists. Most are not unlike our own ancestors who came here in search of a better life, though our ancestors were fortunate enough to do so in a time when the law was not as fickle or restrictive as it is now.

I am not for “rewarding illegal behavior,” but I *am* for realistic and humane solutions that will appropriately address the real problems Kansas faces and not exaggerated or imagined ones. We need solutions that won't skewer people who don't wish to hurt anyone, while still doing what is necessary for the benefit of all of us. The problem of illegal immigration is far more complex than any sound bite on either side of the issue suggests, and to solve it will require realistic action and *comprehensive* immigration reform on the federal level. In the meantime, Kansas should not hastily pass laws out of fear or anger that could have unintended and undesirable economic or social results – nor ones that our great grandchildren would look back upon and wonder what on earth we were so afraid of.

Thank you again for this opportunity to speak to you today. I am more than happy to answer to the best of my ability and knowledge any questions you might have.

Senate Federal & State Affairs Committee
Chairman and Committee Members

SB 458

March 4, 2008

Julie R. Frady

Addendum

OVERVIEW

In-state tuition for qualifying children of illegal immigrants should *not* be revoked because this is beneficial to our society.

- These are children who grow up in Kansas and graduate from a Kansas high school, *not* adults who come here just to receive an education.
- These children are not at fault for their immigration status.
- Many of these children were so young when brought here that the USA is all they know, and they are thoroughly Americanized and speak English fluently.
- Most would not attend college at all without this law, so the state of Kansas is receiving money from their paying in-state tuition that it otherwise would not get at all.
- This law does not harm US citizens, who would still pay out-of-state tuition if they are not Kansas residents whether or not this law remains in effect. Out-of-state students can still receive in-state tuition in the states in which they reside.
- Most of these kids don't have the option to return to their parents' home countries to pursue legal entry, and they likely don't speak much of their parents' home language.
- It is to Kansas' benefit for these kids, though better education, to get out of near-poverty and work better jobs as adults – and pay higher taxes into the state coffers.

Driver's Licenses:

- It is important for Kansans to have licenses that comply with the federal REAL ID Act.
- It is important for the safety of all Kansans that everyone on the road have insurance.
- If denied licenses, illegal immigrants will drive anyway, but without insurance or having passed driver's exams. It is not realistic to expect all illegal immigrants to leave the state, in spite of harsh laws against them.
- Other states have laws that provide for the state DMV to issue licenses (to those who do not qualify for a standard REAL ID state license) which are good *only* for driving and obtaining insurance, but which cannot be accepted or used for any other purpose.

Substandard Wages / Job Loss:

- Target businesses who pay substandard wages. Enact tougher wage laws that require industry-standard wages for *everyone*, and include severe penalties (examples included) for those who violate them. This will help businesses who cannot compete with those who seek out illegal aliens precisely because of the lower wages they can pay them. It will also help US citizen low-wage earners.
- Target employers who misclassify workers as “independent contractors” to avoid paying standard wages, benefits, overtime, or workers comp. The state will then recoup workers comp taxes employers are supposed to be paying, and American workers will also benefit.

There are ways to address the real problems Kansas faces with laws that will not cause more human suffering than necessary – or more harm than good for all of us.

Senate Federal & State Affairs Committee
Chairman and Committee Members
SB 458
March 4, 2008
Julie R. Frady

Addendum

I appreciate the opportunity to testify against SB 458 and why I think it will do more harm to Kansas than good. In the written testimony I submitted, I addressed several issues that Kansans have against illegal immigrants, but I did not offer specific solutions to all of those (or other) concerns. I would like to therefore offer this Addendum to my testimony to rectify this.

In-state tuition for children of illegal aliens: This in Kansas' own best interest, and should *not* be revoked. *First*, these are not illegal alien adults who come here just to go to college, but those who were brought here as children. *Second*, however one may feel about their parents, these children have done nothing wrong and do not deserve to be punished for their parents' mistakes. *Third*, many of these kids were so young when brought here that they don't even remember their parents' home countries; they are thoroughly Americanized and speak English fluently. *Fourth*, most would not attend college at all without this law, so Kansas is receiving money from their paying in-state tuition that it would otherwise not get at all. This law does not harm US citizens, who, if out-of-state, would still pay out-of-state tuition even if this law were revoked. Also, out-of-state students can pay in-state tuition in the states in which they reside. It is not as though they cannot get in-state tuition *anywhere*.

This provision to facilitate education for those who qualify is *beneficial to our society*. These kids (whose immigration status is not their fault) grow up in Kansas, are smart, and have potential; many are scholars in high school. If given the chance, they will contribute meaningfully to our society. They will be able to get out of near-poverty and thus pay more taxes into our state's coffers as adults. In most cases, these children do not have the option of going back to their parents' home countries to pursue legal entry, and they likely don't speak enough of the parents' home language to survive there anyway. *This is a humane law that addresses reality and is beneficial to all of us, and I urge you not to revoke it.*

Drivers Licenses: On the one hand, we don't want to issue standard driver's licenses to illegal aliens that can be used as ID for other purposes, and it is important for the safety and wellbeing of Kansans who are US citizens (or legal permanent residents?) to have their licenses comply with the federal REAL ID Act. On the other hand, if illegal immigrants are denied licenses, they will be driving anyway, but without insurance and without having passed drivers exams. *It is for the benefit and safety of all Kansans that everyone on the road have a license and insurance, and it simply is not realistic to think that even with draconian laws against them that all illegal aliens will leave our state. What to do?*

When I lived in Spain, everyone there thought it ridiculous that my driver's license was used for official identification purposes. They had a National ID card (with their right thumb print on it) for that, and a drivers license was just that – a driver's license, nothing more. While I think they have a good point, the fact remains that in the USA, a state driver's license is the closest thing we have to a National ID card. (The drivers license restrictions in SB 458 will help to ensure that only US citizens receive one, but what about legal permanent residents? Language in the bill seems to leave them out – but they need to be able to drive also.)

Why not make a provision that would allow the Department of Motor Vehicles to issue to those who don't qualify for a REAL ID Kansas Drivers License some sort of license that permits driving (and thus insurance) and nothing more? A license to drive that cannot be used or

accepted as identification for any other purpose, such as boarding an airplane, I-9 Form ID, etc. In addition, this would provide Kansas with a way to also track the whereabouts of probable illegal aliens and have a better idea of how many reside in our state. Kansas would not be alone in such a solution: New Jersey, New York, and California have either adopted or are in the process of considering such legislation.

Substandard Wages/Job Loss: Kansans believe that illegal immigration drives down wages and take jobs from low-income Americans. A good way to address this issue in a way that benefits everyone is to *require employers to pay decent wages, regardless of to whom* (immigrant or citizen alike). Going after those who violate these wage laws will help everyone – including US citizen low-income workers as well as those businesses who cannot compete with ones who rely on illegal alien labor precisely because they can undercut operating costs. Instead of going after businesses and workers for immigration violations – a federal issue – go after businesses who are violating wage laws, which will protect everyone, especially US citizens.

The sanctions wage violators receive should be more than the slap on the wrist they often get now. Several states, such as New York, California, Massachusetts, and Colorado have enacted severe penalties that provide strong incentive for employers to pay decent wages. Some of these include a \$20,000 fine for repeat offenses, requiring businesses to pay employee's legal costs and \$3 for every \$1 they were supposed to pay them originally but didn't, and revoking permits or licenses. New York and California have recognized that if these laws don't apply for *all* workers, it could be an incentive for employers to hire illegal aliens who are easier to exploit – so their laws are specifically written to protect everyone, regardless of immigration status. This is an effective deterrent against hiring illegal aliens in the first place, since employers will have to pay them the same higher wages as everyone else, and the ability to exploit them is removed.

Another issue that needs to be addressed is inappropriately classifying workers as “independent contractors” so as to not have to pay standard wages, provide benefits, overtime, or workers' comp. Thus, when employers misclassify workers as independent contractors, the state also loses out on the unemployment insurance taxes employers are supposed to be paying. New York State alone is estimated to have lost \$175 million alone in such taxes each year (Go to <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1009&context=reports> to read the study done by Cornell University), and it, along with Minnesota, Colorado, California, and Connecticut have passed laws to aggressively target employers who do this.

I ask for SB 458 to be withdrawn and a new bill written that would preserve in-state tuition for children of illegal immigrants who qualify and remove unnecessary harshness toward people who do not deserve it – while still addressing problems that need to be dealt with. We can comply with the federal REAL ID Act *and* eliminate the likelihood of uninsured drivers due to immigration status, as well as address the real concerns of job loss, substandard wages and loss of workers comp taxes for the state of Kansas.

We need to address the real problems we face in our state, and not exaggerated or imagined ones, with laws that will not cause more human suffering than necessary or more harm than good for all of us.

Thank you.

110 NE Chandler
Topeka, KS 66616
Phone (785)357-1325
rebeccagranado@sbcglobal.net

March 29, 2008

To the Honorable Governor Kathleen Sebelius,
Kansas Senators Sam Brownback and Pat Roberts
All Congressmen from Kansas

To all the people of Kansas,

My name is Sr. María Luz Hernández, born and raised in Topeka, Kansas. I am an Augustinian Recollect Missionary, working as a full-time volunteer for Our Lady of Guadalupe Catholic Church in Topeka. I teach adult religious education, ESL and citizenship classes and I visit the sick and the elderly whenever I am called to do so. I am 83 years old and I have worked in Colombia, SA, Spain, Amarillo, Texas, Watts in California, Newark, New Jersey and here in Topeka since 1999. Since most of my work involves Hispanics, I am deeply perturbed by the actual mistreatment of aliens, especially now in our State of Kansas.

First of all, I want to remind you that the first aliens or immigrants were the Holy Family; Jesus, Mary and Joseph. The Holy Bible tells us in chapter 2 of St. Matthew that when Jesus was born he was visited by the Wise Men. After they left, an angel of the Lord, appeared to Joseph in a dream and told him: "Get up, take the Child and his mother and go immediately to Egypt, and stay there until further notice, for King Herod is looking for the Child to kill him." Jesus, Mary and Joseph remained in Egypt until the death of Herod. In the Old Testament in the Book of Exodus, we also see the great deed of God: the liberation of the Hebrews from the land of slavery to the land of promise. God liberates his people "with great power, with a strong arm and outstretched hand, opening a way in the sea." God listens to the cry of the oppressed.

Then we have chapters 24, verses 14-16 of Deuteronomy, which states: "Thou shalt not refuse to hire nor exploit the needy and the poor, whether he be one of your brothers or a foreigner whom you find in your land in any of your cities. Pay him the price of his labor daily before the sun goes down because he is poor and he depends on his earnings. Then he will not cry to Yahweh against you, and you will have no sin."

Our living standards have been lowered terribly. We have had fraud, treason, crime and immorality in all levels of our government in recent years. We have forgotten the hopes of our founding fathers and the principles of the Constitution of our United States.

Sen Fed & State

Attachment 18
3-4-08

I am very proud to be a U.S. citizen and I have had to argue and fight others in foreign countries when they criticize our way of life and our Government. One never realizes how much one loves one's Country until we have to endure harsh criticism and persecution for being a U.S. citizen. This is exactly why I felt obligated to write to you and to remind you of all these facts.

First of all, the North American continent is composed of Canada, Mexico, and the United States. Yet only U.S. citizens are referred to as being "American".

Second: California, New Mexico, Colorado, Arizona, and Texas originally belonged to Mexico. These states and Louisiana were acquired by the U.S. Government through "purchases, treaties, and revolutions after the U.S.- Mexican War in 1846-1848. Alaska and Hawaii have also been added to the Union as the 49th and 50th states. I shall only refer to the former properties of Mexico. The purchase of California, Southern Arizona and New Mexico took place through the Gadsden Purchase. The people living there were not consulted as to whether they wanted to sell their property. As for the Battle at the Alamo in San Antonio, the fact that the U.S. had better weapons and thus won does not make it a "legal battle". Killing people to take their land can never be called legal.

The treaty of Guadalupe Hidalgo and the Polk administration signed on February, 1848 provided the acquisition of land including present day New Mexico, Arizona, California, Texas, and parts of Colorado, Utah, and Nevada. Mexico received 15 million dollars for those lands and the United States pledged to protect the rights of the Mexicans living in the newly-acquired areas. Both nations agreed to submit future disputes to arbitration. However, President Polk expressed disagreement with this negotiation. The pro-war forces in Congress were hoping to take over all of Mexico. The U.S. - Mexican War (1846-1848) was the first major conflict driven by the idea of a Manifest Destiny: the belief "that America had a God-given right or destiny to expand the country's borders from sea to shining sea."

Ever since President Jefferson's acquisition of the Louisiana territory in 1803, Americans migrated westward, often into lands not belonging to the United States. The fact that most of these areas already had people living on them was usually ignored. This Manifest Destiny did not necessarily call for violent expansion. The U.S. offered 5 million to purchase California from Mexico and 25 million for the rest of the Southwest but the Mexican government refused to sell half of it's country.

The land of other states such as Oklahoma and Kansas was taken away from the American Natives. The Indian Removal Act of 1830 allowed the Government to forcibly remove American Natives from their lands, to resettle them on land of little value, and then redistribute the stolen land to whites. This brought about segregation and poverty to these people.

I did not mean to bring our dirty laundry out in public view but this is how we came to be the U.S.A. This is our American History.

None of the Hispanic aliens want to take our land back and they are not here to live off welfare or food-stamp benefits. They only want the opportunity to work in order to educate and support their families. They are not criminals, although many people blame them for all types of crimes from drug-dealing to murder. If you were to make a sincere investigation you would find that they don't seek welfare or food-stamps because they are afraid to be deported. They are even afraid when they drive off to work, to shop, and take their children to school and to church. We are not a Nazi or Communist Country. No one should be afraid to walk or to drive in any of our beautiful cities. This is supposed to be a country with freedom and justice for all.

What can we do to get a just and dignified immigration reform bill? I am not asking for amnesty, but I do ask you to consider the following: first of all, go ahead and build a wall, if that is what you want. Secure the borders, North and South, with legal patrolmen, not with mean-spirited and prejudiced minutemen. Second, for those 12 million who are already working here and paying taxes, place a fine of \$5,000 or \$7,500 per alien, BUT pardon them for their trespassing error and give them a legal resident card. They must later work for their citizenship papers. This would allow them a worker's permit, a driver's license to get to work, and they would no longer be breaking these laws. They already paid some thousand dollars to some coyote to get here. By paying a fine to the Government, they demonstrate that they want to be here legally. They just didn't have any other choice at the time they needed to enter our Country.

Also, this would solve the economic problem of all those businesses that are forced to hire aliens because they cannot hire legal residents who will do the work for them. All businesses would then have the same opportunity to hire all legal residents at equal wages.

All this seems very easy for me but you, as our Congressmen, are the only ones that can do something about it all, and I hope that you will bear in mind that there are many others who think like me and who are waiting to see who we are going to vote for when election time comes around.

Society has worked to eliminate unjust policies and segregation but racism still exists.

Let us remember that we are the children of God, brothers and sisters in Christ, and that when we die, we will have to give an account of all our actions to God our Father, the Creator of all.

Thank You.

Sr, María Luz Hernández



Testimony in Opposition to SB 458
Nestor Leon, Artistic Designs Lawn & Landscape

My name is Nestor LEON. I am the HR Manager for Artistic Lawn and Gardens. I am holding a Labor Certification issued to my company by the Federal Government. It clearly states here: qualified workers cannot be found in the United States. In order to qualify for our jobs, it clearly states here: no experience, no training. Just apply, we will hire you. Last year, we hired 75 Americans. Out of them, only 1 is still on the job. The others did not last over 2-3 days, they quit, most did not even bother to call.

For this season, we tried for legal foreign workers. We advertised for 96 jobs. We did not get a SINGLE application from any American workers. We offer wages above and beyond the prevailing wage and we take anyone. The truth is, Americans do not want our seasonal jobs. Season is 8 months, nobody wants to be laid off for 4 months. Students, if they apply are only here for summer, they cannot mow in springs and fall. So we asked the government for legal H-2B workers. The government made us go through the hoops applying for the first step to H-2B, a labor certification, the one I am holding in my hand. Four month and 20,000 dollars later, they certified that there are no American workers and we can file H-2B petitions with Immigration. This is on one hand. On the other hand, Congress is asleep at the wheel - they forgot to authorize enough H-2B visas this year, so we did not get any.

We have no American workers, no legal H-2B workers. You are proposing, if we hire someone who wants to work but does not have authorization, you will take away our business license. Well, the owner of my company says, you might as well. We have no legal workers, be it Americans or H-2B workers, so we can't stay in business anyway until the government wakes up and authorizes legal visas. Up to 30 of my American personnel is facing lay-offs. We will probably close anyway before you have a chance to revoke our licence. And by the way, we have been using E-verify for a while. It does not solve the problem that we are facing: no legal workers and the legislators who are not getting it. Instead of finding new ways to punish us, do something to get us some legal workers so we can take care of our business. On behalf of my company and my American workers, I am against these anti-business laws.

U.S. DEPARTMENT OF LABOR
Employment and Training Administration

APPLICATION
FOR
ALIEN EMPLOYMENT CERTIFICATION

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM
PRINT legibly in ink or use a typewriter. If you need more space to answer questions in this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.
To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT

1. Name of Alien (Family name in capital letter, First, Middle, Maiden)
96 Unnamed Workers

2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country)
N/A

3. Type of Visa (If in U.S.)
N/A

The following information is submitted as an offer of employment.

4. Name of Employer (Full name of Organization)
Artistic Designs Lawn & Landscape, Inc.

5. Telephone
(913)888-7320

6. Address (Number, Street, City and Town, State ZIP code)
P.O. Box 860576 Shawnee, KS 66286

7. Address Where Alien Will Work (if different from item 6)
6411 Vista Dr. Shawnee, KS 66218

8. Nature of Employer's Business Activity Landscaping	9. Name of Job Title Landscape Laborer	10. Total Hours Per Week		11. Work Schedule (Hourly) a.m. p.m.	12. Rate of Pay	
		a. Basic 40	b. Overtime 0-10		a. Basic \$ 8.33 per	b. Overtime \$ 12.50 per hour

13. Describe fully the job to be performed (Duties)
Leaf removal, hand mulching, hand weeding, flower planting, mowing and pruning.

14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 13 above.

