



Alabama's Immigration Disaster

The Harshest Law in the Land Harms
the State's Economy and Society

Tom Baxter February 2012



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COVER: On Sept. 29, 2011, sweet potato farmer Casey Smith, right, looks at a nearly empty sweet potato field that needs cultivating on his father's farm in Cullman, Ala. Normally, Smith hires some 25 laborers to help bring in his crop. Only five workers showed up on the day that Alabama's stringent immigration law took effect. *(AP Photo/Dave Martin, File)*

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Introduction and summary

In June 2011 Alabama passed the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, H.B. 56. The law, which took effect in late September, lives up to its billing as the nation's toughest immigration bill and goes well beyond the Arizona law (S.B. 1070) on which it was based.¹

H.B. 56 requires schools to check and report the immigration status of their students and bars undocumented students from postsecondary education. It instructs police to demand proof of immigration status from anyone they suspect of being in the country illegally, even on a routine traffic stop or roadblock. It also invalidates any contract knowingly entered into with an illegal alien, including routine agreements such as a rent contract, and makes it a felony for an unauthorized immigrant to enter into a contract with a government entity. Finally, it goes beyond any previous legislation by effectively making it a crime to be undocumented in the state.²

The law's impact, by virtue of the fact that much of it went into effect,³ has been swift and detrimental to the state, with a significant exodus of Latinos. But in a state already ravaged by tornadoes and lagging in economic recovery, the costs and social effects of the law have been particularly harsh.

Overall, as Professor Samuel Addy of the Center for Business and Economic Research at the University of Alabama's Culverhouse College of Commerce and Business Administration has illustrated, because of H.B. 56, Alabama could *lose* up to \$10.8 billion (or 6.2 percent of its gross domestic product), up to 140,000 jobs in the state, \$264.5 million in state tax revenue, and \$93 million in local tax revenue.⁴

These costs will all be incurred to drive out an undocumented population that is estimated to be only 2.5 percent of the state—a population that paid \$130 million into the state's tax coffers in 2010.⁵

Alabama's agricultural industry and foreign investment are especially affected. Chad Smith, a tomato farmer, estimates that he could lose up to \$300,000 in produce because of the lack of farmworkers who are now fleeing the state. And recent embarrassing incidents such as the arrest of Mercedes-Benz and Honda executives under the provisions of the new law jeopardize the presence of foreign companies, which give the state both a significant amount of money and a significant number of jobs—5 percent of the state's workforce in 2009, the most recent year for which data are available.⁶

As bad as the economic impact is, though, the social and humanitarian costs are even higher. There are countless stories of families suddenly torn apart and lives disrupted, of frightened children and distraught parents faced with the choice of leaving their children behind to give them a better future.

Not surprisingly, supporters and opponents of the law alike are already discussing changing it. Even Gov. Robert Bentley (R), an early proponent of the law, has acknowledged that he is working with the legislature to revise the immigration bill in the next session.⁷

This report reviews the economic and social harm caused by H.B. 56, arguing that the anti-immigration bills has, and will continue to cause severe damage to the agricultural industry, foreign investment, and civil rights. We contend that Republican legislators rushed into passing H.B. 56 without considering the economic effects of the law, following a national political debate led by such figures as the anti-immigrant Kansas Secretary of State Kris Kobach (R), rather than the needs of their home state.

Efforts to repeal the bill cannot possibly undo all of the harm wrought by H.B. 56 but repeal would go a long way at stopping the damage of a poorly conceived and hastily enacted measure. The best solution, though, comes not from the state but from Congress, which should step in to fix our broken immigration system and fill the void created by federal inaction. A sensible federal solution would establish smart enforcement policies, resolve the status of those illegally present in the United States, create flexible legal channels of immigration that serve the national interest, and curtail immigration outside of legal status.⁸

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H.B. 56's consequences at a glance

Projected total losses

- Up to \$10.8 billion, or 6.2 percent of Alabama's GDP.
- Up to 140,000 jobs.
- \$264.5 million in state tax revenue.
- \$93.1 million in local tax revenue.

