

Members

Sen. Dennis Kruse, Co-Chairperson
Sen. Ed Charbonneau
Sen. Michael Delph
Sen. Timothy Skinner
Sen. Richard Young
Sen. Frank Mrvan
Rep. Scott Pelath, Co-Chairperson
Rep. Vern Tincher
Rep. Mara Candelaria-Reardon
Rep. Eric Koch
Rep. Timothy Harris
Rep. Jackie Walorski



INTERIM STUDY COMMITTEE ON IMMIGRATION ISSUES

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Authority: Legislative Council Resolution 08-01

MEETING MINUTES¹

Meeting Date: October 7, 2008
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Dennis Kruse, Co-Chairperson; Sen. Ed Charbonneau;
Sen. Michael Delph; Sen. Timothy Skinner; Sen. Richard Young;
Sen. Frank Mrvan; Rep. Scott Pelath, Co-Chairperson; Rep.
Vern Tincher; Rep. Mara Candelaria-Reardon; Rep. Eric Koch;
Rep. Timothy Harris; Rep. Jackie Walorski.

Members Absent: None.

Senator Kruse and Representative Pelath, Co-Chairpersons, called the third meeting of the Interim Study Committee on Immigration Issues to order at 1:00 P.M. The Committee members received the following three handouts: (1) An updated supplemental fiscal analysis from the Indiana Office of the Attorney General.² (2) An email from the Indiana Department of Workforce Development responding to questions from the

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

² Exhibit 1

Committee.³ (3) An article entitled "The Economic and Fiscal Impact of Immigration: a New Analysis."⁴

The effect of immigration policy on religious communities.

_____ Dr. Norman Wilson, Coordinator of Intercultural Studies at Indiana Wesleyan University, provided a handout of his testimony to Committee members.⁵ Dr. Wilson discussed the principles that he believed were relevant to the immigration situation. He indicated that the laws of the land must be obeyed and upheld but that the laws "should not be allowed to trump other higher principles of human life and decency". See Exhibit 4. He urged the legislators to give special attention to the potential effect of immigration policy on the children of undocumented immigrants.

Dr. Wilson introduced Reverend Jose Lopez and translated Reverend Lopez's testimony. Reverend Lopez expressed his concerns for the children who have lived here for years. He indicated that when undocumented immigrant parents go out into the streets to run errands the children do not know if the parents will return. He asked what would happen to these children if the parents are forced to leave.

In response to a question from Representative Harris, Dr. Wilson agreed that there may be a situation where the government has one responsibility and the church another. Dr. Wilson indicated that he understood the complexities of the issue of illegal immigration. In response to questions from Representative Tincher, Dr. Wilson indicated that undocumented workers had been allowed to stay in the United States for a long time. He said that the government should try to find a way to resolve the issue of immigration without hurting children. Senator Delph noted that speakers in the church were not discussing the human rights violations occurring against illegal immigrants in the United States.

Mr. Glenn Tebbe, Executive Director of the Indiana Catholic Conference, provided a handout⁶ of his testimony to the Committee and provided written testimony⁷ from a Catholic priest in East Chicago, Indiana, Fr. Steve Gibson. He also provided a pamphlet⁸ on the Juan Diego Latino Center. Mr. Tebbe indicated that the church sees immigrants as blessings to the church, community, Indiana, and the United States. He explained the difficulties in complying with immigration policy. Mr. Tebbe also discussed a report by the Urban Institute and the National Council of LaRaza Study concerning the effects of employment raids on children.

In response to a question from Representative Pelath, Mr. Tebbe stated that he did not know how many Catholic masses were performed in Spanish in Indiana but that he could collect the information. Mr. Tebbe also said that the state policies of the church are

³ Exhibit 2

⁴ Exhibit 3

⁵ Exhibit 4

⁶ Exhibit 5

⁷ Exhibit 6

⁸ Exhibit 7

the same as the national policies of the church in regards to immigration. In response to questions from Representative Walorksi, Mr. Tebbe indicated that current federal immigration policy is not reasonable. When asked by Representative Walorski how Indiana would be able to take care of the illegal immigrants when the state is unable to effectively take care of legal Indiana residents, Mr. Tebbe responded that he could not provide all the answers on how the government pays for everything but that providence provides. He stated that the immigrants coming to Indiana are not asking the government for anything and that they want to be contributing members of the community. Representative Candelaria-Reardon requested that Mr. Tebbe provide information to the Committee on the number of Catholic masses given in all foreign languages in Indiana.