EDUCATION (Enter number of years)	Grade School 0	High School 0	College 0	College Degree Required (specify) N/A
				Major Field of Study N/A
TRAINING	No. Yrs. 0	No. Mos. 0	Type of Training N/A	
				Related Occupation (specify) None
EXPERIENCE	Job Offered		Related Occupation (specify)	
	Yrs. 0	Mos. 0	Yrs. 0	Mos. 0

15. Other Special Requirements
None

16. Occupational Title of Person Who Will Be Alien's Immediate Supervisor
Crew leader

17. Number of Employees Alien Will Supervise
0

RECEIVED
 NOV - 5 2008
 FOREIGN LABOR CERTIFICATION
 EMPLOYMENT CENTER

1. Qualified workers cannot be found in the United States
 2. Division of Foreign Labor Certification Policies have been observed.
 3. This certification is valid from 3/1/08 through 11/30/08.
1/4/08 (Date) Marie C. Gonzalez (Certifying Officer)

ENDORSEMENTS (Make no entry in section - for Government use only)

Date Forms Received	
L.O.	S.O. NOV 16 2007
R.O.	N.O.
Ind. Code	Occ. Code 37-3011
Occ. Title	Landscaping & Groundskeeping workers

Replaces MA 7-50A, B and C (Apr. 1970 edition) which is obsolete.

18. COMPLETE ITEMS ONLY IF JOB IS TEMPORARY			19. IF JOB IS UNIONIZED (Complete)	
a. No. of Openings To Be Filled By Aliens Under Job Offer	b. Exact Dates You Expect To Employ Alien		a. Number of Local	b. Name of Local
	From	To		
96	03/01/2008	11/30/2008	N/A	N/A
			c. City and State	
			N/A	

20. STATEMENT FOR LIVE-AT-WORK JOB OFFERS (Complete for Private Household ONLY)				
a. Description of Residence		b. No. Persons residing at Place of Employment		c. Will free board and private room not shared with anyone be provided? (*X one)
(*X one)	Number of Rooms	Adults	Children	Ages
<input type="checkbox"/> House			BOYS	
<input type="checkbox"/> Apartment			GIRLS	
				<input type="checkbox"/> YES <input type="checkbox"/> NO

21. DESCRIBE EFFORTS TO RECRUIT U.S. WORKERS AND THE RESULTS. (Specify Sources of Recruitment by Name)

We advertise in print, on the radio, by word of mouth and signs on properties, all of which are standard practices in the industry. We will follow instructions on supervised recruitment.

22. Applications require various types of documentation. Please read Part II of the instructions to assure that appropriate supporting documentation is included with your application.

23. EMPLOYER CERTIFICATIONS	
By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.	
a. I have enough funds available to pay the wage or salary offered the alien.	e. The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.
b. The wage offered equals or exceeds the prevailing wage and I guarantee that, if a labor certification is granted, the wage paid to the alien when the alien begins work will equal or exceed the prevailing wage which is applicable at the time the alien begins work.	f. The job opportunity is not:
c. The wage offered is not based on commissions, bonuses, or other incentives, unless I guarantee a wage paid on a weekly, bi-weekly, or monthly basis.	(1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage.
d. I will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States.	(2) At issue in a labor dispute involving a work stoppage.
	g. The job opportunity's terms, conditions and occupational environment are not contrary to Federal, State or local law.
	h. The job opportunity has been and is clearly open to any qualified U.S. worker.

24. DECLARATIONS

DECLARATION OF EMPLOYER ➔ Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

SIGNATURE	DATE
	11/14/2007
NAME (Type or Print)	TITLE
Dwayne Lukowski	President, Artistic Designs

AUTHORIZATION OF AGENT OF EMPLOYER ➔ I HEREBY DESIGNATE the agent below to represent me for the purposes of labor certification and I TAKE FULL RESPONSIBILITY for accuracy of any representations made by my agent.	
SIGNATURE OF EMPLOYER	DATE
	11/14/2007
NAME OF AGENT (Type or Print)	ADDRESS OF AGENT (Number, Street, City, State, ZIP code)
Mira Mdivani, Attorney at Law	The Mdivani Law Firm, 7007 College Blvd. Ste. 460 Overland Park, KS 66211

U.S. Department of Labor **Employment and Training Administration**
Chicago National Processing Center
844 N. Rush Street
12th Floor
Chicago, IL 60611



FINAL DETERMINATION

January 04, 2008

ARTISTIC DESIGNS LAWN &
LANDSCAPE, INC.
c/o MIRA MDIVANI
THE MDIVANI LAW FIRM
7007 COLLEGE BLVD., SUITE 460
OVERLAND PARK, KS 66211

ETA Case Number: C-07340-31382

State Case Number:

Number of Openings: 96
Occupation: Laborer, Landscape
Period of Certification: March 01, 2008 - November 30,
2008

The Department of Labor has made a final determination on your application for certification of temporary alien employment pursuant to Title 20, Code of Federal Regulations, Part 655.

The Application for Alien Employment Certification, Form ETA 750A, has been certified and is enclosed.

Upon receipt of this notification, you will need to submit the appropriate Form I-129 which is required in conjunction with an H-2B temporary labor certification application. The USCIS I-129 form can be obtained at <http://www.uscis.gov>.

Sincerely,

Marie Gonzalez
Certifying Officer

CC: ARTISTIC DESIGNS LAWN & LANDSCAPE, INC.

Attachments: Form ETA 750A

TESIMONY
Senate Federal and State Affairs Committee
Angela J. Ferguson
MO/KS American Immigration Lawyers Association
March 4, 2008

My name is Angela Ferguson, and I am the current Chair of the Missouri/Kansas American Immigration Lawyers Association. Thank you for this opportunity to testify today.

I represent a bar association of Immigration attorneys, who in turn, represent many, many individuals and businesses throughout the State of Kansas. I am here in opposition to SB458.

In 1986, Congress passed the Immigration Reform & Control Act (IRCA), a law that has attempted to regulate and punish employers for hiring undocumented workers. Many legislators do not understand that the law already punishes employers for violating this law and that, in fact, when enforcement efforts have been stepped up by the Federal government, oftentimes, it has been the State officials who have asked that the enforcement be "backed off." There is a reason for this: economic hardship to the States.

This bill would require employers in the State to utilize a system of verification called E-Verify. The E-Verify system is flawed in many ways, but the main complaint against its use is that the comparison of identification data with a flawed Social Security Administration database will lead to mistakes, lawsuits, and charges of national origin discrimination. It is a fact that our bar association is pursuing the training necessary for our members to start bringing these national origin discrimination lawsuits against employers. Mandatory utilization of the flawed E-Verify system, and the subsequent refusals to employ, will be a good source of new cases/clients for our members.

Another portion of the SB458 that is highly objectionable is New Section 6. A violation of status or simply residing in the U.S. without documentation is not a crime. However, this section of the proposed bill would charge State Law Enforcement officers will enforcing Federal Immigration Laws. These laws are so complex, that even the Immigration Officers working for the Immigration and Customs Enforcement have to go through extensive training before being allowed to perform their duties. By making State and Local Law Officers the enforcers of *civil* immigration violations, the Bill would ostracize a large portion of the population. It will make the foreign-born population afraid of cooperating with Law Officers; it will make them more hesitant to report crimes and it will make it much less likely that valuable information will be provided. This Section will make it more difficult to catch the real criminals and instead, will increase the incidents of racial profiling that already take place. No one in our State will be safer.

Thank you again for the opportunity to voice our opinion to SB 458 and opposition to these two portions of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'Angela J. Ferguson', with a long horizontal flourish extending to the right.

Angela J. Ferguson
Chair, MO/KS AILA

March 4, 2008

**Testimony by Emily Haverkamp, Immigration Attorney
In Opposition to Senate Bill 458**

To Whom it May Concern:

My name is Emily Haverkamp. I practice immigration law at the Mdivani Law Firm in Overland Park. Thank you for giving me this opportunity to testify before you today.

I work with many families, and each of my family cases begins with a U.S. citizen or permanent resident coming into my office wanting to legally sponsor an immigrant relative.

Over 80% of illegal immigrants have at least one family member who is a U.S. citizen or permanent resident. Please keep in mind that any measure to drive out illegal immigrants will also drive out their U.S. citizen and permanent resident families, many of whom we desperately need to keep our economy going.

New Laws Will Make it Harder for Kansas U.S. Citizen Families

One of the common refrains about illegal immigrants is "Why don't they just do it legally?" They all would like to, but most potential clients I see have few or no options.

For those precious few I can help, it is a long, expensive and trying process. My clients who have applied to "fix their papers" are at risk for deportation until they are finally granted legal immigration status. The process takes anywhere from one year to 20 years. During this time, they can be deported if they encounter immigration. If they are deported, they cannot re-apply for 20 years.

When considering the bills before you, please remember the pain they would cause the illegal immigrants' U.S. citizen spouses and parents.

It Is a Waste of State Resources to Outlaw Illegal Immigrant Benefits and Voting

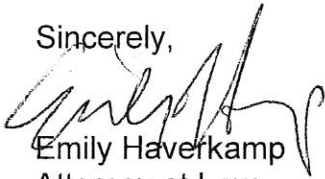
I oppose any measure that uses state law to outlaw public benefits for illegal immigrants. It is redundant, as there are no public benefits they can receive under federal law. There is no evidence that this is an issue. Colorado instituted a similar measure, and it cost them \$2 million to find that there were no illegal immigrants taking public benefits. We should learn from the mistakes of others and not waste money solving problems that don't exist.

The same goes for measures to outlaw voting by illegal immigrants. Again, there is no evidence that this is a problem. Why spend money on something we don't know to be a problem? We have far too many actual problems to be wasting money on conjecture.

I enclose an article on a Kansas family that was divided by the federal immigration system, information about Colorado wasting money trying to chase mythical illegal immigrant users of public benefits, and the most recent Visa Bulletin, which shows that families face wait times up to 20 years when trying to unite.

I am available for any questions or follow-up. Thank you.

Sincerely,



Emily Haverkamp

Attorney at Law

The Mdivani Law Firm, LLC

ehaverkamp@uslegalimmigration.com

CJOnline.com / Topeka Capital-Journal

Published Sunday, December 31, 2006

Family reunited after immigration ruling

By **Tim Carpenter**
The Capital-Journal

KANSAS CITY, Mo. — The small piece of ornate paper in Hector Piedra's hands ended months of tears, turmoil and trepidation.

"This is it," he said, fingering the fine print on his U.S. visa.

The cherished document issued Dec. 18 enabled this son of Mexico to return legally to his adopted United States and a reunion with his family. His wife, Jessica Allen-Piedra, and her two children, Jahleel, 9, and Raquel, 3, were waiting at Kansas City International Airport.

"It's wonderful to have him home," said Allen-Piedra, a law student at the University of Missouri-Kansas City.

Piedra, among millions of aliens who moved to the United States in the 1990s, was working in construction and as a musician in the Kansas City area when he met Jessica at a church service. They were married in 2004. Raquel is their daughter.

Weary of Piedra's status as an unauthorized immigrant, the family made a difficult decision. Piedra would voluntarily return to his hometown of Cuernavaca, Mexico, while U.S. immigration officials weighed his application for the K-3 visa issued to spouses of American citizens.



Jason Hunter/The Capital-Journal
 Hector Piedra shares family time with children Raquel, 3, and Jahleel, 9. Piedra, a native of Mexico, recently reunited with his family after returning legally to his adopted United States after being granted a visa issued to spouses of American citizens.

[Click here to check for reprint availability.](#)

A reply from immigration agents was expected in three months, but time ticked away and anxiety grew.

"I was getting so depressed," Allen-Piedra said.

In November, good news arrived in the mail.

Piedra would have a visa in December, assuming there were no last-minute snags. His final meeting with immigration officials went smoothly in Ciudad Juarez, Mexico. Within hours, he crossed the border into El Paso, Texas, to catch a flight to KCI.

"Until I got the visa in my hand, I was nervous," Piedra said.

In the wings

The Piedra family's life in limbo was first chronicled in September by The Topeka Capital-Journal in a story that examined the roots of illegal immigration to the United States. Allen-Piedra shared her thoughts in Kansas City, while Piedra was interviewed in Cuernavaca.

Allen-Piedra was frustrated with the pace of decision making by immigration officials. She was a single parent enrolled in law school. There was no guarantee her family would ever enjoy the legal status taken for granted by so many U.S. citizens, but Allen-Piedra maintained a faith that it would all work out in the end.



Jason Hunter/The Capital-Journal
 Jessica Allen-Piedra, wife of Hector Piedra, was head of the household for about the past year while her husband returned to Mexico awaiting the approval of a special visa.
[Click here to check for reprint availability.](#)

Piedra wasn't as confident. There was fear in his voice. He wept at the possibility of rejection.

"Never going back," he said at that time. "That's the fear I have now."

Once the visa was issued, the tough part was over. The family would no longer live apart. It was the turning point of an immigration success story. There will be more dreary paperwork on the horizon as Piedra seeks a temporary work permit before applying for permanent residency and, in perhaps three years, U.S. citizenship. For now though, it is all good.

But for every family's happy turn on the immigration merry-go-round, there is a family struggling to obtain a slice of security.

A case in point is Isabel Solis, a lifelong Topekan, and her husband, Dionicio.

Dionicio Solis, whose mother died when he was an infant, came to the United States at the age of 11 when his father in Mexico could no longer care for him. Solis moved to Topeka a couple of years later and has spent the past decade working in the capital city.

In 2002, Dionicio and Isabel married. They have a daughter, Esperanza.

Previous installments in the series

Over the past four months, The Topeka Capital-Journal has produced a series of stories exploring the explosive issue of illegal immigration.

Sept. 3, 2006

- [Dangerous Crossings: The Mexican Dream](#)
- [Dangerous Crossings: Where villains are the heroes](#)
- [Dangerous Crossings: Venturing where many want to leave](#)

Sept. 17, 2006

- [Citizenship earned, not taken for granted](#)

Like Piedra, Dionicio Solis was never deported from the United States. And, just as in Piedra's case, he returned to Mexico voluntarily to usher the visa application through the process.

- ['Can't stop' illegal immigration](#)
- [Citizen groups join the war](#)
- [Jail a station on the deportation line](#)

Oct. 22, 2006
Nov. 19, 2006

"He's there now," Isabel Solis said. "We don't know how long it will take. I've heard about cases in which people get stuck in Mexico for two years without seeing their families."

- [Employers face quandry about hiring immigrant workers](#)
- [Reimbursement for treatment of illegals hard to get](#)
- [Many companies fill seasonal labor needs with 'guest workers'](#)
- [Employers struggle to validate identification documentation](#)

Dec. 17, 2006

The future

While separation anxiety is tough on adults, children in these families have huge problems with the absence and emergence of a parent.

- [The politics of immigration](#)
- [A hot-button issue in Kansas](#)
- [Local services for undocumented immigrants questioned](#)
- [Readers offer views online](#)
- [Immigration - Journey: Parties face competing demands](#)
- [Immigration - Holland: Understand underlying causes](#)
- [Immigration - Lewis: The current system is broken](#)
- [Immigration - Murguia: It's time for Congress to act](#)

When Piedra stepped off the airplane at KCI, his 3-year-old daughter was uncertain how to react.

"Raquel was really confused to see him," Allen-Piedra said. "She didn't know whether she wanted to hug him or not."

On the drive to their apartment, Raquel opened up.

"When are you going back to Mexico, Daddy?" she asked.

"Not for a long time," he assured her.

Allen-Piedra said reunification of the family was an ongoing adjustment.

"We're happy," she said, "but it is weird. I've been running the show for a year. He's been a single guy, being a musician, for a year. We're trying to be patient."

Allen-Piedra said some of the anguish for families of visa applicants could be diminished if Congress reformed immigration law. For example, Piedra was required to obtain a U.S. government waiver from a law that bans him from applying for a visa for a decade because he resided in the United States for at least one year without authorization.

She said the 10-year rule should be eliminated for individuals married to a U.S. citizen.

"I think reform should be done in pieces rather than try and get a blanket amnesty," Allen-Piedra said. "We need to focus on those people attached to a U.S. family."


In addition, she said, immigration law in the United States has become so complicated that a person often needed a lawyer to navigate the maze.

"There's plenty of work out there," said Allen-Piedra, who has three semesters left of law school.

Down the road, Piedra said he wanted to re-establish the construction business he operated prior to leaving the country in January. He expects to have a U.S. work permit within three months. Obtaining permanent residency won't take longer than one year.

The final piece of the puzzle would be citizenship.

"Why not?" Piedra said. "I've come to live a different life."

Tim Carpenter can be reached at  (785) 295-1158 or timothy.carpenter@cjonline.com.

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MADELEINE BRAND, host:

And I'm Madeleine Brand.

Colorado likes to brag that it has the toughest immigration laws in the country. Last summer it passed a law that denies most state services to undocumented immigrants. Then governor, Bill Owens, predicted the law would mean fifty thousand fewer people on welfare. Well that did not happen. In fact, it's costing the state money and it's had some other unintended consequences. From Denver, NPR's Jeff Brady reports.

JEFF BRADY: The law created tougher guidelines for those applying to receive all but emergency services. Even with fake documents it would be difficult for someone in the country illegally to get past these requirements.

Unidentified man: The trouble is it's also become a little tougher to get public benefits in Colorado, even if you are here lawfully.

BRADY: State house speaker Andrew Romanoff along with everyone else has read the accounts in local papers. There's the lawmakers daughter who had trouble getting a driver's license because her only ID was a U.S. passport and that's not sufficient to prove citizenship under the Colorado law. Then there was the elderly woman who was told she'd have to prove her citizenship to receive a hundred dollar rebate for installing low flow toilets. Some consequences are less concrete. Immigrant advocates say the law has poisoned an already hostile political climate. Raquel Sanchez is a co-founder of Sueno Americano or American Dream.

Ms. RAQUEL SANCHEZ (Co-founder of Sueno Americano) (through interpreter): Not too long ago there was a case of a person in our group who went to a large store that has locations all over the country, just to exchange a piece of clothing - they asked for ID and would only accept ID from the United States.

BRADY: A few weeks back Colorado lawmakers asked agencies to tally up the costs and savings of the new law. In all, the state has spent over two million dollars to implement it. And the savings from kicking migrants here illegally off the welfare rolls? Nada. Over at the state capitol building senator Dave Schultheis says the law wasn't about saving money.

Mr. DAVE SCHULTHEIS (Colorado state senator): Maybe there's not thirty thousand illegal aliens that are utilizing this system. That's not the issue. The issue is if there are ten, that's too many; and if there are five, that's too many. No one that is here in this country illegally should be using hard earned taxpayer dollars. It's not right.

BRADY: Schultheis wouldn't be surprised if those numbers stayed low. He agrees with the dominant theory among immigration researchers that people don't risk their lives crossing the border to tap into our welfare system. They come here to work. Researchers say migration within the U.S. backs up this contention too. Instead of moving to states with relatively generous welfare programs like California, immigrants are choosing states in the Rockies, the Midwest, and the Southeast where there are plenty of jobs. And for the few who do want benefits, a 1996 welfare reform law made that illegal. Michael Fix is with the Migration Policy Institute.

