

# Heritage Special Report

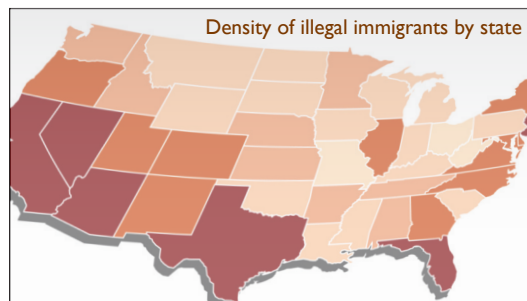
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# Controlling Illegal Immigration

*State and Local Governments Must Do More*



*By Matt A. Mayer*

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# EXECUTIVE SUMMARY

In 1980, illegal immigration in the United States was far from the overwhelming challenge it is today. It was only after the 1986 immigration reform bill, which provided amnesty to more than three million illegal aliens, that an ever increasing surge of people entering the U.S. illegally began. As the federal government failed to address the growing crisis, state governments began to take action. As early as 1994, Californians tried to deal with the financial burden of illegal immigration by passing Proposition 187, which would have limited financial benefits for illegal aliens in California. Although stopped by a judge and a new governor, Gray Davis, unwilling to defend the people's vote, California's actions foreshadowed what was to occur across the United States 10 years later, when the federal government failed its people once again.

At the same time, political leaders in Washington, D.C., began to feel pressure to be more aggressive in enforcing existing laws to secure America's borders and to deport those here illegally. The budgets of the U.S. Customs and Border Protection (CBP) and the U.S. Immigration and Customs Enforcement (ICE) skyrocketed. ICE moved from a policy of capturing and releasing illegal aliens to detaining and deporting them. The number of raids at work sites and of criminal aliens captured substantially increased. Unfortunately, having done so little for so long, ICE ran up against a basic mathematical problem: 12,000,000 illegal immigrants versus 6,000 ICE agents who were stretched thin with other pressing responsibilities.

To help overcome the numbers problem, ICE launched several programs to work with state and local law enforcement that would increase the penalties to illegal immigrants and those engaged in human trafficking. ICE launched the section 287(g) program in 2002, which deputized state and local law enforcement personnel to enforce federal immigration law. ICE also started the Criminal Alien Program (CAP), aimed at identifying criminals in state and local jails and prisons. Although good programs, the section 287(g) and CAP programs involved only a small number of jurisdictions, so their successes barely made a dent in the illegal alien population. The mathematical problem remained.

Starting in 2004, state legislatures began to assert themselves in the area of illegal immigration as the numbers problem equated to busted budgets and increasing societal burdens. Although the activity level in 2004 seems low today, at the time, the increase in bills passed that dealt with one of six aspects of illegal immigration caused a stir. By 2008, the increase in activity at the state level had jumped to 1,305 bills introduced and 209 bills passed. The primary areas of action were (1) driver's licenses and identification, (2) public benefits, (3) higher education benefits, (4) voting security, (5) criminal sanctions, and (6) employment. As states began to reclaim their historical roles and authorities under the Constitution, interest groups supportive of illegal immigration began their assaults in the courtrooms.

Constitutionally, other than in the areas of border security and visa policy, the Tenth Amendment ensures that states retain their traditional police powers to control their jurisdictions. Despite the enormous growth of the federal government from 1935 to today, states remain the "laboratories of democracy," exhibiting the flexibility to develop innovative solutions to America's toughest challenges. On interior illegal-immigration enforcement issues, states and localities are doing what they can to solve their problems.

With the onslaught of legal challenges from interest groups that drive the cost of reform ever higher, states have become more cautious in order to preserve what little that remains of their budgets after the economic downturn (and their years of big spending). States and localities have won all legal challenges that have reached federal appellate courts or state supreme courts. These legal victories should embolden states and localities to continue their push to curtail the migration of illegal aliens into their jurisdictions with tough laws against employing, housing, and aiding illegal aliens and even tougher laws criminalizing all aspects of human trafficking.

As this report highlights, states and localities can take more actions in more areas to control their jurisdictions. Congress should help them, not by passing an amnesty reform package, but by amending the statutory (not consti-

## **Controlling Illegal Immigration: State and Local Governments Must Do More**

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tutional) provisions that limit the actions they can take and by increasing the legal means for foreigners to come to the United States to work. The only way to end or significantly slow illegal immigration in America is to create a mosaic of laws across the country that increase the cost of illegal immigration to a point that the supply dwindles to a trickle as the demand is filled by legal workers.

The fires of innovation are beginning to burn brightly in the individual states—which must be free to solve yet another of America's most complex problems. It is time for Washington, D.C., to stop watching the fire from afar and do all that it can to help the states.

# Controlling Illegal Immigration: State and Local Governments Must Do More

*Matt A. Mayer*

With the creation of the U.S. Department of Homeland Security, it was to be expected that more power would accumulate in Washington, D.C. With responsibility to safeguard America along its borders and waterways and in the airports and ports, growth came with the mission.

For most of America's history, states and localities served as the primary civilian defense actors in times of war. When the Founding Fathers drafted the Constitution, they ensured that the new federal government would possess *limited* powers and that most powers would remain within the sphere of state control. Over the past 70 years, many of those historical state powers have been taken over by the federal government. This displacement of the role of states and localities has made the country neither safer nor stronger, as the country's needs are too diverse, federal resources physically too far from any one location to secure rapid responses, and federal decision-making notoriously inept.

The Heritage Foundation's Homeland Security and the States Project seeks to place responsibility where it should be according to the Constitution, and where the most efficient, effective leadership resides. The project focuses on four areas in which state and local leadership is preferable to federal oversight: (1) preparedness for and resiliency against terrorist attacks and natural disasters, (2) disaster response, (3) interior illegal-immigration-laws enforcement, and (4) counterterrorism. The project involves four key phases:

- Outreach to state and local associations in Washington, D.C.;
- State and local outreach by conducting roundtables with public officials, first preventers, and first responders;
- Drafting, circulating for review and comment, and finalizing a suite of solutions across the four areas of focus for states and localities to enact or adopt; and
- Launching a campaign by working with state legislatures and other interested state and local entities to adopt the suite of solutions.

As part of the research process, The Heritage Foundation has gathered homeland security budget data for specific states, cities, and counties; analyzed disaster response activities at the federal level; compiled initiatives and legislative actions to combat illegal immigration; and conducted a survey of state and local counterterrorism capabilities.<sup>1</sup>

## Three Decades of Illegal Immigration

In 1980, the United States did not have what most reasonable people would consider a severe problem with illegal immigration. Based on best estimates contained in Table 1, there were only 3.5 million illegal aliens in the United

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1. The reports and data are: Matt A. Mayer, "An Analysis of Federal, State, and Local Homeland Security Budgets," Heritage Foundation *Center for Data Analysis Report* No. CDA09-01, March 9, 2009, at <http://www.heritage.org/Research/HomelandSecurity/cda0901.cfm>; Mayer, "Principles for Reform of Catastrophic Natural Disaster Insurance," Heritage Foundation *Backgrounder* No. 2256, April 8, 2009, Chart 1, at <http://www.heritage.org/research/homelandsecurity/bg2256.cfm>; and Mayer, "Effective Counterterrorism: State and Local Capabilities Trump Federal Policy," Heritage Foundation *Center for Data Analysis Report* No. CDA09-02, June 3, 2009, at <http://www.heritage.org/Research/HomelandSecurity/cda0902.cfm>.

## Controlling Illegal Immigration: State and Local Governments Must Do More

States, which represented 1.5 percent of the total U.S. population. That year, 1.5 million illegal aliens lived in California—6.6 percent of its population—making the Golden State the only state in the union whose illegal aliens comprised more than 3 percent of its population.

