

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Tuesday, January 27, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator Dwayne Umbarger (E)

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Lisa Montgomery, Office of the Revisor Statutes

Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Joan Wagon, Secretary of Department of Revenue

Mike Farmer, Executive Director, Kansas Catholic Conference

Henry Sandate, State Farm Insurance Agent

Lt. Col Steve Smith, Overland Park Police Dept. (written submitted for Chief of Police)

Jesse B. Garcia, Attorney

Elias Garcis, Executive Director, Kansas Advisory Committee on Hispanic Affairs

Leo Casados, Vice Chairman, Democratic Hispanic Caucus

Don Whitten, citizen from Wamego

Susan Tully, Federation for American Immigration Reform (FAIR), Viroqua, Wisconsin

Pete Gadiel, 911 Families for a Secure America, New York, NY

Paul Degener, citizen from Topeka

Janet Schalansky, Secretary, Social and Rehabilitation Services (written)

Janet Thiessen, Chief of Police, Olathe Police Dept. (written)

John Douglass, Chief of Police, Overland Park Police Dept. (written)

Rev. James Keleher, Board Chairman, Kansas Catholic Conference (written)

Ronald Miller, Chief of Police, Kansas City, KS (written)

Melinda Lewis, Director of Policy Advocacy and Research, El Centro, Inc., Kansas City, KS
(written)

Mike Hall, Chief of Police, Pittsburg, Kansas Police Department (written)

Sandy Barnett, Executive Director, Kansas Coalition Against Sexual and Domestic Violence
(written)

Ramiro Romo-Viramontes, Insurance Agent and proud immigrant (written)

C. Albert Herdoiza, Attorney, Kansas City, KS (written)

Others attending:

See Attached List

Chairman Vratil called for bill introductions. Senator Goodwin offered a conceptual bill regarding Cowley County and a proposal to take about 10,000 acres for a lake to be used for water, and proposed bill will say the lake will be used for water, but no private development can be done on this lake for 30 years.

Senator Goodwin made a motion to introduce the conceptual bill, seconded by Senator Donovan, and the motion carried.

Chairman Vratil announced that due to the large number of conferees appearing to testify on **HB 2039**, he was cancelling the hearing on **HB 2100** and would be rescheduled at a later date.

Sub HB 2039 - Temporary resident driver's license

Chairman Vratil opened the hearing on **Sub HB 2039**, and stated that the remaining 50 minutes of Committee time would be divided equally between proponents and opponents appearing to testify.

Joan Wagon, Secretary of the Kansas Department of Revenue (KDOR), testified in support of the proposed legislation. She explained that KDOR's job in motor vehicles was to ensure that all drivers have sufficient skills to drive assessed through taking a driving exam, vision to see properly, and

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insurance. She said that people who drive illegally are a threat to the public safety, and KDOR would prefer to have them drive legally, rather than illegally. Secretary Wagnon stated that KDOR wants to see that the licenses are issued only to people with a valid Kansas address and proof of identity ([Attachment 1](#))

Mike Farmer, Executive Director, Kansas Catholic Conference, testified in support of **Sub HB 2039**. He stated that thousands of undocumented individuals work in Kansas every day of the year. He explained that while the federal government works to resolve the various immigration issues, Kansans can take positive steps to affirm the dignity of undocumented persons by providing basic and necessary means of survival. Mr. Farmer pointed out that a copy of a letter from Archbishop James Keleher, Chairman of the Kansas Catholic Conference Board, was attached to his testimony. Archbishop Keleher articulates the Catholic Conference's position as advocates for the undocumented immigrants. ([Attachment 2](#))

Senator Pugh questioned the Kansas Catholic Conference's urging of lawmakers to take action for people who are in this country illegally. He asked if Mr. Farmer's organization believes the Kansas Legislature should pass a law to give the immigrants the benefits of citizenship by issuing them driver's licenses even though they are in violation of federal law. Mr. Farmer replied that the intent is for those immigrants who are gainfully employed in Kansas to be able to drive legally on state roads and highways and to be properly insured. Senator Pugh stated that the Kansas Legislature is sworn to uphold the law, and uphold the U.S. Constitution which says a person is either naturalized to become a citizen or born a citizen. Senator Pugh asked why the Legislature would confer recognition and legality on individuals who by the very act are illegal. Mr. Farmer responded that he did not think the Legislature would be conferring legality on a person, but giving them the right to drive.