Mr. MICHAEL FIX (Migration Policy Institute): In many ways these bars that people are putting on benefits for the undocumented is the equivalent of putting a second lock on, on the front door. I mean, the door was already locked, the benefits were already barred, and so it's not surprising that you get results like you see in Colorado where the savings are comparatively small.

BRADY: Advocates for immigrants have asked Colorado's democratic leaders in the legislature to change or repeal the law but that appears unlikely. Especially considering immigration is still a hot political issue in this state.

Jeff Brady, NPR News, Denver.

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Visa Bulletin

Number 116
 Volume VIII
 Washington, D.C.

VISA BULLETIN FOR MARCH 2008

- Visas Home
- Americans Traveling Abroad
- A-Z Subject Index
- Questions about Visas?
- Temporary Visitors to the U.S.
- Immigrants to the U.S.
- Frequently Requested Visa Information
- Laws, Regulation and Visa Policy Information
- About Visa Services

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during March. Consular officers are required to report to the Department of State documented qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applications for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by February 8th in the chronological order of the reported priority dates. If the demand could not be satisfied within statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within numerical limits. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual numerical limit for family-sponsored preference immigrants of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any number required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference number.

A. Spouses and Children: 77% of the overall second preference limitation, which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are

available only for applicants whose priority date is earlier than the cut-off date listed below.)

Fam-ily	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPP-INES
1st	15FEB02	15FEB02	15FEB02	01JUL92	01MAR93
2A	15APR03	15APR03	15APR03	01MAY02	15APR03
2B	08FEB99	08FEB99	08FEB99	01APR92	01FEB97
3rd	15MAY00	15MAY00	15MAY00	15JUL92	01APR91
4th	15JUL97	01DEC96	01NOV96	15NOV94	22FEB86

***NOTE:** For March, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAY02. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAY02 and earlier than 15APR03. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIP-PINE
Employ-ment-Based					
1st	C	C	C	C	C
2nd	C	01DEC03	U	C	C
3rd	01JAN05	01DEC02	01AUG01	01MAY01	01JAN05
Other Workers	01JAN02	01JAN02	01JAN02	01JAN02	01JAN02
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C

The Department of State has available a

February 27, 2008

Senator Pete Brungardt
Chairman, Senate Federal and State Affairs
300 SW 10th Avenue
Room 522-S, Statehouse
Topeka, KS 66612

Written Testimony on SB 458

Chairman Brungardt and members of the Committee:

The Kansas Corporation Commission (KCC) is concerned about potential consequences of SB 458, as it is currently written. This bill, if enacted, creates the possibility of a business entity's license being suspended if that business entity is found to have violated provisions of the bill by knowingly employing an unauthorized alien or failing to e-verify employment authorization.

Pursuant to K.S.A. 66-131, public utilities and common carriers are not allowed to conduct business in the state of Kansas without first obtaining a certificate from the KCC. This applies to motor carriers, oil and gas pipelines, gas and electric utilities, some water utilities, and telecommunication utilities. Additionally, oil and gas well operators are licensed by the KCC pursuant to K.S.A. 55-155.

Based on the language of the bill as it is currently written, one potential effect would be that a utility company's "license" could be suspended. We are concerned that could include the utility's certificate authority to operate, thus resulting in interruption of utility service to its customers.

We ask that the committee consider our concern when working the bill and consider some amendments that would allow for continued services for Kansans.

Respectfully submitted,
Matthew A. Spurgin
Litigation Counsel



Kansas Cooperative Council

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Senate Committee Federal & State Affairs

March 4, 2008 -- Topeka, Kansas

**Statement opposing SB 458
Kansas Illegal Immigration Relief Act**

Chairman Brungardt and members of Senate Federal & State Affairs Committee, thank you for the opportunity to share our opposition to SB 458. I am Leslie Kaufman, Executive Director for the Kansas Cooperative Council. The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives.

Cooperative businesses operative in a variety of industries and vary widely in the number of staff they employ. As diverse as they are, they are all concerned with employment and illegal immigration issues. Our members need access to a legally available workforce. Some of our members have greater seasonal needs and they require a hiring process that is timely and efficient.

There are many issues related to the problem of illegal immigration. Solving these dilemmas will take a holistic approach from the federal government. A piece-meal, state-by-state patchwork of remedies is not the answer. We understand many are frustrated with the lack of progress our national leaders are making to address illegal immigration head-on. We share this frustration. A hasty, knee-jerk reaction to "take matters into our hands" is not the panacea Kansans truly seek.

The Kansas Cooperative Council members seek to operate within the law, including when hiring workers. The KCC supports immigration reforms that help ensure our national security, while at the same time preserve farmers' and agribusinesses' ability to access an available workforce. Immigration reforms should not place employers in a position to be caught between conflicting laws. Neither should rules on verifying employee eligibility essentially, and unfairly, shift enforcement responsibilities from the government to employers.

Our members are willing to do their part to assure they are hiring legal workers. They support the current federal I-9 process. But, they are concerned that many of the concepts proposed for addressing immigration issues on a state level will place unnecessary burdens on employers and create a false perception that the state can "fix" a national problem.

The KCC does not believe it is a proper exercise of state power to mandate E-verify when the federal government, who operates the program, considers it voluntary. Under SB 458, employers must participate in E-verify. We think it ill-advised to punish someone for not participating in a voluntary federal program by suspending their business licenses, as well. Additionally, SB 458

(over)

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

Sen Fed & State

Attachment 23

3-4-08

essentially shifts a significant weight of enforcement from the government to the shoulders of Kansas businesses.

Cooperatives need hiring requirements that are workable, adaptable to changing business conditions, suitable for seasonal work, responsive and effective. Additionally, co-ops are cautious about proposals that might catch them between one set of rules from the state and another from the federal government. When taken as a whole, the system outlined SB 458 goes much further than we believe the state should go on what ultimately is a federal issue.

The greater Kansas business community has banded together to offer a reasonable, workable alternative in HB 2921, should this committee and the legislature feel state lawmakers must address illegal immigration. The Kansas Cooperative Council is a member of this coalition and supports the work product of the group proposed in HB 2921. As such, we respectfully request this committee refrain from advancing SB 458 for further action. Please feel free to contact us if you have any questions regarding our policy positions on SB 458 or related issues. Thank you.



Written Testimony – SB 458
Senate Federal & State Affairs Committee
March 4, 2008

By: Christy Caldwell, Vice President Government Relations
Greater Topeka Chamber of Commerce
ccaldwell@topekachamber.org

120 SE 6th Avenue, Suite 110
Topeka, Kansas 66603-3515

P.785.234.2644 F.785.234 8656
www.topekachamber.org
topekainfo@topekachamber.org

Chairman Brungardt and members of the committee:

The Greater Topeka Chamber of Commerce would like to express its concern for SB 458. We would support the language in HB 2921, the Kansas Employment Verification Act. This bill is a constructive action the Kansas Legislature can take to address an issue that must receive further federal attention to effectively address immigration challenges throughout our country.

The language in HB 2921 offers options to employers to verify resident status of new hires. The use of the I-9 federal system, the Social Security Verification Service, and the E-Verify system are tools employers can use to check potential employee's status; one method is required by our federal government and if not followed there are severe federal consequences for violations. The federal government should be held accountable to enforce laws they created. Now is not the time to divert state resources to new verification mandates and penalties that would warrant state and local governments to monitor and replicate enforcement. Kansas employers should not be penalized by multi levels of government when they are expected to invest capital in the state, create jobs for Kansans, and contribute to the general benefit of the state through their state and local taxes and produce a quality product or service for their customers. Becoming immigration enforcers is not what they should be expected to do.

The language in HB 2921 enhances the penalties for identity theft and fraud and for manufacturing and selling false identification. This is where our state should be concentrating its efforts; eliminating these criminal acts so employers can feel confident in their I-9 practices without fear of discriminating against honest citizens. Additionally, this bill creates a new penalty for the exploitation of an illegal alien; we agree unscrupulous persons who exploit undocumented individuals who travel to this country to find work and are expected to work for illegally low wages and callous working conditions should feel the impact of the law.

We believe the Kansas Legislature understands that most Kansas employers are vigorously working within the law to have legal workers in their businesses. Utilizing a broad brush to create new state regulations and laws that increase the regulatory load of honest Kansas businesses throughout this great state does not reflect this state's values. We believe language similar to HB 2921 will help in dealing with issues of illegal workers while at the same time embracing employers who work daily to be good citizens, good employers, and good community partners. We urge you to consider HB 2921 as an alternative to SB 458 and express to our federal leaders the importance of addressing immigration issues for the entire nation and not stand by while laws are create piecemeal across the country.

**Senate Federal and State Affairs
Testimony in Opposition to Senate Bill 458**



By Tim Stroda
President-CEO
Kansas Pork Association

February 26, 2008

Mr. Chairman, members of the Committee, I would like to provide information in opposition to Senate Bill 458.

The members of the Kansas Pork Association support an effective immigration policy that provides border security, establishes practical and fair employment laws and encourages a legal and productive work force. We believe this is best accomplished at the federal level.

In fact, our national organization is part of a coalition developing legislation that would:

- Extend the E-VERIFY program for 5 years.
- Keep the E-VERIFY program voluntary.
- Only apply to new hires and not be retroactive.
- Require that the Social Security Administration and Department of Homeland Security maintain "real time" data entry.
- Seek broad language protecting employers from liability under any law if they comply with the procedures set forth for programs.

Senate Bill 458 takes a very different approach. It places unnecessary burdens and responsibilities on legitimate businesses.

Our members support securing our national borders in a way that is fair and just. However, we do not believe the entire responsibility for this task should be placed on employers.

In 2007, Kansas pork producers sold over 3.3 million head of market hogs, feeder pigs and seedstock with a gross market value over \$402 million. This year, Kansas pork operations will consume nearly 40 million bushels of grain or grain products. At today's price, the pork industry will spend over \$200 million on feedstocks.

Our operations provide food for the world and a positive economic impact on the state and local economy. However, our operations need a stable work force for success.

Our members believe S.B. 458 is detrimental to our businesses and urge you to vote against the measure.

**2601 Farm Bureau Road • Manhattan, Kansas 66502 • 785/776-0442 • FAX 785/776-9897
e-mail: kpa@kspork.org • www.kspork.org**

Sen Fed & State

Attachment 25

3-4-08



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE FEDERAL AND STATE AFFAIRS
SB 458**

March 4, 2008

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Associate Government Affairs Director for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

AGC of Kansas opposes Senate Bill 458 and respectfully asks that you do not report it favorably for passage.

Immigration is a complex issue that is best to be resolved by the Federal Government. AGC, along with members of a coalition composed of the Kansas Chamber, Kansas Livestock Association and other business and industry related organizations, strongly oppose any legislation that puts legitimate companies attempting to lawfully do business in Kansas at risk.

SB 458 calls for the suspension of business licenses needed to operate within Kansas after a first offense, for what could possibly be a minor paperwork violation. Suspending business licenses for what could possibly be a legitimate paperwork error will close doors to Kansas businesses, especially when the second offense calls for suspension of business licenses from 90 days to one year. Again, the suspension of business licenses for what could be minor unintentional errors is something that our members strongly oppose.

AGC believes that the first step for a sound immigration policy is to secure the border, a step that will not be resolved by the State of Kansas. Therefore, AGC feels this issue should be debated and resolved by the Federal Government.

There are federal laws in place today to confront businesses who knowingly violate the law. AGC feels the state and federal governments should focus on enforcement of existing laws that, if enforced, are a strong enough deterrent to keep legitimate companies from knowingly breaking the law. Putting laws on top of laws won't solve the problem of unscrupulous companies who are knowingly breaking the law. In addition to increased enforcement, a crackdown on individuals creating fraudulent documents is needed.

Developing the Kansas construction workforce has been a top priority for the industry for nearly a decade. Kansas contractors can not find enough trained workers today. Work is being turned down because of this shortage, a shortage that is only going to get worse and will soon near a crisis level as baby boomers retire. Comments that thousands of Kansans are out of work because of illegal aliens is questionable at best. If this is the case, these workers are most definitely not in the construction industry.

Sen Fed & State

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3-4-08

Also, examples have been given regarding corrupt businesses in the construction industry. Companies utilizing illegal, immoral and unethical business practices should be prosecuted to the full extent of the laws already in place. However, it must be pointed out that they are by far the exception in the Kansas construction industry. Previous testimony on the construction industry has been painted with an extremely broad brush and this blatant misrepresentation of the honest, hard working business owners in Kansas is deplorable.

The AGC of Kansas **opposes Senate Bill 458** and respectfully requests that you do not vote favorably on this bill. Thank you for your consideration.



STATEMENT OF

KANSAS BUILDING INDUSTRY ASSOCIATION

**TO THE SENATE FEDERAL AND STATE AFFAIRS
COMMITTEE, MARCH 4, 2008**

SENATOR PETER BRUNGARDT, CHAIR

REGARDING IMMIGRATION LEGISLATION

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association. KBIA is the statewide trade association of the residential construction industry, with over 2300 member companies.

KBIA is opposed to illegal immigration. We support efforts to provide comprehensive immigration reform at the federal level. Along with the National Association of Home Builders and 800 other state and local home builders associations, we have been working for over four years to address this issue.

Homebuilders provide jobs for legal immigrant workers. Attached to my statement is statistical information, showing the percentage of foreign born workers employed in construction industries. In Kansas, that is about 3.5%, compared with over 19% nationally. Our industry has found these workers to be hard-working and skilled. Also attached to my statement are U.S. Department of Labor statistics data showing that workers in construction occupations in Kansas make good wages. Our members' objective is to get the job done and done well, in compliance with all federal, state and local regulations, not to have "slave" labor or to hire workers illegally.

We understand that there is great frustration on the part of Americans that Congress has not acted on this issue. We share that frustration, but we also know this is a very difficult issue to address effectively. The National Association of Home Builders has been working hard with other business groups at the national level to develop consensus legislation that can be passed by Congress and will effectively address employer issues.

Understandably, employers who are acting in good faith and to the best of their knowledge following the law have concerns about legislative initiatives that would penalize them if despite their good efforts they are found to have an illegal worker. They want to know with certainty that those they hire are legal to be in this country. They also have concerns about inaccuracies and mistakes with the federal systems for ascertaining legality to work and don't want to be held liable for those mistakes.

That aside, the legislation that NAHB has been working on is likely to be introduced in Congress this week and will provide for effective verification of legal worker status. There is much to be worked on, including addressing the needs for industries such as ours

that hire workers in the field, where a computer is not immediately available, and where telephone verification is needed.

We support these efforts at the federal level and urge the Kansas Legislature to exercise patience and caution in approaching legislation. We urge you to adopt a resolution urging Congress to act as soon as possible.

We urge you to not pass legislation that could have unintended consequences as has been the case in Oklahoma and will be illustrated by the testimony of our counterparts from that state.

Thank you for your work in addressing this important and complex issue.

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Senate Federal and State Affairs Committee
Senator Peter Brungardt, Chairman
March 4, 2008

**Statement of Wess Galyon
President/CEO
Wichita Area Builders Association**

Upon presenting this statement for consideration, it should be known that the Wichita Area Builders Association nor any of our 1300 members involved in the various phases of housing and light commercial construction do not endorse or condone illegal entry into the country, or any other illegal activity for that matter.

We have a number of concerns regarding the legislation that has been proposed and wish to make the following comments for consideration:

- We agree that employers who choose to utilize the E-Verify system to check on the legality of any employees hired ought to be immune from sanctions of any type. However, it should be acknowledged that there are instances when persons applying for employment will possess what appears to be a valid drivers license and social security card which employers should be allowed to accept and utilize in conjunction with the completion of the I 9 forms without having to take steps that could be deemed to be discriminatory if E-Verify were to be also utilized and contain erroneous information which results in the firing of an employee.
- We have been advised by several attorneys that they do not feel it to be in the best interest of employers to subscribe to E-Verify due to the fact that, when doing so, employers are agreeing that representatives of Home Land Security can show up at the employers office an any time "without notice" to audit information in the possession of the employer about the employers employees. ICE has not always been noted for being fair and reasonable in terms of the treatment of employees, nor employees, when they show up and employers should at have the courtesy of notice of an audit in this regard.
- We are opposed to sanctions such as fines and loss of licenses of any type unless employers alleged to be guilty of knowingly hiring illegal's are convicted of such by a court of competent jurisdiction. Due process is critical in this regard, and the taking of actions which could put a person out of business without providing it can result in the employers not only losing his/her livelihood but the impact on legitimate employees of the employer could be devastating as well.
- Employers should not be made the "fall guys" for failed immigration enforcement nor made the "police force" in conjunction with a mandate to enforce federal immigration laws which the effectively cannot. The notion that employers created the problem because they are the ones who provide jobs for those who want to work is absurd.

- Claims being made that 40% of the decline in Black employment is due to immigration is very questionable. Immigrants that are hired to do work in our area are paid competitive wages to do the work that others do not want and will not do and the housing and light construction industry would be in dire straits if the current immigrant work force were not available. We know of no instances where immigrant workers in our area being treated as "slave labor" as some have alleged.
- States, including Kansas, can do little to fix the immigration problem and instead of seeking to become part of "patch work" attempt that will not bring about an equitable and comprehensive solution we encourage legislators to give serious consideration to the passing of a bi-partisan Resolution by both the state House and Senate that, having recognized the problems that exist, calls on the Governor of the state to work with the Governors of other states and the US Congress to deal with the problem in a timely and effective manner. Passing legislation that will, in all likelihood, result in litigation being filed does not seem responsible and is certainly not a good use of tax payer dollars in terms of the state defending its actions if such is done in this regard.

As a final note, please keep in mind that it is the desire of everyone to keep businesses in our state viable. Such is essential to the continued good economic health of our state, now and in the future, and employers should not be penalized in any way for the positive contributions they are making in this regard.

STATEMENT OF PAUL KANE
EXECUTIVE VICE PRESIDENT/CEO
HOME BUILDERS ASSOCIATION OF GREATER TULSA
Senate Federal and State Affairs Committee
Senator Peter Brungardt, Chairman
March 4, 2008

As is commonly known, Oklahoma has enacted legislation to address immigration. This law is known as the Oklahoma Taxpayer and Citizen Protection Act of 2007, also known as 1804 ("1804"). The big issues which have been of concern to the members of the Home Builders Association of Greater Tulsa (the "HBA"), have been the unintended consequences of 1804. First, it should be known the HBA does not endorse or condone illegal entry in the country, or any other illegal activity for that matter. However, 1804 has done more than change the attitudes of undocumented workers and their employers, it has impacted the attitudes of a vast number of immigrants, many of whom are documented, law abiding, tax-paying workers.

