



## WYOMING LEGISLATIVE SERVICE OFFICE

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### *Research Memo*

06 RM 015-2

**Date:** May 30, 2006

**Authors:** Matthew M. Sackett, Research Analyst

**Re:** Immigration Fiscal Impact

**Request:**

1) What fiscal impact, including service expenditures, does illegal immigration have on the state of Wyoming?

**Response:**

1) The number of illegal immigrants in Wyoming is estimated to be less than or equal to 2,500. The exact fiscal impact of illegal immigrants on the state of Wyoming is difficult to estimate but is *likely less than* \$4 million. The major areas of public expenditure are for emergency medical care, food assistance programs, criminal justice, and education.

#### **BACKGROUND**

The U.S. Department of Homeland Security estimates that Wyoming has at or below 2,500 illegal immigrants. Nationwide, the estimated number of illegal immigrants is between 7 and 25 million, with the most common estimates between 12 and 20 million. The true number of illegal immigrants is difficult to ascertain because illegal immigrants apply various strategies to arrive and stay in the United States. Some illegal immigrants obtain forged green cards, social security numbers, or other documents to obtain employment; others risk their status without documentation. Still other illegal immigrants stay beyond the terms of their visa. In sum, it is difficult to identify illegal immigrants living in the United States because of forged documents, concealed movements, and the flow of immigrants, both legal and illegal, in and out of the U.S.

The costs are difficult to estimate nationally, and for states, because the actual number of illegal immigrants is difficult to accurately ascertain. There are several areas of definite impact which are discussed in more detail below, but in these areas, the actual impacts can vary because of enrollment criterion, forged identifications, and other complexities.

On April 20, 2006 the Department of Homeland Security unveiled a comprehensive immigration enforcement strategy for the interior of the United States. The Department of Homeland Security Office of Immigration and Customs Enforcement (ICE) explained the second phase of the Secure Border Initiative. The interior enforcement strategy is intended to complement the border security efforts. ICE officials outlined the three goals of the interior enforcement strategy. The first goal is to identify and remove criminal aliens, immigration fugitives, and other immigration violators from this country. Second, is to build worksite enforcement and compliance programs to deter illegal employment. The final goal is to remove the criminal infrastructure supporting illegal immigration, including human trafficking and document/benefit fraud.

## EXTERNAL ORGANIZATION ANALYSIS<sup>1</sup>

The National Research Council, a private, nonprofit research organization, estimated the net fiscal cost of immigration to be between \$11 billion and \$22 billion per year. The National Research Council also noted that “most government expenditures on immigrants come from state and local coffers, while most taxes paid by immigrants go to the federal treasury.”

The Center for Immigration Studies, an independent, nonprofit, nonpartisan research organization, estimated the total deficit to the federal government for households headed by illegal aliens was almost \$10.4 billion for 2002. This estimate includes costs imposed of \$26.3 billion dollars, but was partially offset by the estimated amount of taxes paid which were around \$16 billion. Put differently, the estimate amounts to \$2,700 per illegal household according to the Center for Immigration Studies.

The Center for Immigration Studies also found that the costs of illegal households on federal coffers are less than half of other households, but their tax payments are only one-fourth of other households. Many of the costs associated with illegal immigrants identified by the Center for Immigration Studies are primarily due to their American born children, who are U.S. citizens at birth.

The Federation for American Immigration Reform (FAIR), a national, nonprofit, public interest organization promoting the reform of immigration policy, estimates the current *local annual costs* of illegal immigration from three program areas to be \$36 billion dollars. These three program areas are educating children in public primary and secondary schools, providing medical services in emergency rooms, and incarceration. FAIR conducted fiscal cost studies in four states in 2004-2005 and found annual net fiscal costs of \$1.03 billion in Arizona, \$8.8 billion in California, \$0.91 billion in Florida and \$3.73 billion in Texas.

FAIR also estimated the *local expenditures* for every state in the education of the children of illegal aliens, emergency medical care, and incarceration. FAIR noted that these were only local costs and do not consider the national costs, as well as the fact that these are only three areas of potential costs and the true costs could be much higher. FAIR estimated that Wyoming has local expenditures of \$5 million dollars per year on illegal immigration. This \$5 million estimate does not seem unreasonable based on LSO Research findings outlined below.

The \$5 million FAIR estimate for Wyoming is tied for the lowest in the United States with Maine, Montana, South Dakota, and Vermont. FAIR also estimated that the cost to Wyoming will increase to \$8 million by 2010 and \$14 million by 2020.