Jesse Garcia, attorney, testified in support of **Sub HB 2039**. He gave basic information on immigration, the procedures to obtain citizenship, and the lengthy/complicated process involved in becoming a citizen. He stated that by allowing immigrants to drive legally, Kansas neither becomes involved in enforcement of Federal Laws nor rewards the breaking of those laws. Kansas will simply be dealing with the reality that immigrants are now part of its communities, are driving on the streets, and should be held to the same standards as the rest of the state's citizens. ([Attachment 3](#))

Chairman Vratil announced that Committee questions would be held until the last conferee had testified.

Elias L. Garcia, Executive Director, Kansas Advisor Committee on Hispanic Affairs, spoke in support of **Sub HB 2039**. He outlined various reasons why the bill would benefit Kansas as a whole including the at-large Kansas Hispanic community. Mr. Garcia talked about having a "collective vision" for Kansas relating to the state's population and demographic projections. ([Attachment 4](#))

Leo Casados, Vice Chair-Democratic Hispanic Caucus, testified in support of **Sub HB 2039**. He pointed out that Hispanics are the largest minority in the U.S. numbering 37 million people. The Hispanic economic base is \$500 billion, and within ten years it will reach \$1 trillion. ([Attachment 5](#))

Written testimony was submitted in support of **Sub HB 2039** by the following:

John M. Douglass, Chief of Police, Overland Park, KS ([Attachment 6](#))

Janet Thiessen, Chief of Police, Olathe Police Department ([Attachment 7](#))

Rev. James P. Keleher, Board Chairman, Kansas Catholic Conference ([Attachment 8](#))

Ronald Miller, Chief of Police, Kansas City, Kansas ([Attachment 9](#))

Melinda Lewis, Dir. of Policy Advocacy and Research, El Centro, Inc. ([Attachment 10](#))

Chief Mike Hall, Pittsburg Police Department and Pittsburg Area Community Outreach (PACO) Foundation ([Attachment 11](#))

Sandy Barnett, Exec. Director, Kansas Coalition Against Sexual and Domestic Violence, ([Attachment 12](#))

Ramiro Romo-Viramontes, Insurance Agent and proud immigrant ([Attachment 13](#))

C. Albert Herdoiza, Attorney, Kansas City, KS ([Attachment 14](#))

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Chairman Vratil called upon Don Whitten to testify as the first opponent to **Sub HB 2039**. Mr. Whitten expressed his concern that this country's immigration policy is losing its power of authority through careless manipulation. He related that 16 of the 9/11 hijackers obtained either a driver's license and/or state identification numbers. Mr. Whitten said these licenses and/or identification cards were then used as proof of residence. The temporary licenses will give an illegal, the authorization to drive in the U.S. at any time, reason, place, or motive; without question. Mr. Whitten stated that authorizing the right for illegal aliens to legally drive, or be entitled through State issued identification, erodes the security system, educational system, the economy, the industrial system, health, and welfare system. (Attachment 15)

Susan Tully, Mid-West Field Director, The Federation of American Immigration Reform (FAIR), testified in opposition of **Sub HB 2039**. She stated that the IRS ITIN is not a secure or verifiable identification tool. Ms. Tully related that the IRS strongly recommends that such numbers not be used for driver's licenses by any agencies as stated in an August 8, 2003 letter to every State Governor and State Department of Motor Vehicles. A copy of the letter is attached to her written testimony. (Attachment 16)

