



## Federal Issue Brief

### IMMIGRATION REFORM

#### Issue Description

Immigration reform is a top priority for state legislators. While immigration policy is a federal responsibility, there has been an unprecedented level of activity in state legislatures on this issue, especially in the absence of a federal solution. State legislators deeply care about immigration reform and in a bipartisan fashion call on the federal government to create legislation that will enhance our border security while also addressing the inequities in our current system and assist states with the impact of immigrants.

#### State Concerns

Although immigration policy falls under the jurisdiction of the federal government, the impact of these policies are felt directly by the states. States are often left to pay for the programs required by federal law and the services mandated by the courts with limited federal reimbursements. The arrival of immigrants into an area requires programs and policies specifically directed towards the needs of immigrants while encouraging economic, social and civil integration within the community. The weight of these needs falls heavily on states, especially on our education, health and law enforcement systems.

#### NCSL Position

Three years ago, NCSL created the Executive Committee Task Force on Immigration and the States to examine both the state and federal roles in immigration reform, consider NCSL policy and examine state impacts. It is NCSL's position that federal immigration policy must strike a balance among core principles of our democracy: preserving the safety and security of our nation, encouraging the economic strength of our states and communities, and recognizing our history as a nation of immigrants. NCSL supports comprehensive immigration reform that enhances our border security and addresses the inequities in our current immigration system. To be effective, balanced and fair, comprehensive reform should not contain unfunded mandates or preempt areas of existing state authority. It should require true collaboration between states and the federal government. Finally, comprehensive reform must address the impact of immigration on the states.

Border enforcement is critical and NCSL supports full funding, especially for personnel and improvements in technology and infrastructure. State lawmakers have also called for renewed cooperation to counteract human trafficking and drug-smuggling.

A critical component of NCSL support is State Impact Grants, a reliable, guaranteed funding source to ameliorate the costs states and localities bear in health and education to immigrant populations, including temporary and guest workers. Included in all major immigration reform proposals, it ensured state legislative appropriation of these federal funds, providing accountability for application of these funds to vital services. Proposed by both Senators Clinton and Cornyn, State Impact Grants have bipartisan support.

Immigration reform legislation must unequivocally state that the role of state and local law enforcement is limited to criminal, not civil, immigration laws. Federal action must retain the existing federal authority and responsibility for enforcing immigration law and must not preempt state law. The existing memorandum of understanding (MOU) process, which allows state involvement in enforcement of our nation's immigration



law by state option, should be maintained and the Department of Homeland Security must reimburse states for training costs associated with establishing the MOU.

Immigration reform legislation must contain full funding for the State Criminal Alien Assistance Program. The burden of incarcerating unauthorized immigrants who have committed crimes, been convicted and are serving their time in state and local jails should be fully borne by the federal government. SCAAP currently reimburses state and local governments for approximately 25 percent of the total costs incurred. NCSL supported final passage of comprehensive immigration reform that includes a temporary worker program and an earned legalization program for illegal immigrants that is not amnesty but a way for people who want to remain in this country to accept a reasonable punishment and work towards citizenship.

### **State Activity**

States are grappling with immigration challenges as well. While 2007 is typically looked upon as record year for state immigration-related legislation, 2008 has rivaled the number and types of measures introduced in 45 state houses in session. As of June 30, 2008, 1,267 bills related to immigrants and immigration were introduced in state legislatures across the country with at least 175 of those becoming law in 39 states. In all 2007, state legislatures introduced an unprecedented 1,562 bills related to immigrants and immigration. States are looking at creative solutions to law enforcement and work-site enforcement as well as considering the needs and contributions of legal immigrants to the United States and encouraging immigrant integration. NCSL's Immigrant Policy Project provides legislative research and analysis on immigration policy issues, such as the provision of benefits, health care, education and housing, and integration assistance. The project releases regular reports on trends of state immigrant and immigration-related legislation. States continue to employ a range of enforcement and integration approaches. For example, one state created a pilot guest worker program to expedite the approval of foreign workers under the federal H-2A visa program and another state revisited employment-related legislation passed last year. One state makes legal immigrant children and pregnant women eligible for SCHIP and another aims to address the needs of the Asian Pacific American community, including English language instruction, health access and economic development. One state expanded the definition of smuggling of human beings by including the use of so-called "drop houses." Several states commissioned studies to investigate the economic and fiscal impacts of immigration, including state remedies to recover money owed to the state by the federal government. Three states passed legislation addressing multiple issues, such as employment, law enforcement, public benefits, legal services and identification/licensing.

### **FOR FURTHER INFORMATION, PLEASE CONTACT:**

Sheri Steisel, Senior Committee Director  
Human Services and Welfare  
Federal Affairs Counsel  
[sheri.steisel@ncsl.org](mailto:sheri.steisel@ncsl.org)  
(202) 624-8693

Susan Parnas Frederick, Committee Director  
Law and Criminal Justice  
Federal Affairs Counsel  
[susan.frederick@ncsl.org](mailto:susan.frederick@ncsl.org)  
(202) 624-3566

Emily Taylor, Policy Associate  
State-Federal Relations  
Law and Criminal Justice  
[emily.taylor@ncsl.org](mailto:emily.taylor@ncsl.org)  
(202) 624-3586