

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 12, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Others attending:

See attached list.

**Final Action:**

**SB 458 - Immigration reform.**

A balloon was provided by staff. (Attachment 1)

Senator Vratil provided the committee with three proposed balloon amendments to the bill. The first handout was an overview of the proposed amendments. (Attachment 2) The proposed amendments are:

**Amendment No. 1**

1. Section 1 - definitions, appropriate definitions are retained and unnecessary definitions are deleted
2. Sections 2, 3, and 4 are deleted
3. Section 5 - clarifies that an alien who is not lawfully present in the United States is not eligible to receive any state or local public benefits. The term "public benefit" is defined. It does not include reduced fees or tuition provided under current law
4. Section 6 - requires all state officials, agencies, and personnel to fully comply with and support the enforcement of federal law prohibiting the entry into, presence, or residence in the United States of aliens in violation of federal immigration law
5. Sections 8, 9, 10, and 11 are deleted
6. Section 12 contains standard severability provisions
7. New Section 5 - creates a new crime of "employment identity fraud." Employment in identity fraud is willfully presenting to an employer false or misleading identification documents for the purpose of obtaining employment in Kansas. Employment identity fraud is a severity level 8, non-person felony. (Attachment 3)
8. New Section 6 - creates the crime of "coercing employment." Coercing employment is labor or services that are performed or provided by another person and that are obtained or maintained through various illicit activities listed in the amendment. Coercing employment is a severity level 9, person felony
9. New Section 7 - provides that, if a person's presence in the United States is a violation of federal immigration laws and that person commits a crime in Kansas, the person's sentence is not subject to a suspended sentence, conditional release, community service, or probation
10. New Section 8 - amends the human trafficking statute to prohibit knowingly transporting or assisting in the transporting of any person into the State of Kansas who is not lawfully present in the United States.

The legislative intent is not intended for the "Good Samaritan" who comes across a stranded motorist in Oklahoma and takes them across the border to get their car fixed or to neighbors who car pool from Oklahoma to Kansas and the neighbor doesn't know that one of the car pool buddies is a illegal immigrant. The crime must be committed knowingly.

11. Section 12 - requires a person convicted of aggravated human trafficking to register as an offender for the remainder of the person's lifetime
12. Section 14 - includes forfeiture of assets provisions. The assets of a person may be forfeited if that person is present in the United States in violation of federal immigration laws and commits any

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felony. Human trafficking would also subject a person to forfeiture of assets.

**Amendment No. 2**

13. This amendment makes it a civil offense for a business entity to knowingly engage in a pattern or practice of hiring, recruiting, or referring for a fee for employment any unauthorized alien. The Attorney General would be authorized to bring a civil suit to enforce this provision. However, no suit would be allowed against a business entity that participates in the federal E-verify system and such system raises no concerns about the prospective employee. Additionally, a business entity would have an affirmative defense if the business entity properly completed an I-9 form as required by federal law. If a business entity is determined to have violated these provisions, the district court could issue a permanent injunction against further violation. Contempt of court is the remedy for violating an injunction. (Attachment 4)

**Amendment No. 3**

14. The amendment establishes an "Illegal Immigration Enforcement Division" within the Office of the Attorney General. That enforcement division will be responsible for the investigation and enforcement of criminal and civil prohibitions established under this bill, including existing criminal statutes relevant to unauthorized aliens. (Attachment 5)

Senator Vratil moved SB 458 be amended in the manner as just described in Amendment No. 1. Senator Reitz seconded the motion.

The chairman opened the meeting for discussion of the amendment. The committee asked if hearings were held on certain new sections of the proposed amendment? The answer was not in the Senate.

Senator Barnett objected to the large balloon amendment and would offer a substitute motion to pass the bill out of committee without any changes. The Chairman ruled that the substitute motion was not in order as the amendment was attached to the original bill.

The committee asked for clarification on in-state tuition that was passed in 2007, eligibility requirements, and benefits being paid to illegal aliens. The bill did not change the requirement for in-state tuition for high school students who have attended at least three years of high school in Kansas and met the criteria stated in the legislation. Candy Shively, SRS, stated that the state system is used for the entitlement programs and will reflect if there is a problem with the eligibility requirement. The benefits are not being paid to anyone who is not eligible.

Senator Vratil moved the Amendment No. 1. The motion carried. Senator Barnett and Senator Ostmeier recorded as voting no on Amendment No. 1.

Senator Vratil moved to adopt Amendment No. 2. Senator Lynn seconded the motion. The motion carried.

Senator Vratil moved to adopt Amendment No. 3. Senator Reitz seconded the motion.

Senator Barnett requested a fiscal note on the amendment. The Chairman pointed out that fiscal notes are provided on new bills and can be requested after a bill is amended and has passed one chamber, working on amendments does not require fiscal notes.

The committee asked if the Department of Labor might be more in tune with enforcement of Amendment No. 3, and Senator Vratil stated that in drafting the amendment that the Attorney General's office is better equipped for the enforcement part of the amendment.

The motion carried for Amendment No. 3. Senator Barnett recorded as voting no on Amendment No. 3.

Senator Francisco moved an amendment that would allow photo first by increasing the photo fee to \$12.00. Senator Reitz seconded the motion. (Attachment 6)

The Chairman opened the meeting for discussion on the amendment. Carmen Aldritt explained to the committee the type of identification required for a drivers license and that the documents would be scanned in for permanent record keeping.

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Senator Brownlee requested a substitute motion to move as a separate bill. Senator Ostmeyer seconded the motion. The motion carried for the amendment to become a Bill Introduction.

Senator Brownlee requested that **SB 458** be moved as a substitute bill.

Senator Vratil moved that **Substitute for SB 458** as amended be favorably recommended to the Senate. Senator Brownlee seconded the motion. The motion carried.

Senator Barnett and Senator Ostmeyer recorded as voting no on the Substitute Bill.

The meeting was adjourned at 11:35 am. The next scheduled meeting is March 13, 2008.