### State-by-State Changes in Illegal Immigrant Populations

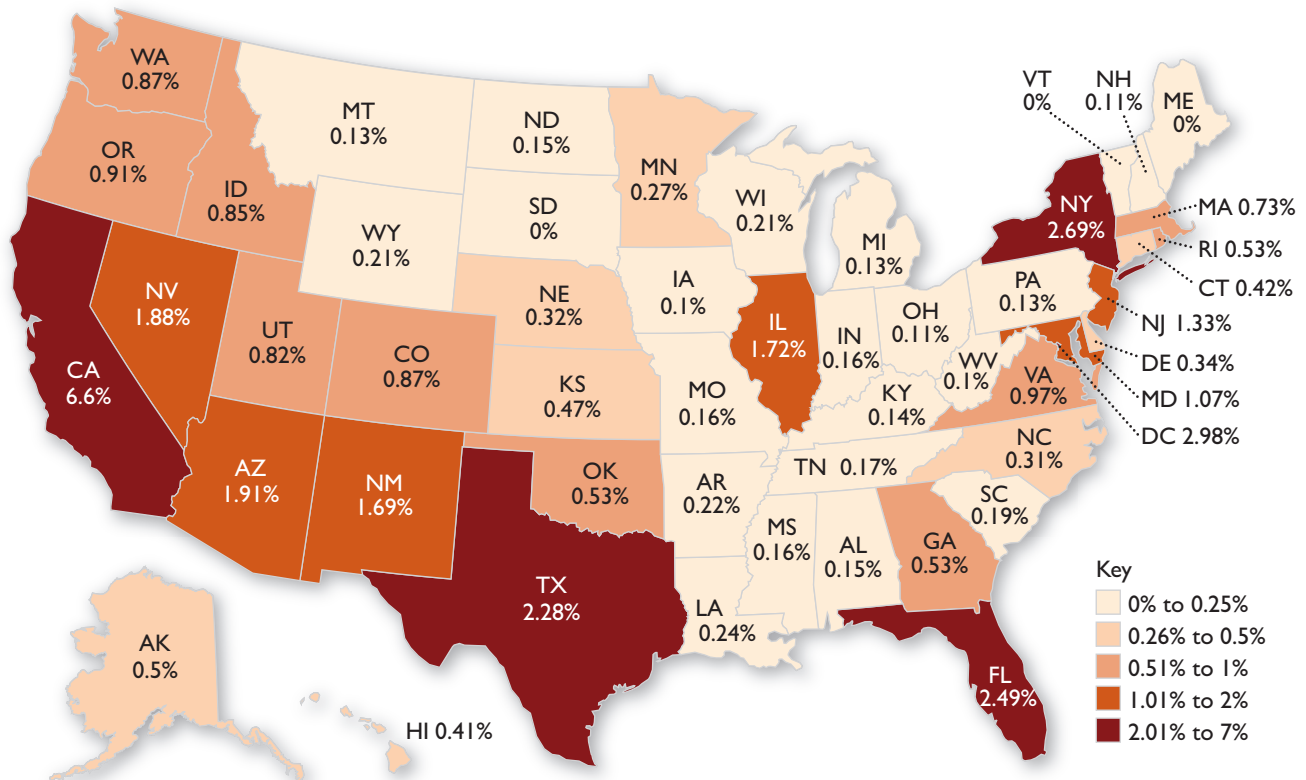
State	Estimated Undocumented Alien Population in 1980	Estimated Total State Population in 1980	Percentage of State Population as Undocumented Aliens, 1980	Estimated Average Unauthorized Immigrant Population in 2006-2008	Estimated Total State Population in 2008	Percentage of State Population as Unauthorized Immigrants, 2008	Change, 1980-2008 (in Percentage Points)
Alabama	6,000	3,984,000	0.15%	100,000	4,661,900	2.15%	1.99
Alaska	2,000	402,000	0.50%	10,000	686,293	1.46%	0.96
Arizona	52,000	2,718,000	1.91%	500,000	6,500,180	7.69%	5.78
Arkansas	5,000	2,286,000	0.22%	60,000	2,855,390	2.10%	1.88
California	1,561,000	23,668,000	6.60%	2,700,000	36,756,666	7.35%	0.75
Colorado	25,000	2,890,000	0.87%	240,000	4,939,456	4.86%	3.99
Connecticut	13,000	3,108,000	0.42%	110,000	3,501,252	3.14%	2.72
Delaware	2,000	594,000	0.34%	30,000	873,092	3.44%	3.10
District of Columbia	19,000	638,000	2.98%	30,000	591,833	5.07%	2.09
Florida	243,000	9,746,000	2.49%	1,050,000	18,328,340	5.73%	3.24
Georgia	29,000	5,463,000	0.53%	475,000	9,685,744	4.90%	4.37
Hawaii	4,000	965,000	0.41%	35,000	1,288,198	2.72%	2.30
Idaho	8,000	944,000	0.85%	35,000	1,523,816	2.30%	1.45
Illinois	197,000	11,427,000	1.72%	450,000	12,901,563	3.49%	1.76
Indiana	9,000	5,490,000	0.16%	120,000	6,376,792	1.88%	1.72
Iowa	3,000	2,914,000	0.10%	55,000	3,002,555	1.83%	1.73
Kansas	11,000	2,364,000	0.47%	70,000	2,802,134	2.50%	2.03
Kentucky	5,000	3,661,000	0.14%	45,000	4,269,245	1.05%	0.92
Louisiana	10,000	4,206,000	0.24%	65,000	4,410,796	1.47%	1.24
Maine	0	1,125,000	0.00%	10,000	1,316,456	0.76%	0.76
Maryland	45,000	4,217,000	1.07%	250,000	5,633,597	4.44%	3.37
Massachusetts	42,000	5,737,000	0.73%	190,000	6,497,967	2.92%	2.19
Michigan	12,000	9,262,000	0.13%	110,000	10,003,422	1.10%	0.97
Minnesota	11,000	4,076,000	0.27%	110,000	5,220,393	2.11%	1.84
Mississippi	4,000	2,521,000	0.16%	35,000	2,938,618	1.19%	1.03
Missouri	8,000	4,917,000	0.16%	45,000	5,911,605	0.76%	0.60
Montana	1,000	787,000	0.13%	10,000	967,440	1.03%	0.91
Nebraska	5,000	1,570,000	0.32%	45,000	1,783,432	2.52%	2.20
Nevada	15,000	800,000	1.88%	230,000	2,600,167	8.85%	6.97
New Hampshire	1,000	921,000	0.11%	20,000	1,315,809	1.52%	1.41
New Jersey	98,000	7,365,000	1.33%	550,000	8,682,661	6.33%	5.00
New Mexico	22,000	1,303,000	1.69%	80,000	1,984,356	4.03%	2.34
New York	472,000	17,558,000	2.69%	925,000	19,490,297	4.75%	2.06
North Carolina	18,000	5,882,000	0.31%	350,000	9,222,414	3.80%	3.49
North Dakota	1,000	653,000	0.15%	10,000	641,481	1.56%	1.41
Ohio	12,000	10,798,000	0.11%	95,000	11,485,910	0.83%	0.72
Oklahoma	16,000	3,025,000	0.53%	55,000	3,642,361	1.51%	0.98
Oregon	24,000	2,633,000	0.91%	150,000	3,790,060	3.96%	3.05
Pennsylvania	15,000	11,864,000	0.13%	140,000	12,448,279	1.12%	1.00
Rhode Island	5,000	947,000	0.53%	30,000	1,050,788	2.86%	2.33
South Carolina	6,000	3,122,000	0.19%	70,000	4,479,800	1.56%	1.37
South Dakota	0	691,000	0.00%	10,000	804,194	1.24%	1.24
Tennessee	8,000	4,591,000	0.17%	150,000	6,214,888	2.41%	2.24
Texas	325,000	14,229,000	2.28%	1,450,000	24,326,974	5.96%	3.68
Utah	12,000	1,461,000	0.82%	110,000	2,736,424	4.02%	3.20
Vermont	0	511,000	0.00%	10,000	621,270	1.61%	1.61
Virginia	52,000	5,347,000	0.97%	300,000	7,769,089	3.86%	2.89
Washington	36,000	4,132,000	0.87%	180,000	6,549,224	2.75%	1.88
West Virginia	2,000	1,950,000	0.10%	10,000	1,814,468	0.55%	0.45
Wisconsin	10,000	4,706,000	0.21%	85,000	5,627,967	1.51%	1.30
Wyoming	1,000	470,000	0.21%	10,000	532,668	1.88%	1.66
U.S. Total	3,500,000	226,546,000	1.54%	11,900,000	299,681,946	3.97%	2.43

Sources: Estimates of undocumented workers in 1980 from U.S. Census Bureau, "Table 1: Illustrative Ranges of Estimates of the Undocumented Resident Population by State," June 20, 1997, at <http://www.census.gov/population/www/documentation/twps0008/table01.txt> (June 26, 2009); population figures in 1980 from U.S. Census Bureau, "Population by State: 1970, 1980, 1990 and 2000," at [http://pasdc.hbg.psu.edu/pasdc/PA\\_Stats/profiles\\_tables\\_and\\_charts/pennsylvania/pop\\_0ther/04XT1-01.html](http://pasdc.hbg.psu.edu/pasdc/PA_Stats/profiles_tables_and_charts/pennsylvania/pop_0ther/04XT1-01.html) (June 26, 2009); estimates of unauthorized immigrants from Jeffrey S. Passel and D'Vera Cohn, "A Portrait of Unauthorized Immigrants in the United States," Pew Hispanic Center, April 14, 2009, at <http://pewhispanic.org/files/reports/107.pdf> (July 31, 2009); population figures in 2008 from U.S. Census Bureau, "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008," NST-EST2008-01, at <http://www.census.gov/popest/states/NST-ann-est.html> (August 7, 2009).

This large illegal alien presence might explain why California was the first state in America to enact an aggressive measure to curtail illegal immigration. In 1994, Proposition 187, which passed with nearly 59 percent of the vote, prohibited illegal immigrants from receiving public benefits in California.<sup>2</sup> A federal district court found Proposition 187 unconstitutional in November 1997. Governor Pete Wilson appealed that decision to the United States Court of Appeals for the Ninth Circuit, but before the appellate court could issue a decision, new Governor Gray Davis dropped the appeal.

## Illegal Immigrants in 1980

Estimated Percentage of Population Composed of Undocumented Aliens in 1980, by State



**Sources:** Estimates of undocumented workers in 1980 from U.S. Census Bureau, "Table 1: Illustrative Ranges of Estimates of the Undocumented Resident Population by State," June 20, 1997, at <http://www.census.gov/population/www/documentation/twps0008/table01.txt> (June 26, 2009); population figures in 1980 from U.S. Census Bureau, "Population by State: 1970, 1980, 1990 and 2000," at [http://pasdc.hbg.psu.edu/pasdc/PA\\_Stats/profiles\\_tables\\_and\\_charts/pennsylvania/pop\\_other/04XT1-01.html](http://pasdc.hbg.psu.edu/pasdc/PA_Stats/profiles_tables_and_charts/pennsylvania/pop_other/04XT1-01.html) (June 26, 2009); estimates of unauthorized immigrants from Jeffrey S. Passel and D'Vera Cohn, "A Portrait of Unauthorized Immigrants in the United States," Pew Hispanic Center, April 14, 2009, at <http://pewhispanic.org/files/reports/107.pdf> (July 31, 2009); population figures in 2008 from U.S. Census Bureau, "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008," NST-EST2008-01, at <http://www.census.gov/popest/states/NST-ann-est.html> (August 7, 2009).

Map 1 • SR 66 heritage.org

2. California Secretary of State, "November 8, 1994—Election Results," at <http://www.sos.ca.gov/elections/elections-results/1994-november-general-election-results.htm> (July 31, 2009).

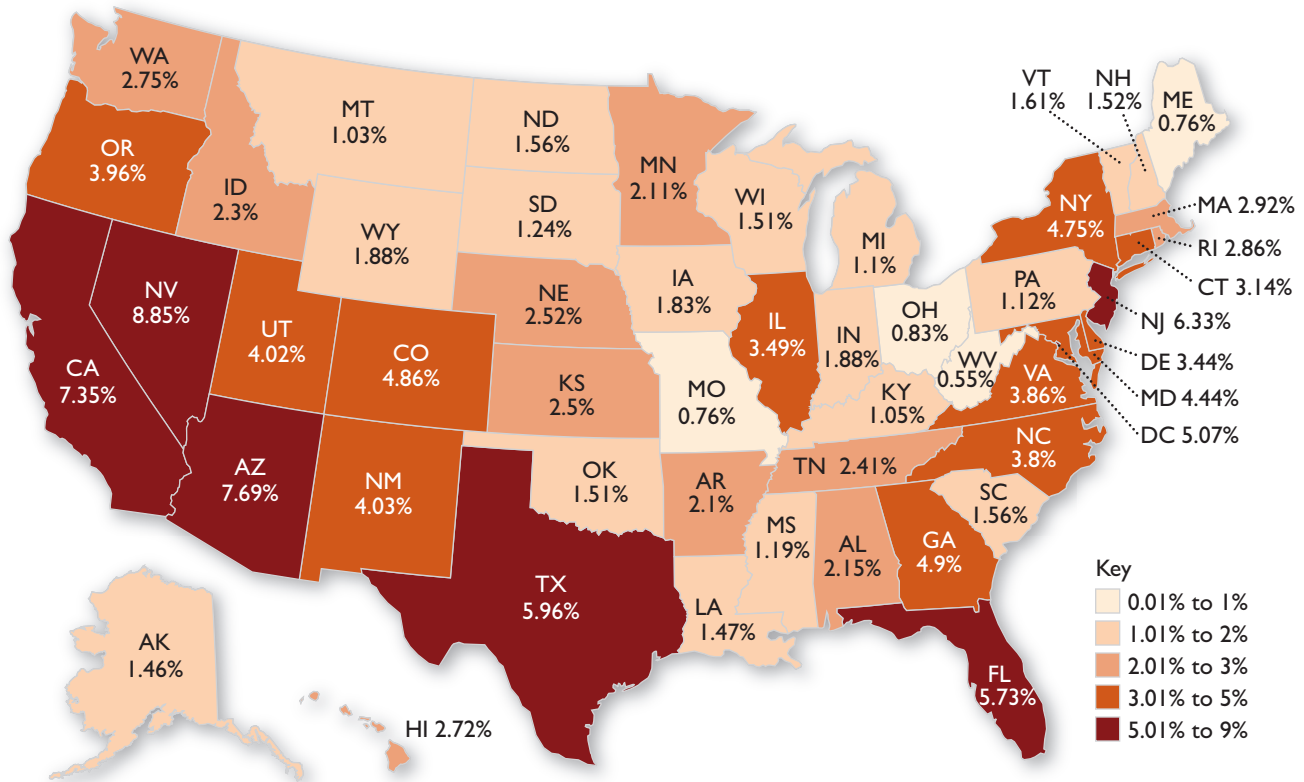


## Controlling Illegal Immigration: State and Local Governments Must Do More

Despite two attempts to reform America's immigration laws—through the Immigration Reform and Control Act of 1986 and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996—the illegal alien population in the United States exploded. By 2008, estimates place the illegal population nationwide at almost 12 million people—more than tripling in less than three decades.

