

MINUTES

SPECIAL COMMITTEE ON JUDICIARY

August 21 and 22, 2001
Room 519-S—Statehouse

Members Present

Representative Ward Loyd, Chair
Senator John Vratil, Vice Chair
Representative Rick Rehorn, Ranking Minority Member
Senator Greta Goodwin
Senator Kay O'Connor
Senator Jean Schodorf
Senator Dwayne Umbarger
Representative Peggy Long (August 21)
Representative Judy Morrison
Representative Dean Newton
Representative Ethel Peterson
Representative Dixie Toelkes (August 21)

Staff Present

Jerry Donaldson, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Gordon Self, Revisor of Statutes Office
Cindy O'Neal, Committee Secretary

Conferees

Representative Tom Klein
Sheila Walker, Director of Vehicles, Department of Revenue
Bob Totten, Kansas Contractors Association, Inc.
Tina DeLaRosa, Advisory Committee on Hispanic Affairs
C. Albert Herdoiza, Attorney, Kansas City
Ramon Murguia, Attorney, Kansas City
Emira Paacios, Hispanics United, Wichita

Dennis Romero, Hispanics United, Wichita
Jonathan Becerril, Hispanics United, Wichita
Lynda Callon, Hispanic Empowerment for Community Health and Opportunity, Kansas City
Jim Ramariz, City Commissioner, Arkansas City
Judy Scudamore, Pittsburg Area Community Outreach, Pittsburg
John Douglas, Chief of Police, Overland Park
Sister Therese Bangert, Kansas City Archdiocese
Elena Morales, Heart of America Family Service, Kansas City
Officer Jeff Scott, Pittsburg Police Department, Pittsburg
Ricardo Iberra, Sugarcreek Packing, Frontenac
Angelica Nunemaker, Child Abuse Prevention Services, Salina
Elias Garcia, Kansas Hispanic Caucus
Richard Ruiz, El Centro, Kansas City
Sister Roserita Weber, Dominican Sisters Ministry of Presence, Garden City
Tino Camacno, United Latin American Citizens
Professor David Ryan, Washburn University School of Law
Carol Foreman, Office of Administrative Hearings
Robin Kempf, Legislative Division of Post Audit

Tuesday, August 21, 2001
Morning Session

Topic Number 3—Driver’s License Privileges for Immigrants

Chairman Ward Loyd called the meeting to order at 10:00 a.m. and introduced members of the Committee and staff.

Hank Avila, Kansas Legislative Research Department, provided the Committee with a booklet ([Attachment 1](#)) that provides background information that led to the law that was passed in the 2000 Legislative Session. Included were several articles from the *Salina Journal* that dealt with a lady being arrested near Salina. The woman would bring van loads of illegal immigrants to Kansas to illegally obtain driver's licenses. A total of 18 were arrested, 16 of which were immigrants. This sparked concern from then Senator Ben Vidricksen, who sponsored a bill that became a law that requires proof that a person is lawfully present in the state before obtaining a driver's license. The new law went into effect July 1, 2000.

Copies of HB 2135, which would allow a driver's license applicant to get a license if they have obtained an Internal Revenue Service individual taxpayer identification number, and HB 2503 that strikes all language that was passed in 2000, were included in the packet. Both bills are still alive for the 2001 Legislative Session.

Arkansas, California, Colorado, and Utah use the "proof of lawful presence" standard. Florida requires documents such as a valid U.S. passport, an alien registration receipt card, or an employment card issued by the U.S. Department of Justice. Most states have changed their laws due to the safety factor, under the rationale that if a person does not have a driver's license, he or she is likely going to drive anyway. If a person has a driver's license, they will more likely carry automobile insurance.

Representative Tom Klein said many of those who are undocumented in the United States entered the country legally, on work visas or student visas, but became illegal when the visa expired and, therefore, they became undocumented. There are many requirements to obtain a legal residence status. It is very common that one might enter the country legally, marry legally, but not meet the "legal residence" status. The 2000 Census shows that the Hispanic population in Kansas has doubled in the past ten years. He said that one of the appealing points of HB 2135 is that it would make undocumented workers get a taxpayer identification number before receiving a driver's license and, therefore, they would be paying both federal and state taxes.

