

**Virginia Commission on Immigration
MEETING MINUTES**

November 13, 2007

House Room C
General Assembly Building
900 East Broad Street, Richmond, Virginia

CALL TO ORDER: The November meeting of the Virginia Immigration Commission was called to order at 9:06 a.m.

PRESIDING: Senator Watkins, chair.

MEMBERS PRESENT: Dr. Rajul Malik, Ms. Wanda Hamilton, Mr. George Foresman, Reverend Gerry Creedon, Ms. Carmen Alicia Bernal, Delegate Jackson H. Miller, Delegate C. Todd Gilbert, Senator John C. Watkins, Senator Richard L. Saslaw, Mr. Satya Akula, Dr. Venita Newby-Owens, Mr. Eliot Norman, Captain Eddie Reyes, Mr. Charles T. Griffith, Mayor Pranas A. Rimekis, Delegate Robert G. Marshall, Delegate Dwight C. Jones, Secretary Marilyn B. Tavenner

MEMBERS ABSENT: Delegate Roslyn C. Tyler, Senator Jay O'Brien,

STAFF PRESENT: Heidi Dix, Assistant Deputy Secretary of Health & Human Resources
Gena Boyle, Special Assistant to the Governor
Margaret Schultze, Virginia Department of Social Services Assistant Commissioner
Sindy Benavides, Director of Gubernatorial Appointments & Latino Liaison
Matt Gross, Virginia Department of Social Services Policy Analyst
Anne Andrews, Special Assistant to the Secretary of Health & Human Resources

PRESENTATIONS: **Presenter #1: Michelle Vucci, Virginia Department of Education**
"School Enrollment Requirements for all Students"
Please review presentation handout for presentation details.

Presentation Discussion:

(Delegate Miller) Your presentation indicated that school divisions are not permitted to inquire about citizenship? Is that the case? I thought it was just that we cannot deny entry, not that we cannot require proof of citizenship? (Vucci) We have that information with us and will look it up for you. (Reyes) On the 4th slide you discuss the schools responsibility to notify law enforcement when they receive an affidavit instead of birth certificate. I do not recall this ever happening in Alexandria. How often does this happen, and what are we supposed to do if this occurs? (Vucci) I do not know how often it happens. We seldom, if ever, get phone calls about that.

Once the Department of Education (DOE) reports it to the police, that is the end of the department's role. I do not know what is done with it at the law enforcement level. That should be answered by the State Police. (Watkins) Make sure this question is asked of Col. Flaherty at the next meeting. (Foresman) Are there categories of other viable identification? (Vucci) I do not recall anything in the code, I will have to check and follow up with you. (Hamilton) Expand on guardianship issues, what happens if a child is homeless so they do not have an address? (Vucci) Many decisions are made at the local level. The Code of Virginia permits non-resident students to enroll if the school board and the superintendent agree to do so. (Marshall) Regarding birth certificate requirements, does department collect data on how many affidavits are collected in lieu of birth certificates? (Vucci) I do not think we collect that information. (Marshall) Is there a legal problem with collecting that data? (Vucci) I will have to look into it. (Watkins) This is the kind of issue that this Commission should investigate. (Creedon) We tend to look at restrictions, isn't there an overriding policy that it is best for the state to enroll and educate the most students? (Vucci) I am not sure if it is in a policy, but I can take your question back and ask. (Watkins) Is there a mandate in Virginia's constitution for inclusion of all students? It would be good to know if the department embraced that as a matter of policy. (Vucci) Notification of law enforcement deals with lack of birth certificate, not residency. (Marshall) In terms of residency, when you mail a report card, does it indicate on the outside of it to not forward? I ran into circumstances in Prince William where personnel say people are claiming to have addresses in a particular school district, but people do not really live there. There is a form you can fill out where the post offices will not forward mail; do school districts fill this out? (Vucci) I cannot answer that because it is up to each locality. (Marshall) Mr. Chairman, can we ask that this is done? It would prevent people from using a bogus address. (Watkins) I would question the effectiveness; it has been my experience that the mode of delivery of report cards is typically through students. (Marshall) I am referring to other items sent home to parents where the child is not used as a median. (Vucci) I can look into that.

INTRODUCTION:

(Watkins) I am sorry, I should have done this at the beginning of the meeting. On my right is Secretary Marilyn Tavenner representing the Governor's Office on this executive commission, and on her right is our co-chair Delegate Jackson Miller

Presenter #2: Roberta Schlicher, Virginia Department of Education

“Overview of Programs for Limited English Proficient Students”
Please review presentation handout for presentation details

Presentation Discussion:

(Marshall) I am curious about the data. There are three annual sources, the triennial census, survey day, and the cumulative total for class attendance over time, what was used for your presentation? (Schlicher) This is snap-shot data as of the fall of each of those years. (Marshall) So you can have more in private schools, being home schooled, or who are truant? (Schlicher) That is possible, but I do not have that information. (Marshall) Have you ever contacted the private schools? (Schlicher) No. (Malik) Are the scores provided for each type of student illustrated? (Schlicher) There are different funding streams for school divisions for Limited English Proficiency (LEP) services, one is the Standards of Quality (SOQ) money and the other is No Child Left Behind (NCLB) money. I can get you follow-up information for that. In terms of technical assistance, the Virginia English as a Second Language (ESL) program gives assistance to schools on an as need basis. I can get that information as well. (Malik) The funding for the students including the LEP and standard group, it ties back to the Standards of Learning (SOL), correct? (Schlicher) Not to my knowledge, no. (Miller) Are those state or federal funding streams? (Schlicher) SOQ is state and NCLB is federal. (Miller) I was advised there was not a difference in the funding. My district includes the second and third highest percentage of LEP students? (Schlicher) Yes there is for SOQ. (Miller) I was not told that. (Schlicher) I can follow up and get that information on funding streams. (Miller) Do you see a need to change the funding formula for LEP? (Sasalw) Find me the coalition in Northern Virginia and we will do this. (Watkins) We are doing re-benchmarking of SOQ this year. I think the information over the last four years will show the change. I think it is up the legislative body and governor to make changes. How successful is Virginia with the utilization of the LEP program? Are we doing a decent job compared to other states? I know the standards are through 8th grade, what happens when they are seniors and they graduate? Do we overcome the problem to make them successful? (Schlicher) I would say the best answer is the data of LEP scores compared to other students. We can always improve. (Watkins) I hope some of this data accompanies any request for re-benchmark. (Foresman) One more request, can you provide us with the regions? I'd be interested in LEP vs. total enrollment in each region. It might be beneficial to this commission to see where the pockets are around the state. (Schlicher) We can get you that information. (Hamilton) Clarification, SOQ is for the number of ESL students based on the population? (Schlicher) SOQ is a formula for the money from the state for teachers.

Presentation #3: Dolores Esser, Virginia Employment Commission

“VEC Services for Immigrants and Foreign Workers”

Please review presentation handout for presentation details.

Presentation Discussion:

(Akula) Employers must file an application, is there any requirement proving there is no labor available? (Esser) We have wage data to show there are no available workers. We used to use surveys, but not any longer. We just require the wage data. (Marshall) This is for the entire United States? 65,000? (Esser) Yes. (Marshall) So if Virginia had all 65,000, California could have none? (Esser) Yes. It is also all done by date. (Marshall) This does not say professional or skilled, can this be an engineer? (Esser) You must have at least a bachelor's degree to participate in this program. (Hamilton) Can you define non-immigrant foreign worker? All I can think of is workers from Puerto Rico. (VEC Staff) A non-immigrant is a person who is not here to reside permanently. (Watkins) One of the issues I constantly hear with regard to H2-A, H1-B, and H1-B1's, is the limitation has not changed in 20 years. Congress refuses to address the fact that there are a lot of people that we need in this country for technical and non-technical jobs. What is the impact in Virginia? How many requests do you have from employers as opposed to people available? (Esser) I cannot answer that specific question, but we looked at the nurse shortage in 2004, especially in areas like Danville. There were 1,000's of vacancies in just the healthcare profession. We can try and look at other areas. For example, in Scott County, where there are 600 manufacturing vacancies. (Watkins) It is not a matter that we have a problem with people who do not want to work. We are dealing with almost full employment in Virginia (2.8 percent unemployment). We have more jobs that need to get filled, but we do not have the skilled workers to fill them. We are looking to other parts of the world for other skill sets of people that can work, but we are limited. (Esser) That is why the ceiling congress puts on is often met early in the year. (Sawlaw) I hear all the time from Tyson's Corner companies that they have a bunch of vacancy's that cannot get filled. Even at \$25 to \$35 an hour, they cannot get anyone to work. I have an interesting story from a congressman. When the rededication of the Pentagon happened, they met with the contractor to meet the workers, and no one could speak English. Probably most are illegal. The contractor said these guys worked 7 days a week, finished ahead of schedule, and under budget. He put in an ad in the paper, and this is who showed up. (Creedon) I heard it alleged that this issue is one of the contributors to outsourcing. If you cannot get the workers here, you go to where the workers are. (Foresman) Application verse acceptance runs about 10% because of Congressional limitations. Information Technology (IT) now outsources their work. (Akula) We have openings we cannot fill, so we cannot open IT businesses here until we get a workforce. This means IT businesses will open elsewhere where

