

Senate Committee on State and Federal Affairs
Tuesday, February 15, 2017; 10:30 AM
Testimony by Jenny Tavares

Good morning Honorable Senators, staff, and members of the public:

My name is Jenny Tavares and I am here to speak in opposition to Senate Bill 157.

I retired from the State Civil Service just under a year ago with 34+ years of service. For the majority of my state career I worked as the Kansas State Monitor Advocate for Migrant and Seasonal Farmworkers, a position which is mandated by the U.S. Wagner-Peyser Act and is administered by the Kansas Department of Commerce. Prior to becoming Monitor Advocate, I worked as an Intergroup Education Specialist for the former Kansas Advisory Committee on Hispanic Affairs, now known as the Kansas Hispanic & Latino American Affairs Commission.

My purpose in explaining my past is not to pass myself off as an expert in law, but to illustrate that since the 1980s I gained institutional knowledge about legal issues which are applicable to farmworkers and Kansas Hispanics.

I specifically oppose Senate Bill 157 for three reasons, none of which addresses the potential for racial profiling.

First, it would cost the state money.

This bill references Section 1357 (g) of the Immigration and Nationality Act. This section of the Act allows for the U.S. Attorney General to enter into agreements with state or local subdivisions to perform the functions of an immigration officer. The section states that such employees must be qualified to perform the function and must be done at the expense of the state or local subdivision. Subsection 2 states that the agreement shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws. The final subsection contains language that no state or political subdivision is required to perform this function.

If any of you is an employer or an employee, you are familiar with the requirement that each employee must complete the I-9 form, which establishes identity and authorization to work. If you'll recall, allowable documents include birth certificates, social security cards, tribal documents, permanent resident cards, or any of the numerous others which document status as a refugee, asylee, or non-immigrant worker under the various visa categories which allow employment. As an individual who was trained by the US Department of Justice's Office of Special Counsel for Immigration-Related Unfair Business Practices, I can confidently state that review of a legitimate immigration document is difficult and in the words of the Special Counsel's staff, best left to the experts.

Enactment of this bill would cost the state money and an undetermined number of months for training of ALL troopers in complex immigration law and for voluntary performance of a non-mandated function for which the state will not be reimbursed.

Second, it would most likely be unconstitutional.

In 2010 Secretary of State Kobach was instrumental in writing Arizona's Senate Bill 1070 which included as one of its key points performance of a function similar to what is suggested in the Kansas bill.

The United States Supreme Court ruled that this point in the Arizona law was pre-empted by Federal law. ARIZONA ET AL. v. UNITED STATES was decided on June 25, 2012. As a Kansas taxpayer I am against the expenditure of state funds to defend a law which is strikingly similar to one which has already been struck down by the United States Supreme Court.

Third, it is unnecessary.

The State of Kansas is already performing a quasi-immigration review of all individuals who are licensed drivers. In order to obtain a driver's license all applicants must prove 5 things. 1. Their name and date of birth. 2. Their lawful status. 3. Their Kansas residency. 4. Their possession of a Social Security Number. 5. Evidence of lawful name change.

In other words, Kansas licensed drivers have already established their legal status and residency when they obtained their driver's license.

In summary, I would like to restate my reasons for opposing this bill:

1. It will cost the state money to train all troopers to perform a **voluntary** function.
2. It may and will probably be challenged in court and cost the state money to defend.
3. It is unnecessary due to the requirements for obtaining a Kansas driver's license.

Thank you for allowing me to present my views.

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