Sheila Walker, Director of Vehicles, Kansas Department of Revenue, said that the Department used Colorado's list of "acceptable documentation" in spelling out the necessary requirements to get a Kansas driver's license. Immigration and Naturalization Service (INS) officials and the Kansas Advisory Committee on Hispanic Affairs have reviewed the list for accuracy. She said that a driver's license is an ID card which can be used to be eligible for government services. If the "proof of lawful presence" requirement is removed, Kansas will become a clearinghouse for undocumented persons to get licenses and will lose our credibility in the eyes of other states (Attachment 2).

Chairman Loyd commented that the Kansas Legislature does not have control over citizenship but does have control over its roads. Colorado has a program for immigrants who have received DUIs about how to live in America, and explaining the laws and what is required to live here. The Colorado courts estimate that 82 percent of those required to attend the program successfully completed it and that only 9 percent have returned to the court system.

Senator Schodorf questioned how many people in Kansas are driving without a license and are also considered to be undocumented. Ms. Walker responded that she did not have specific statistics. She said that there are 7,500 convictions a year for driving without a license but could not say how many were undocumented persons.

Senator Vratil asked what the public policy was for obtaining a driver's license. Ms. Walker commented that it was important for those to pass both a written and a driving test to ensure they know the driving rules for safety. Also, a driver's license is used for identification of persons, so one can prove they are who they say they are. The Senator suggested that ensuring rules are followed and safety have nothing to do with one's immigration status. She agreed, but was concerned with Kansas becoming a clearinghouse for illegal immigrants from other states.

Chairman Ward questioned if it would be advisable to have undocumented immigrants receive an identification card with a different color to show that it is not a driver's license, but instead, an ID. Ms. Walker replied that it would be possible; those under the age to drive are allowed to receive an ID. She informed the Committee that in Kansas, obtaining a fake driver's license is a felony.

Representative Rehorn said that at least 41 other states do not have a "proof of residence" requirement, and questioned why Colorado had just refused to accept a Kansas driver's license. Ms. Walker commented that in talking with Colorado, Kansas is the only state at this time but if one of the other states started allowing illegal aliens to obtain driver's licenses, they would then not accept their licenses either.

Senator Goodwin asked if it would be possible for the state to set up a program that would require everyone who wishes to obtain a driver's license to take a test before they receive one. Ms. Walker responded that it could be done with the appropriate resources. Most youths take driver's license classes in school, and teenagers have a number of required hours of driving with a supervisor before they can receive their license.

Bob Totten, Kansas Contractors Association, Inc., said that allowing nonresidents to receive a driver's license would be counterproductive to his industry. Many contractors use a Kansas driver's license to identify potential employees as residents of the U.S. to insure they are not illegal immigrants (Attachment 3).

The Committee took a ten-minute break and reconvened.

Tina DeLaRosa, Advisory Committee on Hispanic Affairs, commented that one of their charges was to "evaluate existing programs and proposed legislation concerning Hispanics." They have several concerns regarding the requirements set by Kansas to obtain a driver's license. She said that there are many families in Kansas who are in the process of becoming legalized but have not yet obtained the necessary documentation to obtain a driver's license. These families need to be able to drive to work and do their day-to-day functions. HB 2135 would present an opportunity for those who have not yet been legalized to be able to drive with the state's permission. She suggested that the Committee consider a special or temporary driver's license that would allow the purchase of insurance while still making it clear to other states that a provision is pending (Attachment 4).

C. Albert Herdoiza, Attorney, Kansas City, touched on seven reasons as to why the law should be repealed (Attachment 5).

- Until July 2000, Kansas had not precluded a driver's license being issued to any person who was not lawfully present in Kansas;
- If one cannot obtain a driver's license, they cannot legally obtain automobile insurance;
- Kansas is losing revenue from personal property taxes not being collected from those who cannot get a driver's license;

- Loss of profits from insurance carriers for those who do not carry insurance;
- Lack of proper identification makes it easier for habitual violators to avoid prosecution;
- Present law targets Hispanics for special inquiry and discriminatory treatment; and
- The Hispanic population is growing.