### Illegal Immigrants in 2008

Estimated Average Percentage of Population Composed of Unauthorized Immigrants, 2006–2008, by State

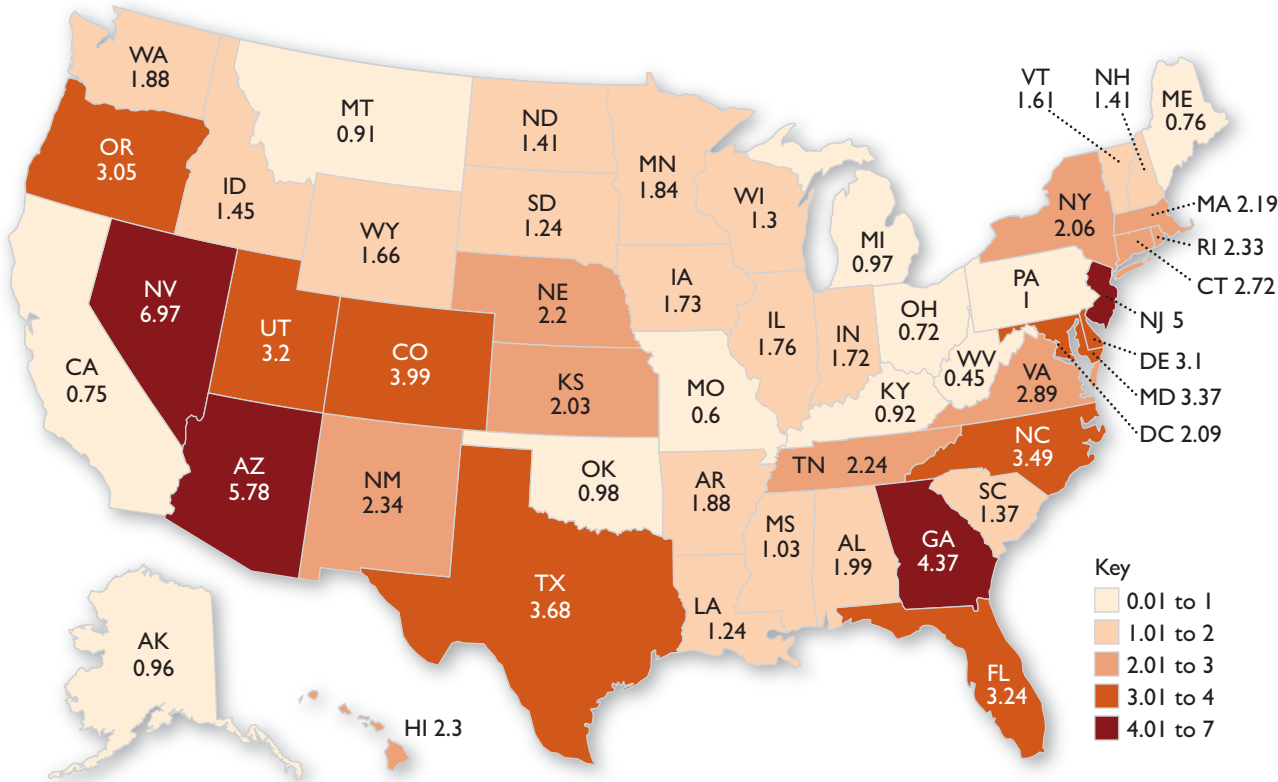


**Sources:** Estimates of undocumented workers in 1980 from U.S. Census Bureau, "Table 1: Illustrative Ranges of Estimates of the Undocumented Resident Population by State," June 20, 1997, at <http://www.census.gov/population/www/documentation/twps0008/table01.txt> (June 26, 2009); population figures in 1980 from U.S. Census Bureau, "Population by State: 1970, 1980, 1990 and 2000," at [http://pasdc.hbg.psu.edu/pasdc/PA\\_Stats/profiles\\_tables\\_and\\_charts/pennsylvania/pop\\_other/04XT1-01.html](http://pasdc.hbg.psu.edu/pasdc/PA_Stats/profiles_tables_and_charts/pennsylvania/pop_other/04XT1-01.html) (June 26, 2009); estimates of unauthorized immigrants from Jeffrey S. Passel and D'Vera Cohn, "A Portrait of Unauthorized Immigrants in the United States," Pew Hispanic Center, April 14, 2009, at <http://pewhispanic.org/files/reports/1107.pdf> (July 31, 2009); population figures in 2008 from U.S. Census Bureau, "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008," NST-EST2008-01, at <http://www.census.gov/popest/states/NST-ann-est.html> (August 7, 2009).

In contrast to the data from 1980, when 43 percent of all illegal aliens in the U.S. resided in California, the illegal population had spread across the entire country. Specifically, 19 states now had illegal populations exceeding 3 percent of their total population, with seven states—Arizona, California, Florida, Nevada, New Mexico, New Jersey, Texas—and the District of Columbia having illegal populations in excess of 5 percent. By 2008, only four states—Maine, Missouri, Ohio, and West Virginia—had illegal populations of less than 1 percent of their total populations.

## Change in Illegal Immigrant Population, 1980–2008

Percentage Point Difference Between 1980 Undocumented Alien Population and Average 2006–2008 Unauthorized Immigrant Population



Sources: Estimates of undocumented workers in 1980 from U.S. Census Bureau, "Table 1: Illustrative Ranges of Estimates of the Undocumented Resident Population by State," June 20, 1997, at <http://www.census.gov/population/www/documentation/twps0008/table01.txt> (June 26, 2009); population figures in 1980 from U.S. Census Bureau, "Population by State: 1970, 1980, 1990 and 2000," at [http://pasdc.hbg.psu.edu/pasdc/PA\\_Stats/profiles\\_tables\\_and\\_charts/pennsylvania/pop\\_other/04XT1-01.html](http://pasdc.hbg.psu.edu/pasdc/PA_Stats/profiles_tables_and_charts/pennsylvania/pop_other/04XT1-01.html) (June 26, 2009); estimates of unauthorized immigrants from Jeffrey S. Passel and D'Vera Cohn, "A Portrait of Unauthorized Immigrants in the United States," Pew Hispanic Center, April 14, 2009, at <http://pewhispanic.org/files/reports/107.pdf> (July 31, 2009); population figures in 2008 from U.S. Census Bureau, "Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2008," NST-EST2008-01, at <http://www.census.gov/popest/states/NST-ann-est.html> (August 7, 2009).

# Illegal Immigrant Population Surges

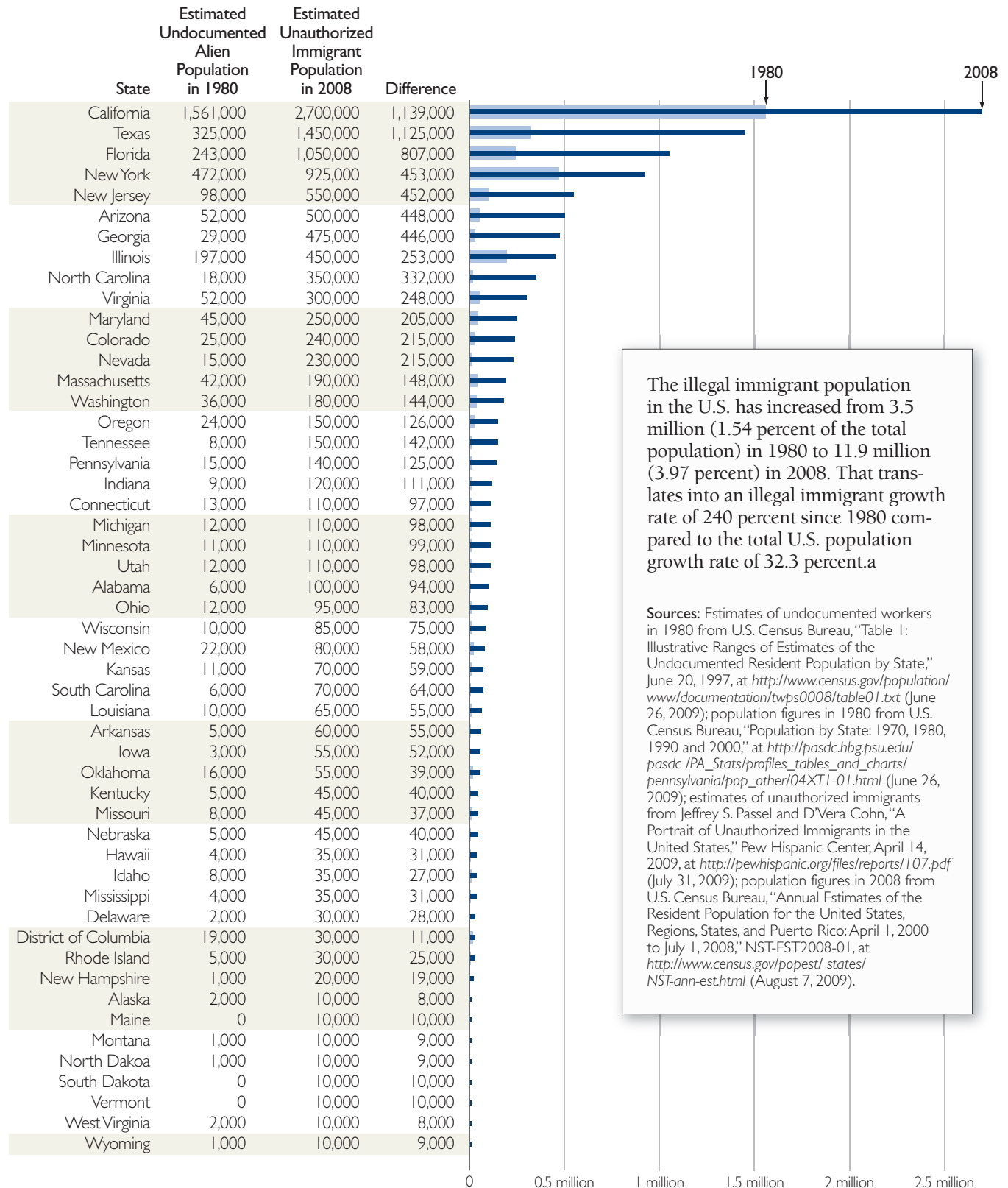


Chart 1 • SR 66 heritage.org

In response to this influx of illegal aliens, which placed increasingly greater burdens on state and local budgets, law enforcement, and public infrastructure like hospitals and schools, states began exercising their constitutional powers by engaging in a flurry of activity to curtail illegal immigration over the last five years. Table 2 illustrates this activity.

The primary areas of action were (1) driver's licenses and identification, (2) public benefits, (3) access to higher education benefits, (4) voting, (5) criminal sanctions, and (6) employment. For a breakdown by state of the key legislation enacted from 2005 to 2009, please see Appendix A.

Although this increase in legislative activity is a step in the right direction, states should do much more in these six areas:

1. *Twenty-one states* have not done enough to keep illegal aliens from obtaining legal driver's licenses and other identification cards. Arizona introduced a law that would have made it harder for illegal aliens to obtain licenses, but then-Governor Janet Napolitano vetoed the law; Illinois made it *easier* for illegals to obtain these documents.
2. *Twenty-five states* have not comprehensively prevented illegal immigrants from obtaining non-emergency public benefits. Arizona introduced a law to address this issue, and it was once again vetoed by Governor Napolitano; four states *extended* public benefits to illegal immigrants.
3. *Thirty-three states* have not prevented illegal aliens from being eligible for in-state college tuition, financial aid, or scholarships. Once again, Arizona tried to take stronger action but faced a veto by Governor Napolitano; three states *extended* higher education benefits to people who are in the country illegally.
4. *Forty states* have not done all they can to prevent illegal aliens from voting. Arizona tried, but was again defeated by Governor Napolitano's veto.
5. *Thirty-eight states* have not increased sanctions for crimes related to illegal entry into the U.S. Arizona tried, but Governor Napolitano would not allow it.
6. *Forty-seven states* have not prevented private-sector employment of aliens (although 14 states have made it harder for illegals to obtain government jobs or contracts); Arizona successfully passed an employment law after Governor Napolitano had vetoed its first attempt at restricting the hiring of illegal aliens; Illinois made it *easier* for illegal immigrants to get jobs.