Damage to agriculture

- Alabama's agricultural sector brings in \$5.5 billion per year, with \$1.6 billion in tomato production alone.
- Tomato farmer Chad Smith estimates he will lose \$300,000 because of rotten fruit from the lack of laborers.

Damage to foreign investment

- Foreign companies employ 5 percent of the state's population.
- The auto industry alone supports close to 45,000 jobs, with a total payroll of \$4.8 billion.
- The cancellation of a planned headquarters tower in Birmingham for the Spanish bank BBVA Group cost the state \$80 million.
- The \$100 million Golden Dragon Precise Copper Tube Plant in Thomasville is in peril because of H.B. 56.

Damage to social and civil rights

- On the first Monday after H.B. 56 went into effect, 2,285 Latino students (out of 34,000 in the state) did not show up to school.
- The Southern Poverty Law Center received 2,000 calls to their helpline in the law's first week of operation. The line was set up to report racial profiling and abuses under H.B. 56.

A law perfected in Kansas rolls into Alabama

“I have no doubt that this is the best thing for the long-term economic health of our state and no doubt that this is what a majority of the people of Alabama want.”

— State Sen. Scott Beason (R), sponsor of H.B. 56⁹

The immigration bill, considered a signature issue by conservatives, was high on the agenda in the new Republican majority’s first session after the 2010 election. As in other states such as Arizona and Georgia, supporters of H.B. 56 argued that they had to take action on the issue of undocumented immigration because of Washington’s failure to solve the problem.

“A country as big as ours, [that] can keep up with every terrorist on the hills of Afghanistan and can’t put together a program for guest workers in 35 years that I’ve been involved with this, is absolutely pitiful,” Rep. Elwyn Thomas (R), who voted for the bill, told the farmers at an October meeting in Oneonta about the potential impacts of H.B. 56. “It’s pitiful that we come to a time that we have to use, in the state of Alabama, seemingly, a law that’s too regressive and in many ways was maybe an overkill. But that’s where we are.”¹⁰

Far from responding simply to local issues and concerns, the Beason-Hammon Alabama Taxpayer and Citizen Protection Act was very much a creature of the national movement driving states to confront the federal government over this divisive issue. Neither of the two Alabama legislators whose names are on the bill, Sen. Scott Beason (R) and Rep. Mickey Hammon (R), appears to have played as central a role in writing it as Kansas Secretary of State Kris Kobach (R). Kobach, who was also responsible for crafting the 2010 Arizona immigration bill, told the *Mobile Press-Register* he made the final revisions to the Alabama bill sitting in a duck blind while hunting in his home state and emailed the finished document to the sponsors in Alabama.¹¹

The immigration bill itself passed Alabama's legislature on June 2, 2011, was signed into law by Gov. Bentley on June 9, and was set to go into effect on September 1. Gov. Bentley referred to the bill's purpose as "to clarify and simplify the current immigration law to ensure that everyone working in Alabama is doing so legally," to help police enforce the immigration laws, and to eliminate "unnecessary burdens on legal residents and businesses."¹²

The U.S. Department of Justice filed suit against the law on August 1, claiming that it unconstitutionally infringed on the federal government's authority to regulate immigration law and policy. Other organizations such as the Latino Interest Coalition of Alabama and religious groups also filed suit based on other constitutional issues.

As the legal complaint from faith-based groups against H.B. 56 stated, "If enforced, Alabama's Anti-Immigration Law will make it a crime to follow God's command to be Good Samaritans," by making it a crime to, among other things, give a ride to an unauthorized immigrant or provide shelter in accordance with religious dictates.¹³

H.B. 56's provisions¹⁴

Provisions in effect

- Makes it a felony for an unauthorized immigrant to enter into a contract with a government entity*
- Abrogates any contract between an unauthorized immigrant and the government
- Allows law enforcement officials to verify immigration status based on reasonable suspicion
- Mandates the use of E-Verify, the government's Internet-based system for checking work authorization, for all businesses and employers in the state after April 1, 2012

*Parts of this provision have been successfully challenged in a lawsuit for mobile home owners.