Dr. David Johns, Associate Professor of Theology at Earlham School of Religion, provided a handout⁹ of his testimony to the Committee members. Dr. Johns discussed the different ways that the church and government consider policy. Dr. Johns indicated that "the more persons are placed in positions of vulnerability, be they social, economic, educational, or legal, the greater will become the need of churches to be creative in order to stand along side these persons offering them care, assistance, and companionship on their journey and in their settling." See Exhibit 8. In response to questions from Committee members, Dr. Johns stated that offering care to the vulnerable is a staple of a religious community.

Reverend Jennifer Riggs, Director of Refugee and Immigration Ministries, Christian Church (Disciples of Christ), provided a handout¹⁰ of her testimony. She discussed what she believed to be the five basic scriptural principles related to issues of immigration. Reverend Riggs stated that she was not a proponent of no action but a proponent of action by the federal government. In response to a question from Senator Delph, Reverend Riggs indicated that she thought the government should grant a process by which illegal immigrants residing in the United States could earn legal status by meeting a number of qualifications.

Information on E-Verify.

_____ Ms. Kathy Lotspeich, Deputy chief for the Verification Division of the United States Citizenship and Immigration Services, provided a Powerpoint presentation¹¹ on the E-Verify program to the Committee members. Ms. Lotspeich stated that the E-Verify program was developed to try to reduce discrimination in the hiring process and to address concerns with forged documents being used in the Form I-9 process. Ms. Lotspeich stated that four percent of employment verification requests from employers receive tentative non-confirmations. She indicated that 96% to 97% of tentative non-confirmations are resolved within two days from the date of the tentative non-confirmation. Ms. Lotspeich said that if the employer receives a tentative non-confirmation the employee has eight days to contest the tentative non-confirmation, during which time the employee continues working. She also discussed statistics regarding the E-Verify program.

In response to a question from Representative Pelath, Ms. Lotspeich stated that an employee may have a civil action against an employer if the employee is terminated during the eight day period after the employer receives a tentative non-confirmation for the

⁹ Exhibit 8

¹⁰ Exhibit 9

¹¹ Exhibit 10

employee. She further stated that if the employee does not contest the tentative non-confirmation within eight days from the date of the tentative non-confirmation, the employer may terminate the employee. In response to a question from Senator Kruse, Ms. Lotspeich said that an employer is not necessarily breaking the law but going against the program if the employer does not notify the employee of a tentative non-confirmation. In response to a question from Senator Charbonneau, Ms. Lotspeich indicated that an employer could be subject to a claim if the employer terminated the employment of an employee within eight days of a tentative non-confirmation if the employer terminated the employee because of the tentative non-confirmation. She stated that the employee could file a claim with the United States Department of Justice and that the Office of the Special Counsel of the United States Department of Justice would look at the factors and decide whether to investigate the claim. In response to additional questions, Ms. Lotspeich stated that there are approximately seven million employers and about 80,000 employers are using the E-Verify program.

The impact of illegal immigration on state wage rates and labor markets and the nature of businesses and business sectors that tend to employ illegal labor.

_____ Mr. Sean Keefer, Deputy Commissioner of the Indiana Department of Labor (Department), indicated that he did not have information on the topics that he had been asked to discuss. He stated that Indiana is a little unique in that most states have worker's compensation and workforce development within the Department, whereas Indiana does not. He described the divisions within the Department and discussed the work that each division performs. He stated that the Department had two concerns regarding the illegal immigration legislation last year when the Department was designated as the enforcement body. The Department's concerns include the following: (1) The Department receives federal funding for some of the programs the Department runs. As a result, the employment positions that the Department currently has open are only for the specific positions that are partially or wholly funded by the federal government. Therefore, the Department would need additional funding if it had additional enforcement tasks because the Department would have to create and fund new positions. (2) The Department has highly sensitive information and would not want to have to divulge any information that would affect the ability of the Department to serve the other purposes that it is directed to serve. When asked by Representative Pelath which agency would be better suited to collect data on labor and illegal immigrants, Mr. Keefer indicated that funding would be a concern and that the Department does not do a lot data collection.