As most states have introduced laws to curb illegal immigration, some jurisdictions have created express or *de facto* sanctuary policies that *encourage and entice* illegal immigration. The sanctuary jurisdictions are:

Austin, TX	District of Columbia	Newark, NJ
Baltimore, MD	Fort Worth, TX	Oakland, CA
Boston, MA	Houston, TX	Phoenix, AZ
Charlotte, NC	Jersey City, NJ	Portland, OR
Chicago, IL	Long Beach, CA	Seattle, WA
Cook County, IL	Los Angeles, CA	San Antonio, TX
Dallas, TX	Miami, Florida	San Diego, CA
Denver, CO	Minneapolis-St. Paul, MN	San Francisco, CA
Detroit, MI	New York City, NY	San Jose, CA

### State Activity in Response to Illegal Immigration

Year	Laws Introduced	Laws Passed	Became Law	Vetoed by Governor
2005	300	45	37	6
2006	570	90	84	6
2007	1,562	252	240	12
2008	1,305	209	206	3
2009*	1,040	36	35	0

\*These numbers represent actions through the first quarter of 2009.

Table 2 • SR 66  heritage.org

These purportedly compassionate actions serve only to undermine the labor market for American citizens and legal residents, as the mere presence of illegal aliens depresses wages by creating a black market of people willing to work for substandard wages. Moreover, the costs of these policies are borne by taxpayers who pay financially, physically, and sometimes even with their lives when illegal immigrants commit crimes in these sanctuary jurisdictions.<sup>3</sup>

### The Legal Landscape of Illegal Immigration

Once someone crosses the border illegally or overstays his visa, the task of apprehending, detaining, and removing him falls on the U.S. Immigration and Customs Enforcement Office (ICE). ICE currently employs nearly 6,000 agents to perform all of its missions, “which include enforcing immigration law in the interior of the United States, stemming the flow of illicit drugs, and deterring money laundering, among other things.”<sup>4</sup> As with most elements of the federal government since 9/11, “the majority of ICE’s resources have been directed at stemming terrorist-related activities and activities that have a national security interest.”<sup>5</sup>

With fewer than 6,000 ICE agents—one agent for every 2,000 illegal aliens—focused on many different activities, including detention and deportation, it makes little sense not to make use of the full power of state and local governments, including the one million law enforcement personnel who work for states and localities. This is especially true given the recent policy change made by the Obama Administration to provide temporary work permits to illegal aliens caught during worksite raids. The men and women in state and local law enforcement serve as enormous force multipliers, and, given their familiarity with their communities, are far better at navigating the difficult issues involved with the detection, detention, and deportation of illegal aliens.

Starting in 2002, when ICE formally launched the section 287(g) program, state and local law enforcement agencies could sign Memorandums of Agreement (MOA) with ICE pursuant to section 287(g) of the amended Immigration and Naturalization Act of 1952 (INA) that deputized them to help the federal government enforce immigration laws. Although section 287(g) is finally being applied after 10 years of lying dormant, not many jurisdictions have reached agreements with ICE. (See Appendix B.) As of June 1, 2009, ICE had entered into only 66 MOAs, and trained and deputized under 1,000 state and local law enforcement officers—fewer than 13 officers per month over the course of seven years.<sup>6</sup> Unfortunately, the Obama Administration, led by DHS Secretary Janet Napolitano, recently made a change to this program that will make it harder for states and localities to use it effectively. While this is at least a positive step, it also demonstrates that section 287(g) on its own is not a panacea.

Similarly, participation in ICE’s Criminal Alien Program (CAP) is limited to only 126 operational teams in 24 cities. (See Appendix C.) CAP “focuses on identifying criminal aliens who are incarcerated within federal, state and local facilities thereby ensuring that they are not released into the community by securing a final order of removal prior to the termination of their sentence.”<sup>7</sup> Again, CAP is a good step forward, but, given the insignificant size of the program, cannot possibly keep pace with the flow of criminal illegal aliens into America.

Moreover, the entire premise that state and local governments need the consent of the federal government to control their jurisdictions is baseless. By passing interior enforcement legislation, states can have the authority to enforce their own laws dealing with illegal aliens and those who employ, house, or otherwise aid them, thereby

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3. For a comprehensive overview of all legislative action in the 50 states, please refer to the excellent yearly reviews compiled by the National Conference of State Legislatures for its Immigration Policy Project at <http://www.ncsl.org>.
  4. Blas Nuñez-Neto *et al.*, “Enforcing Immigration Law: The Role of State and Local Law Enforcement,” Congressional Research Service Report for Congress, CRS–2, August 30, 2007.
  5. *Ibid.*
  6. U.S. Immigration and Customs Enforcement, “Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act—The ICE 287(g) Program: A Law Enforcement Partnership,” May 19, 2009, at [http://www.ice.gov/pi/news/factsheets/section287\\_g.htm](http://www.ice.gov/pi/news/factsheets/section287_g.htm) (August 5, 2009).
  7. U.S. Immigration and Customs Enforcement, “Criminal Alien Program,” November 17, 2008, at <http://www.ice.gov/partners/dro/cap.htm> (August 5, 2009).

creating greater pressure on the federal government to allocate the resources necessary to detain and deport illegal aliens apprehended by state and local governments, especially those engaged in criminal activities.

A crucial but often overlooked point in the battle over state and local action is that the federal prohibition is *not an explicit constitutional restriction, but a statutory one*. Specifically, other than the border security provision in Article I, Section 8 and the citizenship clause in the Fourteenth Amendment,<sup>8</sup> any restrictions on state and local government action are purely statutory prohibitions that trigger the Supremacy Clause of the Constitution, which gives Congress the authority to preempt state and local laws “where concurrent jurisdiction exists.”<sup>9</sup>

As the Obama Administration and Congress discuss immigration reform, they should show more respect to the Tenth Amendment and eliminate the statutory restrictions that impede or minimize the actions that states and localities can take to tackle the influx of illegal aliens into their jurisdictions.

Whether good policy or not, the reality is that “[m]ere illegal presence in the U.S. is a civil, not criminal, violation of the INA, and subsequent deportation and associated administrative processes are civil proceedings.”<sup>10</sup> This distinction is important and has become the focal point upon which pro-illegal-immigration groups are attacking state and local government action. Homeland Security Secretary Napolitano famously claimed that illegal presence in the U.S. is not a violation of federal law. It most certainly is a federal violation, just not a criminal one until it occurs a second time.

The highest hurdle for state and local governments to overcome in dealing with illegal-immigration issues in their jurisdictions is the Supremacy Clause, which states: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”<sup>11</sup> Congressional preemption can occur explicitly through using statutory language stating that federal law preempts state action, or implicitly through intent to regulate an entire field, or when state or local law conflicts with federal law.<sup>12</sup>

In order for federal law to preempt state law, the federal law must contain explicit language that such preemption was “the clear and manifest purpose of Congress.”<sup>13</sup> On immigration issues, because the Congress provided exceptions for state and local laws dealing with “licensing or similar laws” concerning the employment of illegal immigrants, Congress failed to occupy the entire field of immigration law.<sup>14</sup>

The Supreme Court noted three situations where implied preemption negates state or local laws: (1) if the state or local law attempts to regulate official immigration; (2) if the federal law “occupies the field,” for example, it is so broad that it covers all aspects of immigration; and (3) if the state or local law conflicts with federal law.<sup>15</sup> When evaluating a preemption claim, the courts are required to “star[t] with the assumption that the historic police powers of the States [are] not to be superseded by...Federal Act unless that [is] the clear and manifest purpose of Congress.”<sup>16</sup>

Nonetheless, state and local governments did not cede their inherent police powers when the Constitution was ratified. As a result, state and local governments retain inherent authority to enforce federal criminal law. Many legal experts believe that state and local governments also retain inherent authority to enforce federal civil law. After all, it would make little sense if state and local governments were left powerless to deal with illegal aliens in their own jurisdictions. Absent a criminal violation, illegal aliens could openly flout their presence in cities and states across America.

8. *U.S. Constitution*, Article I, Section 8 and Amendment XIV.

9. Nuñez-Neto *et al.*, “Enforcing Immigration Law.”

10. *Ibid.*

11. *U.S. Constitution*, Article VI, Clause 2 (1787).

12. Nuñez-Neto *et al.*, “Enforcing Immigration Law.”

13. *California Division of Labor Standards Enforcement v. Dillingham Construction, N.A., Inc.*, 519 U.S. 316, 325 (1997).

14. 8 USC § 1324a(h)(2).

15. *De Canas v. Bica*, 424 U.S. 351, 357 (1976).

16. *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 516 (1992).

Certainly, the Founding Fathers did not intend such an outcome when they drafted the Constitution and included the Ninth and Tenth Amendments. As the Supreme Court has found, state and local police power is “an exercise of the sovereign right of the Government to protect the lives, health, morals, comfort, and general welfare of the people.”<sup>17</sup> Those sovereign powers “proceed, not from the people of America, but from the people of the several states; and remain, after the adoption of the Constitution, what they were before.”<sup>18</sup> As the Fifth Circuit Court of Appeals concluded: “No statute precludes other federal, state, or local law enforcement agencies from taking other action to enforce this nation’s immigration laws.”<sup>19</sup>

As the Supreme Court noted in 1976: “States possess broad authority under their police powers to regulate the employment relationship and protect workers within the State.”<sup>20</sup> As such, state and local actions “to prohibit the knowing employment by...employers of persons not entitled to lawful residence in the United States, let alone to work here, [are] certainly within the mainstream of such police power regulation.”<sup>21</sup> In what is the strongest statement on this issue, the Supreme Court noted:

Although the State has no direct interest in controlling entry into this country, that interest being one reserved by the Constitution to the Federal Government, unchecked unlawful migration might impair the State’s economy generally, or the State’s ability to provide some important service. Despite the exclusive federal control of this Nation’s borders, we cannot conclude that the States are without power to deter the influx of persons entering the United States against federal law, and whose numbers might have a discernible impact on traditional state concerns.<sup>22</sup>

This issue of whether state and local government possess the inherent authority to enforce federal civil law is not a theoretical one. To wit, “four of the nineteen 9/11 hijackers had law enforcement encounters with local police in the six months preceding September 11, 2001.”<sup>23</sup> The four included ringleaders (and pilot) Mohammed Atta and Nawaf al-Hazmi, as well as pilots Hani Hanjour and Ziad Jarrah.<sup>24</sup> Each one of these terrorists had violated civil provisions of federal immigration law.<sup>25</sup>

Critically, it is not for the courts to decide whether a particular state or local law is good policy or not. Rather, as the Supreme Court found, “debatable questions as to its reasonableness, wisdom and propriety are not for the determination of courts, but for the legislative body, on which rests the duty and responsibility of decision.”<sup>26</sup>

### Most Courts Find State and Local Action Constitutional

Based on recent court decisions, state and local governments have wide latitude to enact laws concerning traditional issues within their jurisdictions. In February 2007, the city of Valley Park, Missouri, enacted an ordinance that prohibited the employment of illegal immigrants.<sup>27</sup> Any business found violating the ordinance would suffer suspension of its license.<sup>28</sup> In January 2008, the United States District Court for the Eastern District of Missouri (Eastern Division) found that “the Ordinance is a regulation on business licenses, an area historically occupied by the states.”<sup>29</sup>

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17. *Manigault v. Springs*, 199 U.S. 473, 480 (1905).