## INCARCERATION AND COURT COSTS

If illegal immigrants are arrested or detained for any violation of a federal law, the federal authorities assume jurisdiction over the illegal immigrant and assume the judicial and correctional costs. These illegal immigrants are then likely removed from Wyoming correctional facilities. According to the Wyoming Department of Corrections (DOC), the DOC incarcerates approximately 55-60 illegal immigrants per year within the Wyoming correctional system.

The DOC is reimbursed by the federally funded State Criminal Alien Assistance Program (SCAAP) each year to assist in the cost of housing illegal immigrants, but the federal resources have been reduced recently and may be further reduced in the future. These reimbursements do not cover the full cost of holding an illegal immigrant in a correctional facility, but do serve to recoup some of the expenses borne by the states.

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<sup>1</sup> LSO Research staff is reluctant to cite or even refer to external sources which have an identified bias. However, in this instance, several organizations have prepared approximate responses to the question posed. LSO's citation of their work should not be viewed as an endorsement of their philosophy or estimation methods. Nonetheless, in this specific instance, their information appears to add to an environment with limited data.

According to DOC officials, in the late 1990's the DOC received on the order of \$200,000 from the SCAAP program, but for year 2005, the DOC only received \$75,074.

If one assumes that 55-60 illegal immigrants are housed in Wyoming correctional facilities during the year, with an average yearly cost of \$32,000 per year for an inmate, this totals \$1.76 million dollars per year for illegal immigrant incarceration. If funding from the SCAPP program was somewhere around \$100,000, this would decrease this total to \$1.66 million per year in state funding.

## **FOOD PROGRAMS**

The Women, Infants, and Children program (WIC) assists low-income women, infants, and children ages birth through age five who are at risk for nutritional problems. The WIC program provides nutritious foods to supplement diets, information on healthy eating, and health care referrals. U.S. citizenship is not a criterion for the program, so it is likely that income qualifying illegal aliens are enrolled in WIC. It is difficult to estimate the number of illegal immigrants or the total benefits received under the WIC program.

Federal funds are the source of all funds used to pay for the WIC food benefits that clients receive. According to WIC officials, Wyoming general funds, which are around \$750,000 per year, are mostly used for infrastructure and the statewide electronic benefits system, which is how the food benefits are delivered. There are approximately 12,000 WIC clients per month receiving WIC benefits, which is about 2.4 percent of the Wyoming population. If it was assumed that the same ratio of illegal immigrants also received WIC benefits, this would total 60 illegal immigrants (2,500 X 2.4%) receiving WIC. According to WIC officials, the average benefit received by a WIC recipient is \$41 per month, which totals \$492 per year. Applying the yearly benefit to the 60 illegal immigrant recipients totals \$29,520 per year in benefits. If the estimated number of illegal immigrants receiving WIC benefits was increased to 10 percent (250), the total benefits would be \$123,000. The funds for the WIC food benefits are again federal funds, but even if these were state funds, the fiscal impact appears to be relatively low.

Illegal immigrant children that are enrolled in primary or secondary education may qualify for free and reduced lunch which is based on an income criterion. The free and reduced lunch program allows for low income children to receive school lunches free, or at a substantially reduced price. With an estimated 2,500 illegal immigrants in Wyoming, the overall impact of illegal immigrant children receiving free and reduced lunch in Wyoming may be relatively small, but could have a large impact in larger areas in the U.S. With respect to free and reduced lunch, the larger issue is the total cost of educating illegal immigrant children, which is addressed in the Education section.

The Temporary Assistance for needy families (TANF) requires that applicants provide proof that they are U.S. citizens, or the proper immigration papers that ensure they are in the United States legally to qualify for assistance. However, this qualification measure may not completely prevent an applicant from using forged documents to enroll in this program and receive benefits.

The federal food stamp program requires that food stamp recipients are either U.S. citizens or eligible non-citizens (legal immigrants). Illegal immigrants are not eligible for the food stamp program.

## **MEDICAL TREATMENT**

Emergency medical treatment is generally provided at all hospitals, regardless of the ability to pay for services. This leads to doctors giving services to illegal immigrants that may not get paid. This unpaid burden is difficult to estimate, and would vary widely dependent upon the number of illegal immigrants residing in the area. A region with a high migrant population would likely have higher unpaid medical treatment than an area with low illegal immigrant populations.