Taxes paid by undocumented workers.

_____ Mr. Tom Conley, Legislative Liaison of the Indiana Department of State Revenue, stated that he did not have data on undocumented workers. He indicated that undocumented workers can register with the Internal Revenue Service with a nine digit taxpayer identification number. The taxpayer identification numbers were created to track the tax returns of individuals who were ineligible for social security benefits. However, other workers can register for those numbers as well, not just undocumented workers. He indicated that it is very difficult to identify the numbers. In response to a question from Senator Kruse, Mr. Conley stated that there is no follow up to ensure that an individual files a tax return.

The different types of documentation required for agricultural workers.

_____ Ms. Elisha Modisett, Legislative Liaison for the Indiana State Department of

Agriculture, provided a Powerpoint¹² presentation. She discussed: (1) the types of agricultural workers; (2) the H-2A temporary agricultural worker program; (3) H-2A temporary agricultural worker program statistics; and (4) proposed federal legislation and rules concerning agricultural labor. In response to a question from Representative Tincher, Ms. Modisett stated that she did not know how many of the petitioners and beneficiaries for H-2A visas were Indiana residents.

How businesses handle hiring agricultural workers and the importance of agricultural workers.

Mr. Steve Smith, Director of Agriculture of Red Gold, provided a handout¹³ of his testimony to Committee members. He discussed the needs for seasonal and migrant labor in the agricultural industry. Mr. Smith indicated that local workers do not fill all the agricultural jobs and that the agricultural industry has come to rely on out-of-state seasonal workers. He stated that laws "that would appear to be directed at one ethnic group, or perceived as mean-spirited by going beyond current legal hiring practices, will have a 'chilling' effect on legal worker availability. Indiana will be considered as an unfriendly place to work, and workers will simply go elsewhere if state laws are enacted that would be perceived predatory." See Exhibit 12.

In response to a question from Representative Pelath, Mr. Smith said that the industry does not favor illegal foreign labor over domestic labor but that domestic labor is not available. In response to questions from Representative Tincher, Mr. Smith stated that Red Gold just started using E-Verify and that he believed Georgia and Oklahoma were having problems getting legal migrant workers as a result of each state's illegal immigration laws. However, he noted that his evidence was anecdotal. In response to questions from Representative Koch, Mr. Smith explained that Red Gold uses a crew leader, who is an independent contractor, to bring in seasonal workers, but Red Gold hires the workers individually.

Mr. Mark Komman, a produce producer, provided a folder¹⁴ of handouts to the Committee members concerning Indiana farm income and rank among states, Indiana fruit and vegetable growers economic impact, and a position summary. Mr. Komman indicated that small farmers were hurting in Arizona and Missouri because immigrants would not work in those states as a result of the state legislation that passed. He said that small melon farmers would be out of business if Indiana enacted illegal immigration legislation. In response to a question from Representative Pelath, Mr. Komman stated that the lowest paid new workers that worked for him were paid \$7.50 per hour and that more seasoned workers were paid up to \$10.00 per hour. In response to a question from Representative Tincher, Mr. Komman indicated that his farm brought in seasonal workers to work from April through to the middle of October. He stated that he did not have more than 40 to 45 seasonal workers at a time. In response to a question from Representative Candelaria-Reardon, Mr. Komman stated that he saw many of the same workers year after year and that 99% were here to work and feed their families.

Mr. Mike Horrall, President of Melon Acres, Inc., stated that it was difficult to comply with the H-2A visa program. He stated that the program had specific requirements

¹² Exhibit 11

¹³ Exhibit 12

¹⁴ Exhibit 13

that were difficult to meet.

There being no further business, Senator Kruse and Representative Pelath adjourned the meeting at 5:15 P.M.

Note: Also attached to these minutes is a handout¹⁵ provided by Stephen Johnson, Executive Director of the Indiana Prosecuting Attorney's Council, of the testimony he presented at the Committee meeting on September 16, 2008.

¹⁵ Exhibit 14