18. *Sturges v. Crowninshield*, 17 U.S. 122, 193 (1819).

19. *Lynch v. Cannatella*, 810 F.2d 1363, 1371 (5th Cir. 1987).

20. *De Canas*, p. 356.

21. *Ibid.*, pp. 356–357.

22. *Plyler v. Doe*, 457 U.S. 202, 228, n.23 (1982).

23. Kris W. Kobach, “The Quintessential Force Multiplier: The Inherent Authority of Local Police to Make Immigration Arrests,” *Albany Law Review* No. 183, Vol. 69 (2005).

24. *Ibid.*, pp. 183–186.

25. *Ibid.*, p. 188.

26. *South Carolina State Highway Department v. Barnwell Brothers, Inc.*, 303 U.S. 177, 190-191 (1938).

27. *Gray v. City of Valley Park, Missouri*, 2008 WL 294294, 9 (E.D. Mo. Jan. 31, 2008).

28. *Ibid.*, pp. 16–17.

In May, the United States Court of Appeals for the Eighth Circuit issued a decision affirming the district court and noting that just because “Appellants do not have a business license does not exempt them from this ordinance. Appellants fall within the ordinance provisions and must, as law-abiding citizens, comply and conform their conduct according to its directive.”<sup>30</sup> The Eighth Circuit concluded that: “[A]s a business entity covered by the ordinance, Appellants may not knowingly recruit, hire for employment, or continue to employ, an unlawful worker to perform work within the City.”<sup>31</sup>

Likewise, in Arizona in 2007, the legislature passed a law aimed at employers who hire illegal aliens. The Legal Arizona Workers Act (LAWA) gave “the Superior Court of Arizona...the power to suspend or revoke the business licenses of employers who intentionally or knowingly employ unauthorized aliens.”<sup>32</sup> In February 2008, the United States District Court for the District of Arizona concluded that the initiative and the requirement to use the online E-Verify system were constitutional.<sup>33</sup>

On September 17, 2008, the United States Court of Appeals for the Ninth Circuit—America’s most liberal appellate court—issued its decision on the constitutionality of LAWA, which had been appealed after the district court found LAWA to be constitutional.<sup>34</sup> The Ninth Circuit also concluded that LAWA was constitutional, that Arizona could require businesses to use the E-Verify system, and that the Supreme Court’s holdings in *De Canas v. Bica* were not superseded by the Immigration Reform and Control Act of 1986.<sup>35</sup>

Finally, on April 3, 2009, a Rhode Island Superior Court judge upheld Governor Donald Carcieri’s executive order requiring state government use of the E-Verify system by concluding that “[t]he executive order and the final regulation are a proper exercise of executive authority and do not violate any constitutional authority of the General Assembly.”<sup>36</sup>

Two examples from the states illustrate the importance of protecting jobs for citizens and legal residents. First, an ICE employer raid in Bellingham, Washington, in February 2009 resulted in the arrest of 28 illegal aliens.<sup>37</sup> The unemployment rate in Whatcome County, where the raid occurred, was above 8.1 percent. Over 150 Americans applied for the jobs that became available after the employer raid.

The second example is from Vernon, California, where Overhill Farms employed 260 illegal workers.<sup>38</sup> The issue came to light after an Internal Revenue Service audit discovered that the 260 employees had provided fraudulent Social Security Numbers. Despite the findings, the federal government did “not mandate that those employees be fired.” Overhill Farms made the decision to fire the illegal employees only after talking with three different law firms.

Against the demands of the union representing the illegal aliens, Overhill Farms “gave the workers 30 days to correct the problem with the IRS and provide the company with verification, but none did so.”<sup>39</sup> Not one of the 260 employees came forward with any proof that he was legally in the United States. Once again illustrating both the fallacy that “Americans won’t do this kind of work” and the importance of reserving U.S. jobs for legal workers, Over-

29. *Ibid.*, p. 15.

30. *Gray v. City of Valley Park, Missouri*, Case No. 08-1681, Memorandum and Order (8th Cir. 2009).

31. *Ibid.*

32. *Arizona Contractors Association, Inc. et al. v. Napolitano et al.*, Case No. CV07-02496-PHX-NVW, Findings of Fact, Conclusions of Law and Order by Judge Neil V. Wake 2-3 (February 7, 2008).

33. *Ibid.*, pp. 26–29.

34. *Chicanos Por La Causa, Inc. v. Napolitano*, 558 F.3d 856 (9th Cir. 2008).

35. *Ibid.*

36. *Rhode Island Coalition Against Domestic Violence et al. v. Carcieri et al.*, Case No. PC 08-5696, Memorandum and Order (Prov. Sup. Ct. Apr. 3, 2009).

37. Dan Springer, “Homeland Security Frees 27 Illegal Immigrants, Sends Them Back to Work,” FoxNews.com, April 1, 2009, at <http://www.foxnews.com/story/0,2933,512098,00.html> (August 2, 2009).

38. Patrick J. McDonnell, “Computer ‘Raid’ in Vernon Leaves Factory Workers Devastated,” *Los Angeles Times*, June 12, 2009, at <http://articles.latimes.com/2009/jun/12/local/me-desktp-raid12> (August 5, 2009).

39. *Ibid.*



hill Farms filled all of the \$10-an-hour jobs with citizens or legal immigrants at a time when California's unemployment rate was nearly 11 percent.

In April 2008, the Supreme Court ruled that an Indiana law requiring a government photo ID in order to vote passed constitutional muster because the "state interest identified as justifications for [the law] are both neutral and sufficiently strong to require us to reject" the legal challenge.<sup>40</sup> The United States Court of Appeals for the Eleventh Circuit made a similar finding in upholding Georgia's voter law.<sup>41</sup>

With this current 5–0 record in appellate courts, states and localities should quickly enact laws to control illegal immigration.

### Even More Options for States and Localities

For state and local governments to truly tackle their illegal immigration problems, they must take a more aggressive approach than simply relying on ICE to do its duty and deputize a few state or local officers each year under section 287(g). There are many additional actions that state and local governments can take. Critically, state and local government action should "remove or reduce the economic incentives for unlawful presence."<sup>42</sup>

The list below represents options for state and local government action:

- Require the use of the E-Verify system for all businesses;
- Suspend the licenses of businesses that hire unauthorized aliens;
- Require business filings and business tax returns to include an attestation from the employer that he did not employ unauthorized aliens in the past 12 months, and make it a felony to file a false attestation;
- Require state income tax returns to include an attestation from the filers that they did not employ unauthorized aliens in the past 12 months and make it a felony to file a false attestation;
- Make it a felony for unauthorized aliens to work in the U.S., punishable by imprisonment and a fine;
- Make it a felony to falsely claim legal presence in the United States;
- Make it a felony and a predicate racketeering crime to smuggle aliens;
- Make it a crime to rent, lease, or sublease living space for use by unauthorized aliens;
- Expand law-enforcement arrest power to include misdemeanor violations of the INA;
- Permit the temporary detention of individuals charged with misdemeanors, such as traffic violations, where probable cause exists that they are unauthorized aliens, so that federal entities can retrieve them;
- Outlaw sanctuary cities, including day-labor sites;
- Mandate the use of the Systemic Alien Verification for Entitlements system to verify entitlement to all state and local government benefits;
- Deny enrollment to or financial aid for state-licensed higher education institutions to unauthorized aliens, including in-state tuition qualification;
- Restrict unauthorized aliens' access to non-essential public benefits and services;
- Prohibit tax deductions for business expenses related to unauthorized aliens;
- Institute a withholding tax for all electronic funds wire transfers to foreign parties or on negotiable bank drafts and international money orders without a valid Social Security Number;

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40. *Crawford et al. v. Marion County Election Board et al.*, Case No. 07-21, Memorandum and Order (S.Ct. 2008).

41. *Common Cause et al. v. Billups et al.*, Case No. 07-14664, Memorandum and Order (11th Cir. 2009).

42. Immigration Reform Law Institute, "Planning for State Immigration Enforcement Legislation," 2006, at <http://www.irli.org/Planning4StateImmEnfLeg.pdf> (August 3, 2009).

- Ban the use of foreign identification documents to establish identity or to obtain state identification cards unless accompanied by a U.S. document that demonstrates legal presence in the United States; and
- Restrict the use of taxpayer identification numbers for purposes not authorized by the Internal Revenue Service, including identification, unless accompanied by a U.S. document that demonstrates legal presence in the United States.<sup>43</sup>

The often-missed element is that Congress should remove the statutory barrier that it, not the Constitution, has placed in the way of even greater state and local action on illegal immigration. Only by unleashing the full powers of Justice Louis Brandeis’s “laboratories of democracy” will America arrive at the innovative solutions necessary to once and for all solve its illegal alien problem.

## **Conclusion**

Politicians in Washington, D.C., speak often about immigration reform. While they talk, states and localities are taking action to bring true reform to America’s immigration framework. This renewal of federalism to curtail illegal immigration is not a surprise to those who have long fought for and argue on behalf of state and local action on America’s toughest challenges. Federalism brought innovation and practical solutions to American welfare, education, and health care challenges over the past 15 years.

If the politicians inside the Beltway truly want to enact immigration reform, they should focus their efforts on securing the border, deporting apprehended aliens, and increasing the legal avenues for foreign workers to come to the United States. Equally as important, Congress can repeal the laws that prevent state and local action from securing driver’s licenses and identification cards, prohibiting access to non-emergency public benefits, ending access to higher education benefits, restricting voting to citizens, enhancing criminal actions, and limiting employment and housing to citizens and legal residents.

Amnesty in any form should be a non-starter for any federal immigration reform. As evident from the last amnesty in 1986, illegal aliens will rightfully view the federal government as a serial amnesty machine that will cave once again in 20 years when the illegal immigration population again swells in the United States. With smart federal reform linked to strong actions by states and localities, the cost of coming to or staying in America illegally will be too high, thereby dissuading many who are considering illegal entry from coming in the first place, and driving those already here to return home where they can access the increased legal avenues to work in America.

Isn’t it time to give federalism another shot at solving yet another one of the United States’ toughest problems?

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43. *Ibid.*, pp. 1–7.

## **Appendix A**

### **State and Local Government Actions** <sup>44</sup>

#### **Alabama**

No notable laws passed from 2005–2009.

#### **Alaska**

In 2007, the legislature permitted information on individuals applying for unemployment benefits to be shared with the U.S. Department of Homeland Security (DHS) to verify immigration status and prevented state funds from being used to implement the Real ID Act, which requires states to add certain security elements to their driver's licenses.<sup>45</sup>

#### **Arizona**

In 2004, despite opposition from Governor Janet Napolitano, Arizona Senators John McCain and Jon Kyl, labor unions, and both major political parties, Arizona voters passed Proposition 200, which requires proof of citizenship to vote and denies social services to illegal immigrants.

