

**FINAL REPORT  
OF THE  
INTERIM STUDY COMMITTEE ON  
IMMIGRATION ISSUES**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**November, 2008**

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2008

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# INTERIM STUDY COMMITTEE ON IMMIGRATION ISSUES

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### Staff

Eliza Houston  
Attorney for the Committee

Bill Brumbach  
Fiscal Analyst for the Committee

Al Gossard  
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

## **I. LEGISLATIVE COUNCIL DIRECTIVE**

The Legislative Council directed the Committee to make findings and recommendations on the following topics:

- A. The financial impact of individuals unlawfully present in the United States on the following, in Indiana:
  - (1) Education.
  - (2) Health care.
  - (3) The criminal justice system.
  - (4) Social services.
- B. The impact of individuals unlawfully present in the United States on the following, in Indiana:
  - (1) Wages and employment.
  - (2) State and local entities that issue or routinely check identification.
- C. Federal limitations on state actions regarding immigration.
- D. The current and future potential of the E-Verify system (including its successors and/or alternatives) regarding reliability, accessibility, and dependability.

## **II. SUMMARY OF WORK PROGRAM**

The Committee met five times during the 2008 interim, on September 9, September 16, October 7, October 14, and November 10. All meetings were held at the State House in Indianapolis.

At the meeting on September 9, 2008, the Committee heard testimony on the federal government's powers and responsibilities for immigration enforcement. The Committee also heard testimony on the origin and demographics of undocumented aliens in Indiana.

At the meeting on September 16, 2008, the Committee heard testimony on the following: (1) The federal government's power and responsibilities for immigration enforcement. (2) The actual, quantifiable costs of public services provided to illegal immigrants. (3) Immigration related difficulties faced by state and local law enforcement officials.

At the meeting on October 7, 2008, the Committee heard testimony on the following: (1) The effect of immigration policy on religious communities. (2) Information on E-Verify. (3) 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. (4) Taxes paid by undocumented workers. (5) The different types of documentation required for agricultural workers. (6) How businesses handle hiring agricultural workers and the importance of agricultural workers.

At the meeting on October 14, 2008, the Committee heard testimony on the following: (1) Cost savings in other states that have implemented legislation and benefits to implementing immigration reform. (2) The impact of illegal immigrants and illegal immigration legislation. (3) The consequences of separating families that include illegal immigrants and dependents who are U.S. citizens. (4) Information on health care costs to hospitals for treatment of the uninsured and illegal immigrants. The Committee also discussed possible legislation.

At the meeting on November 10, 2008, the Committee heard testimony from members of the General Assembly concerning additional considerations and items involving illegal immigration. The Committee also discussed but did not vote on Preliminary Draft 3544, which would do the following:

Requires the department of workforce development to determine and file an annual report on the number, industries of employment, and wage rates of unauthorized aliens. Requires public employers and public contractors to use E-Verify to verify the work eligibility status of all newly hired employees. Requires the department of correction (department) to: (1) evaluate the citizenship and immigration status of a committed offender; and (2) notify and work with the United States Department of Homeland Security to deport offenders who are in the United States unlawfully. Requires the attorney general to: (1) verify quarterly whether an order has been issued or a criminal penalty has been imposed under a federal law regarding the employment of unauthorized aliens against a person or other entity doing business in Indiana; and (2) order the appropriate agencies to permanently revoke all licenses held by any such person or entity. Provides that a person who counterfeits or falsely reproduces a driving license with intent to use the license or to permit another person to use the license commits a Class D felony (instead of a Class B misdemeanor). Provides that a person who knowingly or intentionally produces or distributes a document not issued by a government entity that purports to be a government issued identification commits a Class C felony (instead of a Class A misdemeanor). Provides that making or distributing a forged instrument is a Class B felony.

The Committee also approved the final report.

### **III. SUMMARY OF TESTIMONY**

The following is a brief summary of testimony heard by the Committee. For more information concerning the testimony heard by the Committee, the minutes of each meeting can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

*The federal government's powers and responsibilities for immigration enforcement.*

The Committee heard testimony from the following: (1) Professor John Scanlan, Indiana University School of Law-Bloomington, concerning the history of immigration legislation and case law. (2) Professor Linda Kelly Hill, Indiana University School of Law-Indianapolis, concerning Constitutional issues and other concerns with SB 335 and SB 345 from the 2008 Indiana legislative session. (3) Professor Bernard Trujillo, Valparaiso University School of Law, concerning the issue of preemption, the two classifications on approaches for immigration enforcement by states, the supremacy clause, the costs of being wrong, and his conclusions. (4) Professor John Hill, Indiana University School of Law-Indianapolis, concerning the supremacy clause of the United States Constitution, the three different situations where federal law preempts state laws, and three cases that focus on whether the Immigration Reform and Control Act of 1986 (IRCA) preempts state licensing laws. (5) Mr. Jeffrey Robbins, an attorney and Chair of the Indiana Chapter of the American Immigration Lawyers Association, concerning illegal immigration legislation and avoiding state legislation in favor of addressing immigration on a national scale. (6) Mr. Louis Moffa, an attorney, concerning federal immigration law, the Supremacy clause and federal preemption, and the Due Process clause in relation to SB 335 and SB 345 from the 2008 Indiana legislative session.