Even though 1804 did not go into effect (in part) until November 1, 2007, the impacts of the law began well before then. In mid-August, the HBA began receiving reports of a "mass exodus" of Hispanics from the Greater Tulsa area because of the impending 1804. Some were leaving because they were, in fact, undocumented (which was the intended affect of 1804); some left because they were friends or family of undocumented workers (which was not necessarily intended by 1804); and some left because they believed that there was an emerging "anti-Hispanic" environment in Tulsa (which some argue was intended with the law, and other argue was not intended).

What we discovered in the weeks and months which followed was that 1804 created such a culture of fear within the immigrant population, that rumor after rumor began emerging as to what this law was all about. We began hearing of ICE job site

raids on construction sites, road blocks to check identification and police intimidating immigrants at convenient stores. Many Hispanics stopped showing up for work in order to avoid the potential of harassment by federal officials. Even documented workers are intimidated by federal officials and didn't want to run the risk of being mistaken as undocumented.

One such rumor was that a job site raid had occurred at a particular subdivision in Tulsa. Under this story, ICE came rolling in with their trucks, lined up all the immigrant workers, loaded them in the trucks and deported them. After weeks of attempting to get the bottom of this story, we discovered the truth behind the story: Apparently, some ICE officials did, indeed show up at the job site in question. But instead of being there to conduct a general raid, they were there to serve a felony warrant on a known felon. Naturally, in order to find this felon, they had to check the identity of various workers. No workers, other than the felon sought, were taken away.

On another occasion, there was a rumor of the Sheriff's department having parked outside a predominantly Hispanic Catholic church, waiting for mass to get out so they could card the parishioners. This never happened. Clearly, this was an inflammatory rumor, intended to frighten the Hispanic population.

Is the fault of 1804 that people are spreading unsubstantiated rumors? Maybe not directly. However, much of the talk surrounding the enactment of 1804 was that it was the "toughest immigration law in the nation". While many of the immigrant community did not understand the nuances of the law itself, they believed they were being targeted as an ethnic group.

1804 has had an impact not just on the undocumented workers, but on the law abiding immigrants as well. For example, you might have a documented worker, who

has three children who were all born in the U.S. (and are therefore citizens), but his wife is undocumented. They flee to avoid the law. Accordingly, five people have now left to avoid problems for one. And one of those who left is a documented worker who is supporting the Oklahoma economy.

Ultimately, this is not about amnesty or allowing undocumented workers to avoid the law. It is about the recognition that the immigrant population has a significant place in the economy. And that the immigration problem is one of national proportions. As every state passes its own version of an immigration law, confusion and inconsistencies among laws emerge. What will result is a patch-work quilt of laws across the country in which no two states' immigration laws are the same. This will have a negative and adverse impact on interstate commerce. This problem is exacerbated when individual municipalities began enacting their own ordinances to "deal with the problem". This has already begun happening in Oklahoma, and it has probably started happening in Kansas too.

This a federal issue. It must be addressed by the federal government. While it is understandable that many U.S. citizens are frustrated by the federal government's failure to resolve this issue so far, this is no reason to "take matters into our own hands". This is analogous to vigilantes engaging in their own version of "law enforcement" because they think the local Sheriff isn't doing his job well enough. It is not the job of states to control the borders or immigration any more than it is the job of vigilantes to go track down a local criminal. We should be putting pressure of the federal government to solve this issue for all Americans, once and for all!



**Heart of America
Chapter**

February 29, 2008

Kansas Senate
Federal and State Affairs Committee,

Thank you for allowing Associated Builders and Contractors, Heart of America Chapter to express its opinion on the issue of state level immigration enforcement and Senate Bill 458.

Several issues concern our members when states consider immigration reform:

1. Immigration law and its enforcement remains the province of the federal government. Federal law directly preempts state and local law in regards to immigration enforcement, which states in material part “(2) *Preemption – The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing or similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens. (cite: INA 274A(h)(2)/8 USCA 1324a(h)(2))*”. Legal resources tell us even when the state sanctions are directed at an employer’s business license, such laws likely go beyond the authority of the state or local government.
2. Any proposal, such as Senate Bill 458, which requires employment verification through a specific program, such as the federal Basic Pilot Project or E-verify, is problematic. A report produced by the U. S. Chamber of Commerce identifies some of these concerns and can be provided upon request.
3. Groups in other states have expressed concerns that similar laws actually increase the potential for discrimination against minorities that are in the state legally. (from Catholic Conference of Kentucky)
4. Finally, many proposals do not include sufficient due process for employers. Our position is that any proposal, state or federal, should clearly outline a safe harbor process for employers, where following certain steps and/or procedures constitute absolute compliance regardless of the employee’s ultimate immigration status. Employers following such procedures should be held harmless for hiring decisions.

It is important for states to consider the fact that every state immigration law passed in the United States is currently being challenged in court. It seems premature to pass additional laws until we have a clear roadmap provided by our court system.

In summary, the position of the Heart of America Chapter of Associated Builders and Contractors is that immigration enforcement should be enacted at the federal level, whereby employers, especially those operating in multiple states, face a consistent set of requirements.

Thank you for the opportunity to be of assistance.

Respectfully,

Jim Kistler, President / CEO



Testimony Re: SB 458
Senate Federal & State Affairs Committee
Presented by Don Sayler
On behalf of
Kansas Restaurant & Hospitality Association
February 26, 2008

Mr. Chairman, Members of the Committee:

My name is Don Sayler, and I am the President & CEO for the Kansas Restaurant & Hospitality Association (KRHA). The Kansas Restaurant & Hospitality Association is the leading business association for restaurants, hotels, motels, country clubs and allied business in Kansas. Along with the KRHA Educational Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

The restaurant and lodging industry relies heavily on immigrant workers. We do not promote or condone the presence or employment of undocumented or illegal aliens in Kansas or the United States.

KRHA opposes SB 458 for the following reasons:

We believe that immigration is an issue that should be enforced at the federal level. Federal law already contains severe penalties for those who knowingly hire illegal aliens. Those provisions should be enforced in lieu of the creation of additional laws which must be enforced by state and local government. As such, Kansas businesses should not be penalized for following current federal immigration laws nor should they be mandated to enforce federal immigration laws. Businesses should not be forced out of business due to sanctions or the revocation of their business license for unknowingly employing workers that prove to be undocumented or illegal.

Provisions of SB 458 place undue compliance burdens on Kansas employers. Additionally, SB 458 leaves KS employers subject to being forced out of business even if they unknowingly failed to comply with the provisions listed in this bill. In this connection, we oppose efforts to mandate the use of the E-Verify system. This system is a voluntary federal program. We feel the state should create incentives for the use of E-Verify system, not penalties.

Thank you for permitting us to submit written testimony in opposition of SB 458.

Donald G. Sayler



Written Testimony before the Senate Federal & State Affairs Committee
Senate Bill 458 – The Kansas Illegal Immigration Relief Act
Presented by J. Kent Eckles
Vice President of Government Relations
Tuesday, March 4th, 2008

The Overland Park Chamber of Commerce appreciates the opportunity to submit written testimony in opposition to Senate Bill 458. The Chamber speaks for over 850 member businesses in Overland Park and Johnson County. The Chamber Board and its volunteer Government Affairs Committee both unanimously oppose legislation that would unfairly penalize Kansas businesses for following federal immigration guidelines.

The Chamber believes immigration is a federal issue and that businesses should not be put in a position of either enforcing federal laws or becoming document experts. Therefore, stopping providers and users of false identification is the best method to address immigration problems in Kansas.

The Chamber will oppose any legislation that imposes civil fines and or the suspension or revocation of business licenses for employers who unknowingly hire illegal aliens. Federal law already contains severe penalties for those who knowingly hire illegal aliens and it is the Chamber's view those laws should be enforced in lieu of creating additional laws to be enforced by state and local governments.

Finally, the Chamber cannot support mandating the E-Verify system on Kansas businesses when the federal government refuses to do so because it is so flawed. If a Kansas business decides to voluntarily use the federal E-Verify system, they should be held harmless in the event they unknowingly hire illegal aliens. Studies have shown the system is unreliable in identifying false documentation and cannot even tell an employer if a social security number presented on an employment application actually belongs to the individual presenting it.

Again, we appreciate the opportunity to offer our opposition to Senate Bill 458 and look forward to working with the Committee on positive immigration reform efforts.

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
t: 913.491.3600 • w Sen Fed & State



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**Testimony
Senate
Federal and State Affairs Committee**

TO: Senator Pete Brungardt, Chairman
And Members of the Committee

FROM: Martha Neu Smith
Executive Director

DATE: March 4, 2008

RE: SB 458 Immigration Reform

Chairman Brungardt and members of the Committee, my name is Martha Neu Smith and I am the Executive Director for Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to express our opposition to the immigration reform proposed in SB 458.

KMHA is a statewide trade association, which represents all facets of the manufactured housing industry including: manufacturers, retail centers, community owners and operators, finance and insurance companies, service and supplier companies and transporters.

The Manufactured Housing Industry feels illegal immigration is best handled at the federal level, however, if the Kansas Legislature wishes to move forward on immigration legislation we would ask that they take a reasonable approach. The industry supports the concept of increasing penalties for identity theft to a severity level 5 nonperson felony if the monetary loss to the victim exceeds \$100,000; increasing penalties for identity fraud if fraudulent identification documents were used for employment purposes the penalty increases from a severity level 8 nonperson felony to a severity level 5 nonperson felony. We would support increasing penalties for reproducing; manufacturing or selling false identification if the dealt fraudulent documents are used to obtain employment from a severity level 8 nonperson felony to a severity level 5 nonperson felony. We would also support creating a new penalty for the exploitation of an illegal alien; subjecting known illegal aliens to working conditions violating the minimum wage and maximum hours law will now result in a severity level 8 nonperson felony.

With regard to the federal voluntary program known as E-Verify, we would ask that the Legislature establish an incentive program for employers who voluntarily participate in E-Verify by holding them harmless.

We understand there is a lot of concern about illegal immigration, but this concern should not translate into an effort to penalize Kansas businesses for following federal immigration laws. The concepts noted above will target those individuals who make and sell false identification documents.

Thank you for the opportunity to express our concerns, please do not support SB 458.

Sen Fed & State

Attachment 33

3-4-08



**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

WRITTEN TESTIMONY IN OPPOSITION TO S.B. 458

Senate Federal & State Affairs Committee

Phil Perry, Director of Governmental Affairs

Home Builders Association of Greater Kansas City

March 4, 2008

Mr. Chair and members of the committee, the Home Builders Association of Greater Kansas City thanks you for this opportunity to speak in opposition to S.B. 458. First I would like to make it clear that the HBA does not promote or condone the presence of illegal aliens in the United States and firmly believes that immigration is a matter that should be handled by the Federal Government. As such, we strongly oppose any legislation that would penalize businesses in Kansas for following federal immigration laws.

Our organization is very concerned about the patchwork effect that is being created as states craft their own sets of laws on this important issue. As many of our members do business in both Kansas and Missouri, this creates a difficult situation, as the current Federal and proposed Kansas and Missouri laws would be wildly divergent.

Federal law already imposes civil fines, which have been recently increased, for those who knowingly hire illegal aliens and it is our position that these laws need to be enforced instead of creating additional penalties. Kansas businesses should not be penalized for following federal immigration laws, nor should they be required to enforce these laws.

We strongly oppose any sanctions that include suspension or revocation of a business license as this type of penalty can effectively shut down our members. We also believe that businesses should not be required to enforce laws on the subcontractors that they hire and are the backbone of our industry.

Additionally, the HBA is strongly opposed to mandating the E-verify system for Kansas businesses. As we stated above, this creates a system where businesses will not be sure what system to use as E-verify is not currently mandated by the federal government and is outlawed for use by some states. This bill requires that businesses be enrolled in the E-verify system, but enrollment in the system does not require that it be used. The E-verify system is inherently flawed and we feel that the present use of the I-9's is an adequate system for business to use.

Thank you for this chance to offer our opposition to S.B. 458 and we look forward to working with all legislators on creating meaningful immigration reform.

Do Business With A Member

Sen Fed & State

Attachment 34

3-4-08



SISTERS OF CHARITY
OF LEAVENWORTH

**Written Testimony
Opposition to SB 458
Sisters of Charity of Leavenworth
Sister Linda Roth, Member of Leadership Team
March 4, 2008**

The Sisters of Charity of Leavenworth have served the people of Kansas for 150 years. One of our ministries has been health care. That ministry continues today with this mission statement:

We will, in the spirit of the Sisters of Charity, reveal God's healing love by improving the health of the individuals and communities we serve, especially those who are poor or vulnerable.

Part of our health care ministry is sponsoring safety net clinics. In Kansas these clinics are St. Vincent Clinic in Leavenworth, Marian Clinic in Topeka, Duchesne Clinic in Kansas City.

New Section 5 of SB 458 states that anyone who is not documented "shall not be eligible to receive any state or local public benefit from any state, county or local government entity in the state of Kansas . . ." Since our clinics receive some public funding, we question what this would mean for us. Would it ask us to put restrictions on our service? Would it disqualify us from receiving these much-needed public funds?

Our criteria for service comes through income eligibility guidelines. Our mission in these clinics is for those who are have low incomes and are uninsured.

In January of 2003, the Catholic Bishops of Mexico and the United States issued a joint statement titled: Strangers No Longer: Together on the Journey of Hope. The document states the necessity of the Catholic Church being part of

“ . . . confronting attitudes of cultural superiority, indifference, and racism; accepting migrants not as foreboding aliens, terrorists, or economic threats, but rather as person with dignity and rights, revealing the presence of Christ . . .”

As Sisters of Charity we are very troubled by the hateful rhetoric that is often thrust toward our immigrant sisters and brothers. **We ask you to reject all the policies of SB458. We pledge to continue to be part of the voice that urges Congress to pass comprehensive immigration reform.**

Written Testimony - Opposing SB 458
United Methodist Women of the Kansas East Conference
March 4, 2008
Susan Fowler and Sue Luttrell

Last week you received the ecumenical bishops' statement on immigration, asking you to carefully consider who you deem to be your neighbor, and not to ignore the blessing of neighborliness. To quote the bishops, **"To close our eyes to our neighbor blinds us to God."**

While preparing these remarks we had planned to address each section of this bill to show the serious problems that will give rise to additional costs through unfunded mandates and inevitable court challenges. We are practical women who dislike financial waste, whether it is in our homes or our government. But after careful review of this legislation, it became clear that the crux of this matter is the bill's overall tone, one that we find reprehensible and considerably more important than its fiscal irresponsibility.

This legislation wants to draw clear lines as to who is our neighbor, and the potential outcome is horrifying. It appears this legislation sprang from fear of "the other" and seeks to oppress a group of people who are granted rights under the U.S. Constitution *regardless of the status or manner in which they entered this country*. This fear is too often expressed as anger, and anger often escalates into acts of senseless violence.

That is not neighborliness.

Instate Tuition:

We find it distressing that any legislation should be so heartless, so utterly devoid of compassion as to propose crippling the children of undocumented workers, who, *through no fault of their own* found themselves about to graduate from a Kansas high school and, despite having the academic aptitude, lacked the means to attend college. **The provision of the law that allows in-state college tuition for these children of promise sought to make the best of a bad situation by allowing, not free tuition, not waived tuition, but in-state tuition to these children of immigrants who were also working toward their U.S. citizenship.** Ask officials from any of the Kansas Regents institutions who are the other recipients of in-state tuition and they will tell you this is common practice for out-of-state students on assistantships and other types of academic or athletic scholarship. In other words, the practice is long-standing, and rather than discriminate against certain children, we successfully made provisions of hope and opportunity that SB458 seeks to strip away.

This lack of compassion is antithetical to any group that purports family values. It is un-neighborly. It threatens to blind us to God.

We are your sisters, your mothers, your aunts and your wives. We are the women of the United Methodist Church of the Kansas East Conference, and we ask you to remember that immigration reform remains the purview of the federal government. Let us render to President George W. Bush and the U.S. Congress their responsibilities while we solve Kansas problems in the way we know best – to be neighbors and to love one another as God has commanded us.

Sue Luttrell, President
Officer
Kansas East Conference UMW

Susan G. Fowler, Social Action
Kansas East Conference UMW

TESTIMONY AGAINST SB458

Given by Sister Rene Weeks, OP

President of the Dominican Sisters of Great Bend, Kansas
3600 Broadway, Great Bend, KS 67530
620-792-1232

Thank you so much for allowing me to address this committee today. I am the president of the Dominican Sisters of Great Bend. For over one hundred years my congregation has served the needs of people of western Kansas. Currently we work in Garden City, Great Bend and Dodge City as well as other smaller communities in the state. In Garden City we work with the town's neediest people; whether they are here legally or not. And I personally know many immigrants through my work in both Kansas and Colorado. Some of them are here legally and some are not. Almost without exception those I know are in this country to work hard, to contribute to our society, and to be involved in their churches and communities. They are struggling with the intricacies of our English language but determined to learn it. They are interested in their children's education

I see many problems with SB458 and its House companion. Others will certainly speak to the effects it could have on the state's economy as well as other problems with the bill.

I want to address what I consider the significant moral issues involved in the whole area of immigration reform. In her rationale for supporting this legislation Senator Palmer says that we must address the present humanitarian crisis affecting Kansas citizens as well as immigrants. I agree with her. But this isn't the way to do it. Passage of this legislation will only make the crisis worse.

This issue needs to be solved on the federal level. I know that states are frustrated by the lack of action on the part of the federal government. And I know that you are being bombarded by calls and visits and email from well-organized groups who really want this and other state bills to pass. I personally am very concerned about the kind of hate rhetoric I hear every time some real attempt is made to arrive at a just solution. Some of the groups that oppose reform, like the Federation for American Immigration Reform (FAIR), remind me of the way my grandparents described the nativist and anti-Catholic groups of the 1920s. (In fact the Southern Poverty Law Center has done extensive research on FAIR and the hate rhetoric promoted by its founder John Tanton.) Since its foundation FAIR has been marked by anti-Latino and anti-Catholic attitudes. I urge you to consider wisely the source of your information; underlying some of it may be attitudes and values you really don't intend to support.

The US Catholic Bishops as well as many other groups have consistently said that the only just solution to our current situation is comprehensive immigration reform on the federal level. This has to include:

- reform of the employment-based immigration system to provide legal pathways for migrants to come and work in a safe, humane, and orderly manner,

- a pathway to legalization for the undocumented who are already here, (not an amnesty, but an earned pathway that allows people to demonstrate their value to our society and receive the right to remain legally);
- reform of our immigration system to allow family members to reunite with loved ones in the United States;
- abandonment of the border "blockade" enforcement strategy while at the same time creating safe borders,
- and restoration of due process protections for immigrants.