Data from the Bureau of Economic Analysis and the U.S. Census Bureau allow computations resulting in an estimated per capita expenditure in Wyoming for health care equal to \$1,688, based on rough LSO Research

approximations. The per capita health care costs include all ambulatory health care services, hospital, nursing, and residential care facility expenses. This per capita average could be applied to the estimated 2,500 illegal immigrants living in Wyoming. If illegal immigrants on average receive \$1,688 in medical services, this would total \$4.22 million. The proportion of which is reimbursed and provided to *public* healthcare facilities is difficult, if not impossible, to estimate. The \$4.22 million would be the estimated maximum, with zero being the minimum if all health care costs for illegal immigrants were paid or provided by private healthcare providers. Most likely, the actual amount of unpaid health care expenditures for illegal immigrants is much closer to the lower end of the spectrum.

Medicaid does reimburse for the treatment of illegal immigrants if the treatment is for *emergency* medical services. This includes all services, including childbirth. If an emergency room visit is diagnosed as an emergency visit, then the claim will be paid by Medicaid. If the emergency room visit is not diagnosed as an emergency room visit, then the claim will not be paid by Medicaid. If non-emergency treatment is provided, the cost will be born by the patient. If the patient fails to pay, the costs are born by the medical provider(s).

Updated information provided by the Wyoming Department of Health, Office of Medicaid indicates that for Wyoming fiscal year 2005 there were 424 illegal aliens receiving emergency services paid for by Medicaid in Wyoming. These 424 visits resulted in \$519,296 in state funds being expended. See Table 1 for a three year history of illegal immigrant Medicaid expenditures, including state and federal dollars. It may be reasonable to assume that there were also illegal immigrants that received medical services that were not diagnosed as emergencies, which would not show up in the reported expenditures. The number of these occurrences is difficult to.

**Table 1: Illegal Immigrant Medicaid Expenditures FY 2003 through FY 2005.**

Year	Illegal Immigrants Receiving Emergency Services*	Wyoming Expenditures	Federal Expenditures	Total Expenditures
FY 2003	349	\$439,488	\$696,728	\$1,136,216
FY 2004	376	\$401,307	\$721,858	\$1,123,164
FY 2005	424	\$519,296	\$714,186	\$1,233,483
<b>Total</b>	<b>1,149</b>	<b>\$1,360,091</b>	<b>\$2,132,772</b>	<b>\$3,492,863</b>

**Source:** Wyoming Department of Health, Office of Medicaid data.

\*Indicates number of illegal aliens receiving all emergency services, including childbirth. To become eligible, the person must apply for Medicaid services after they visit the emergency center. If the emergency center visit diagnosis is deemed an emergency, the claim would be paid. If a person goes to the emergency room and an emergency diagnosis is not assigned, the person would not become Medicaid eligible and the claim would not be paid by Medicaid.

## EDUCATION

The cost of educating illegal immigrants is also difficult to estimate. Many children of illegal immigrants are likely born in the United States, thus they are U.S. citizens. All children living in the United States are allowed to attend K-12 public school. The majority of excess costs would likely be tied to funding for at-risk students and children who are English Language Learners (ELL).

If Wyoming has 2,500 or fewer illegal immigrants, this could lead to a relatively small number of illegal immigrant students. Many of the estimated 2,500 illegal immigrants probably came to Wyoming looking for employment, thus they may be above school age. The majority of children are likely to be U.S. citizens, so it might be assumed that 100 or less of the 2,500 illegal immigrants were school age. With the average funding per pupil across Wyoming estimated to be around \$12,000 per student this leads to an education cost of \$1,200,000. If there were 200 illegal immigrant students, the costs would be \$2.4 million, with the cost increasing by \$12,000 for each illegal immigrant student.

It is possible that there are other programs that are intended for U.S. citizens and legal immigrants that illegal immigrants could have gained access to with the use of forged documents that are not considered in this

section or other sections. Furthermore, illegal immigrants use public streets, sidewalks, water, parks, libraries, and other public resources, which some illegal immigrants may not contribute to through tax payments.

If it is assumed that there are \$1.66 million in incarceration costs, minimal state expenses for food programs, roughly \$1 million (anywhere from \$0 to \$4.2 million) in medical service costs, and \$1.2 million in education costs, this equals an estimated fiscal impact of \$3.86 million to the state of Wyoming. This estimate could understate or overstate the true fiscal impact of illegal immigration in Wyoming.

