

Written Testimony
Senate Federal and State Committee
SB 399, Kansas Business, Workers and Community Partnership Act
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Chairman Brungardt and Members of the Committee:

The Greater Topeka Chamber of Commerce would like to express our support for SB 399 creating the Kansas Business, Workers and Community Partnership Act. This legislation has been developed to initiate a work program for non-criminal undocumented aliens to work in Kansas certified industries experiencing significant worker shortages. This work program would be in lieu of detaining, incarcerating or deporting undocumented persons in Kansas.

The Topeka Chamber believes the immigration issue should be dealt with by the federal government. Creating a patchwork of immigration laws, differing from one state to another is not an effective or appropriate way to address a federal issue; nor is passing oppressive legislation that wrecks a state's economy and drives out needed workers who have not been able to enter the country legally because the federal path is blocked with inefficient processes and lacks appropriate means to gain lawful work status. SB 399 keeps the governance of immigration at the federal level by necessitating the authorization and participation of the federal Department of Homeland Security (DHS). This DHS program will partner with Kansas by establishing the administration of the program with the Kansas Department of Labor.

Undocumented participants would be required to meet the following conditions:

- Pass a background check
- Not have a criminal record
- Have lived in Kansas for at least five years
- Agree to employment in a Kansas certified business
- Agree to learn English, if not now proficient
- Have application approved by DHS.

When approved, the undocumented individuals will receive work authorization documents from DHS. They would seek a Social Security card and apply for a Kansas driver's license (or non-driver identification card) for the time they are authorized to work. They must remain employed with a certified employer in order to continue in the program. A spouse or minor dependents will be eligible to participate in the program.

Requirements employers must meet to qualify:

- Business/industry must be certified by the state that they have significant labor shortages
- Payment of an annual registration fee (amount determined by size of the company)
- Completion of training
- Agree to submit reports as required
- Pay all federal and state employment taxes
- Follow all requirements in the federal Fair Labor Standards Act
- Provide all employee benefits as provided other employees.

If the employer meets all the eligibility requirements, the employer is certified by the Department of Labor. If the employer fails to maintain the requirements they can no longer participate in the program. There is

a civil penalty for employers decertified from the program. This program is voluntary, an employer can opt out with notice to the department with no penalty; however any qualified alien workers from this business will need to seek employment with another certified employer.

Community and faith-based groups may become service providers by offering:

- Program education and outreach
- Assisting in the completion of documents
- Teaching English
- Assisting in certifying employers
- Assisting in reporting program outcomes.

The Kansas Business, Workers and Community Partnership Act are self-funding; it does not require general funds to operate.

The Topeka Chamber does not support any immigration legislation that penalizes businesses who follow the law but inadvertently find themselves with an undocumented person in their workforce. The chamber is extremely concerned with the state mandating the use of E-Verify by those who contract with state and/or local governments or receive grants from them. When state or local economic development incentives are used to entice new business investments and create jobs there is a contract between the business and the government entity (and sometimes such funds could be considered grants). Mandating that a potential new business locating in our state and our communities must use E-Verify could be a roadblock that causes this prospective company to pass on Kansas when seeking a new location or considering expansions. This one provision could handicap the entire state in growing the economy. Language in some bills surrounding contractors and their responsibility for subs when using E-Verify is also problematic. Holding the general contractor responsible for actions by subcontractors by penalizing the general contractor is not fair or workable.

We also are very concerned with legislation that mandates local governments bear the responsibility and costs of detention, incarceration and deportation when the responsibility and costs belong with the federal government. The U.S. Immigration and Custom Enforcement (ICE) are not picking up undocumented persons now in Topeka and around the state, unless there are special circumstances like criminal activity. Requiring local communities to detain or incarcerate undocumented individual's costs money. Local taxpayers are already paying taxes to the federal government. Asking the same taxpayers to utilize precious local resources or pay more in taxes to police undocumented persons locally is not right and will cause local budget issues. On top of this mandate there is probable litigation that will come from mistakes - perceived or real.

The Topeka Chamber does not oppose the state mandating the use of E-Verify on itself but we have significant reservations about sending a bill to the floor of the either house. We are concerned with the potential amendments that will likely be added to a bill which will capture language we find so problematic. Respectfully, what a final bill will entail is of such grave concern that we cannot support such legislation's approval in committee, particularly when the Governor can make the decision to use E-Verify on new state employees without legislation.

Immigration regulation is not a simple issue for Kansas Legislators to confront, immigration regulation and enforcement is truly a federal issue and should be dealt with at that level. The Kansas Business, Workers and Community Partnership Act places the responsibility for the governance of the program with the federal government, with the state acting as a conduit between DHS and the undocumented population who have been living here for at least five years. This program fulfills a need for workers in businesses who cannot find sufficient workforce; it is an alternative to incarnation and deportation proposed in other bills. SB 399 is a unique pragmatic answer to addressing a difficult problem that is being forced on states by an ineffective Congress.

We respectfully ask for your support of SB 399 and opposition to any other immigration bills that may come before you.