Ms. Tully explained that ITIN's are issued for the sole purpose of enabling individuals who do not qualify for social security numbers to meet their tax filing responsibilities. ITIN applicants are not subject to the same rigorous document verification standards as social security number or visa/passport applicants. She said that although IRS requires proof of identity documents, they accept the documents at face value without validating their authenticity with issuing agencies or conducting applicant background investigations. Ms. Tully added that the IRS does not require applicants to appear in person and third parties may submit applications and provide documentation on behalf of others. She talked about Homeland Security's position on the issuance of driver's licenses to undocumented immigrants. Issuing driver's licenses to undocumented immigrants may necessitate a rethinking of the use of driver's licenses as *de facto* identity cards.

In conclusion, Ms. Tully defined immigrants as people who have come to the U.S. through a legal process with review and permission by the U.S. Government. She stated that laws that prevent illegal aliens from driving should be strengthened to deter such actions, instead of weakening the rules of identification and illegal immigration to accommodate those who come here illegally to obtain work.

Peter Gadiel, spokesman for 9/11 Families for a Secure America, spoke in opposition to the proposed legislation. He explained that his organization has as its core membership people who all lost loved ones in the September 11 terrorist attacks, or who themselves escaped from the World Trade Center and Pentagon on that day. He added that his 23 year old son was killed in the World Trade Center while working at his first job after college. Mr. Gadiel said that all the 9/11 family members know that their loved ones died because the government at all levels failed to live up to its most basic obligation to its citizens ...to protect citizens from foreign attack.

Mr. Gadiel stated that for those whose sons, husbands, sisters, mothers were murdered on September 11, the idea that ANY state would even think about giving official, valid ID to a person who is not lawfully in the country is indecent. He said it would be an insult to the memory of the lost loved ones. In his written testimony Mr. Gadiel listed the claims of those who favor giving licenses to illegals, and concluded that all of those claims are completely without merit. He also reviewed briefly what various states are doing on this issue. (Attachment 17)

Paul Degener testified in opposition to **Sub HB 2039** as a concerned citizen of the United States and the State of Kansas. He stated he was not opposed to controlled legal immigration, but just did not understand why Kansas would even consider rewarding thousands of illegal aliens with the privilege of obtaining a driver's license. He said the undocumented immigrants enter this country illegally and then sue the U.S. Government because the U.S. does not provide water points for them. Mr. Degener also talked about the U.S. being required to provide aliens with an education, free emergency medical services, and that the taxpayers of this nation are the ones who pay for these benefits. He included with his written testimony an article from the *Washington Times*, "Bills Take a Tougher Stance on Illegals". (Attachment 18)

Janet Schalansky, Secretary, Kansas Social and Rehabilitation Services, submitted written testimony as a

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neutral conferee. The testimony called attention to Section 7 of **Sub HB 2039** which as it is currently worded would amend K.S.A. 8-240 in a manner inconsistent with the final text of last year's SB 16, effectively repealing the changes that were made during the 2003 Session. Secretary Schalansky stated it was essential that Section 7 be amended so any new changes are made to K.S.A. 8-240 as it currently exists. (Attachment 19)

Senator Allen requested a copy of the actual letter that Conferee Tully said was sent to each state's Governor. Ms. Tully responded that a copy should be available through the Governor's Office or the Kansas Department of Motor Vehicles. Chairman Vratil requested Carmen Alldritt, Director of Motor Vehicles, to furnish the Committee with copies of the letter dated on August 8, 2003. (Copy later furnished to Senator Allen who distributed it to Committee members on February 12, 2004.) (Attachment 20)

Chairman Vratil announced that Secretary Wagnon and Carmen Alldritt, Director of Motor Vehicles, would be asked to attend the Committee meeting and be available for questions when **Sub HB 2039** is worked. Upon inquiry by Senator Pugh, the Chair stated that he did not know when this bill would be scheduled for Final Action.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is January 28, 2004.