Provisions enjoined (or prohibited from going into effect) by Judge Sharon Lovelace Blackburn on September 28, 2011

- Makes it a crime to harbor or transport unauthorized immigrants
- Bars unauthorized immigrants from enrolling in or attending public universities
- Makes it a crime for unauthorized immigrants to apply for, solicit, or perform work

Provisions enjoined by the U.S. Court of Appeals (in effect from September 28 to October 14, 2011)

- Mandates that schools check and report on the legal status of their students and their students' parents
- Makes it a crime to be without status in the United States

But unlike the judges who blocked similar laws in Arizona and Georgia,¹⁵ Judge Sharon Lovelace Blackburn, the federal district court judge in Alabama, left much of the law intact in her September 28 ruling. Judge Blackburn allowed sections of the law to be implemented that require police to check the immigration status

of anyone they suspect of being undocumented, make it a felony to enter into a contract with a government entity, and mandate that schools check and report on the legal status of their students.¹⁶

Two weeks after the ruling, the 11th U.S. Circuit Court of Appeals halted the provisions requiring schools to gather citizenship data and making it illegal for an alien not to carry documentation. But even the short time those provisions were in effect had a significant impact. And the fact that other pernicious measures continue to be the law of the state has radically reshaped the state's legal and business environment while generating panic among the state's Latino population.

In the remainder of this report, we look first at the effects of the law on agriculture and then consider the potentially devastating effects on foreign investment in Alabama. We conclude by highlighting how the law is already disrupting social and civil rights in Alabama and discuss recent efforts to amend and repeal the bill.

Damage to agriculture

“Hiccup ain’t a way to call it, a bump in the road ain’t a way to call it, you’re talking about people’s lives, you’re talking about millions of dollars that agriculture puts in the state of Alabama and that feeds Alabama.”

— Chad Smith, Alabama tomato farmer¹⁷

In the wake of the law’s passage, Latino workers and families fled the state, and farmers dependent on seasonal labor watched fields go unpicked. Efforts to recruit workers from inner-city Birmingham to pick the fall tomato harvest met with the same realities that had doomed similar efforts in Georgia a few months before.

Before we discuss the different effects of the law on the state, let us first explain why Alabama differs from other states that have passed anti-immigrant bills.

Immigration and agricultural patterns in Alabama have evolved differently than in Georgia—the subject of an earlier Center for American Progress report—due largely to differences in the agricultural economy. That report found that Georgia could lose between \$300 million and \$1 billion in 2011 alone due to its immigration law.¹⁸

In Georgia the big corporate farms and large family operations rely on large numbers of temporary workers. The average Alabama vegetable farm producing tomatoes or sweet potatoes, however, is a fraction of the size of the big vegetable-producing operations in Georgia and Florida, and these farms are located mostly in northern Alabama, where most of the state’s immigrant-reliant poultry industry is also located.¹⁹

The combination of these factors seems to have encouraged Latinos to settle in Alabama, in stark contrast to Georgia, where far more of the agricultural workers migrate through the state on a route that takes them from Florida to Michigan. Thus Alabama’s migrant workers are more settled and integrated into life in the state.²⁰

As in neighboring Georgia there is a big difference between the way farmers and people in the cities and suburbs view their workers. Farmers see the pickers who can feel ripeness in a touch, speedily sort tomatoes into the generally accepted size categories for sale, and can do so throughout a long, hot day as skilled laborers not easily replaceable even by other migrants physically conditioned to do the work.