In 2005, the legislature prohibited local governments from building day labor sites that help illegal immigrants, criminalized human trafficking, permitted law enforcement to arrest smugglers, and allowed courts to use immigration status when sentencing illegal immigrant criminals.<sup>46</sup> The legislature passed six bills that prohibited illegal immigrants from accessing adult education and child care benefits, strengthened voter identification requirements and prohibited the use of Matrícula Consular cards (ID cards issued by the Mexican government), required the use of federal, state, or local identification to obtain state services, authorized the building of a prison in Mexico to house illegal immigrants who committed crimes in Arizona, permitted law enforcement to enforce immigration laws, and made English the official language of Arizona. Governor Napolitano vetoed those bills.<sup>47</sup>

In 2006, the legislature restricted non-emergency medical service benefits to citizens and legal immigrants.<sup>48</sup> The legislature passed three bills that authorized the governor to mobilize the National Guard to secure the border during a state of emergency, criminalized illegal entry into Arizona, criminalized illegal immigration status, created

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44. The information contained in this appendix came from the following resources: Immigration Policy Project, "Review of State Immigration Legislation in 2005," National Conference of State Legislatures (Revised January 2007); Immigration Policy Project, "2006 State Legislation Related to Immigration: Enacted and Vetoed," National Conference of State Legislatures (October 21, 2006); Immigration Policy Project, "Overview of State Legislation Related to Immigration and Immigrants in 2007," National Conference of State Legislatures (January 31, 2008); Immigration Policy Project, "State Laws Related to Immigrants and Immigration in 2008," National Conference of State Legislatures (Revised January 27, 2009); Immigration Policy Project, "2009 Immigration-Related Bills and Resolutions in the States" (January–March 2009), National Conference of State Legislatures (April 22, 2009); American Financial Services Association State Government Affairs Committee, "The Real ID Act: State Implementation & Effects," American Financial Services Association (March 2009); Eric S. Bord, "50-State Survey of State Immigration Laws Affecting Employers," Morgan Lewis Memorandum Communicate (April 2009); Yule Kim, Jody Feder, and Alison M. Smith, "State and Local Restrictions on Employing, Renting Property to, or Providing Services for Unauthorized Aliens: Legal Issues and Recent Judicial Developments," Congressional Research Service (May 8, 2009); U.S. Department of Homeland Security, "287(g) Results and Participating Entities," U.S. Immigration and Customs Enforcement, at [http://www.ice.gov/pi/news/factsheets/section287\\_g.htm](http://www.ice.gov/pi/news/factsheets/section287_g.htm) (August 3, 2009).

45. Alaska Senate Bills 120 and 202.

46. Arizona House Bill 2592, Senate Bill 1372, and House Bill 2259.

47. Arizona House Bill 2030, Senate Bill 1118, Senate Bill 1511, House Bill 2709, Senate Bill 1306, and Senate Bill 1167.

48. Arizona House Bill 2448/Senate Bill 2738 and Senate Bill 1137.

finances for employers who hire illegal immigrants, and denied education benefits to illegal immigrants. Governor Napolitano vetoed the three bills.<sup>49</sup>

In addition, because of the number of vetoes in 2005 by Governor Napolitano, Propositions 100 (denied bail to illegal immigrants charged with felonies), 102 (denied punitive damages to illegal immigrants), and 103 (made English the official language), as well as Referendum 300 (required citizenship for in-state tuition prices and financial aid) were placed on the ballot in November 2006 dealing with illegal immigration. All four items passed, with 78 percent, 74 percent, 74 percent, and 72 percent of the vote, respectively.<sup>50</sup>

In 2007, in response to Governor Napolitano's veto and her comment that the legislature's first attempt was not strong enough, the legislature passed the Legal Arizona Workers Act (LAWA) that prohibited employers from hiring illegal immigrants and required them to use the E-Verify system to determine potential employees' work status.<sup>51</sup> The legislature also required liquor license holders to be citizens or legal aliens residing in Arizona, permitted the detention of illegal aliens who are material witnesses in a criminal proceeding, provided funds for immigration law enforcement, denied bail for illegal aliens in jail for a felony violation, and required proof of citizenship or lawful presence to receive public benefits.<sup>52</sup>

The legislature also passed a law requiring county recorders to reject voter registration applications unless applicants could submit documents proving their citizenship, but Governor Napolitano vetoed the bill.<sup>53</sup>

In 2008, the legislature provided over \$40 million for English-immersion programs and expanded the definition of smuggling to include the use of drop houses for illegal aliens.<sup>54</sup> Governor Napolitano vetoed a measure that would have permitted state and local entities to send and receive information concerning an applicant's immigration status regarding eligibility for public benefits and would have authorized law enforcement to receive training under section 287(g) of the INA.<sup>55</sup>

In addition, opponents of LAWA placed Proposition 202 on the November 2008 ballot to weaken LAWA by making it harder to prove that employers knowingly hired illegal immigrants. Arizonians rejected Proposition 202 with 59 percent of the vote.

## **Arkansas**

In 2005, the legislature required non-citizens to show a passport from their home country in order to obtain a U.S. driver's license and permitted law enforcement to enforce immigration laws by executing a section 287(g) agreement with ICE.<sup>56</sup>

In 2007, the legislature prohibited state agencies from contracting with entities that employ illegal aliens and required liquor license holders to be citizens or legal residents.<sup>57</sup>

In 2009, the legislature limited eligibility for scholarships to citizens or lawful permanent residents, shortened the time period that driver's licenses for non-citizens are valid before expiration, and permitted judges to issue arrest warrants for illegal aliens under certain circumstances.<sup>58</sup>

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49. Arizona House Bill 2701, Senate Bill 1157, and House Bill 2577.

50. Matt A. Mayer, *Homeland Security and Federalism: Protecting America from Outside the Beltway* (Santa Barbara, Cal.: Praeger, 2009).

51. Arizona House Bill 2779.

52. Arizona House Bills 2016, 2181, 2787, and 2467.

53. Arizona House Bill 2403.

54. Arizona Senate Bill 1096 and House Bill 2842.

55. Arizona House Bill 2807.

56. Arkansas House Bills 2539 and 1012.

57. Arkansas House Bills 1024 and 1500.

58. Arkansas House Bill 1002/Senate Bill 26, House Bill 1860, and House Bill 1338.

### California

In 2006, the legislature enhanced its efforts at providing free naturalization services, authorized local entities to provide medical aid to illegal immigrants, and permitted illegal aliens to obtain public benefits.<sup>59</sup> Governor Arnold Schwarzenegger vetoed a bill that allowed illegal aliens to receive student aid for higher education.<sup>60</sup>

In 2007, the legislature permitted medical clinics to include the number of illegal aliens they treated in order to increase their Medi-Cal reimbursement, prohibited landlords from inquiring into or acting on an illegal alien's status, and granted public benefits to migrant workers.<sup>61</sup>

Governor Schwarzenegger again vetoed a bill that allowed illegal aliens to receive student aid for higher education, as well as bills that required Los Angeles to provide aid to illegal aliens who are crime victims and allowed trauma centers to receive grants to treat illegal aliens.<sup>62</sup> Another bill died at Governor Schwarzenegger's desk that permitted the children of illegal aliens to be covered by Medi-Cal.<sup>63</sup>

### Colorado

In 2006, the legislature prohibited state agencies from contracting with entities that employed illegal aliens and required them to use the E-Verify system for all hires; restricted the issuance of licenses, permits, registrations, and certificates to legal residents; required employers to verify the legal work status of employees; prohibited local governments from preventing their law enforcement agencies from working with the federal government; directed the attorney general to seek reimbursement from the federal government for the costs associated with illegal immigrants; allowed doctors to provide medical care to illegal aliens for epidemic or communicable diseases; limited other public benefits to citizens or legal residents; criminalized various aspects of human smuggling; and made illegal voting a felony.<sup>64</sup>

In 2007, the legislature required the courts to issue no-bond warrants in criminal cases for illegal aliens and required proof of lawful residence for public benefits.<sup>65</sup>

In 2008, the legislature created a pilot program to strengthen the H-2A visa program in Colorado and appropriated \$47 million for medical service premiums for non-citizens.<sup>66</sup>

### Connecticut

In 2007, Governor M. Jodi Rell vetoed a bill that would have provided college tuition to illegal aliens.<sup>67</sup>

### Delaware

In 2006, the legislature prohibited election officials from accepting votes from illegal aliens.<sup>68</sup>

In 2007, the legislature adopted the federal human-trafficking law covering labor migrants and tied the expiration date of a driver's license for visa holders to the expiration of their visa.<sup>69</sup>

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59. California House Bill 2060, Senate Bill 1534, and Senate Bill 1569.

60. California Senate Bill 160.

61. California Senate Bill 238, Assembly Bill 976, Assembly Bill 335, and Senate Bill 330.

62. California Senate Bill 1, Assembly Bill 502, and Assembly Bill 1669.

63. California Assembly Bill 1.

64. Colorado House Bills 1343, 1009, 1017, 1014, 1002, 1023, and Senate Bills 90, 207, 225, 004, 005, 007.

65. Colorado House Bills 1040 and 1314.

66. Colorado House Bills 1325 and 1285.

67. Connecticut House Bill 5656.

68. Delaware Senate Bill 162.

69. Delaware House Bills 116 and 147.

## Florida

In 2005, the legislature allowed child welfare services for illegal aliens.<sup>70</sup>

In 2006, the legislature required proof of lawful presence to obtain a driver's license and made human trafficking a crime.<sup>71</sup>

In 2008, the legislature tightened the proof for a driver's license by requiring a Social Security card and valid current address and limited permits for firearms to citizens and those lawfully present.<sup>72</sup>

## Georgia

In 2005, the legislature required voters to present official photograph identification to vote.<sup>73</sup> In June 2009, the United States Court of Appeals for the Eleventh Circuit held that the law was constitutional and concluded that "[t]he insignificant burden imposed by the Georgia statute is outweighed by the interests in detecting and deterring voter fraud."<sup>74</sup>

In 2006, the legislature passed the Georgia Security and Immigration Compliance Act, which required public employers and government contractors to use the E-Verify system; authorized participation in the section 287(g) program and inquiry into immigration status for felony crimes and drunk driving; prohibited businesses from deducting for illegal immigrants; increased the penalties for human trafficking; and required verification of lawful presence for non-emergency public benefits.<sup>75</sup> The legislature also prohibited non-citizens from obtaining gun permits.<sup>76</sup>

In 2007, the legislature strengthened the business-deduction prohibition, which prevented businesses from deducting illegal-alien-related business expenses from their taxes, and authorized the governor to wait to implement the Real ID Act requirements until further guidance from DHS.<sup>77</sup>

In 2008, the legislature limited eligibility for higher education student aid and in-state tuition to citizens and legal residents.<sup>78</sup> The legislature also required law-enforcement entities to ascertain the nationality of individuals convicted of driving without a license, charged with a felony, or charged with driving under the influence of alcohol when in jail.<sup>79</sup>

Governor Sonny Perdue vetoed a bill that would have permitted the impounding of vehicles driven by those without a driver's license.<sup>80</sup>

## Hawaii

In 2006, the legislature restricted public housing benefits to citizens and legal residents.<sup>81</sup>

In 2007, the legislature limited government jobs to citizens and legal residents, and potentially expanded eligibility for health care benefits to children of illegal aliens.<sup>82</sup>

70. Florida Senate Bill 498.

71. Florida House Bill 7079 and Senate Bill 250.

72. Florida Senate Bills 1992 and 948.

73. Georgia House Bill 244.

74. *Common Cause et al. v. Billups et al.*, Case No. 07-14664, Memorandum and Order (11th Cir. 2009).