## **OTHER STATES**

According to the National Conference of State Legislatures (NCSL), 42 states, including many of the surrounding states, introduced 368 bills related to immigration or immigrants in 2006. The main areas these bills addressed were benefits, congressional action, education, employment, human trafficking, identification issues, law enforcement, and legal services. A few states had bills regarding border issues, firearms, studies, marriage, housing, and agriculture, but the number of these bills was relatively small. (See Attachment A for more information on state legislation, particularly on enacted legislation.)

According to NCSL, bills relating to benefits were introduced in 19 states and totaled 35 bills. These bills generally would restrict services to legal immigrants and citizens and require proof of citizenship or legal immigration status. Conversely, several bills would also extend health care benefits to specific immigrant populations as well as food stamp eligibility.

A total of 24 bills in 9 states broadly called for congressional action on the Development, Relief, Education, for Alien Minors Act (DREAM), comprehensive immigration reform, and border enforcement, according to NCSL.

Education related bills were proposed in 16 states with a total of 39 bills being introduced, according to NCSL. Eleven bills in seven states proposed to restrict enrollment to citizens and legal immigrants. Bills in twelve states considered in-state college tuition, with four states providing it, and eight states opposing it. Four states proposed bills that would require students to prove lawful immigrant status.

According to NCSL, 71 bills were proposed in 26 states that related to immigrant employment. These bills generally fall into two broad categories: (a) employer based (prohibiting unauthorized workers, penalties, identification verification); (b) worker based (eligibility for benefits and employee sanctions).

Eight states reinforced the prohibition on employing unauthorized workers. According to NCSL twelve states introduced penalties on employers, and ten states would require employers to verify applicants are authorized to work in the U.S. On the worker based category, eleven states would bar eligibility for worker benefits, such as unemployment insurance and worker's compensation. Several other bills related to job training, labor certification, and English proficiency. (See Attachment B for more information related to immigration employment, including both employer and employee related legislation.)

NCSL indicates that 26 bills were introduced in 13 states adding criminal penalties for trafficking and for destroying immigration documents. Several states also proposed bills to establish services for victims.

According to NCSL, 19 states introduced a total of 36 bills related to driver's licenses and identifications. The majority of these bills would restrict licenses to citizens and legal immigrants, while others addressed acceptable documents to provide identity and added penalties for false documents. A few proposed bills would provide driving certificates to unauthorized immigrants. There were also 17 bills proposed in 12 states regarding voting, most of which would require proof of citizenship or identity to vote.

Finally, NCSL indicates that a total of 57 bills in 22 states were proposed relating to law enforcement. Fifteen states proposed bills that would authorize cooperation with federal immigration authorities, prohibit non-

cooperation, or offer enhanced authority to state and local law enforcement related to immigration.

If you would like further information regarding the specifics of any of the proposed legislation or other information, do not hesitate to contact me at 777-7881.

**RESOURCES FOR MORE INFORMATION**

National Conference of State Legislatures. [www.ncsl.org](http://www.ncsl.org)

Department of Homeland Security. [www.dhs.gov](http://www.dhs.gov)

U.S. Immigration and Customs Enforcement (ICE). [www.ice.gov](http://www.ice.gov)

# ATTACHMENT A



NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

April 25, 2006

## State Legislation Related to Immigration: Enacted in 2006

### Omnibus

Georgia's SB 529 that covers multiple topics was signed by the Governor on April 17, 2006. The bill requires employers to participate in a federal work authorization program and a new Georgia Immigrant Worker Verification System. The bill establishes a five percent fee on money transfers into a foreign country for those who are not U.S. citizens or legally permanent residents. The bill increases the penalties for human trafficking. The bill denies certain deductible business expenses unless the worker has been authorized and verified to work in the U.S. If a person is charged with a felony or drunk driving and confined to jail, an effort shall be made to determine the nationality; if the person is a foreign national, a reasonable effort shall be made to determine that the person has been admitted into the US lawfully. State agencies must also verify the lawful presence of an individual before awarding certain benefits; emergency assistance, vaccines and other programs are exempted. Finally, the bill also deals with individuals that provide immigration assistance services to ensure that they do not offer legal advice unless they are attorneys.

### Health Benefits for non-US citizens:

Maine HB 1242/LD 1734 (signed 3/16/2006) allows those who have legally immigrated to the United States to purchase health insurance; effective upon enactment.