Mac Higginbotham, the commodity director for the Alabama Farmers Federation, argues that, “We just don’t have many people who apply for agricultural jobs, and it has always been a constant struggle for growers to hire and try to maintain a skilled workforce.”²¹ Like the blueberry bushes cultivated by growers in southern Georgia, the tomato-picking crews on Chandler Mountain in Alabama, for example, represent an investment of years—an investment that H.B. 56 has put in peril. (see text box on the next page)

“My people that work for us, they come from Florida. They’ve been working with us for two decades, and then after this law went by, they just disappeared,” said Jose Gonzalez, who has been a crew foreman on a Blount County farm for 23 years.²² Tomato farmers such as Chad Smith have estimated their losses to be as much as \$300,000 in rotten produce from the lack of labor hands to pick tomatoes.²³

Other farm owners have reported similar shortages in workers. Monica Carrol of Ozark, a tomato and poultry farmer, told reporters that in the wake of the law, “We couldn’t find workers to finish picking the crop, and we lost about \$6,000 in tomatoes.” Carrol estimates that roughly half of her 25 poultry workers left after the law passed.²⁴

Work shortages do not simply mean that it takes more time to pick the crops. Most crops need to be picked at the heart of their ripeness, so a lack of farmhands at the crucial time can mean the difference between a successful harvest and disaster.

They’ve been working with us for two decades, and then after this law went by, they just disappeared.

— Jose Gonzalez,
crew foreman on a
Blount County farm

The tricky thing about unemployment and H.B. 56

From October 2011 to December 2011, the unemployment rate in Alabama dropped from 9.3 percent to 8.1 percent.²⁵ On its face this change looks impressive, and proponents use these kinds of numbers to claim that the law is helping unemployment. But digging a bit deeper, this drop is less impressive than it sounds.

Most of this decline was due to a shrinking labor force, not new employment for displaced workers. During this time period the number of unemployed workers in Alabama declined by 26,923, while the number of currently employed workers only grew by 10,182.²⁶ The new employment that did occur in Alabama is cause for celebration, but it mirrors job creation across the nation and cannot seriously be attributed to H.B. 56.

Part of the reason that we see declines in unemployment without matching gains in the employment rate in Alabama is that the civilian labor force is shrinking across the South. In order to be classified as “unemployed,” an individual must have actively sought work in the previous four weeks. This makes sense because the unemployment rate should not include people who are voluntarily not working such as stay-at-home parents and students. But this means that if you stop looking for a job—even if you might want one—because you have concluded that there simply is no work available, then you no longer are counted as part of the labor force.

Neighboring southern states also saw decreases in their unemployment rates, as did the majority of the nation. But in many ways decreases in unemployment are meaningless if they are not accompanied with corresponding increases in employment.

From October to December of the past year, the civilian labor force in the Southeast Central United States—which includes Alabama, Kentucky, Mississippi, and Tennessee—shrank by approximately 33,800 people.²⁷ Some of these people may have left the area or died, but it is more likely they gave up looking for work.

During those three months Alabama’s labor force lost 16,800 workers. If this change was due to H.B. 56—that is, if those 16,800 people were undocumented workers fleeing the state—we would not expect to see the pattern replicated in neighboring states without new immigration laws. In fact we might expect to see the labor forces of those states growing as undocumented workers and their families relocated. But during that same time period, the labor force in Kentucky lost 10,000 workers, in Mississippi lost 4,800, and in Tennessee lost 3,400.²⁸

So this dip in the unemployment level isn’t because Alabama created 10,182 jobs—it’s because more than 16,000 people left the labor force. If the labor force had remained the same size, the unemployment rate would have only fallen by 0.4 percent, rather than 1.2 percent. Put another way, a full two-thirds of the drop in the unemployment rate was due to a shrinking labor force, not new employment for displaced workers.

When we take into account the contraction in the labor force and the fact that nearly all states have (thankfully) seen increases in employment during the same time period, it is more than a little disingenuous to claim that H.B. 56 has had a positive effect on unemployment in Alabama.

The potential ripple effect of the law has those who depend on the farmers uneasy.

Greg Payne of Sneed Ag Supply, which sells the larger-size tractors used in this type of mountaintop tomato farming, said his salespeople spoke to farmers in the late summer who now are uncertain what to do. These tractors have to be ordered well in advance, he said, so farmers weren’t likely to get the equipment needed if they waited much longer.