The federal government must create a workable system with sufficient visas for workers from other countries to come here legally. Comprehensive immigration reform is needed to take the unregulated, illegal, and disorderly flow of unscreened and unauthorized workers and replace it with a legal, orderly, flow of authorized workers. The current federal system hurts wages and working conditions for all blue collar and low-wage workers, native-born and immigrant alike. This is a moral issue. We need a different worker visa program that adequately protects the wages and working conditions of U.S. and immigrant workers. The present system doesn't work well for employers in any sector, but it especially doesn't work in the agricultural sector where need fluctuates so much. Cousins of mine in southwestern Kansas could tell you plenty about how difficult it is to get legal workers through our present visa system. One of them searched long and hard for someone who had the skills he needed in working with both horses and cattle as well as other aspects of his diversified operation. Despite paying a good wage he couldn't get anyone local to stick with the work; they all thought it was too demanding. He finally hired someone who is not here legally. That individual has worked for him now for at least a dozen years. Throughout that time efforts have been made to get a legal work permit for him, to no avail. My cousin is no liberal—in fact he is a very conservative, law-abiding Republican who is torn by the situation. He wants a legal way to operate.

Another piece of this moral dilemma is our present unjust trade and aid strategies that only make the problem worse, especially in Mexico and Central America. Until the federal government begins to evaluate trade and foreign aid programs for the effect they will have on other countries as well as our own, the flow of desperate people will continue to come here no matter what.

Kansas cannot fix this problem by state legislation. It has to be done uniformly across the nation, and that can only be done on the federal level.

I beg you to put your energies into influencing the federal government to deal with this issue in a comprehensive way rather than passing state legislation that may well make the situation worse by destabilizing the state's economy, making good workers even harder to find and driving people, who admittedly entered illegally but since that have been law-abiding, contributing members of our society, further into the shadows where they can be even more easily exploited.

Kansas is a great state with high values—I want to keep it that way.



JUSTICE AND PEACE CENTER
Sisters of St. Joseph

February 25, 2008

Senate Federal & State Affairs Committee
Senator Pete Brungardt, Chair

I am submitting this written testimony to be filed with the record of testimony in opposition of HB458.

We, Sisters of St. Joseph have been in the state of Kansas since 1883 ministering to the needs of Kansans in the area of education and health care. Our religious charism and faith calls us to be attentive to the most vulnerable among us, thus, we are concerned with the recent legislative immigration bills before the Kansas House and Senate.

We are writing in response to Senate Bill 458. We write in opposition to this bill. What Kansas needs, what the whole country needs is Comprehensive Immigration Reform and not piece-meal legislation that encourages anti-immigrant sentiment. Proponents of these bills suggest that undocumented immigrants are receiving public benefits, yet when asked for statistics, few are forthcoming.

We are especially concerned with the segment of these bill that attempt to derail the in-state tuition to undocumented children who are here in the US, illegally, through no fault of their own. These are children who know English well, who are good students graduating from our high schools and whose desire is to obtain a college degree and eventually able to work in the field of their choice.

This bill further expands immigration enforcement authority to local police and sheriff's departments. This can lead to "racial profiling" by having law enforcement personnel inquire into a person's legal status merely because of the color of skin, a surname, or voice intonation. We already have enough hate rhetoric, must we add to it?

We thank the committee for holding this hearing and hope you realize the complexity of this issue but the answer to it cannot be a piecemeal solution; the solution can only come from Federal Legislation in the form of Comprehensive Immigration Reform.

Sincerely,

Sr. Esther Pineda, CSJ
Sisters of St. Joseph- Concordia, KS



**WRITTEN TESTIMONY TO THE
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
IN OPPOSITION TO SENATE BILL 458**

By Dan Morgan

The Builders' Association and Kansas City Chapter, AGC

March 4, 2008

Mister Chairman and members of the Senate Federal and State Affairs Committee, my name is Dan Morgan. I am director of governmental affairs for the Builders' Association and the Kansas City Chapter of Associated General Contractors of America. These organizations represent more than 1,100 general contractors, subcontractors and suppliers engaged in the commercial and industrial building construction industry. Half of our members are located in the Kansas City area and are either domiciled in Kansas or perform work in the state. I appreciate the opportunity to offer this written testimony in opposition to Senate Bill 458.

Proponents of these bills would have us believe that the state of Kansas is awash in employers who knowingly and intentionally employ unauthorized aliens in order to gain competitive advantage over their business rivals. The truth is that a relative small number of Kansas employers knowingly and intentionally violate federal immigration laws, yet these proposals would put all Kansas employers at risk of losing the ability to do business for failure to properly comply with a second layer of new state immigration mandates that needn't be imposed on the majority of them in the first place. The jobs of innocent employees would be put at risk as well. While we certainly share everyone's concerns about the harmful effects of illegal immigration in our state and country, we believe that any new state remedies ought to be directed at those who are causing the problem, rather than at the business community at large.

We have no concern for the fate of those who knowingly violate federal immigration laws. We are, however, very concerned for innocent employers who will be put at risk if these proposals are adopted. The vast majority of employers who would never knowingly employ an illegal alien should not be put at risk of losing their business licenses because of false complaints by disgruntled former employees or competitors or because they are found to have had "constructive knowledge" of an employee's unauthorized status. Nor should they be made to bear the expense and risk of defending associated discrimination lawsuits.

We are opposed to provisions in these bills that would mandate participation in the federal E-Verify program because of problems associated with it. Those who elect to utilize this employment authorization verification program in good faith, however, should be granted a "safe harbor" against any action relating to the employment of an illegal alien. We also strongly oppose any requirement that would make one employer liable for his or her subcontractors' or independent contractors' actions or record-keeping requirements. Existing state law already addresses the misclassification of employees for the purpose of evading tax responsibilities.

Immigration is a federal matter. Any new state law should encourage, assist in and enhance the enforcement of existing federal law which already contains significant penalties. Other states' laws that place the burden of enforcing our nation's immigration laws on employers have been found to have unintended consequences and to contain significant potential liabilities for innocent employers. For these reasons, we support House Bill 2921 which focuses on employment eligibility verification requirements and establishes new and increased state penalties on those who are causing the problems. We respectfully request that the Senate Federal and State Affairs Committee reject Senate Bill 458. Thank you very much.

Sen Fed & State

Attachment 39

3-4-08

**Testimony of
Wes Ory, President, Heritage Lawns, Ltd.
in opposition to
Senate Bill 458**

Dear Committee Members:

I am Kansas business owner. I run Heritage Lawns, a small but successful landscaping and sprinkler installation company. I speak against these bills because I think they are a terrible idea. I think they will drive me out of business and this is why:

1. **Further Restrictions on Business Owners.** What you are doing here is you are putting further restrictions on business owners. It looks like you do not understand that the federal authorities have already done so, and that most companies requiring hard labor have no way of hiring legally, especially this year, when there are no more H-2b legal visas to be had. So instead of helping companies get labor legally, you are putting more restrictions on us.
2. **Tighter Labor Market Will Drive Me Out of Business.** With big companies not getting their H-2Bs, it means the tight labor market will be even higher. And those guys who I used to attract, will not be available to work for me, because the larger companies will go after them even more aggressively. So I will have no workers to install my sprinklers. And what are you doing about that? You are putting even further restrictions on me: no way to get legal workers and despite that, more punishment for undocumented workers. You are threatening to take away my business license. That is not very smart, because when I go out of business due to shortage of workers, I will not need the business licence anyway.
3. **Legislation Based on Ignorance or Fantasy.** It looks like you have no idea that there are no legal visas, period, for anyone who wants to come here legally this year in our businesses. If there was a legal way, believe me, we would have tried - like many companies who for H-2Bs. This is the problem. So the bill is wishful thinking, based on dreams, not reality. And other bills are based on think thinking that we can hire legally, we just do not want to. This is fantasy too.
4. **Successful Business Owner to Possibly Unemployed Thanks to Overzealous Legislators.** Now I am running a successful company feeding myself, my family and up to 15 employees. If I have to close the doors thanks to your laws, we will all go on unemployment That does not make any sense to me, does it to you? I suggest that you get busy with our real problems, such as getting some laws for legal visas or good school funding. Stop inventing more ways to drive Kansas business owners out of business. Thank you.



Testimony of Dwayne Lukowski
Artistic Designs Lawn and Landscape, Inc.
Shawnee, KS

Against Bills: House Bill 2370, 2680, 2367, 2836, 2774 and Senate Bill 458

Dear Legislators,

I am a business owner serving the Kansas City metro area. We have been in business for over twelve years and we currently employ over one hundred and twenty workers, forty full time and ninety seasonal. The passing of these bills would result in loss of American jobs, loss of revenue and possibly cause closer of my business.

- 1) I believe that immigration is a federal responsibility, not the state. We need tools available that only the federal government can provide and such tools that have been available in pass recent years have been taken away. I am referring to the H2B work visa program. Imposing such laws as above causes the state to further regulations on the small business.
- 2) There are no American workers available to fill our jobs. In our industry as well as many others, it is impossible to find workers to fill labor intensive positions. We have run ads in the Kansas City Star and other local media outlets and still are unable to fill all our positions. We will hire anyone who is ready to work and we will train them as needed, but still no results. If labor cost keep going up and does not allow our company to stay competitive, we would have to close our doors. There would be loss of American jobs, loss of revenues to our vendors (which could cause them to close their doors) and less tax revenue to the state.
- 3) Legislation should be reasonable to work with the small business. Small business makes up most of the economy. Legislation needs to regulate reasonably, but not restrict. Imposing more state and federal responsibilities on the employer is not the answer. All businesses need to follow the law and be held accountable as well. These bills do none of that.

- 4) There should be a legal way to bring foreign workers to fill our seasonal jobs. With unemployment low and the seasonality of our industry creates a uniquesituation for the employers. As long as there is a need for goods and services, the problem will exist. We need a **solid and lasting solution** to this problem.

Testimony of **Lance SCHELHAMMER**
GRASS ROOTS, INC., Olathe, KS

My name is Lance Schelhammer II. I am President of Grass-Roots, Inc. in Olathe, KS. This is our 30th year of providing commercial grounds maintenance in the Kansas City area. My mom and dad started the company and I took over day-to-day operations (6) years ago. The biggest challenge thus far in my young career has been the labor crisis that affects ours, and many other industries nation-wide.

Up until the mid to late 90's, mostly Americans filled our labor positions. They were happy to work the hours, dependable, and provided a good product. In fact, most of my long-term managers today started in labor positions and advanced as their experience grew. For some unknown reason, the years that have followed have produced fewer and fewer Americans that want to do this kind of labor-intense work. Most Americans that have shown interest have either required a desk job immediately, or have shown a lack of dependability, work ethic, and/or pride in their work. As a result, my company and our industry have had to make significant changes in the way we hire and operate internally.

Needless to say, the lack of American support in our labor force has been disheartening and challenging. The shift to a migrant labor force has limited our ability to promote from within. This is mostly due to language barriers and the lack of quality education for migrant workers. Also, the detail that we have to take on with regard to safety, recruiting, translators, etc. has been greatly increased. Not that it's a bad thing, it just has created more work. And finally, contrary to popular belief, migrant labor does not come cheap.

Grass-Roots, Inc. has participated in the H2B program for (7) years. We are lucky enough to have received 51 Visas this year. I am not necessarily a "fan" of the system, but it is the only way we can get legal help to provide a service. Last year, due to the back up at the consulates, we did not receive our help until the beginning of May. This left us scrambling through the first month and a half of the growing season. In all, we went through approximately 150 local workers with 2 staying on for more than two weeks. None made it through the entire season. The main issue with this is that migrants are said to be taking away American jobs, when it is quite obvious to us that Americans are not interested in these jobs. And quite honestly, small businesses cannot afford to wait on Americans to realize their opportunities.

In our experience, the migrant labor force exhibits the work ethic, dependability, trust, and pride in their work that the American work force displayed years ago. It is something that we should embrace not shun. Immigration reform is needed on the federal level because it is a nation-wide issue. A legislator said the other day that "Oklahoma's illegals are running up to Kansas" to avoid their troubles with the new laws passed there. So as a result, Kansas needs to take action. But then they will run to Iowa, Nebraska, Wisconsin, Illinois, etc. The more states that pass these laws, the farther away we are from a total solution to this problem. And in the meantime, good, blue collar, hard-working family companies and those that they employ will be finding it harder and harder to conduct business in Kansas.



Testimony before the Kansas Senate Federal & State Affairs Committee:

In Opposition to the Anti-Business Immigration Bills Senate Bill 458

Introduction:

- Robert Mayer- President of the Mid-America Green Industry Council and Senior Facility manager of Landscape Services for a large Kansas employer.
- Mid-America Green Industry Council represents approximately 200 employers in Kansas and surrounding states.
- Our members range from small family-run businesses to large-scale employers serving the landscape maintenance and construction industry.
- We oppose these bills. We view them as anti-business and against the interests of Kansans.

Issues:

- No legal visas. Not enough American workers to fill jobs within our industry.
- The reading of these bills shows me that Kansas legislators think that there are ample visas that allow us to hire workers legally or that there are enough American workers to fill these jobs.
- In fact, there are NO LEGAL VISAS available to employers to bring workers here legally in Kansas.
- Significant efforts have been made and will continue to be applied to attract American workers to these seasonal jobs, but no matter how hard we try, very few apply and fewer stay even when we pay above the prevailing wage.
- Our industry is being held hostage by an H-2B disaster orchestrated by our Federal government. They have yanked the rug out from under small business men & women who want to do the right thing.
- Many of our members have done everything they can to do the right thing law-wise to hire help legally, through vigorously recruiting U.S. workers and applying for legal visas for foreign workers when American workers fail to fill the jobs.
- This year, landscape company employers in Kansas filed their Labor Certification with the Kansas Department of Commerce, advertised in the Kansas City Star and other major newspapers and entered job orders in to the Kansas Unemployment database.
- Their prevailing wages were issued and employment efforts were supervised and directed by the Kansas Department of Commerce to make sure that no American who was willing to work was overlooked.
- Kansas Department of Commerce and the Federal Department of Labor agreed that despite us paying appropriate wages and vigorously recruiting U.S. workers, there are no Americans available to fill our jobs and awarded our member company's Labor Certificates.
- With the Department of Labor authorization, landscape company's filed for H-2B visas only to discover that the Federal government failed us.
- Congress allows for only 66,000 H-2B visas per year. As expected, this cap was met on Jan. 2nd long before most of our business owners had a chance for DOL approval.
- The U.S. Congress knew of the severe labor shortage yet failed to do anything about it.



- Thus, our employers have the labor certification issued by the government validating that there are no Americans to fill our jobs and yet they are not giving us any legal way to get the foreign workers here legally.
- What should we expect from our state legislators? Understand the issue and help us by explaining to the U.S. Congress that they are setting us up for failure.
- The federal law already punishes employers for hiring undocumented workers. The last thing that we expect from our state legislators is to jump on the band wagon and instead of helping us, threaten to punish us further.
- Before you punish, you must help us acquire the legal resources to comply with the law.

Economic Impact:

- Some of our members who are not getting their legal H-2B workers this year will have to close their businesses. Some will have to fire existing U.S workers such as office personnel and supervisors because they will not have people to support and manage.
- Many business owners have reported that they would not be able to buy equipment, tools and supplies including American truck manufactured right here in the U.S.
- Many will default on customer contracts due to lack of manpower.
- The word will go out to those U.S. workers who loose their jobs and suppliers who loose our business as to why this happened. It's because we did not get our legal workers this year.
- Our membership will know that instead of our federal and state legislators helping us get our legal workers, they competed in devising ways to punish us further for not hiring legal workers.

Request for Help:

- As legislators, you have a duty to act on behalf of your constituents.
- As your constituents, we are asking for your help in getting legal ways to hire seasonal workers by explaining it to the U.S. Congress. Please do not further punish Kansas small business men and women who are doing their best to hire legal workers but have been unable to because of Congress's irresponsibility.

Conclusion:

- In conclusion, I testify in opposition of this proposed bill.

Following the law, companies wind up in a bind

By DIANE STAFFORD
The Kansas City Star

If your landscape contractor doesn't mulch your plantings this spring ...
If your favorite campground's facilities remain closed at the beginning of the summer ...
If your building's exterior painting contractor can't give you a date to begin work ...

- JoCoBusiness.net | H2-B Visa program

You may be coming to grips with a little-known, little-understood guest worker program that this year is imperiling some small businesses and the services they provide.

From the lobster industry in Maine to landscape companies in Kansas City to carnival exhibitors in Southern California, thousands of U.S. business operators are sweating out their ability to keep their customers because of a limit placed by the federal government on H-2B visas.

H-2Bs are permission slips that allow manual laborers to work — temporarily and legally — in the United States for employers who sponsor their visa applications.

For this fiscal year, U.S. businesses are allowed only about half the number of H-2B seasonal workers that were hired last year.

After the cap on applications for the second half of the fiscal year was reached this month, several dozen Kansas City companies learned their applications didn't make the cut.

And, because of the way H-2Bs are allocated, even those companies that won approval won't be getting their seasonal workers until April. That late arrival date is putting many area landscape companies in a hiring and scheduling pinch.

In the Kansas City area, no industry counts more on H-2B workers than the landscaping and yard care trade. By May, one landscape company owner said, it should be clear to customers which companies received their H-2B visa workers and which didn't.

To understand why H-2B workers are sought, consider the experience of Lance Schelhammer Jr., owner of Grass-Roots Inc., based in Olathe. His company employs 20 to 30 U.S. workers year-round. But, when its outdoor business kicks up in March, it needs about 50 more workers for the growing season.

Last year, Schelhammer's H-2B authorizations did not come through until mid-May, so he tried to hire locally.

"It was a nightmare. It was absolutely terrible," he said. "We went to temp agencies, to day-labor agencies all over town. We ran ads all the time.

"We went through 150 workers, and only two of them lasted more than two weeks. The longest tenure out of 150 was the one worker who lasted 1 1/2 months. Not one of the locals we hired stayed the entire season."

For about \$12 an hour, Schelhammer said, he couldn't find and keep American-born workers in the Kansas City area who would cut grass. Fortunately for his business, he added, his 55 H-2B applications were approved this year and the guest workers are expected to begin work in April.

For companies that didn't win the visa lottery this year — and there are some large area businesses among them — the alternative may be resorting to undocumented workers.

"It puts employers in a position where they almost have to hire undocumented workers," said immigration attorney Alejandro Solorio. "This is a great hardship on the companies that bring back some of the same seasonal workers year after year."

Solorio, who helps companies file H-2B applications, said that this year not one of his client companies had their applications approved.

