

MINUTES

JOINT COMMITTEE ON KANSAS SECURITY

November 7, 2005

Department of Revenue Conference Room
2nd Floor, Docking State Office Building

Members Present

Representative Mario Goico, Chairman
Senator Jay Emler, Co-Chairman
Senator Carolyn McGinn
Representative Joann Flower
Representative Carl Krehbiel
Representative Judith Loganbill
Representative Julie Menghini

Members Absent

Senator Jim Barone
Senator Nick Jordan
Senator Chris Steineger

Staff

Amy VanHouse, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees

Carmen Alldritt, Director of Vehicles, Kansas Department of Revenue
Alan Anderson, Kansas Department of Revenue
Terry Mitchell, Kansas Department of Revenue
Dr. Lorne Phillips, Center for Health and Environmental Statistics, Kansas Department of Health
and Environment

Morning Session

The meeting was called to order by Representative Mario Goico, Chairman, at 10:20 a.m., on Monday, November 7, 2005, in the Department of Revenue Conference Room on the second floor of the Docking State Office Building.

Representative Menghini moved that the minutes of the October 10, 2005, meeting be approved, and Senator Emler seconded. Motion carried.

Federal Requirements for Drivers' Licenses

The Chairman called upon Carmen Alldritt, Director of Vehicles, Kansas Department of Revenue (KDOR), to give an update on the Division of Motor Vehicles (DMV). Ms. Alldritt introduced staff members that were present and available for any questions: Alan Anderson, Chief of the Drivers License Bureau; Terry Mitchell with KDOR; and Dean Reynoldson, Fraud Investigator for KDOR.

Ms. Alldritt showed the new Kansas Firefighters' plate with the security thread through the plate and also the new buffalo plate which was the first Kansas plate to have the security thread. She said the Ad Astra plate would be changed by reversing the colors and reversing the numbers and letters. The new plate is planned to be released in 2007. She explained that every five years the State changed the design of the plate unless the Secretary of KDOR decides the plates are wearing well and do not need to be changed.

Ms. Alldritt shared with the Committee members that the Kansas Highway Patrol has requested the decal of the registration year be larger to make it easier to see. It will have a bar code on it so the Highway Patrol can scan it for the needed information. She also said the registration decal would be printed at the point of purchase instead of coming from the KDOR. Ms. Alldritt talked about the size of the car titles, and said there are a lot of problems with corrected titles because the title is so small. KDOR is in the process of designing a bigger title on 8.5"x11" paper, with protected fields. The back of it still has the same three title assignments plus it will have a bar code on the front.

A lot of time is spent on corrected car titles in KDOR, according to Ms. Alldritt, and the new proposed title is expected to remove 80 percent of that type of time consuming work within the Department. She talked briefly about doing a watermark on car titles in the future for security purposes, and also for detection of fraud.

Alan Anderson, Chief of the Drivers License Bureau, spoke to the Committee regarding the Real ID Act which establishes minimum standards for state DMVs in order for documents to be accepted by the federal government for personal identification. The deadline for the states to meet the new standards is May 11, 2008. He reviewed the minimum standards for the acceptance of breeder documents which includes birth certificates, photo identity documents, documentation showing the person's name and principal address, and proof of applicant's Social Security number. Mr. Anderson said states must verify, with the issuing agency, the issuance, validity, and completeness of each document presented by the applicant. Other new requirements for the issuance of a driver's license (DL) or identification document (ID) is that the duration of a DL or ID card must be limited to eight years or less, and that states must establish an effective procedure to confirm or verify a renewing applicant's information. He added that was not a problem since Kansas licenses are good for six years (Attachment 1).

Mr. Anderson stated that states may not accept any foreign documents other than an official passport. In his handouts, Mr. Anderson listed the criteria that can be accepted for immigration and

travel documents, which before issuing a DL/ID, the states must require and verify valid documentary evidence that the applicant has one of the listed criteria. The states are required to enter into a Memorandum of Understanding with the Department of Homeland Security to routinely utilize the System for Alien Verification for Entitlements to verify the legal presence status of a non-citizen applying for a DL/ID by September 11, 2005, which Kansas has done.

