

Testimony  
Senate Federal and State Affairs Committee  
Senate Bill 399  
Presented by Dalton Hermes, Business Owner  
February 15, 2012

I would like to thank the committee for this opportunity to speak today. I am the owner of Hermes Landscaping and Hermes Nursery, which has been operating in the Kansas City area for over 45 years. I stand before you here today concerned about the welfare of not only my business, but the general state of the Kansas economy and most importantly the over 100 Kansas residents I employ in such areas as sales, management, customer service, accounting and human resources.

I have spent my entire life and personal investment in the ongoing operation of my business and I can share with you that without a doubt we are in the midst of the most difficult economic and regulatory climate in the history of my business. With the current state of the economy mere survival is an admirable goal for any business in my industry.

The nature of my business is seasonal. So in addition to the approximately 100 people we employ year-round, our company must secure approximately 75-100 seasonal unskilled workers. Over the years we have engaged in countless measures to fill these seasonal positions with local U.S. workers with no success. Without question, our company could not have survived without the support of foreign labor to supplement our U.S. workforce. This means the 100 U.S. born Kansas residents in my company would not have employment. I know there are many other employers large and small in Kansas and across the nation that would echo this statement.

For the past fifteen years, our company has utilized the H2A and H2B work visa program, which provides guest worker visas for temporary seasonal employment. The process for utilizing these programs is very cumbersome and is becoming increasingly expensive to employers who rely upon their use. The costs associated with obtaining approval and securing workers has increased around 500% over the past 10 years. In fact the Federal Department of Labor has just published regulations which place even more burden upon employers. It is my belief, and the belief of my colleagues, that the Federal Department of Labor under Secretary Solis is aiming to make these programs impossible for employers to use. Their actions are going against employers who are trying to secure a legal workforce.

There are those who feel the presence of foreign labor is taking away jobs from the U.S. workers. It is our experience, as we try to fill unskilled seasonal positions, this is not true. I believe of recent the Kansas unemployment rate has averaged around 6-7%, a significant increase over past years. Yet we have seen very little increase in our applicant flow and interest level of people applying for our unskilled positions. We recently posted our required advertising as part of the

H2B program for 2012 seasonal position. We advertised for 85 positions and received 4 applications.

The general trend in this country is our native born workers are more educated and less willing to perform manual labor. I have seen reports indicating that currently only 10% of U.S. men have less than a high school education and look for unskilled work – compared to 50% in 1960.

The overwhelming majority of employers who rely on immigrant workers want to be on the right side of the law. After all, we've invested everything we've got in our businesses, and the last thing we want is to put it at risk by breaking the law. We make every effort to hire a legal workforce. We support effective workplace enforcement. And we count on the government to maintain a level playing field, punishing bad-actor employers who deliberately break the law.

Our immigration system in this country is broken and employers who rely upon immigrant workers have the greatest level of interest and the most at stake in finding a solution to this problem. This is most definitely an issue that has great implications for the entire country, and needs to be addressed at the federal level. Yet there is no indication any serious action is taking place. Therefore various states have begun to take matters in their own hands by passing strict immigration enforcement legislation. I believe the results of such legislation have produced an overall negative result to those states as they face severe labor shortages and economic losses. I don't want Kansas to suffer the same fate.

I do know that SB 399 does at least represent the sentiment of business in that they wish to work to find a reasonable answer. An answer that recognizes our country's economic dependency on immigrant labor.