Ramon Murguia, Attorney, Kansas City, agreed that the Department of Motor Vehicles was responsible for the public safety on roads. He said denying access to licenses because a person cannot prove he is lawfully present in Kansas endangers everyone by increasing the number of unlicensed and uninsured drivers on the road ([Attachment 6](#)).

Afternoon Session

Emira Paacios, Dennis Romero, and Jonathan Becerril, Hispanics United of Wichita, appeared. They said that the current law was racist because of the way it was selectively implemented depending on a person's appearance and manner of speech. They believed that the Hispanic community had been mistreated by the Department of Motor Vehicles and wanted equal treatment. They said HB 2135 would correct those problems by allowing proper training for all drivers and would encourage compliance with the state's mandate of automobile insurance. The bill would also allow law enforcement to keep track of repeat offenders ([Attachment 7](#)).

Lynda Callon, Hispanic Empowerment for Community Health and Opportunity, Kansas City, commented that undocumented persons have become an integral part of our society. She believes that many employers of undocumented workers do pay the appropriate taxes on their employees and that the undocumented workers are obtaining individual taxpayer identification numbers in order to file income taxes. The Social Security Administration has suggested that these people are responsible for more than \$20 billion paid in Social Security taxes over the past eight years. They have become an essential part of our communities. They need to be able to drive so they may transport themselves to and from work. They should be able to drive legally. To do so without a license endangers everyone. She said a Kansas driver's license proves that one has knowledge of the rules and regulations of the roads in Kansas, but is not meant to prove citizenship. She supported changing the current law to allow reinstatement of driving privileges to undocumented residents so they can get to and from their jobs ([Attachment 8](#)).

Jim Ramariz, City Commissioner of Arkansas City, said that the Department of Vehicles personnel were overstepping their bounds by doing INS services, which was not part of their job description. This causes one to discriminate against certain individuals.

Judy Scudamore, Pittsburg Area Community Outreach, Pittsburg, disliked the term "illegal" immigrants. She noted the increase in the number of immigrants in the Pittsburg area. The Pittsburg Community Outreach provides services to new immigrants as they are integrated into the community. She noted that Pittsburg does not have public transportation and therefore, urged the Committee to find a way to allow immigrants to obtain a driver's license.

John Douglas, Overland Park Chief of Police, said the INS has the ability to determine who will be in the United States legally and who will not. Johnson County has had a 156 percent increase in Hispanic people over the past ten years because there are jobs in the area. He said Hispanic immigrants are a major part of the community. He said the state should move forward and help manage immigration so the people can become part of our society.

Senator Vratil asked beyond the driver's license issue, what other things can be done to integrate immigrants into our communities? Mr. Douglas replied that the city was working with the Hispanic community, but because of their immigrant status, many were slow to interact with law enforcement.

Richard Ruiz, Executive Director, El Centro, Kansas City, said the current law punishes hard-working families who are contributing to the state's economy by not allowing them to legally obtain a driver's license. The Hispanic work force has contributed greatly to society. If the vision of Kansas is to be a strong state, it needs to put the issue of immigration on the table and resolve these issues. He said El Centro was willing to work with families to educate them about the requirements of auto insurance, safe driving, and the necessary documentation needed to receive a driver's license. The state's economy and quality of life depend on the Hispanic work force. He said we should embrace the neighboring country ([Attachment 9](#)).

Sister Roserita Weber, Dominican Sisters Ministry of Presence, Garden City, said her order helps the Hispanic community with things that they need to know in order to live in the United States. She said she had helped many study for their driver's licenses so they can do their everyday chores. In Mexico, they are able to use a bus system, but Garden City does not provide one. She said taxis were available but there were not enough, and were very expensive. People should be able to have driver's licenses so they know the law and will get automobile insurance. The length of immigration wait is an average of seven years before they get approved.