Mr. Anderson explained the data retention and storage whereby states must capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format. He went over the other security and fraud prevention requirements and the requirements for a state that fails to comply which are outlined on page two of the handouts. There is a new federal crime covering persons who traffic in false or actual authentication features for use in false identification documents, document-making implements, or means of identification along with using a false driver's license at airports. A list of minimum standards for DL and ID cards was included at the bottom of page 2 of the handouts.

Committee questions and discussion occurred throughout Mr. Anderson's presentation.

Captain Dan Meyer, Motor Carrier Safety Assistance Program (MCSAP), Kansas Highway Patrol, expressed appreciation to the Department of Revenue for its work in ensuring the safety of Kansans and helping make the Patrol's job easier, especially since September 11, 2001. He talked about how the Patrol is working diligently, as a part of the Kansas law enforcement community, to maintain security and proper documentation in order to avoid a disaster here in Kansas. A concern of the Patrol is that commercial vehicles will be used as weapons of mass destruction (WMD). There are many trucks on Kansas highways that carry hazardous materials, and if used as weapons, could be deadly for citizens and visitors in the state (Attachment 2).

Captain Meyer explained that immediately following September 11, 2001, the Patrol formed a partnership with the Federal Motor Carrier Safety Administration to perform safety sensitive visits, which built compliance with driver's license requirements and hauling regulations. Trained personnel visit all hazardous materials carriers in Kansas to identify the carriers' weak points and vulnerabilities, and work with carriers on how to close those gaps. The Patrol will conduct hazardous materials security visits to ensure these companies have procedures in place to protect themselves and the general public when the Homeland Security Threat Level is elevated. Because Kansas has a great highway system, trucks deployed as WMDs could be coming through the state or may be destined for the State Capitol. The Patrol's Motor Carrier Safety Assistance Program (MCSAP) every day inspects trucks that carry hazardous materials to check for compliance with hauling regulations. MCSAP personnel also use the Commercial Driver's License Inspection System (CDLIS) to run routine checks on the validity of the driver and driver's license.

Captain Meyer talked about the national security and safety program called Highway Watch, which helps law enforcement look out for "bad guys," which is coordinated in the state by the Kansas Motor Carriers Association (KMCA). The program trains drivers to use their skills and experience to spot problems, such as homeland security concerns, stranded vehicles, impaired drivers, or unsafe road conditions, and to report those problems rapidly and accurately to the authorities. In June of this year, the American Trucking Association (ATA) announced that more than 10,000 transportation professionals nationwide had received this anti-terrorism and safety training.

Captain Meyer explained to the Committee that the Patrol has purchased reference materials used by their personnel to recognize valid drivers' licenses from all 50 states and detect fraudulent documents. The Patrol's officers have been trained in using those materials, and also purchased magnifying glasses that help to identify the hidden security features in the Kansas driver's license and out-of-state drivers' licenses. The Patrol also is a member of the Joint Terrorism Task Force (JTTF), and has troopers assigned to multiple task forces to deter terrorism and illegal activity. Task forces headed by the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration

(DEA), and other federal agencies bring together federal, state, and local law enforcement to share information.

Captain Meyer said that the Kansas Highway Patrol and Department of Revenue are looking at applying for federal grants to enhance enforcement and compliance on the state's highways in the future. He gave examples of useful field instruments such as flatbed scanners for each commercial driver's license (CDL) issuance station and readers to scan the bar code on a driver's license to quickly identify fraudulent documents. He concluded by stating that these initiatives and tools are proactive ways to keep Kansas highways and citizens and visitors safe.

Committee questions and discussion followed regarding renewal provisions in the law for renewal or issuance of CDLs, and if there was any legislation that needed to be drafted by the Committee for possible introduction. Discussion continued with staff and Ms. Alldritt relating to all serious traffic violations being tracked right now along with other infractions, and the conclusion was reached that new legislation would not be needed at this time.