75. Georgia Senate Bill 529.

76. Georgia House Bill 1032.

77. Georgia Senate Bills 184 and 5.

78. Georgia Senate Bills 169 and 492.

79. Georgia Senate Bill 350.

80. Georgia House Bill 978.

81. Hawaii House Bill 2966.

82. Hawaii House Bills 1750 and 1008.

## **Controlling Illegal Immigration: State and Local Governments Must Do More**

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In 2008, the legislature restricted eligibility for reimbursement to those individuals eligible for Medicaid and appropriated \$1 million to health care providers serving the uninsured population, including illegal residents.<sup>83</sup>

### **Idaho**

In 2006, the legislature restricted unemployment and worker's compensation benefits to citizens and those lawfully present.<sup>84</sup> In an executive order dated December 13, 2006, Governor Jim Risch required state agencies to use the E-Verify system for state employees, including contractors working for the state.<sup>85</sup>

In 2007, the legislature required verification of lawful presence for immigrants to receive public benefits.<sup>86</sup>

In 2008, the legislature prohibited the issuance of driver's licenses to illegal aliens, tied the expiration of a driver's license of a visa holder to the expiration of the visa, and directed the executive branch to ignore the requirements of the Real ID Act.<sup>87</sup>

### **Illinois**

In 2005, the legislature permitted state agencies to accept Matricula Consular cards for identification purposes.<sup>88</sup>

In 2007, the legislature made it a civil rights violation for employers to use the E-Verify system and appropriated funds to aid illegal aliens through health centers, legal services, and child care.<sup>89</sup>

In 2008, the legislature appropriated additional funds to aid illegal immigrants through health centers and child care.<sup>90</sup>

### **Indiana**

In 2005, the legislature required voters to show an official government photo ID card to vote.<sup>91</sup>

In 2007, the legislature extended higher education benefits by including foreign students lawfully present under a student exchange program in the definition of "resident," complied with the Real ID Act, tied the expiration of a driver's license of a visa holder to the expiration of the visa, and required verification of lawful presence for some public benefits.<sup>92</sup>

### **Iowa**

In 2006, the legislature made human trafficking a crime.<sup>93</sup>

In 2007, the legislature restricted the receipt of state economic development grants to businesses that certify that employees are in the country legally.<sup>94</sup>

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83. Hawaii Senate Bill 2542.

84. Idaho House Bills 577 and 649.

85. Governor Jim Risch, Executive Order 2006-40 (December 13, 2006).

86. Idaho Senate Bill 1157.

87. Idaho House Bills 366 and 606.

88. Illinois Senate Bill 1623.

89. Illinois House Bills 1743, 1744, 202, and 3866.

90. Illinois House Bill 5701 and Senate Bill 1102.

91. Indiana Senate Bill 483.

92. Indiana Senate Bills 526, 463, and 504.

93. Iowa Senate Bill 2219.

94. Iowa Senate Bill 562.

## **Kansas**

In 2005, the legislature made human trafficking a crime.<sup>95</sup>

In 2006, the legislature limited unemployment benefits and coverage under employment practices laws to citizens and legal residents.<sup>96</sup>

In 2007, the legislature complied with the Real ID Act and required proof of lawful presence to receive a driver's license and public benefits.<sup>97</sup> The legislature also made English the official language and left the decision of whether to print non-English government documents to the discretion of state agencies.<sup>98</sup>

In 2008, the legislature restricted the SCHIP health care program to citizens and those lawfully present, and required proof thereof.<sup>99</sup>

## **Kentucky**

In 2005, the legislature required proof of citizenship to receive a professional license in certain fields.<sup>100</sup>

In 2007, the legislature made human trafficking a crime.<sup>101</sup>

## **Louisiana**

In 2005, the legislature made human trafficking a crime.<sup>102</sup>

In 2006, the legislature permitted the district attorney to investigate employers for hiring illegal workers and impose penalties for violations.<sup>103</sup>

In 2007, the legislature restricted higher education in-state tuition to citizens and permanent residents and disallowed business tax credits for illegal aliens.<sup>104</sup>

In 2008, the legislature prohibited the executive branch from complying with the Real ID Act.<sup>105</sup>

## **Maine**

In 2005, the legislature required proof of citizenship or legal residency to obtain a driver's license.<sup>106</sup>

In 2006, the legislature eliminated the use of expired identification documents to obtain a driver's license.<sup>107</sup>

In 2007, the legislature restricted eligibility of unemployment benefits to certain aliens and prohibited the issuance of driver's licenses to residents.<sup>108</sup>

In 2008, the legislature complied with the Real ID Act.<sup>109</sup>

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95. Kansas Senate Bill 72.

96. Kansas House Bill 2157.

97. Kansas Senate Bill 9 and House Bills 2140 and 2599.

98. Kansas House Bill 2140.

99. Kansas Senate Bill 81.

100. Kentucky House Bill 275.

101. Kentucky Senate Bill 43.

102. Louisiana House Bill 56.

103. Louisiana Senate Bill 753.

104. Louisiana Senate Bills 94 and 352.

105. Louisiana House Bill 715.

106. Maine Legislative Document 763.

107. Maine Legislative Document 501.

108. Maine Legislative Documents 1015 and 812.

109. Maine Legislative Document 2309.



### Maryland

In 2007, the legislature made human trafficking a crime.<sup>110</sup>

### Massachusetts

No notable laws passed from 2005 to 2009.

### Michigan

In 2006, the legislature made human trafficking a crime.<sup>111</sup>

In 2008, the legislature complied with the Real ID Act.<sup>112</sup>

### Minnesota

In 2007, the legislature prohibited illegal aliens from being eligible for in-state tuition, but Governor Tim Pawlenty vetoed this bill.<sup>113</sup> The legislature also denied unemployment compensation benefits to illegal immigrants.<sup>114</sup>

In 2008, the legislature prohibited illegal immigrants from being eligible for scholarship programs.<sup>115</sup> On January 14, 2008, Governor Pawlenty issued an executive order that required government and government contractors to use the E-Verify system and directed businesses receiving government subsidies to certify that they did not employ illegal workers.<sup>116</sup>

### Mississippi

In 2006, the legislature strengthened the state human-trafficking law.<sup>117</sup>

In 2007, the legislature restricted unemployment compensation benefits to those lawfully present in the United States.<sup>118</sup>

In 2008, the legislature required the use of the E-Verify system by all employers and made it a felony for illegal aliens to work.<sup>119</sup>

### Missouri

In 2006, the legislature restricted the issuance of driver's licenses to legal residents and permitted only U.S.- or Missouri-issued identification to be used for voter registration.<sup>120</sup>

In February 2007, the city of Valley Park enacted an ordinance that prohibited the employment of illegal aliens.<sup>121</sup> A business found violating the ordinance would have its license suspended.<sup>122</sup> In January 2008, the United States District Court for the Eastern District of Missouri (Eastern Division) found in favor of the city that “the

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110. Maryland House Bill 876.

111. Michigan House Bill 5747.

112. Michigan House Bill 5535.

113. Minnesota Senate Bill 1989.

114. Minnesota Senate File 167.

115. Minnesota Senate Bill 2942.

116. Governor Tim Pawlenty, Executive Order 08-01 (January 14, 2008).

117. Mississippi House Bill 381.

118. Mississippi Senate Bill 2448.

119. Mississippi Senate Bill 2988.

120. Missouri Senate Bills 1001 and 1014.

121. *Gray v. City of Valley Park, Missouri*, Case No. 4:07CV00881 ERW, Memorandum and Order (E.D. Mo. 2008), 9.

122. *Ibid.*, pp. 16-17.

Ordinance is a regulation on business licenses, an area historically occupied by the states.”<sup>123</sup> As noted above, the United States Court of Appeals for the Eighth Circuit issued a decision upholding the law.<sup>124</sup>

In 2008, the legislature approved participation in the section 287(g) program, prohibited sanctuary policies, made it a crime to transport illegal aliens, restricted illegal aliens from receiving non-emergency public benefits, and prevented executive branch agencies from issuing driver’s licenses to illegal applicants.<sup>125</sup> The legislature also prohibited employers from hiring illegal aliens, required the use of the E-Verify system, instituted penalties for employers that violate the law, and required forfeiture of any tax credits received by those businesses that employ illegal aliens.<sup>126</sup>

## Montana

In 2005, the legislature prohibited issuance of driver’s licenses to illegal aliens and tied the expiration of a driver’s license of a visa holder to the expiration of the visa.<sup>127</sup>

In 2007, the legislature made human trafficking a crime and prohibited compliance with the Real ID Act.<sup>128</sup>

## Nebraska

In 2005, the legislature granted in-state tuition to illegal aliens.<sup>129</sup>

In 2007, the legislature eliminated the tax benefits to employers for illegal employees who have been deported.<sup>130</sup>

In 2009, the legislature required that government and government contractors use the E-Verify system and required state agencies to verify lawful presence of individuals applying for public benefits.<sup>131</sup>

## Nevada

In 2007, the legislature limited eligibility for scholarships to citizens and those who have been lawfully present for at least two years, made human trafficking a crime, and complied with the Real ID Act.<sup>132</sup>

## New Hampshire

In 2006, the legislature required proof of citizenship to register to vote.<sup>133</sup>

## New Jersey

In 2005, the legislature made human trafficking a crime.<sup>134</sup>

## New Mexico

In 2005, the legislature extended in-state tuition to illegal immigrants.<sup>135</sup>

In 2008, the legislature made human trafficking a crime.<sup>136</sup>

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123. *Ibid.*, p. 15.

124. *Gray v. City of Valley Park, Missouri*, Case No. 08-1681, Memorandum and Order (8th Cir. 2009).

125. Missouri House Bill 1549.

126. *Ibid.*, House Bill 2058.

127. Montana House Bill 385.

128. Montana Senate Bill 385 and House Bill 287.

129. Nebraska Legislative Bill 239.

130. Nebraska Legislative Bill 223.

131. Nebraska Legislative Bill 403.

132. Nevada Senate Bill 5 and Assembly Bills 383 and 584.

133. New Hampshire Senate Bill 403.

134. New Jersey Act 2730.

### New York

In 2007, the legislature appropriated funds to provide public benefits to illegal aliens through health centers, made human trafficking a crime, and permitted the Parole Board to grant parole to illegal aliens at risk for deportation.<sup>137</sup>

### North Carolina

In 2006, the legislature made human trafficking a crime and required government agencies to use the E-Verify system for new employees.<sup>138</sup>

In 2007, the legislature permitted jails and prisons to inquire into the immigration status of individuals convicted of a felony or impaired driving charges.<sup>139</sup>

In 2008, the legislature allowed the release of illegal alien prisoners for deportation and restricted access to the NC Kid's Care program to children who are in the country legally.<sup>140</sup>

### North Dakota

In 2007, the legislature tightened the requirements for driver's licenses.<sup>141</sup>

### Ohio

In 2006, the legislature restricted driver's licenses to citizens and legal residents and required prisons to hand over illegal aliens for deportation once they completed their sentences.<sup>142</sup>

### Oklahoma

In 2007, the legislature restricted eligibility of higher education and public benefit programs to citizens and legal residents, prohibited illegal aliens from obtaining driver's licenses, directed law enforcement to participate in the section 287(g) program, made human trafficking a crime, and required employers to use the E-Verify system.<sup>143</sup>

In June 2008, the United States District Court for the Western District of Oklahoma issued a preliminary injunction stopping the employment aspects of House Bill 1804.<sup>144</sup> Oklahoma appealed the district court's decision to the United States Court of Appeals for the Tenth Circuit, which has yet to issue a decision.