Arizona HB 2448/SB2738 (signed 4/24/2006) requires U.S. citizenship or legal immigrant status to receive health benefits.

### Education:

Wyoming SB 85 (3/10/2006) bars non-citizens and non-Legal Permanent Residents (LPR) from receiving scholarship funding in bill.

New York HB 9558 (4/12/2006) allows students without legal immigrant to pay in-state rates if the student has submitted an application to legalize or signs an affidavit to do so once he or she becomes eligible to do so.

Nebraska LB 239 (4/14/2006) will allow unauthorized immigrant students to qualify for in-state tuition.

### Employment:

Idaho HB 648 (3/30/2006) amends existing law relating to worker's compensation to provide additional methods for charging benefits.

Idaho HB 649 (3/24/2006) prohibits balance billing when administering worker's compensation benefits. Benefits are available only to legal immigrants, refugees, asylees and persons residing under color of law. ("Balance billing" means billing or otherwise attempting to collect directly from an injured employee payment for medical services in excess of amounts allowable in compensable claims.)

Washington SB 6885 (3/9/2006) excludes nonresident alien from the definition of "employee" with regards to establishing Unemployment Insurance benefits.

Washington SB6194 (3/27/2006) requires multicultural education for health professionals.

Drivers' License: Maine LD 501 (2/10/2006) requires nonimmigrant applicants to prove legal status to obtain a drivers' license.

Voting/Elections: Delaware SB 162 (2/1/2006) during the oath of office will swear "I will not knowingly or willfully receive or consent to the receiving of the vote of any alien."

Trafficking: Iowa SB2219 (4/21/2006) makes human trafficking a crime and increases penalties.

Law Enforcement:

Ohio SB 9 (3/1/2006) requires ICE to be notified when a suspected alien pleads guilty or is convicted to a felony.

Oklahoma SB 1970 (4/10/2006) requires that all police or peace officers prove U.S. citizenship or legal immigration status before being certified as an officer.

South Dakota SB 63 (2/28/2006) ICE officers are included in the definition of federal law enforcement officer.

Legal Services/Assistance:

Kansas HB 2485 (3/20/2006) notary publics must advertise that they are not authorized to practice law nor give advice on immigration lawyers.

Other:

*Alcohol and Tobacco:* Wyoming HB 144 (3/11/2006) a permanent resident card or internationally accepted passport may be used as acceptable documentation to rent a keg.

*Reporting:* Virginia HB 1046 (4/5/2006) requires officers to report to ICE a juvenile who has committed an act that would be a crime if committed by an adult and who has also been found to be in the US illegally.

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# ATTACHMENT B



March 30, 2006

## Guide to State Employment-Related Immigration Bills

### Introduction

Since January 1, 2006, 30 states have introduced 75 bills that affect the employment of illegal immigrants in some way. These states are: *Alabama, Arizona, California, Colorado, Florida, Georgia, Iowa, Idaho, Illinois, Kansas, Kentucky, Maryland, Maine, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, Washington, Wisconsin, and West Virginia*. These bills can be divided into two broad categories, employer based (prohibiting employment of unauthorized workers; adding penalties, and requiring verification of work authorization), and worker based (eligibility for workers' benefits and employee sanctions.)

Since the beginning of 2006 only Idaho and Washington have enacted legislation. Idaho HB577 provides benefits for US citizens or legally present workers for providing labor services. It further states that the state may seek repayment if an individual makes a false statement to gain benefits. Washington SB6885 changes laws relating to unemployment insurance to exclude non-immigrants that are temporarily present.

Furthermore in 2006 only three states, *Georgia, Idaho, and West Virginia*, have passed legislation through both houses. Georgia SB529 requires that employers verify that new hires are authorized to work in the United States, requires an person rendering a legal service to post that they are not an attorney and may not provide legal advice, lastly the bill prohibits state or local agencies from providing social welfare benefits, except where defined by law, to an individual unless the agency verifies that the individual is lawfully present. Idaho HB 649 prohibits balance billing with regards to worker's compensation. West Virginia HB 4721/SB 426 requires any contractor found employing, recruiting, hiring or using an unauthorized worker to cease all operations in the state.