Alan Anderson, Chief of the Drivers License Bureau, shared with the Committee some of the security features of the new driver's licenses.

Chairman Goico recessed the meeting for a lunch break at 12:15 p.m.

Afternoon Session

The meeting reconvened at 1:50 p.m.

Dr. Lorne Phillips, Director and State Registrar, Center for Health and Environmental Statistics, Division of Health, Kansas State Department of Health and Environment (KDHE), gave a presentation on the impact of the intelligence Reform and Terrorism Prevention Act on the state's vital records and statistics programs. He introduced his staff members in attendance: Donna Calabrese, Director, Office of Vital Statistics; and Greg Crawford, Chief, Vital Statistics Data Analysis. He said prevention of fraudulent personal identification documents has become one of the key issues for homeland security. All the September 11, 2001, terrorists had acquired false birth certificates and used that document to get other personal identification documents such as state drivers' licenses (Attachment 3).

Dr. Phillips explained that the main target of two sections and indirectly a third section of the Intel Bill is the birth certificate, referred to by Senator Simpson when the Immigration Bill of 1997 was enacted as the "Breeder" document; the document from which all other personal identification documents evolve. Fraudulent birth certificates are used as "breeder documents" to obtain genuine documents needed to create new identities, and that those are easy to obtain. Dr. Phillips gave some background information on the Vital system. Vital registration is a state function designed for two purposes: (1) civil registration of births, deaths, marriages, and divorces, and in some states, Induced Termination of Pregnancy; and (2) collection of public health data of vital events, commonly called Vital Statistics.

Dr. Phillips stated that the birth certificate registration and processing is now recognized as a function affecting national security. This is because birth certificates are important identity documents usually required in order to get other documents such as Social Security numbers, driver's licenses, passports, visas, foreign adoptions, and work permits. There are 57 vital registration jurisdictions in the United States. He said the federal government has not had authority

over vital registration; and that it is a right of states under the Constitution's Tenth Amendment. Under the new legislation the federal government can assert authority by not accepting a state's birth certificates for federal purposes unless they meet certain minimum standards that will be specified in regulations.

Dr. Phillips gave an overview of the Intel bill which has three sections related to Vital Registration, 7211, 7212, and 7213. 7212 deals with drivers' licenses and was repealed and replaced by the Real ID Act of 2005. His written testimony included the minimum standards for acceptance by federal agencies and the requirements for proof and verification of identity as a condition of issuance (see Attachment 3). Dr. Phillips referred the Committee to item (C) regarding the establishment of standards for processing birth certificate applications to prevent fraud. Those standards were: (1) Implies restricting access to records; (2) Implies Authenticate Identity Document (AID) and Digital Image Access with DMVs; (3) Implies centralized databases for issuance; and (4) Implies physical and personnel security. He said that, fortunately, there will be assistance in meeting federal standards, and award of grants to states.

The matching of birth and death records also was discussed in section 7211, and pertains to all birth and death records, not just infant births and deaths, according to Dr. Phillips. He spoke about the developing capability to match birth and death records within and among the states, and the security enhancements.

Dr. Phillips informed the Committee relative to section 7211 B(b) that this was a very important change in that beginning two years after the promulgation of minimum standards, no federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards. This would include the Department of Defense, State Department, and Canada in an exchange system. In regard to section 7213, relating to Social Security cards and numbers, Dr. Phillips told the Committee about the security enhancements which created minimum standards for verification of documents to establish eligibility. He explained the Electronic Verification of Vital Events (EVVE) and Enumeration at Birth (EAB) which help prevent fraudulent obtainment of SSNs.