*The origin and demographics of undocumented aliens in Indiana.*

The Committee heard testimony from the following: (1) Mr. Rakesh Kochhar, Pew Hispanic Center, concerning data on United States immigration trends, characteristics of the United States foreign-born population, undocumented migration into the United States, characteristics of undocumented migrants in the United States, and immigrants and Hispanics in Indiana. (2) Ms. Ann Houseworth, Legislative Liaison for the Department of Child Services (DCS), stating that DCS does not currently collect information on the legal status of individuals to whom DCS provides services under the current DCS computer database. (3) Mr. G. Herb Hernandez, a member of the Commission on Hispanic/Latino Affairs, concerning the origin of undocumented aliens, the Hispanic/Latino population in Indiana, illegal immigration to Indiana, employment of the foreign-born population, and where the foreign-born population live.

*The actual, quantifiable costs of illegal immigration to public services.*

The Committee heard testimony from the following: (1) Mr. Mitch Roob, Secretary of the Office of the Secretary of Family and Social Services, concerning eligibility requirements for public services and undocumented alien enrollment, utilization, and expenditures for public services. (2) Mr. James Payne, Director of DCS, stating that although the actual and quantifiable expenses of public services provided by DCS cannot currently be determined, the DCS computer system is being modified, and after modification of the existing computer system DCS will be able to collect data regarding public services provided to undocumented aliens. (3) Mr. Brian Carnes, Director of Legislative Affairs for the Indiana State Department of Health (ISDH), concerning the public health system, the need based programs run by ISDH, and the amount of dollars that

the federal government spends on public health in Indiana. (4) Ms. Lauren Harvey, Assistant Director of the Office of English Language Learning & Migrant Education at the Indiana Department of Education, stating that the number of undocumented aliens attending public schools is not collected in compliance with Plyler v. Doe, and providing information concerning the number of students currently in English as a Second Language programs in Indiana public schools and the average cost to educate a student in Indiana. (5) Mr. Tim Kennedy, Legal Counsel for the Indiana Hospital Association, stating that hospitals are not able to provide accurate information on whether the individuals treated at the hospitals are undocumented aliens but offering to provide anecdotal information at a later Committee meeting.

*The actual, quantifiable costs of public services provided to illegal immigrants, and immigration related difficulties faced by state and local law enforcement officials.*

The Committee heard testimony from the following: (1) Mr. Randy Koester, Deputy Commissioner of Administration of the Indiana Department of Corrections, concerning foreign nationals incarcerated in Indiana. (2) Mr. Kevin Mulroony, Administrative Assistant of the Plainfield Correctional Facility, concerning the process for deportation hearings. (3) Captain Sherry Beck and Captain Todd Smith of the Indiana State Police concerning the difficulty in obtaining statistical information on illegal immigrants and how the training of law enforcement officials under a memorandum of understanding entered into under section 287(g) of the Immigration and Nationality Act (287(g) program) was working in Arizona.

*Immigration related difficulties faced by state and local law enforcement officials.*

The Committee heard testimony from the following: (1) Mr. Stephen Johnson, Executive Director of the Indiana Prosecuting Attorney's Council, concerning immigration related difficulties faced by law enforcement officials, including language barriers, and the number of interpreters needed when an offender goes to court. (2) Mr. Kenneth Fries, the Sheriff of Allen County, concerning undocumented aliens in Allen County and his department's application for the 287(g) program. (3) Mr. Gary Leatherman, Sheriff of Noble County, concerning Noble County minority statistics and the impact of the Hispanic/Latino population on local law enforcement in Noble County. (4) Mr. Joe Pitcher, Greenwood Police Chief, concerning the estimated number of undocumented aliens residing in the Greenwood area and the difficulty in trying to contact and work with the United States Immigration and Customs Enforcement agency. (5) Mr. Gary Penland, Goshen Police Chief, concerning the number of undocumented aliens residing in the Goshen area, immigration related difficulties for his department, and costs associated with undocumented aliens.