Caught up in the explosive immigration debate, and fanned by election year politics, Congress last year declined to raise the cap, which this year allows 66,000 guest workers to work in the United States.

Next page >

To reach Diane Stafford, call 816-234-4359 or send e-mail to stafford@kcstar.com.

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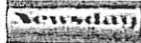


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East End again on hold over foreign workers



Jen Friebely of the Hampton Jitney company and Paul Monte of Gurneys Inn and president of the Montauk Chamber of Commerce, speak after a chamber meeting last month about the lack of legal foreign employees for the upcoming summer season. (Photo by Gordon M. Grant)

BY MITCHELL FREEDMAN | mitchell.freedman@newsday.com
4:00 PM EST, February 11, 2008

At Gurney's Inn in Montauk, one of the largest private employers in the Hamptons, general manager Paul Monte is looking to the summer with high anxiety.

He's got popular cottages, suites and rooms to let. But if he doesn't have enough staff to clean the rooms, Monte can't rent them. He's got a restaurant and a cafe. But if there isn't enough wait staff and cooks, people will have to be turned away.

The serious problem of 2007 has become even worse in 2008, and it is national in scope: For years, an estimated 66,000 to 70,000 people have been allowed into the United States as temporary, nonagricultural workers on a federal "H-2B" visa. In each of the past three years, the number of H-2B visas granted increased substantially, due to a special exemption, rising last year to a high of nearly 130,000.

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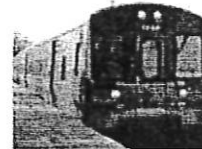
But for various reasons -- prime among them the debate over immigration reform -- those formerly allowed to come here under the program, regulated by the U.S. Department of Labor, cannot return unless Congress acts promptly.

So the hotels, inns, restaurants and landscaping businesses that have relied on those seasonal employees don't know how or where they will find replacements.

Monte's staff, for example, increases from about 200 full-time workers to 325 as the foreign nationals come in to work Gurney's busiest season.

"If I can't bump up my housekeeping staff by 30 percent in the summer, who's going to clean the rooms? If my dining room staff can't increase by 45 percent, who's going to wait on the tables?" he asked. "The more you think this through, the more you realize the impact this is going to

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The same kind of potential worker shortages are a headache for luxury hotels in Arizona and Colorado, shoreline resorts in New Jersey and Cape Cod, and even a traveling circus in Texas.

"I don't think there is a broad understanding of the kind of havoc we are looking at. In my own district there will be terribly serious consequences," said Rep. Timothy Bishop (D-Southampton). "There are any number of sectors of the economy that are dependent on this workforce, and there are districts all across the country like mine."

Bishop's office estimates that businesses in his district, which covers the East End, employed well over 1,000 H-2B workers last year.

Under the H-2B program, workers prescreened by federal officials are allowed into the country to work for up to 10 months in jobs that their employers certify they cannot otherwise fill. An annual cap of 66,000 new workers on H-2B visas was imposed more than a decade ago. But, under an exemption passed by Congress that took effect in May 2005, any worker who had come into the United States under an H-2B visa in any of the three previous fiscal years could return and not count against the cap.

Congress did not renew the exemption for this year, causing the current dilemma posed by lack of returning seasonal employees. The nonrenewal stemmed from several reasons — including strong opposition from the Congressional Hispanic Caucus, which views the H-2B program as a Band-Aid solution to comprehensive immigration reform.

"I can appreciate that many businesses — from health providers to landscapers, and from the hospitality industry to the fishing industry — need Congress to address H-2B visas," said Rep. Joe Baca (D-Calif.), who chairs the caucus. "I recognize that H-2B visa fixes are an important part of the immigration crisis, but that should be just another check mark in the column as to why this Congress must take real action on immigration reform."

With anxious constituents sending up flares, more than 80 members of Congress, both Republicans and Democrats, sent a letter to President George W. Bush in late January, imploring him to lift the cap through an executive order. So far, Bishop said, they have not gotten a response.

A White House spokesman said Friday that the request would require review by the Department of Homeland Security.

A House bill to renew the H-2B exemption is stalled in committee, as the time needed to process any additional H-2B visa applications grows short. "There is a general consensus that it has to be resolved by April 1 if it is to have any impact this summer," Bishop said.

Last year, East End business owners' nerves — and bottom lines — were frayed by an H-2B visa issue, but for a different reason.

Because of delays in processing H-2B workers' applications, landscaping businesses, restaurants, pool service firms and other seasonal businesses had to try frantically to find enough employees as the summer season began. Eventually, the foreign nationals got the visas, but businesses already had lost customers, incurred overtime costs and discovered that there was no local labor market to tap for replacement workers.

Pearl Kamer, chief economist for the Long Island Association, said the loss of seasonal workers would hurt the East End's economy at a time when more people are likely to be vacationing locally because of high gasoline costs and a weak dollar.

"Long Island economic growth has been extremely modest over the last year or so — 5,100 new jobs in the 12 months ending in November," Kamer said. "Tourism is one of the few growth industries on Long Island."

Melinda Rubin of Hampton Bays, an immigration attorney who handles more than 60 H-2B applications a year, predicted a dearth of seasonal workers "will completely hurt Montauk. Most of the businesses out there will be shut off from workers ... that whole town is tourism."

Monte, from his oceanfront vantage point, considered the impact both on his inn and elsewhere.

"Everyone is pulling out their hair," he said. "This is forcing everyone in the country to compete for the same insufficient workforce."

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To knowingly furnish any false information in the preparation of this form and any supplement thereof or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT																					
1. Name of Alien (Family name in capital letters, First, Middle, Maiden) Multiple (25) Unnamed Aliens											3. Type of Visa (If in U.S.) NA										
2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country) Not in the United States of America											The following information is submitted as an offer of employment.										
4. Name of Employer (Full name of Organization) XX											5. Telephone (785) 843-4370										
6. Address (Number, Street, City and Town, State ZIP code) 600 Lincoln St. Lawrence, KS 66044, USA																					
7. Address Where Alien Will Work (If different from Item 6) Multiple work sites within Douglas County, Kansas																					
8. Nature of Employer's Business Activity Landscaping				9. Name of Job Title Landscape laborer			10. Total Hours Per Week a. Basic 40 b. Overtime 0-5		11. Work Schedule (Hourly) 7:00 am - 5:00 pm	12. Rate of Pay a. Basic \$ 8.00 b. Overtime \$12.00 per hour											
13. Describe fully the job to be performed (Duties) Maintain grounds using hand and power tools to mow, prune, edge, blowing, planting and irrigating.																					
14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 13 above.								15. Other Special Requirements													
EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)																	
0	0	0	NA																		
TRAINING	No. Yrs.	No. Mos.	Type of Training																		
0	0	0	NA																		
EXPERIENCE	Job Offered	Related Occupation	Related Occupation (specify)																		
0	0	0	NA																		
16. Occupational Title of Person who Will Be Alien's Immediate Supervisor President											17. Number of Employees Alien Will Supervise 0										
<p>* 1. Qualified workers cannot be found in the United States</p> <p>2. Division of Foreign Labor Certification Policies have been observed.</p> <p>3. This certification is valid from 1/13/08 through 12/1/08</p> <p>1/13/08 (Date) James C. Longley (Certifying Officer)</p>																					
<p>ENDORSEMENTS (Make no entry in section - for Government use only)</p> <table border="1"> <thead> <tr> <th colspan="2">Date Forms Received</th> </tr> </thead> <tbody> <tr> <td>L.O.</td> <td>SO 12-5-07</td> </tr> <tr> <td>R.O.</td> <td>N.O.</td> </tr> <tr> <td>Ind. Code</td> <td>Occ. Code 37-301</td> </tr> <tr> <td colspan="2">Occ. Title landscaping & groundskeeping workers</td> </tr> </tbody> </table> <p>ETA 750 (Oct. 1979)</p>												Date Forms Received		L.O.	SO 12-5-07	R.O.	N.O.	Ind. Code	Occ. Code 37-301	Occ. Title landscaping & groundskeeping workers	
Date Forms Received																					
L.O.	SO 12-5-07																				
R.O.	N.O.																				
Ind. Code	Occ. Code 37-301																				
Occ. Title landscaping & groundskeeping workers																					

Replaces NA 7-50A, B and C (Apr. 1970 edition) which is obsolete.

C-07302-33124

U.S. Department of Labor Employment and Training Administration
Chicago National Processing Center
844 N. Rush Street
12th Floor
Chicago, IL 60611



FINAL DETERMINATION FOR REDUCED NUMBER CERTIFICATION

January 31, 2008

~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX, INC~~
600 LINCOLN ST
LAWRENCE, KS 66044

ETA Case Number: C-07362-33124
State Case Number:
Number of Openings: 25
Occupation: Laborer, Landscape
Period of Certification: April 01, 2008 - December 01, 2008

The Department of Labor has made a final determination on your application for certification of temporary alien employment pursuant to Title 20, Code of Federal Regulations, Part 655.

The Application for Alien Employment Certification, Form ETA 750A, has been certified and is enclosed. We are granting certification for 23 job opportunities and reducing certification by 2 job opportunities. The number of positions has been reduced by the number of U.S. workers that applied for the position through the State Workforce Agency Job Order KS8232333 and were hired by the employer.

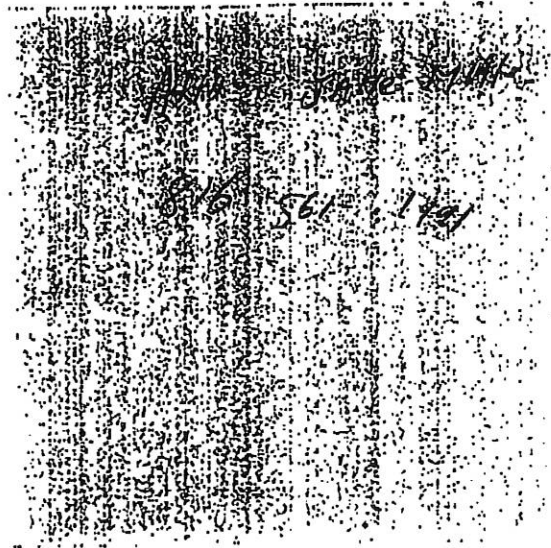
Upon receipt of this notification, you will need to submit the appropriate Form I-129 which is required in conjunction with an H-2B temporary labor certification application. The USCIS I-129 form can be obtained at <http://www.uscis.gov>.

Sincerely,

Marie Gonzalez
Certifying Officer

CC: ~~LAWRENCE LANDSCAPE, INC~~

Attachments: Form ETA 750A



Testimony of **Reg Robertson**
Custom Lawn and Landscape, Inc.
Olathe, KS

Against Bills House Bill Senate Bill 458

Dear Legislators, thank you for giving me time to address you.

My name is Reg Robertson. I am President and owner of Custom Lawn and Landscape in Olathe, KS. My employees and I have spent 27 years building our business. We employ 25 people, 10 full time and 15 seasonal. There are thousands of businesses just like us in the landscaping, construction, the service industry and farming.

No Americans to Fill My Seasonal Jobs

It is very hard for me to find people to do seasonal, hard physical work. It is difficult to find Americans who want to be paid only during our mowing season and be laid off for the rest of the year.

This year, I advertised in the Kansas City Star and KS unemployment database. I did not receive a single application from American workers for seasonal mowing and landscape labor jobs.

I have heard it said that if we paid better wages, we would get people to apply or that we give American jobs away. These jobs do not require much of an education but do require the ability to work long hours in the heat during the short growing season. All my American applicants want to work year around and be supervisors, technicians, and clerical workers. No one wants to mow grass etc. seasonally. Let Kansans be policemen, nurses and firemen and let us have legal seasonal workers for landscape labor jobs. Do you really think it is a reasonable idea to try entice a policeman or a nurse to switch jobs and mow lawns seasonally for a living? This makes no sense.

In Kansas, the unemployment is 4.9%. It seems to me that all who want to be employed, pretty much are. Also, last time I checked, the Kansas City Star had 6,041 jobs listed for the state of Kansas, so if an American wants a job, there are plenty out there. Including, the 15 seasonal jobs at my business, I ask you to send me your sons & daughters, your relatives and other Americans, PLEASE come and apply, I want to hire you.

There Should Be A Legal Way to Bring Foreign Workers to Fill My Seasonal Jobs

The only way to bring seasonal workers to fill my jobs is H-2B visas. In order to qualify for H-2B, every year I file an application with Kansas Department of Commerce. They tell me what wages are appropriate to protect the market from cheap labor, supervise my efforts to meet their standards, and then The Department of Labor

certifies that there no Americans wanting these jobs. The process costs me about \$20,000 every year and if I could hire English speaking Americans, I would not go through this tortuous process. This year, we again were certified, that no U.S. workers were available for my seasonal jobs (I have attach the certification). However, Congress failed to give us enough H-2B visas, and my labor certification is useless. So I have no seasonal workers this year.

Now the federal government wants to send me to jail if I hire any illegal's, and you want to my revoke my business license.

What It Will Do to My Business, My American Employees and my American Vendors

Without a workforce that I can count on it is a little difficult to commit to new jobs. Last week I had to pass up an opportunity to bid on a large property, Honeywell, because I have not found people to do the work. I will be declining other work. I will not need to or be able to buy any new trucks or equipment. I will have to cut hours and/or lay off some of my full-time American workers, including: Pat , Faye and Stacy from the office, my Operations Manager Darren, my mechanic John, and my three technicians Ryan, Gary and Sean, all Kansans. With no seasonal workers they will have no one to work with, manage, to issue payroll too, etc. When their hours are cut and/or I lay them off, I will make sure they know who to thank for helping our company out of business.

You are our Hope for Reasonableness and Sanity on this issue.

I don't know where all this anti immigrant sentiment comes from but I wish people would understand that it is no good for anyone. I hope people wake up before it is too late.

I had always thought that you our representatives and especially Republicans understood small business, supported business and valued our contribution to the economy of Kansas. Instead I find you are trying to make life difficult and drive me and my employees out of business.

You are forcing me to rethink my politics.

OMB Approval No. 44-R1301

U.S. DEPARTMENT OF LABOR
Employment and Training Administration

APPLICATION
FOR
ALIEN EMPLOYMENT CERTIFICATION

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM
PRINT legibly in ink or use a typewriter. If you need more space to answer questions in this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.
To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT

1. Name of Alien (Family name in capital letter, First, Middle, Maiden)
Multiple

2. Present Address of Alien (Number, Street, City and Town, State ZIP code or Province, Country)
Unknown

3. Type of Visa (If in U.S.)

The following information is submitted as an offer of employment.

4. Name of Employer (Full name of Organization)
Custom Lawn & Landscape, Inc

5. Telephone
(913) 782-8315

6. Address (Number, Street, City and Town, State ZIP code)
15204 S. Keeler Street Olathe, Kansas 66062

7. Address Where Alien Will Work (If different from item 6)
Various locations within a 50 mile radius of the office. All work is done in the Kansas counties of Johnson, Miami & Wyandotte

8. Nature of Employer's Business Activity Landscape	9. Name of Job Title Landscape Laborer	10. Total Hours per Week		11. Work Schedule (Hourly) 07:00 a.m. - 03:30 p.m.	12. Rate of Pay	
		a. Basic 40	b. Overtime 0		a. Basic \$ 8.33 per hour	b. Overtime \$ 12.50 per hour

13. Describe Fully the job to be Performed (Duties)
Landscape or maintain grounds of property using hand tools or power tools or equipment. Workers typically perform a variety of tasks, which may include any combination of the following: sod laying, mowing, trimming, planting, watering, fertilizing, digging, raking, sprinkler installation and installation of mortarless segmental concrete masonry wall units.

14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 13 above.

EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)
	n/a	a		Major Field of Study
TRAINING	No. Yrs.	No. Mos.	Type of Training	
	n/a	a	Related Occupation (specify)	
EXPERIENCE	Number			
	Yrs.	Mos.	Yrs.	Mos.
n/a				

15. Other Special Requirements
Must be able to lift 50 lbs.

16. Occupational Title of Person Who Will Be Alien's Immediate Supervisor
Foreman

17. Number of Employees Alien Will Supervise
0

18. Endorsements (Make no entry in section - for Government use only)

Date Form Received	
L.O.	NOV 13 2007
R.O.	N.O.
Ind. Code	97-3011
Occ. Title	landscaping & groundskeeping workers

1. Qualified workers cannot be found in the United States
2. Division of Foreign Labor Certification Policies have been observed.
3. This certification is valid from **2/15/08** through **11/31/08**
1/4/08 (Date) **Maria C. Sanchez** (Certifying Officer)

Professors MA 7-30A, B and C (Apr. 1970 edition) which is obsolete.

07341-31553

RECEIVED
 DEC-7 2007
 FOREIGN LABOR CERTIFICATION
 1515 W. 20th St. - Emporia, KS

18. COMPLETE ITEMS ONLY IF JOB IS TEMPORARY			19. IF JOB IS UNIONIZED (Complete)		
a. No. of Openings To Be Filled By Aliens Under Job Offer 12	b. Exact Dates You Expect To Employ Alien		c. Number of Local n/a	b. Name of Local n/a	
	From	To		c. City and State n/a	
	02/15/08	11/30/08			
20. STATEMENT FOR LIVE-AT-WORK JOB OFFERS (Complete for Private Household ONLY)					
d. Description of Residence		b. No. Persons residing at Place of Employment		c. Will free board and private room not shared with anyone be provided?	
(X one) <input type="checkbox"/> House <input type="checkbox"/> Apartment	Number of Rooms	Adults	BOYS GIRLS	Children	Agess
21. DESCRIBE EFFORTS TO RECRUIT U.S. WORKERS AND THE RESULTS. (Specify Sources of Recruitment by Name)					
See attached ad which ran in the Kansas City Star and recruitment results.					
22. Applications require various types of documentation. Please read Part II of the instructions to assure that appropriate supporting documentation is included with your application.					
23. EMPLOYER CERTIFICATIONS					
By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.					
a. I have enough funds available to pay the wage or salary offered the alien.			e. The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.		
b. The wage offered equals or exceeds the prevailing wage and I guarantee that, if a labor certification is granted, the wage paid to the alien when the alien begins work will equal or exceed the prevailing wage which is applicable at the time the alien begins work.			f. The job opportunity is not:		
c. The wage offered is not based on commissions, bonuses, or other incentives, unless I guarantee a wage paid on a weekly, bi-weekly, or monthly basis.			(1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage.		
d. I will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States.			(2) At issue in a labor dispute involving a work stoppage.		
			g. The job opportunity's terms, conditions and occupational environment are not contrary to Federal, State or local law.		
			h. The job opportunity has been and is clearly open to any qualified U.S. worker.		
24. DECLARATIONS					
DECLARATION OF EMPLOYER Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.					
SIGNATURE OF EMPLOYER				DATE	
				9/20/07	
NAME (Type or Print)			TITLE		
Reg Robertson			President		
AUTHORIZATION OF AGENT OF EMPLOYER I HEREBY DESIGNATE the agent below to represent me for the purposes of labor certification and I TAKE FULL RESPONSIBILITY for accuracy of any representations made by my agent.					
SIGNATURE OF EMPLOYER				DATE	
				9/20/07	
NAME OF AGENT (Type or Print)			ADDRESS OF AGENT (Number, Street, City, State, ZIP code)		
Katherin L. Ahl, Agent Labor Solutions, Inc.			PO-Box 6 Drake, Colorado 80515		

kahl@laborsolutions-inc.com

Phone 970-669-7383

Fax 970-669-7431

U.S. Department of Labor **Employment and Training Administration**
 Chicago National Processing Center
 844 N. Rush Street
 12th Floor
 Chicago, IL 60611



FINAL DETERMINATION

January 04, 2008

CUSTOM LAWN & LANDSCAPE, INC
 c/o KATHERIN L. AHL
 LABOR SOLUTIONS, INC
 P.O. BOX 6
 DRAKE, CO 80515

ETA Case Number: C-07341-31553

State Case Number:

Number of Openings: 12
 Occupation: Laborer, Landscape
 Period of Certification: February 15, 2008 - November 30, 2008

The Department of Labor has made a final determination on your application for certification of temporary alien employment pursuant to Title 20, Code of Federal Regulations, Part 655.