Dr. Phillips spoke briefly about the Real ID Act of 2005 which repealed and replaced section 7212 of the Intel Bill which does imply a connection between the Vital Records system and the EVVE system. The legislation was passed and designated Health and Human Services (HHS) as the lead agency which delegated to the National Center for Health Services (NCHS). A core workgroup, chaired by NCHS, met on April 15, 2005. The members consisted of the federal agencies of HHS, Department of Homeland Security, the Federal Bureau of Investigation, Department of Transportation, Government Printing Office, Department of State, Social Security Administration, and Department of Defense. Also included was the National Association of Public Health Statistics and Information Systems (NAPHSIS). The Core Group identified five major topic areas and established five workgroups to coincide with the issues identified in the Intel and Real ID Act bills. Dr. Phillips explained the timetable for the workgroups and the five content areas covered by the workgroups, as outlined in his written testimony.

Dr. Phillips reviewed what the issues each workgroup worked on and their recommendations. He explained that Workgroup 1 made recommendations for minimum paper and format standards including national standards for security paper, controls over the security paper, and that commemorative and wallet certificates were not acceptable for official purposes by federal agencies. Workgroup 2 made recommendations for Standards and Best Practices for Physical Plant Security which related to security of materials, personnel security, supply chain, physical intrusion, data security, and security of birth registration. Workgroup 3, which Dr. Phillips chaired, made recommendations for Standards and Best Practices for Issuance of Certificates which related to open versus closed records, ID requirements, genealogy, local issuance, foreign born certificates, and multiple requests. He explained the difference between being an open records state and a closed records state.

Workgroup 4 made recommendations for minimum processing standards up to the issuance of the certificate. This group covered the registration of births occurring in a facility, registrations of births occurring outside a facility, delayed registration of birth, amending Certificates of Birth, linking of Birth and Death Certificates, and states maintaining a Central Data Base. Workgroup 5 gave recommendations for minimum standards for states to qualify for grants to support computerization of Vital Registration Systems. All states/jurisdictions must meet specified legal, structural, and staffing standards to apply for a federal grant, and each state must develop or upgrade and maintain an electronic vital records system. EVVE participation will require an electronic data base comprised of specified index data. All certified copy issuance must come from the single state issuance system, and audit trails on issuance must be maintained. He outlined the conceptual and technological solutions, which included electronic birth and death registrations.

Dr. Phillips talked about their concerns relating to national security, that public health data collection, access, and confidentiality must remain as state functions, and that each state must be permitted to maintain systems that meet local needs. He also explained what was needed, which included both the administration and Legislature's support to: (1) ensure adequate funding for federal mandates; (2) protect states' rights to collect and own public health data; and (3) create regulations that are achievable and meet state and local needs. As information, Dr. Phillips included with his written testimony copies of Sec. 7211 Minimum Standards for Birth Certificates, HR 1268, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Sec. 213, Social Security Cards and Numbers, and a copy of the four-page Certificate of Live Birth.

Committee questions and discussion followed Dr. Phillips' presentation.

Senator Emler referred the Committee to discussion from the last meeting where Steve Kearney, representing the Fraternal Order of Police and the State Troopers Association, requested the Committee's endorsement of legislation for the 2006 Session. The proposed bill would create an exception to the Open Records Act, protecting peace officers' residential, familial, and other information, including photographs that would aid and assist those targeting these public servants. Senator Emler stated that he was in the process of requesting an Attorney General's Opinion on the open records issue before the Committee possibly makes a recommendation at the next meeting on the proposed legislation. The Revisor explained the reasoning to hold off on drafting a bill until after receiving the Attorney General's Opinion was that it involved looking at photographs and whether those were protected by the Open Records Act.

The Revisor said that Kyle Smith, Kansas Bureau of Investigation, had submitted a draft of legislation relating to criminal procedure concerning the stopping of suspects. A question was asked how this was related to racial profiling, and the Revisor explained the difference in the proposed legislation and the current law (Attachment 4).

Committee discussion followed regarding the relationship to racial profiling.

Senator Emler made a motion the Committee recommend the draft bill be introduced in the Senate as a committee bill, and Representative Menghini seconded. Motion carried.

The meeting was adjourned at 4:00 p.m. The next meeting is scheduled for Monday, December 5, 2005.

Prepared by Dee Woodson
Edited by Amy VanHouse

Approved by Committee on:

December 5, 2005
(date)