In 1986, the Immigration Reform and Control Act (IRCA) prohibited the employment of unauthorized workers. IRCA states that "the provisions of this article preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens."<sup>1</sup> This means that the states potentially lack jurisdiction with regards to employers whom employ illegal workers and that any bills which are passed may risk becoming null and void based<sup>2</sup> on this clause. Employers that are penalized may be able to seek legal recourse against the state that imposed such a penalty. However, "in tax year 2003, only three penalties were imposed upon employers that employed illegal workers," Mark Everson, Commissioner of the IRS, testified before Congress on February 16, 2006. So states, motivated by public opinion, introduced legislation that would permit sanctions to be enforced on the state and local level.

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<sup>1</sup> See 8 USC § 1324a h2 available: <http://www.usdoj.gov/crt/osc/ref/8usc1324a.htm>

<sup>2</sup> IBID

## Employer Based

### *Prohibits Employment of Unauthorized Workers*

Nine states reinforce the prohibition on employment included in IRCA: *Arizona (HB2588), Georgia (HB961), Iowa (SB2109), Kentucky (HB150), Maine (HB873), Missouri (HB1186), Mississippi (SB2433), Pennsylvania (HB2319), and West Virginia (SB426 and HB4721)*. These bills typically read that no employer shall knowingly hire nor continue to employ unauthorized workers. However, some bills read that employers may not employ an illegal immigrant even if the employer did not know the worker was illegal.

### *Penalties*

Bills imposing penalties have also been introduced in 12 states: *Alabama (SB134 and HB673), Arizona (HB2577, SB1216 and SB1558), Iowa (SB2109), Kansas (HB2008 and HB2946), Kentucky (HB629), Maryland (HB629), Missouri (HB1927), Mississippi (HB1419), New Hampshire (HB1151), South Carolina (H.4598), Tennessee (HB2815 and SB2877), and Wisconsin (AB703)*.

Three states are proposing legislation to make employment of unauthorized workers a criminal offence: *Alabama (SB134 and HB673), Kansas (HB2008), and Tennessee (HB3426 and SB2876)*. These bills call for criminal penalties rather than or in addition to civil penalties. Kansas would make knowingly employing an illegal worker a Class A misdemeanor which would impose a fine between \$1000 and \$1500 and/or a jail term of at least 90 days but not longer than 12 months, while Tennessee would create the crime of recklessly employing an illegal worker and penalties would be established to fit this crime. Alabama simply states that employing an illegal immigrant would be a crime and that penalties would be provided to the employer for such an offense.

Nine states introduced legislation to provide general penalties: *Alabama (SB134 and HB673), Arizona (SB1216, SB1558 and HB2577), Colorado (HB1133), Kentucky (HB150), Maryland (HB629), New Hampshire (HB1151), South Carolina (H.4598), Tennessee (SB2876), and Wisconsin (AB703)*. Two states, Alabama (HB44) and Wisconsin (AB703) would deny tax credits and deductions on business expenses generated by unauthorized workers. Six states would bar government contracts from being awarded to employers that employed unauthorized workers: *Georgia (HB1056 and SB529), Iowa (SB2109), Kansas (HB2946), Missouri (HB504 and HB1186), Mississippi (HB1419), and Wisconsin (AB703)*, Colorado (HB1133) also fell into this category.

### *Verification*

Currently there are 12 states that have introduced legislation that would require employers to verify that a potential employee is authorized to work in the U.S. Six states would require participation in the Basic Pilot Program. The Basic Pilot Program is an electronic verification system used by employers to verify that new hires are authorized to work in the United States. These states are: *Alabama (HB44), California (SB1194), Georgia (SB529), Maryland (HB1475), Tennessee (SB3481), and Utah (HB179)*. Five would require the use of an unspecified verification program these are: *Arizona (HB2823), Maryland (HB1336), Mississippi (HB1419), Ohio (HB584), and Virginia (HB1051)*. Maryland has proposed two pieces of legislation one which calls for the implementation of the Basic Pilot Program and one that calls for general verification. Additionally, Illinois (HB4457 and HB 4458) would require that ice cream truck drivers and carnival workers verify that they are authorized to work before being presented with licenses. These actions are lawful according to the provisions outlined under IRCA regarding the ability of states to issue licenses. Oklahoma

(SB1970) has proposed legislation that would require all police officers to present proof of legal residence.