The Application for Alien Employment Certification, Form ETA 750A, has been certified and is enclosed.

Upon receipt of this notification, you will need to submit the appropriate Form I-129 which is required in conjunction with an H-2B temporary labor certification application. The USCIS I-129 form can be obtained at <http://www.uscis.gov>.

Sincerely,

Marie Gonzalez
 Certifying Officer

CC: CUSTOM LAWN & LANDSCAPE, INC

Attachments: Form ETA 750A



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Sales (1193)	Golden Living Centers (64)	Kansas City (550)	
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Housekeeping Assistant, Laundry Assistant - View similar jobs Job type: Full-Time Employee <hr/> Housekeeping Assistant 4 hours per day, Monday through Friday <hr/> Laundry Assistant full... View full job description Save to MyCareerBuilder Email to a friend	The Evangelical Lutheran Good Samaritan Society	Map It! 20705 W 151st St KS - Olathe	Today
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WORKPLACE IQ

Job titles with sex appeal? These careers have it

Take a look at Salary.com's 2008 list of the sexiest job titles. The last time Salary.com did this survey, in 2005, the 10 sexiest job titles included several that failed to make the 2008 list: flight attendant, reporter, interior designer, event planner, teacher, doctor and lawyer.

1. Firefighter
2. Personal trainer
3. CEO
4. Bartender
5. Pilot
6. Nurse
7. Surgeon
8. Photographer
9. Soldier
10. Cowboy

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44-6

Testimony: Senate Fed and State Senate Bill 458
Carlos Gomez
President/CEO
Hispanic Chamber of Commerce of Greater Kansas City

- Introduction – My name is Carlos Gomez, President of the Hispanic Chamber of Commerce of Greater Kansas City. On behalf of the 410 Businesses of the Hispanic Chamber of Commerce, which range from small family owned businesses to Corporate America, we oppose such legislation which is not good for business in Kansas.
- Businesses make every effort to hire legally; they do not purposely risk their business or their livelihood hiring undocumented workers. They must rely on the system that the government has provided them. And Quiet Frankly, Kansas Businesses are tired of being portrayed as entities condoning illegal practices of any sort. We are the Cogs that make the Kansas Economic Train Run.
- Business and Commerce are directly connected to immigrant populations in the economies of Dodge City, Garden City, Liberal, Wichita, Topeka, Emporia and Kansas City. As quoted in the Capitol Journal 2006, Bob Wetmore, President of the Dodge City Area Chamber of Commerce “the economy of his city is dependent upon immigrant workers. Wetmore said 50% of the Dodge City Population are immigrants.” “Without immigrant workers, we wouldn’t be here” “We are significantly dependent on them”
- Government has the responsibility to give tools before it punishes or penalizes and there is no State or Federal Support to help employers to hire workers legally.
- There is No Justification for such proposed Legislation unless you want to send a message to the Hispanic Community that we are not welcomed in Kansas.
- Conclusion – Therefore the Hispanic Chamber of Commerce of Greater Kansas City is against such legislation that is being proposed before this committee. Do not Criminalize Kansas Businesses

THE KANSAS CONTRACTORS ASSOCIATION, INC.



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Paola, Kansas

DON CLARKSON, Vice President
Kansas City, Missouri

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Kansas City, Kansas

Submitted Testimony

By the Kansas Contractors Association

before the Senate Federal and State Committee

Immigration measures SB 458

March 4, 2007

Chairman and members of the Senate Federal and State Affairs Committee, the Kansas Contractors Association composed of over 350 companies who are involved in the construction of highways are opposed to all immigration measures under consideration except HB 2921.

Our organization supports HB 2921 as it puts the concerns about undocumented workers on the worker who comes to our member's doors with fraudulent documents seeking employment.

As you can imagine, our members require an I-9 and either a drivers license or social security card before they hire a new employee. But unfortunately some of these potential employees don't always provide truthful information. It is difficult for our members to determine what is a forged document or one that is the real thing. How are

Sen Fed & State

Attachment 46

3-4-08

The Kansas Contractors Association recommends that owners select the delivery systems that best fit their particular needs but with due regard for their independent interest in an open and competitive construction industry. KCA maintains that alternative delivery systems are appropriate for the public sector if the selection process is as open, objective, cost effective and free of political influence as the competitive bid system.

This position regarding alternative bid procurement does not come lightly as we have debated and discussed alternative delivery methods within our organization off and on for the past ten years. The bottom line is that we as an organization want the bidding process for transportation projects to be open, objective, cost effective and free of political influence. We believe in the competitive bid process and that transportation projects should be awarded to the lowest and most responsible bidder.

This measure sufficiently exempts the bidding of roads, bridges, highways and stand alone parking lots from the alternative bid procurement selection process. Therefore, the highway construction industry supports this bill as it does not change the way school districts will procure bids on roads and highways and stand alone parking

I appreciate the time you have heard on this important issue to our industry and stand for questions.

Senate Fed and State Affairs Committee

Testimony: SB 458

Elias L. Garcia, Policy & Advocacy Director

Kansas League of United Latin American Citizens (LULAC)

Thank you Chairman Brungardt and honorable members of the committee, my name is Elias Garcia, Policy & Advocacy Director for Kansas' STATE League of Latin American Citizens (LULAC). LULAC is the largest and oldest Hispanic Organization in the United States with 75 years of service and over 700 LULAC councils nationwide (including 3 councils in the state of Kansas). LULAC is proud of its history of promoting positive socio-economic, educational and political change on behalf of the Hispanic & Latino community and Kansas' State LULAC appreciates the opportunity to appear before you today in opposition to SB 458.

The issue of immigration has been part American landscape since the founding of this country, yet the political panorama changed dramatically after the tragic events of Sept 11 2001. While a broken U.S. immigration system is widely viewed as the root problem to our U.S. immigration dilemma, the problem has been further fueled by widespread misinformation that paints all immigrants as criminals. Fear has replaced reason and fear has been driving the immigration debate nationally and here in Kansas.

Yet in Kansas, the immigrant population totals approximately .02 percent of this state's population. Despite this fact, many would have you believe that members of the immigrant population are flooding into our communities and negatively impacting our system by draining our public benefits programs, taking away jobs from Americans, pushing up crime rates in our communities, and they are unwilling to learn English and assimilate, etc. etc. One need only check the record to find that all these allegations have no merit?

Over the last few years, if you look at the body of research conducted by states, local bodies of government, universities and organizations to study the impact and/or drain the undocumented immigrant community has had on our public benefits systems, educational systems, crime rates, etc. it has been determined that in nearly all cases, the allegations have not been found to have no merit. Examples of case studies include:

- 2007: Kansas spent one million dollars to research the extent of participation of undocumented children Healthwave/SCHIP by- no found
- 2006: the State of Colorado spent 2 million dollars to identify undocumented immigrants accessing public benefit programs--out of thousands of cases researched, they found no evidence that any undocumented immigrants were participating ..0 (zero).
- 2006: Suffolk County, NY signed a law requiring 6000 contractors to affirm their employees were not "illegal". Since then they have found ONE ! Contractors are left asking WHY do we need this law?
- 2007: University of California Irvine study (for the Immigration Policy Center, Wash. D.C.) "Immigrants less likely to commit crimes than native-born Americans"
- 2004: When Kansas passed an In-State Immigrant Tuition Bill, many thought that Kansas colleges would be inundated with the children of the undocumented. Presently a total of 46 students are attending Kansas colleges under this law (a law that has been challenged in federal court and has been upheld)

Kansas STATE LULAC suggests to you that the answers to this highly complex issue of immigration must be addressed at the national level and cannot be adequately or effectively addressed at state levels. Honorable committee members, we encourage you to learn from the recent past experiences of Oklahoma and other states who have tried to fix their state's immigration problem "their way" and in the process forgot to consider if it was in fact, the "right way". Lets not repeat their mistakes by passing a piece of legislation that may sound like a good idea today, but tomorrow will create economic chaos throughout our Kansas communities. We must not compromise the health, wellness and stability of our business community and deny the Kansas immigrant community basic respect and dignity.

In closing, we all know that the United States is faced with serious labor shortages in all industries. It is our hope, that in the not too distant future, we as a nation will find a way to incorporate the present immigrant population into the American mainstream and value their contributions to the U.S. as part of the "professional and labor shortage solution" as opposed as part of the problem. I thank you for the opportunity to speak and again reaffirm LULAC's opposition to any and all efforts to pass SB458.

TESTIMONY

KANSAS SENATE BILL No. 458

I want to take a moment to thank the Chairman Senator Pete Brungardt and committee members for accepting my written testimony. I regret not being able to be present during this hearing.

My name is Nancy Ochoa. I am a community activist in the Topeka area. I represent the immigrant community. In addition, I organized the rallies that took place on the Capitol grounds in 2006 and 2007.

I am opposed to Senate Bill No. 458.

As Kansans continue to embrace immigrants, we celebrate the culturally diverse groups of people in this state.

Obviously, we owe much of our success to immigrants, across generations and from around the world, who have sacrificed to make a better life for themselves, making this the greatest nation in the world. As we continue to embrace the American culture, we rejoice that believing in the ideals of equal opportunity, liberty, and pursuit of one's destiny is what makes us "American," not what we look like or who our grandparents were.

We stand on the shoulders of past generations of Americans (especially Latinos in the Chicano Movement, part of the Civil Rights Movement of the 1960's). We continue to witness the first true grass roots Civil Rights Movement of the 21st century.

What's even more amazing about this movement is that it has no major, identifiable national leaders (unlike the '60s Civil Rights Movement). This is a true peoples' movement; it's the people who are following their hearts, fighting for their children, their families, and their hope to live the American dream.

Millions in our country are at the threshold of citizenship and crossing over into the American mainstream. Our youthful population will provide strength and balance to this country's aging population and our energy and potential will ensure this nation's standing as the strongest and absolute best country in the world.

This year, too, we pause to consider the immigration debate. We know that we have to fight, once again, for what is right -- fair laws that encourage citizenship, reunite families, and reward hard work. We have to reject today's tyranny -- bigoted calls to turn our backs on fellow Kansans.

The outcome of this struggle will determine whether immigration keeps working for us, as it has since our founding, weaving a tapestry stronger and richer than any on earth.

It is the lack of attention that federal government has on this issue that will affect every immigrant and American citizen. A federal issue that should be debated and resolved in the chambers of the United States Congress, a debate that should allow for Comprehensive Immigration Reform.

It takes tremendous courage, in the face of extreme adversity, to address a body of legislators and risk everything in an attempt to have our voices heard.

Not today, but one day, I will look back on these times and I will allow myself to be proud of what we accomplished. I am extremely proud to say that I was a member and organizer of the historic movement that began in 2006. A notable journey that allows me to continue with the "Si Se Puede" (It can be done) attitude.

In conclusion, I would ask you to repeal the full consideration of Senate Bill 458.

Respectfully Submitted,

Nancy Ochoa, MCJ

Sen Fed & State

Attachment 48

3-4-08



Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

**Mark Desetti, Testimony
Senate Federal and State Affairs Committee
Senate Bill 458
March 4, 2008**

Also representing the Kansas Association of School Boards

Mr. Chairman, members of the committee, thank you for the opportunity to come before you today to speak in opposition to **New Section 5 and the repeal of K.S.A. 76-731a** in **Senate Bill 458**.

Kansas NEA and KASB oppose the adoption of these sections of the bill because they represent the wrong thing to do to high-achieving young people.

Despite what some may say, current law regarding resident tuition does not reward illegal activity; it does not let the children of undocumented immigrants attend our universities for free or at a reduced rate; and it is not a handout.

Children stay with their parents and that fact is no different for the children of undocumented workers than it is for your children or mine. I've moved several times since becoming a parent and it never occurred to me that my children could or would not move with me. It is no different for these children. Their parents came to the United States for a chance at a better life – the same reason my family left Losine, Italy for Monongahela, Pennsylvania in 1901. Their children came with them and those children did not ask, "Are we going there legally?" They just came with their parents.

Under legislation passed by the Legislature, those children of undocumented workers who have attended one of our Kansas high schools for three years and graduated from a Kansas high school or received a GED in Kansas, are eligible to pay in-state tuition rates provided they sign an affidavit stating that they are pursuing or are planning to seek legal status in the United States.

Their families have been here for at least three years. They have shopped in our stores and paid our sales taxes. They have paid property taxes either directly or indirectly through their rent. Other taxes have been withheld from their paychecks. And some of these children are even United States citizens having been born in this country.

These children did not come here consciously violating our immigration laws. They came with their parents. They attended our schools. They struggled and succeeded in learning English. They worked hard to get the kind of grades needed to enter our universities. They deserve a chance to get a post secondary education. These young people are committed to life in this great nation.

Adoption of New Section 5 of SB 458 and the repeal of K.S.A. 76-731a in section 13 will deny these young people the chance to pursue their dreams and to live that life well. We urge you to continue to reward these high achieving, hard working students for a job well done. It's not about how their parents came here; it's about what those kids did once they got here.

We urge you to amend SB 458 by deleting both New Section 5 and the repeal of K.S.A. 76-731a in section 13.

Sen Fed & State



Testimony in Opposition of Senate Bill No. 458

**By Trinidad Galdean
Kansas Society of Human Resource Management – State Council
Wichita Society of Human Resource Management**

**Kutak Rock LLP
8301 E. 21st St. North, Suite 370, Wichita, Kansas 67206
Phone (316) 609-7900 – Fax (316) 630-8021**

Committee Chairman and Committee Members:

Thank you for the opportunity to supply written testimony in opposition of SB 458, which proposes to mandate Kansas employers use of the federal E-verify system to determine the immigration status of new hires and also creates penalties for Kansas employers who violate the act.

My name is Trinidad Galdean and I am an employment attorney with Kutak Rock LLP. I am appearing on behalf of over 2,000 members within the Kansas State Council of the Society of Human Resource Management (KS-SHRM). I am also appearing on behalf of the Wichita Chapter for the Society of Human Resource Management.

The proposed legislation requires all Kansas employers to register and use the federal E-Verify system to verify the employment authorization of all new hires beginning on January 1, 2009. While it is understandable to proactively deter illegal immigration by ending unauthorized employment, there is a need for a secure, reliable federal electronic employment verification system. E-verify is far from foolproof and it is not ready to meet the challenge of massively increasing its participant level as more and more states begin requiring participation. Employers should not be forced to participate in this E-verification program until the federal government provides assurances that the system works.

Additionally, other key concerns for human resource professionals include the following:

- **Federal Preemption** – The federal government and not the states should be responsible for establishing the requirements for verifying employment eligibility under our nation's immigration laws. Although well-intentioned, a state mandate as proposed under the House Bills is confusing and costly for Kansas employers and undermines the goals of an effective national system.
- **Inadequate System Capacity** – SB 458 mandates all Kansas business entities to apply and eventually participate in E-Verify (formerly called "Basic Pilot") to verify a new hire's eligibility for employment. As of June 2007, the Department of Homeland Security (DHS) and the Social Security Administration (SSA) have not resolved ways to

reduce processing delays. The majority of E-Verify queries are confirmed within seconds, yet about eight percent can't be confirmed and these can take several days, or in some cases weeks to resolve, putting employers in a difficult situation and subjecting thousands of legal workers to potential job loss and/or lengthy delays as they attempt to navigate the federal bureaucracy.

- **Susceptibility to Identity Fraud** - E-Verify does not even address identify fraud issues where individuals presents borrowed or stolen genuine documents. This is a growing problem that puts employers, including small businesses, in the business of immigration enforcement.
- **Additional Administrative Burdens** – While SB 458 mandates all Kansas businesses to use E-Verify to confirm the employment eligibility of new hires effective January 1, 2009, Kansas employers would still be required to continue to attest on the Federal form I-9 that he or she had examined the new hire's employment and identification documents to ensure authenticity, resulting in double-work for Kansas employers.
- **Employer Accessibility**- The E-Verify program is accessible only through the Internet which many small employers in Kansas may not have access to.
- **Conflicting Statutes** - The legislative language of SB 458 is ambiguous about termination procedures that relate to a "non-confirmed" status being returned by the U.S. Department of Homeland Security.
- **Lack of Employee Protection** - SB 488 fails to address issues on potential abuse of employers using the system to pre-screening job applicants before making a hiring decision. In December 2006, the Social Security Administration's Office of the Inspector General reviewed the employment eligibility verification system and found that 42 percent of employers used the program to prescreen employees, and 30 percent of employers used the program to verify the employment eligibility of their existing workforce. In 2002, the independent analysis found that, "[a]mong a sample of individuals classified on the transaction database as unresolved tentative non-confirmations, 28 percent said that they did not receive a job offer from the pilot employer." Also, these job applicants were not informed they were being pre-screened through the employment eligibility verification system, and "[c]onsequently, they were denied not only jobs, but also the opportunity to resolve any inaccuracies in their Federal records."

Mandating employers to participate in the E-Verify program without it being fully functional will cause a huge burden for Kansas employers attempting to verify their new hires. Employers want an accurate, fair and timely federal electronic employment eligibility verification system. However, they should not be forced (under threat of monetary penalties) to participate in a program that has been shown to be less than 100 percent efficient in supplying accurate and timely information to employers.