### Oregon

In 2007, the legislature made human trafficking a crime, strengthened identity theft laws, and restricted concealed handgun licenses to citizens and legal residents.<sup>145</sup>

In 2008, the legislature restricted driver's licenses to citizens and legal residents and required applicants to show proof thereof.<sup>146</sup>

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135. New Mexico Senate Bill 582.

136. New Mexico Senate Bill 71.

137. New York Senate Bills 2104 and 5902 and Assembly Bill 3286.

138. North Carolina House Bill 1896 and Senate Bill 1523.

139. North Carolina Senate Bill 229.

140. North Carolina Senate Bill 1955 and House Bill 2436.

141. North Dakota Senate Bill 2112.

142. Ohio Senate Bill 9.

143. Oklahoma Senate Bill 820 and House Bill 1804.

144. *Chamber of Commerce of the USA et al. v. Henry et al.*, Case No. 5:2008cv00109, Memorandum and Order (W.D. Ok. 2008).

145. Oregon Senate Bills 578 and 447 and House Bill 2334.

146. Oregon Senate Bill 1080a.

## Pennsylvania

In 2006, the legislature prohibited government contractors from employing illegal aliens on projects receiving state grants or loans.<sup>147</sup>

In July 2006, the city of Hazelton enacted ordinances that prohibited the employment and harboring of illegal immigrants.<sup>148</sup> In 2007, the United States District Court for the Middle District of Pennsylvania struck down the Hazelton ordinances finding that the ordinances violated the Constitution's Supremacy Clause, the Due Process Clause, and Section 1981.<sup>149</sup> Hazelton appealed the district court's decision to the United States Court of Appeals for the Third Circuit, which has yet to issue a decision.

In 2008, the legislature prohibited the employment of illegal aliens in tax-exempt and expansion zones.<sup>150</sup>

## Rhode Island

In 2006, the legislature discontinued enrollment of children of illegal aliens in the Medicaid program at the end of the year.<sup>151</sup>

In 2007, the legislature made human trafficking a crime and restricted the issuance of state identification cards to citizens and those lawfully present.<sup>152</sup>

On March 27, 2008, Governor Donald Carcieri issued an executive order requiring government and government contractors to use the E-Verify system for new employees.<sup>153</sup>

## South Carolina

In 2006, the legislature made it a crime to fraudulently use someone else's information to obtain employment.<sup>154</sup>

In 2007, the legislature prohibited illegal aliens from receiving scholarships or financial assistance for higher education and rejected the requirements imposed by the Real ID Act.<sup>155</sup>

In 2008, the legislature required government and government contractors to use the E-Verify system to ensure illegal aliens are not being employed, prohibited employers from hiring illegal immigrants, directed law enforcement to participate in the section 287(g) program, made it a crime to engage in the facilitation of illegal entry into the U.S., instructed prisons and jails to ascertain the immigration status of prisoners, restricted non-emergency public benefits to citizens and legal residents, prohibited illegal immigrants from owning firearms, and limited higher education access and financial assistance programs, including in-state tuition, to citizens and legal residents.<sup>156</sup>

## South Dakota

In 2006, the legislature required a passport or government-issued identification to obtain a voting ballot.<sup>157</sup>

## Tennessee

In 2005, the legislature required proof of citizenship to obtain a handgun permit.<sup>158</sup>

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147. Pennsylvania House Bill 2319.

148. *Lozano et al. v. City of Hazelton*, 496, F.Supp.2d 477 (M.D. Pa. 2007).

149. *Ibid.*

150. Pennsylvania Senate Bill 1412.

151. Rhode Island House Bill 7120.

152. Rhode Island House Bill 5881, Senate Bill 692, and House Bill 6161.

153. Governor Donald Carcieri, Executive Order 08-01 (March 27, 2008).

154. South Carolina House Bill 3085.

155. South Carolina House Bill 3620 and Senate Bill 449.

156. South Carolina House Bill 4400.

## Controlling Illegal Immigration: State and Local Governments Must Do More

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In 2006, the legislature banned state contractors who employed illegal workers from state contracts for one year.<sup>159</sup>

In 2007, the legislature created penalties for employers who hire illegal aliens, prohibited the use of the individual federal taxpayer identification number as proof of legal immigration status, limited temporary driver's licenses to legal residents, made it a crime to transport illegal aliens, and permitted law enforcement to participate in the section 287(g) program.<sup>160</sup>

In 2008, the legislature permitted employers accused of hiring illegal workers to gain access to the name of the individual who filed the complaint with the state, tied the expiration of a driver's license of a visa holder to the expiration of the visa, and banned racial profiling by law enforcement.<sup>161</sup>

### Texas

In 2007, the legislature prohibited employers who receive state subsidies from employing illegal aliens and strengthened human trafficking laws, permitted the deportation of non-citizens convicted of family violence, and required applicants for Temporary Assistance for Needy Families (TANF) to have verified legal status.<sup>162</sup>

### Utah

In 2005, the legislature limited in-state tuition to citizens and permanent residents, restricted driver's licenses to citizens and those lawfully present, and tied the expiration of a driver's license of a visa holder to the expiration of the visa.<sup>163</sup>

In 2007, the legislature excluded illegal aliens from eligibility for unemployment compensation.<sup>164</sup>

In 2008, the legislature made human trafficking a crime, directed law enforcement to participate in the section 287(g) program, prohibited local governments from restraining law enforcement from working with federal immigration officials, made it a crime to engage in the facilitation of illegal entry into the U.S., instructed jails to ascertain the immigration status of prisoners, required government and government contractors to use the E-Verify system, and instructed state agencies to verify lawful presence for applicants to receive public benefits.<sup>165</sup>

### Vermont

In 2006, the legislature required courts to provide advice to illegal aliens charged with crimes in whose cases a guilty plea would adversely affect their ability to remain in the U.S. or become citizens.<sup>166</sup>

### Virginia

In 2005, the legislature denied illegal aliens eligibility for public benefit programs.<sup>167</sup>

In 2006, the legislature denied in-state tuition to foreigners studying in the U.S. on a visa, required the Department of Motor Vehicles to provide the State Board of Elections with a list of non-citizens who applied for driver's licenses each month, and restricted handgun permits to citizens and legal residents.<sup>168</sup>

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157. South Dakota Senate Bill 118.

158. Tennessee House Bill 698/Senate Bill 1627.

159. Tennessee House Bill 111.

160. Tennessee House Bills 729, 1827, and 600 and Senate Bills 903 and 1604.

161. Tennessee Senate Bills 4069 and 2907 and House Bill 4001.

162. Texas House Bill 1196 and Senate Bills 11, 1470, and 589.

163. Utah House Bill 138 and Senate Bills 223 and 227.

164. Utah Senate Bill 103.

165. Utah Senate Bills 339 and 81.

166. Vermont Senate Bill 0182.

167. Virginia House Bill 1798/Senate Bill 1143.

In 2007, the legislature criminalized acts related to stealing identification documents and prohibited illegal aliens from obtaining concealed handgun licenses.<sup>169</sup>

In 2008, the legislature created disciplinary actions for employers who hire illegal immigrants, required government contractors to affirm that they do not employ illegal workers, prohibited the sale of firearms to illegal aliens, created a rebuttable presumption against bail for illegal aliens subject to ICE regulation, and directed jails and correction facilities to verify the immigration status of those being held.<sup>170</sup>

In 2009, the legislature eliminated the use of liability shelters for businesses convicted of employing illegal aliens and required proof of citizenship to file voter registration applications.<sup>171</sup>

## **Washington**

In 2005, the legislature extended eligibility of the SCHIP program to children of illegal aliens.<sup>172</sup>

In 2006, the legislature excluded illegal immigrants from eligibility for unemployment benefits.<sup>173</sup>

## **West Virginia**

In 2005, the legislature passed an English-only law, but Governor Joe Manchin vetoed the bill.<sup>174</sup>

In 2007, the legislature required employers to verify that new employees are legally able to work and prohibited employers from hiring illegal aliens.<sup>175</sup>

## **Wisconsin**

In 2006, the legislature required all recipients of public benefits to show proof of citizenship or lawful presence, but Governor Jim Doyle vetoed the law.<sup>176</sup>

## **Wyoming**

In 2005, the legislature defined “employee” as an individual believed to be a citizen or permanent resident when hired.<sup>177</sup>

In 2006, the legislature restricted higher education scholarships to citizens and legal permanent residents.<sup>178</sup>

In 2007, the legislature made it a crime to use false identification documents.<sup>179</sup>

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168. Virginia Senate Bill 542 and House Bills 170 and 1577.

169. Virginia House Bill 1921, Senate Bill 815, and House Bill 1897.

170. Virginia House Bills 782 and 1298/Senate Bill 517, Senate Bill 382, House Bill 440/Senate Bill 623, and House Bill 820/Senate Bill 609.

171. Virginia House Bills 2126 and 2642.

172. Washington House Bill 1441.

173. Washington Senate Bill 6885.

174. West Virginia House Bill 2782.

175. West Virginia Senate Bill 70.

176. Wisconsin Senate Bill 567.

177. Wyoming Senate Bill 82.

178. Wyoming Senate Bill 85.

179. Wyoming House Bill 313.

## **Appendix B**

### **Jurisdictions Participating in Section 287(g) Program**

Alabama State Police	Missouri State Highway Patrol
Etowah County, Alabama	Alamance County, North Carolina
Benton County, Arkansas	Cabarrus County, North Carolina
Springdale, Arkansas	Cumberland County, North Carolina
Rogers, Arkansas	Durham, North Carolina
Washington County, Arkansas	Gaston County, North Carolina
Arizona Department of Corrections	Henderson County, North Carolina
Arizona Department of Public Safety	Mecklenburg County, North Carolina
Phoenix, Arizona	Wake County, North Carolina
Maricopa County, Arizona	Hudson, New Hampshire
Pima County, Arizona	Hudson County, New Jersey
Pinal County, Arizona	New Mexico Department of Corrections
Yavapai County, Arizona	Las Vegas, Nevada
Los Angeles County, California	Butler County, Ohio
Orange County, California	Tulsa County, Oklahoma
Riverside County, California	Beaufort County, South Carolina
San Bernardino County, California	York County, South Carolina
Colorado Department of Public Safety	Davidson County, Tennessee
El Paso County, Colorado	Tennessee Department of Public Safety
Bay County, Florida	Carrollton, Texas
Brevard County, Florida	Farmers Branch, Texas
Collier County, Florida	Harris County, Texas
Florida Department of Law Enforcement	Washington County, Utah
Jacksonville, Florida	Weber County, Utah
Manatee County, Florida	Manassas, Virginia
Cobb County, Georgia	Herndon, Virginia
Georgia Department of Public Safety	Loudoun County, Virginia
Hall County, Georgia	Manassas Park, Virginia
Whitfield County, Georgia	Prince William County (Police), Virginia
Framingham, Massachusetts	Prince William County (Sheriff), Virginia
Massachusetts Department of Corrections	Prince William-Manassas Adult Detention Center
Frederick County, Maryland	Rockingham County, Virginia
Minnesota Department of Public Safety	Shenandoah County, Virginia

## **Appendix C**

### **Jurisdictions Participating in the Criminal Aliens Program**

Atlanta  
Baltimore  
Boston  
Buffalo  
Chicago  
Dallas

Denver  
Detroit  
El Paso  
Houston  
Los Angeles  
Miami

Newark  
New Orleans  
New York City  
Philadelphia  
Phoenix  
Seattle

San Francisco  
Salt Lake City  
San Antonio  
San Diego  
St. Paul–Minneapolis  
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