there are workers. (Norman) I know several subcontractors on that (the Pentagon) job that brought people in legally from Romania. After advertising in the Washington Post at high wages, they didn't generate a large enough workforce. Nationally, 125,000 applications were filed by businesses on April 1st for 55,000 H1-A workers. For H2-B, the October to April quote was filled in late September, four days before it even opened. It will not start again until April 1st. Also, congress also will not approve the grandfather clause which would allow people to come back to the employers they worked for the previous year. (Marshall) If you have a situation where you have consultants and no employees, they are not paying taxes on that. (Esser) Even as a sub-contractor, you have an Employer Tax Identification Number. (Marshall) The point the Governor made to me when I was establishing this committee, was it would be helpful to document the lack of cooperation between the state and federal government. Can you expand? (Esser) We were concerned because of duplicate Social Security Numbers, but because no one got unemployment insurance benefits, the federal government decided not to investigate. We did audits and revealed that some procedures were not done correctly, but we cannot do anything. (Marshall) This is what the Governor wants to see. We need to note this; the federal government is not following their own laws. I do not want us to be the fall guy for federal ineptitude, inaction, or indifference. It would be beneficial for any report to include this so the public can see. (Watkins) We have an interim report due in January, and the information from these presentations will be included. (Griffith) Not to take the side of the federal government, but they are going to tell you this is a situation of a lack of resources and lack of personnel. They often identify more illegal immigrants than they arrest. (Marshall) I had to make a Freedom of Information Act request to Immigration and Customs Enforcement, as an elected official, to find out what agreements were made with localities for 287g's. (Griffith) It is my understanding that the Social Security Administration gives benefits to any number across the nation, there is no bell or whistle that goes off. When this has happened in my company, it was noticed internally. (Marshall) Would it be appropriate to bring up a question of workman's compensation? (Esser) Nope, that is another group. (Creedon) A comment, we reflected on the problems of the state body's dealing with a lack of response from the federal government. It shows how hard it must be for individuals try to get services. (Watkins) In terms of this Commission, and I have a bias here, for agriculture workers, it is one of the most labor intensive industries you can get into. I would like to ask VEC to work with the hiring groups with the agriculture community and each classification to look at the request level in each category and see the number of permits they can actually place. This exhibits that part of the problem in Virginia is the unemployment. To grow an industry, you need to grow a

marketplace that has people willing to work in it. Business and industry are not dealing well with what is going on at the federal level.

NEXT MEETINGS: (Watkins) A lot of people have been asking if we will have public comment hearing. We will, but we are leaning toward hearing from the state agencies to here how they have deal with the issues and costs. I would then like to see us move from there into the local governments to get indications from the Virginia Association of Counties (VACo), Virginia Municipal League (VML), and individual counties, cities, and towns. Then I would also like to bring employment groups, trade association groups, and chambers of commerce to get their take on this issue. We then must examine how to break this down. Are the things the state can to do help local government or itself? I am also interested in hearing from each of you. (Marshall) When the Commission decides to hold public hearings, I hope it is in areas of the state which are most effected. (Watkins) I think that would be appropriate. (Marshall) I would like to hear from actual employers, not just chambers of commerce about their experiences, and the problems they run into. (Watkins) I think that is a point well taken. I have talked to associations to get specific employers. We have our next meeting scheduled for December 13th and will hear from the Virginia State Police and the Attorney General's Office in terms of constitutional and statutory limitations in regard to this issue. It is my intention to have another meeting in January to hear from Weldon Cooper. They have done an extensive study on the migration of people and the impact it is having on the population of Virginia. (Marshall) Would it also be good to include the Department of Motor Vehicles (DMV) at the December meeting? (Watkins) We can ask the DMV to accompany the State Police and we certainly have some issues on RealID. (Creedon) Can the public comment sessions include representatives from non-profits? (Watkins) Yes, and I think we will do the town hall meetings in the spring after the session. (Creedon) I want to publicly express my regret on the resignation of Dr. Omeish from this commission, and the reasons given, which in my mind, were a misreading of his statements and activities. (Foresman) It is important that this Commission use fact, not fiction. One of the things we need is to refrain from negative comments, but use facts and figures. I think facts about the magnitude of these issues. I and think it would be worthwhile for the General Assembly members for us to be able to sit with the presenters to let them know the data we are looking for so we can compare apples to apples. I would like to offer the opportunity for all of us to sit down to figure out what data we need in the end to put some structure into the report. I think that Attorney General's Office and State Police need to be able to come back to us with what they are doing, and their experience, and to separate what

issues are state from ones that are strictly federal, which we are tied to do so we can provide that information to our Congressional Delegation. To get that information, the Attorney General's Office needs to say, "Here is what we can do, here is what we need to change, and here is what works and does work and acknowledge what is federal." RealID is a great example. (Watkins) Follow up with State Police and Attorney General's Office to relate the dichotomy of what can be addressed at state level and what cannot. We need to see what we cannot address for the report to the Congressional Delegation. (Marshall) Senator O'Brien had a response to 9-11 for driver's licenses; can we ask DMV to address the question of prospective and legal presence? Do we need to go back and ask folks prior to 9-11 these questions. (Norman) I would like to second the suggestion to bring DMV to the next meeting because they have a huge presence with foreign nationals who are here and need to have their licenses renewed.

ADJOURN:

11:09 AM