Note: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) mandated that three voluntary electronic pilot programs be implemented to verify the work authorization of new hires, under the Social Security Administration (SSA) and Immigration and Naturalization Services (INS). In 1997 the Basic Pilot Program was implemented in five states: California, Florida, Illinois, New York and Texas. Currently the Basic Pilot Program is the only of the original three pilot programs that is still being tested. In 2002 INS conducted independent evaluations by Westat and the Institute for Survey Research at Temple University (ISRTU). Westat and ISRTU advised that the program should not be expanded into full use until the program is further tested to address deficiencies. Some of the major deficiencies in the program are that INS data is not kept current, and often times the employee in question must be verified manually by INS. These two problems have accounted for the majority of false reporting under the program.

### **Employee Benefits and Sanctions**

#### *Employee Benefits and Authorized Workers*

There have been many cases in which employers have denied undocumented workers unemployment insurance benefits and worker's compensation due to IRCA stipulations that state law is preempted by the provisions within IRCA. However IRCA does not address worker's benefits and so courts have ruled that employers must pay employee benefits such as worker's compensation {See: *Farmers Brothers Coffee v. Worker's Compensation Appeals Board and Rafael Ruiz* (CA 2005), *Luo Yu Jie, et al v. Liang Tai Knitwear Co. Ltd., et al* (CA 2001), *Balbuena v. IDR Realty LLC et al and Sanango v. East 16<sup>th</sup> St Housing Corp., et al* (NY 2005)}. The US Supreme Court enforced this decision by denying writ of certiorari to Continental PET Technologies Inc. in *Continental PET Technologies Inc. v Palacias* (US 2005) thus effectively upholding a Georgia case by the same name (GA 2004). These cases effectively decree that undocumented workers are eligible to receive workers' benefits.

Arizona (HB2599) has introduced a bill that limits funding for job training and workforce development to those that are authorized to work.

A Kansas (HB2869) bill would appropriate funds for labor certification.

A Florida (HB881) bill would require that physician's assistants be able to communicate in English before being granted a license.

Arizona HB2586 would bar any state or local agency from issuing a license to an illegal worker.

New York bills HB4095 and HB4388 would grant the Board of Regents to waive immigration status requirements in the professions of education along with midwives and physicians respectively.

#### *Employee Sanctions and Unauthorized Workers*

There are 12 states that have introduced legislation that would bar unauthorized workers from earning worker's benefits of some sort regardless if the worker has paid into the benefit system. These states are: *Idaho* (HB407, HB577, HB648, HB649), *Kansas* (HB2157, HB2614), *Kentucky* (SB105),

*Maryland (HB37), Minnesota (HB3093), Missouri (HB1456), Nebraska(LB913), New Mexico (HB584), New Jersey(A654), South Carolina(H4598), West Virginia (SB134) and Colorado (SB098).* Minnesota bars only unemployment insurance and Maryland, New Jersey, and South Carolina bar worker's compensation benefits. South Carolina would penalizes the employer for paying worker's compensation benefits to undocumented workers. Idaho HB407 denies all benefits to illegal workers whereas HB577 and HB649 deal with legalized workers. HB648 would require all workers to be covered by workers' compensation insurance. All other state bills on this issue are similar to ID HB407, in which they deny all benefits to illegal workers. Alabama is the lone state to criminalize the falsification of identity to gain employment, although this is directly taken from IRCA so this idea is simply being reinforced.

## **Dead Legislation**

### *General*

On February 21, 2006 Colorado HB 1082 died in committee. This bill provided provisions to allow an illegal worker to file civil action against an employer for damages.

### *Basic Pilot Program and Verification of Employees*

Colorado (HB1286) and Maryland (HB1475) died on February 21, 2006 and March 20, 2006 respectively each bill would have required participation in the Basic Pilot Program. On January 31, 2006 Mississippi HB 1419 died in which it would have required employers to verify the work authorization of their new hires.

### *Crime to Employ*

On March 16, 2006 legislation (MD HB629) was withdrawn from Maryland's House of Representatives that would have revoked business licenses for employing illegal immigrants. In Mississippi on February 28, 2006 SB2433 was killed which would have required all labor to be done by US citizens or by legal residents. On February 22, 2006 New Hampshire HB 1151 was defeated which called for increased penalties for employers that hired illegal workers.

### *Government Contracts*

Colorado (HB1101 and HB1133) and Mississippi (HB 504) which called for a ban of government contracts being awarded to companies that hire illegal workers, legislation was defeated on February 21, 2006 in Colorado and January 31, 2006 in Mississippi.

### *Employment Benefits*

Colorado SB98 and Indiana HB1383 were defeated on February 21, 2006 and February 8, 2006 respectively. This legislation called for excluding illegal aliens from receiving worker's compensation benefits.

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