In conclusion, the members of KS-SHRM and Wichita SHRM appreciate the efforts of the Kansas Legislature in addressing the issues presented before all employers in the State of Kansas. KS-SHRM and Wichita SHRM respectfully requests that you oppose SB 458.

Kansas Families for Education

Demanding Excellent Public Schools for All

Testimony SB 458

Committee on Federal and State Affairs - March 4, 2008

Kathy Cook, Executive Director -Kansas Families for Education

Mr. Chairman and members of the committee, thank you for the opportunity to address you this morning.. I am Kathy Cook, Executive Director for Kansas Families for Education and I appear today to oppose this legislation. We are a statewide organization made up of educators, parents, taxpayers, students, and other Kansans committed to equity and excellence in our public schools, for all Kansas students.

The new Section 5, description of “public benefit” (b) will have the effect of overturning Kansas’ in-state tuition policy. Our opposition to this legislation focuses specifically on this portion which would repeal in-state tuition for children who graduate from Kansas high schools, whether or not those children currently enjoy legal U.S. citizenship.

We are talking about young people who are residents of this state, whose parents pay taxes, and who pay taxes themselves. These are young people who have achieved the graduation requirements of a Kansas high school, which is no small feat, given our state’s high educational standards and the poverty in which many of these young people live.

We contend that to deny these students access to higher learning is not only detrimental to them as individuals, but detrimental to our state and our economy. The 21st century will present many challenges to our business community, and those businesses must be equipped with a well educated workforce prepared to meet those challenges. Our best strategy for ensuring that we will have the human capital we need in the future is to grow it ourselves, and we negate the importance of a well educated workforce when we attempt to deny Kansas students an opportunity for a college education.

If these students are denied in-state tuition it would take dollars away from our already under funded higher educational institutions. Many of the students are only able to afford higher education at the in-state cost, and could not attend or spend their money at Kansas universities if charged the out of state tuition rates. In addition, there is considerable evidence from other states that opening the doors of our colleges and universities to all qualified Kansas graduates will also enhance the educational climate in our secondary schools, where immigrant students study alongside their native U.S.-born peers, and where all of our children must hear the message that their hard work and sacrifice can pay off.

The Kansas in-state tuition law has been challenged in U.S. District Court and the 10th Circuit Court of Appeals and upheld every time. We see no logical, rational, or legal reason to repeal in-state tuition. In fact, we maintain that education is a basic human right and the bedrock of our success as a state. We believe that the majority of Kansans embrace our immigrant population and want the students that are sitting side by side with our children in our K-12 classrooms to have the same opportunities to live the American dream by attending post secondary institutions.

I urge you to oppose Senate Bill 458 and show your support for the love of freedom and the American Dream, a dream in which these immigrant children fervently share. Thank you.

February 28, 2008

Honorable Chairman Brungardt and Members of the Senate Federal and State Affairs Committee,

My name is Kara Lineweber and I am the Public Policy Associate at El Centro, Inc. in Kansas City, KS. El Centro is a non-profit agency that has served the Kansas City Metro Area, including the Hispanic population, for over 30 years. We are very involved in the integration of new immigrants into the American society and urge you to vote against SB 458.

In Kansas and nationwide, we agree that our Federal Immigration System is broken and in need of Comprehensive Reform; however, Comprehensive Immigration Reform cannot happen at the state level nor can enforcement only legislation positively address the undocumented immigrant population in Kansas.

Enforcement only legislation such as SB 458 has significant economic, social and moral implications for Kansas. El Centro Inc. strongly opposes this legislation and believes there are better policy options that can address the growing immigrant population in a positive, effective manner.

SB 458 deputizes our State and Local Law Enforcement requiring them to enforce Federal Immigration Law. Deputizing our state and local law enforcement officials and requiring them to enforce Federal Immigration Law will not keep Kansans safer. Should this law pass, it would be necessary for all residents and citizens of Kansas to carry their passport, birth certificate, or immigration papers with them at all times. Is this really the direction Kansas wants to go?

Overland Park Chief of Police John Douglass said in a letter to Representative Moore regarding the 2003 federal legislation that would have deputized law enforcement, "Legislation such as this (The CLEAR Act) would be a detriment to all who live, work, and visit Overland Park. We want all to know that the police are available to protect them no matter whom they are or where they come from."¹

Ellen Hanson, the Chief of Police for Lenexa, KS, echoed Chief John Douglass's sentiments in her own letter saying Local and state Law Enforcement are already short on resources and manpower and struggling to meet our citizen's service demands. Adding immigration enforcement to their duties will force law enforcement to make cuts in other areas to comply.

Chief Hanson continues citing training costs, the potential for racial profiling and damaging the credibility the police force has worked so hard to establish. She concludes saying, "The most troubling aspect of this act is that it could cause members of certain groups to not report crimes or come forward with information about crimes for fear of being deported."²

In addition to deputizing law enforcement, SB 458 would prohibit undocumented immigrants from receiving Public Benefits. This provision, already federal law per the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), denies citizens, and those with legal status, access to services for which they're eligible, and the price tag to implement this legislation is significant. SB 458 would require our state to use the federal Systematic Alien Verification of Eligibility (SAVE) system. It costs up to \$0.32 per verification using this

¹ Chief of Police, John Douglass, Overland Park, KS, Letter to Representative Moore 10/29/03 <http://www.aila.org/content/default.aspx?docid=10139>

² <http://www.immigrationforum.org/DesktopDefault.aspx?tabid=576>

particular system. Agencies already have procedures in place to verify eligibility for services. The state of Kansas should not place an unfunded mandate on local communities to address an issue that is truly not a problem.

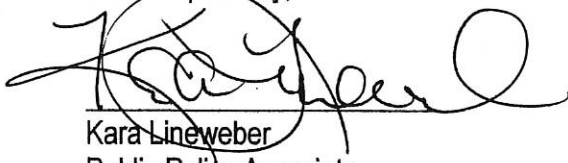
Furthermore, this kind of legislation touted as cracking down on illegal immigrants in fact does more to harm our citizens and documented residents. In July last year, our Federal Government implemented Citizenship and Identify verification requirements for public benefits in an attempt to find undocumented immigrants accessing public benefits for which they're not eligible. **In Kansas, 20,000 people lost their healthcare; 15,000 were children. And of those 20,000 zero were undocumented immigrants.**

Our neighbor state of Colorado spent \$2 million dollars to find the undocumented immigrants accessing public benefits – they found zero.³ **Last year Kansas spent \$1 million dollars only to find one self-reported undocumented immigrant child accessing public benefits.**⁴ In a time when our state is facing budget constraints, we must ask ourselves is this really an issue and how will we fiscally justify further legislation on this after spending a \$1 million dollars to find one undocumented immigrant?

Another extremely disconcerting provision of SB 458 seeks to repeal the Kansas in-state tuition legislation of 2004 thus preventing some of our brightest students from accomplishing their dreams and contributing positively to our communities and work force. El Centro strongly opposes the repeal of in-state tuition. Our nation has, since its inception, encouraged all young people to forge a new life for themselves through education and pursuit of knowledge. Most dishearteningly, the conversation about our immigrant students has been at times mean-spirited and sad, with some attacking immigrant children as opportunistic vultures and their parents as shiftless criminals. This kind of rhetoric defies Kansas' traditions as an open-minded, just, and inclusive place.

Kansas is better than this. We are capable of making good policy and positively addressing the issue of immigration in our state. While other states, such as our neighbors Oklahoma and Colorado, have passed legislation that is gravely affecting their communities, Kansas must move beyond the anti-immigrant rhetoric and embrace the opportunity to learn from failed policy; we should set a higher standard by more aggressively pushing our federal government for Comprehensive Immigration Reform, enlightening our community with the real facts, and putting ourselves on the road to a prosperous future for all Kansans.

Most respectfully,



Kara Lineweber
Public Policy Associate
El Centro Inc.



³ http://www.denverpost.com/news/ci_5081255

⁴ <http://www.khi.org/s/index.cfm?aid=947>

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www.ElCentroInc.com



February 25, 2008

The Board of Directors of El Centro, Inc., a not-for-profit human services organization with offices in Wyandotte and Johnson Counties, opposes HB 2370, HB 2680, and HB 2836. El Centro's mission is to create and sustain educational, social and economic opportunities for families. Since 1976 we have been assisting families most in need with basic services so they can live productive lives.

Many of the families served by El Centro are immigrants who have come to our state, our country seeking better lives. They are making positive contributions to our society and to our economy by starting new businesses, working jobs that are the hardest to fill, purchase goods and services and yes, pay taxes.

Immigration is a federal issue and must be addressed at the federal level. Creating legislation in Kansas such as those listed above is harmful and contributes to growing hostility. Other states that enacted such legislation are already feeling negative impact to their state's economy. Rather than creating negative and harmful legislation let's create legislation that welcomes the immigrant, that removes barriers to earning a decent living, and that allows high school graduates the opportunity for in-state tuition.

Sincerely,



Mary Lou Jaramillo
President & CEO



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Health

Testimony on SB 458

Presented to
Senate Committee on Federal and State Affairs

by
Cyndi Treaster, Director
Farmworker, Refugee and Immigrant Health

March 4, 2008

Chairman Brungardt and members of the committee, my name is Cyndi Treaster and I am the Director of Farmworker, Refugee and Immigrant Health at the Kansas Department of Health and Environment (KDHE). I appreciate the opportunity to appear before you today to provide comments on Senate Bill 458. The mission of the KDHE is to protect the health of all Kansans, and I am here to discuss a number of provisions of the bill that have relevance to the services we provide.

Federal law in 8 U.S.C. Code 1621(b) and 1611(b) specifically exempt public health assistance for immunizations with respect to immunizable disease and for testing and treatment of symptoms of communicable disease. Federal funds support approximately two-thirds of KDHE's Division of Health budget, and most of these services are also not considered federal public benefits because they are provided entire categories of people, such as pregnant women and children or medically underserved communities. They are required to be offered to all individuals regardless of legal status. In the *Federal Register*, Vol. 62, No. 221, pg. 61346 the U.S. Attorney General states that if the program does not provide a federal public benefit, the benefit provider is not required to and should not attempt to verify an applicant's status. Thus, providers should only verify legal status when it is relevant to the applicant's eligibility for a public benefit.

Legal immigrant status and public benefit eligibility for services are extremely complicated. Accordingly, KDHE will need to conduct extensive training for both our internal staff and training and on-going technical assistance to our sub-grantees and many partners to help them distinguish the difference between exempt and non-exempt services, and to provide verification only when services are considered a public benefit. KDHE staff and sub-grantees will need to

be educated that they cannot independently verify legal status but must utilize the Department of Homeland Security, Systematic Alien Verification for Entitlements (SAVE) Electronic Program, a fee-based service. We also must assure that people who look or sound foreign are not scrutinized to a greater extent than others, resulting in discrimination in violation of Title VI of the Civil Rights Act of 1964.

Even with extensive training, we believe that many of our local partners will find it very difficult to determine how to manage the many programs that are supported through both exempted federal funding and non-exempted state or local funding. Determining how to segregate these funds so that a facility undertakes verification only when non-exempt state or local-funded services are being provided will be complex at best, and in some circumstances it may not be feasible.

In addition to impact on providers, this legislation will likely result in decreased use of public health services by those immigrants who do remain in the state and who are fearful of seeking services because of the chance of deportation. Such fear may even result in a reduction in applications for Medicaid or Healthwave for U.S.-born children of immigrants who are eligible for these programs. If immigrants and their families avoid using the preventive and wellness services that are increasingly seen as a key aspect of a reformed health system, they will be forced to depend on care provided on an emergency basis in hospital emergency departments when they are much sicker. Unfortunately, this might actually increase overall health care costs.

Our greatest concern with this legislation is the potential impact on public health in Kansas. The historical rationale for recognizing exempt programs is that these programs are not focused on providing income and resources to individuals, but are inherently designed to assure the health of the general public. Frightened immigrant families are not likely to get appropriately immunized, or utilize screening and/or treatment for communicable diseases. They will be unlikely to participate in disease outbreak investigations, which are dependent on active data gathering from those involved. In a state with growing immigrant populations, underutilization of public health services will put the entire population at greater risk.

In summary, we are concerned about misinterpretation that is likely to occur both among providers and the general public that will cause underutilization of public health services and put additional strain on the state's already fragile health care system.

Thank you for the opportunity to appear before the committee today. I will now stand for questions.

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INFORMATION FOR LEGISLATIVE CONSIDERATION REGARDING IMMIGRATION BILLS WITH A LAW ENFORCEMENT COMPONENT SB458, HB 2370, HB2680, and HB2836

February 25, 2008

The Kansas Association of Chiefs of Police does not support or oppose the legislative intent of the various immigration bills currently under consideration by the Kansas Legislature. This includes SB458, HB 2370, HB2680, and HB2836. Our area of interest is only in the provisions of the various bills requiring certain law enforcement actions or impacting law enforcement operations and efficiency.

The bills appear to have various approaches to the law enforcement role (see attached table). They also appear to cover five areas as related to law enforcement involvement.

1. Questioning a person regarding their immigration status.
2. Requiring law enforcement to engage federal assistance in verifying status and federal enforcement notification of a person found to be in the US illegally.
3. Requiring the Attorney General to work toward an agreement with Homeland Security to identify certain state or local officers who can enforce federal immigration laws.
4. A prohibition of local restrictions on law enforcement actions regarding illegal aliens.
5. Determining if a law enforcement agency is in violation of the act and stating a penalty for not complying.

With the understanding that we are not advocating for passage or defeat of any bill or advocating for or against the inclusion of these provisions in any bill, we offer the following observations in three of the five areas of law enforcement participation. Our intent is that IF the legislature determines the passage of these provisions are in the best interest of the state, you will consider our professional view of how best to do so in a manner conducive to effective and efficient law enforcement.

1. Questioning a person regarding their immigration status.

SB458 requires asking a person about status on all "arrests" while HB2370 and HB2836 require it for all persons "detained." The difference is significant. Arrests would imply when a person is physically taken into custody under the authority of KSA 22-2401. Detained implies any time a person is stopped under the authority of either KSA 22-2401 or KSA 22-2402.

Sen Fed & State

Recommendation 1: Consider utilizing “. . .inquire into the citizenship or immigration status of any person detained for a violation of any law under the authority of KSA 22-2401 or KSA 22-2402, if the person does not provide valid photo identification issued under the provisions of the Real ID Act, does not provide immigration documentation showing the person is in the United States legally, or the law enforcement officer does not have a reason to believe the person is a citizen or national of the United States.”

Rationale: Many persons detained are known by law enforcement due to having been a member of the community or through past contact. This will avoid duplication after status has been previously checked and avoid checking the status of a person we know is in the US legally. It also allows for the recognition of Real ID which is designed to verify legal status at time of issuance.

2. Requiring law enforcement to engage federal assistance in verifying status and federal enforcement notification of a person found to be in the US illegally.

SB458 uses the standard of the person “indicates” they are not a citizen or national of the US, as does HB2836. HB2370 utilizes “finds a person is not lawfully in the United States.”

Recommendation 2a: Consider “. . .if law enforcement has reason to believe the person is not lawfully in the United States.”

Rationale: This uses a well recognized legal standard for law enforcement action. It also allows us to use any information we have available at the time the decision is made that further detention and investigation is warranted.

Recommendation 2b: We also recommend adding language stating the “person will be detained in a local jail solely as the result of illegal alien status only at the direction of a person qualified to exercise enforcement powers of federal immigration officers.”

Rationale: This will avoid placing persons into the local jail system when the federal immigration officers have no capacity or intent to take action against the person.

3. An effort by the Attorney General to work with Homeland Security to identify certain state or local officers who can enforce federal immigration laws.

HB2370 and HB2836 have this provision with some variation.

Recommendation 3: We prefer the language of HB2836.

Rationale: This allows the legislature to mandate this action for state law enforcement and facilitates the process for local agencies only if the local agency or local government wishes to participate. Thus the local option is preserved.

Please feel free to contact us if you have any questions regarding these recommendations or other related law enforcement issues.



Ed Klumpp
Chief of Police-Retired
Topeka Police Department

Legislative Committee Chair
Kansas Association of Chiefs of Police
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ACTIVE IMMIGRATION BILLS IN KANSAS LEGISLATURE WITH ANY STATE OR LOCAL LAW ENFORCEMENT COMPONENT

Bill	Status Inquiry	Federal Status Check	Prohibition of Local Restrictions	Determination of law enforcement Compliance	Penalty for law enforcement Non-compliance	Other LE Provisions
SB 458 Comprehensive illegal immigration bill.	Mandated for all <u>arrests</u> . (Section 6 (b) on page 5 lines 37-40.)	Required if person <u>indicates</u> they are not a citizen or national of the US. (Section 6 (b) on page 5 line 40-page 6, line 7.)	Included (Section 6 (c) on page 6 lines 8-16.)	By AG. Can be requested by any legislator. (Section 6 (d) on page 6 lines 17-20.)	Loss of any state funding for agency. (Section 6 (d) on page 6 lines 20-23.)	None
HB 2370 Simple one page bill directed only at law enforcement	Mandated for all persons <u>detained</u> by law enforcement for any law violation. (Section 1 on lines 13-16.)	Required if LE <u>finds a person is not lawfully in the US</u> . (Section 1 on lines 16-20.)	Included (Section 2 on lines 21-25 for local governing body and lines 26-29 for the law enforcement agency.	Not included.	Not included.	Requires AG to enter into agreement with Homeland Security to identify specific law enforcement officers to enforce federal immigration laws. Can include local leo.
HB 2680 Relates only to employment of illegal aliens	Responsibility of AG or County/District Attorney who must investigate. Not included as LE responsibility. (Section 2 (c) page 2, lines 34-39.)	Responsibility of AG or County/District Attorney who must investigate. Not included as LE responsibility.	Not included.	Not included.	Not included.	Requires investigating prosecutor to notify LE if violation is found. No action by LE is specified in the statute.
HB 2836 Comprehensive illegal immigration bill.	Mandated for all persons <u>detained</u> by law enforcement for any law violation. (Section 3 (b) on page 4 lines 29-33.)	Required if person <u>indicates</u> they are not a citizen or national of the US. (Section 3 (b) on page 4 lines 33-37.)	Included (Section 3 (c) on page 4 line 41-page 5, line 5.)	By AG or by majority vote of the House Judiciary Committee. (Section 3 (d) on page 5 lines 6-9.)	Loss of any state funding for agency. (Section 3 (d) on page 5 lines 9-12.)	Requires AG to enter into agreement with Homeland Security to identify specific <u>state</u> law enforcement officers to enforce federal immigration laws, and allows him to facilitate such agreements between Homeland Security and other cooperative (willing?) state and local law enforcement agencies.