*The effect of immigration policy on religious communities.*

The Committee heard testimony from the following: (1) Dr. Norman Wilson, Coordinator of Intercultural Studies at Indiana Wesleyan University, concerning the principles he believed were relevant to the immigration situation and the potential effect of immigration policy on the

children of undocumented immigrants. (2) Mr. Glenn Tebbe, Executive Director of the Indiana Catholic Conference, providing information on immigration and its effect on the Catholic Church. (3) Dr. David Johns, Associate Professor of Theology at Earlham School of Religion, discussing the different ways that the church and government consider policy. (4) Reverend Jennifer Riggs, Director of Refugee and Immigration Ministries, Christian Church (Disciples of Christ), concerning what she believed are the five basic scriptural principles related to issues of immigration.

Information on E-Verify.

The Committee heard testimony from Ms. Kathy Lotspeich, Deputy Chief for the Verification Division of the United States Citizenship and Immigration Services, concerning information on 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.

The Committee heard testimony from Mr. Sean Keefer, Deputy Commissioner of the Indiana Department of Labor (Department), concerning the divisions within the Department and why the Department was unable to obtain information on 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.

Taxes paid by undocumented workers.

The Committee heard testimony from Mr. Tom Conley, Legislative Liaison of the Indiana Department of State Revenue, concerning the lack of data on undocumented workers and the fact that undocumented workers can register with the Internal Revenue Service with a nine digit taxpayer identification number.

The different types of documentation required for agricultural workers.

The Committee heard testimony from Ms. Elisha Modisett, Legislative Liaison for the Indiana State Department of Agriculture, concerning the types of agricultural workers, the H-2A temporary agricultural worker program, H-2A temporary agricultural worker program statistics, and proposed federal legislation and rules concerning agricultural labor.

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

The Committee heard testimony from the following: (1) Mr. Steve Smith, Director of Agriculture of Red Gold, concerning the need for seasonal and migrant labor in the agricultural industry. (2) Mr. Mark Komman, a produce producer, concerning small farmers' needs for seasonal and



migrant labor and the potential impact of immigration policy. (3) Mr. Mike Horall, President of Melon Acres, Inc., concerning the difficulties with the H-2A visa program.

*Cost savings in other states that have implemented legislation, and benefits to implementing immigration reform.*

The Committee heard testimony from Mr. Carl Little, Director of Government Relations for the Federation for American Immigration Reform (FAIR), concerning estimates of the costs of illegal immigration to Indiana, cost savings in other states that have implemented legislation, and benefits to implementing immigration reform.

*The impact of illegal immigrants and illegal immigration legislation.*

The Committee heard testimony from Mr. Allert Brown-Gort, Associate Director for the Institute for Latino Studies at the University of Notre Dame, concerning the unintended consequences of illegal immigration legislation.

*The consequences of separating families that include illegal immigrants and dependents who are U.S. citizens.*

The Committee heard testimony from Mr. David Judkins, Deputy Director of Field Operations, DCS, concerning the process by which DCS responds to and assesses a report of child abuse or neglect of a child, and the language barrier DCS caseworkers face when working with illegal immigrants.

*Information on health care costs to hospitals for treatment of the uninsured and illegal immigrants.*

The Committee heard testimony from Mr. Tim Kennedy, Legal Counsel for the Indiana Hospital Association, concerning unreimbursed health care costs associated with illegal immigrants.

*Information from members of the General Assembly.*

The Committee heard testimony from Representative Murphy regarding the impact of the illegal immigration legislation in Arizona, issues with the implementation of the 287(g) program in Arizona, and other considerations regarding illegal immigration legislation.

The Committee heard testimony from Representative Candelaria-Reardon summarizing the information the Committee had received during the Committee meetings and the items she believed were within the state's jurisdiction and should be addressed.

The Committee heard from Senator Delph concerning the need for illegal immigration legislation.

#### **IV. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee did not make any findings of fact.

The Committee did not make any recommendations.

After a motion was made and seconded, the final report of the Committee with the inclusion of the testimony and the action of the November 10 meeting was approved by a vote of 9-0.

A minority report has been requested pursuant to Legislative Council Resolution 08-02.

## WITNESS LIST

John Scanlan  
Linda Kelly Hill  
Bernard Trujillo  
John Hill  
Jeffrey Robbins  
Rakesh Kochhar  
Ann Houseworth  
G. Herb Hernandez  
Louis Moffa  
Mitch Roob  
James Payne  
Brian Carnes  
Lauren Harvey  
Tim Kennedy  
Randy Koester  
Kevin Mulroony  
Captain Sherry Beck  
Captain Todd Smith  
Stephen Johnson  
Ken Fries  
Gary Leatherman  
Joe Pitcher  
Gary Penland  
Norman Wilson  
Glenn Tebbe  
David Johns  
Jennifer Riggs  
Kathy Lotspeich  
Sean Keefer  
Tom Conley  
Elisha Modisett  
Steve Smith  
Mark Komman  
Mike Horrall  
Carl Little  
Allert Brown-Gort  
David Judkins  
Representative Murphy