Sister Therese Bangert, Kansas City Archdiocese, supported driver's licenses for immigrants. She hoped that the Committee would resolve the legal issues that keep certain people from obtaining a license. The Hispanics have enriched our communities and their faith in God has enlightened our culture ([Attachment 10](#)).

Elena Morales, Heart of America Family Services, Kansas City, said that the law has not been an effective measure to curb the steady flow of immigrants relocating to the Kansas City area, but rather, had resulted in a significant increase in motorists driving without a license out of necessity. She said she had heard that immigrants can get a counterfeit driver's license for \$500 or more. She requested that the Committee consider repealing the current statute ([Attachment 11](#)).

Jeff Scott, Pittsburg Police Department Officer, appeared on behalf of Chief of Police Michael O. Hall. He agreed that immigration was the responsibility of the federal government. He said that as a police officer, he was not permitted to ask if someone was a legal resident. He said Chief Hall understood the need for the change in the law because the current law has caused problems for law-abiding immigrants in Pittsburg ([Attachment 12](#)).

Ricardo Iberra, Sugarcreek Packing, Frontenac, spoke briefly.

Angelica Nunemaker, Child Abuse Prevention Services, Salina, said the current law was a form of racial profiling in that it allowed Division of Motor Vehicles personnel to question a person's identity and citizenship based upon their skin color. In today's society, a driver's license has become a major form of identification, without which you cannot even write a check ([Attachment 13](#)).

Elias Garcia, Kansas Hispanic Caucus, stated that current law makes otherwise law abiding citizens choose between complying with driving laws or providing transportation for their families. He said that it makes more sense to allow an undocumented worker to have a driver's license if they have a tax ID number ([Attachment 14](#)).

Tino Camacno, United Latin American Citizens, requested that current law be repealed because he said it discriminates against Hispanics and other immigrants who are residing, working, and paying taxes in Kansas ([Attachment 15](#)).

Written testimony was provided by Father Peter Jaramillo, Office of Hispanic Ministry, Kansas City, Kansas Archdiocese Office ([Attachment 16](#)).

Also provided to the Committee was a copy of an Application for Internal Revenue Service Individual Taxpayer Identification Number Forms ([Attachment 17](#)) and a Taxpayer Assistance Form ([Attachment 18](#)).

**Wednesday, August 22, 2001
Morning Session**

**Topic Number 5—Use of Independent Hearing Examiners
by Agencies Subject to the Kansas Administrative
Procedures Act**

Professor David Ryan, Washburn University School of Law, appeared on behalf of the Administrative Law Committee of the Kansas Judicial Council. He said the Administrative Law Committee strongly supported a centralized hearing office for all state agencies. 2001 HB 2488 incorporates this suggestion ([Attachment 19](#)).

Robin Kempf, Division of Legislative Post Audit, reviewed a performance audit report, "Centralized Administrative Hearings: Reviewing the Advantages and Disadvantages," March 2001 ([Attachment 20](#)). Some of the conclusions of the audit were:

- Except for people who appealed Social and Rehabilitation Services decisions, the majority of hearing participants reported being satisfied with the Office of Administrative hearings; and
- Other states that have centralized offices reported other benefits resulting from a central hearing office besides eliminating inherent conflict of interest situations.

Carol Foreman, Director, Office of Administrative Hearings, reviewed the state agencies that now contract with her office for services ([Attachment 21](#)). A second letter from Ms. Foreman deals with the number of reviews of decision conducted by agency heads for FY 1999 through FY 2001 ([Attachment 22](#)).

Chairman Loyd informed the Committee that the November meeting would be held in Wichita to view that city's drug court. The Chairman stated that the Committee had been given plenty of notice of the meeting date and should work to clear their calendars to make every effort to attend the meeting.

After further discussion, the Committee adjourned.

Prepared by Cindy O'Neal
Edited by Mike Heim

Approved by Committee on:

September 28, 2001