“We are feeling the trickle-down,” Payne said.²⁹

Despite the potentially devastating effects of the law, the farmers realize they are small operators and fear supporters of the law consider them expendable.

“We hear that 80 percent of the state of Alabama favors this bill. Well that may be, but that 80 percent is being fed by the less than 1 percent of us. And our voice is small, and nobody really sees our side of it,” said Jeremy Calvert, a young farmer from near Cullman.³⁰

Calvert is one of the few farmers in this area under 40 years of age, but his farm—25 acres in vegetables, a small peach orchard, and two broiler houses—is typical. His margin is much too small to withstand a long-term labor shortage.

When immigrant workers began to disappear from the fields, Jerry Spencer of Grow Alabama initiated a program to recruit unemployed citizens in Birmingham to take their place. This was one of several efforts hastily developed to replace the farm labor that disappeared, including a proposal by state Agriculture Commissioner John McMillan for farmers to hire prisoners under the state’s work-release program.³¹ These efforts did almost nothing to curb the losses felt by farmers, who watched much of their fall harvest spoil in the fields.

Spencer said he isn’t giving up the effort, but in the first weeks of the program, he found few people who wanted the agricultural jobs, and those who did were inexperienced and in poor condition for the arduous work.

“It’s going to change the landscape of Alabama if something doesn’t happen. It will end produce farming in Alabama, and I hate to see that. That’s not what I’m working for,” Spencer said.³²

Other farm owners who tried to hire native Alabamans found similar disappointing results. Chad Smith stated that after putting out a radio ad in Birmingham, he received about 15 to 20 workers, but “most of them quit. They couldn’t work fast enough to make the money they thought they could make,” he said.

Vegetable farmer Jeremy Calvert put the issue succinctly: “For us it’s all about survival. That’s just the bottom line, folks. Without a viable labor source, we cannot survive.”³³

From the millions of dollars in potential agricultural losses, we now turn to foreign investment.

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The view from Chandler Mountain

For a window into the effects of the new immigration law, look at the Chandler Mountain tomato, a point of pride for Alabamans. The southern Appalachians end in a series of long, broad mountains whose tops, with their sunny days and cool nights, provide an ideal microclimate for tomatoes, producing two and sometimes three seasons in a year.

There is only one two-lane road from the south and one from the north leading onto Chandler Mountain and about a hundred small farms on the top. A system of picking has evolved on mountaintops like these that requires teamwork and skill as well as endurance. Instead of taking all the tomatoes to a central location to be sorted out on a conveyor belt, crews of six or seven stay in the fields all day, with five or six hands picking and one or two sorting and packing from a truck. It's concentrated, intense work, often in very hot weather.

"When you're picking tomatoes, you don't have to look at the tomato, you feel it. When you touch that tomato, you'll know whether that tomato's ready to pick or not," said Pastor Haskel Adamson, a missionary Baptist minister who grew up plowing a mule on his father's Straight Mountain farm, went on to buy and sell tomatoes, and still maintains a small farm. "I tell people now, my daddy was Mexican, and I didn't know it," he joked.³⁴

Some of the Mexican crews in the Chandler Mountain area have been working the same tomato fields for a decade or longer.

"Is someone going to hire a person to build a house and not know what they're doing? There is no training for a week or two or a month. It takes years, that's all I can tell you," Felipe Chacon, who has been picking tomatoes for 18 years, said when he



Tomato farmer Chad Smith, right, looks over one of his fields of ripening tomatoes in Steele, Ala. on Oct. 3, 2011. Only a few of Smith's field workers showed up for work after Alabama's new immigration law took effect. Latino workers and their children are fleeing Alabama or going into hiding because of the state's strict new immigration law, which will surely deal a significant blow to the state's economy. (AP Photo/Dave Martin)

took his turn to speak to the farmers at the October meeting in Oneonta on the potential effects of H.B. 56. There were nods of agreement from the white growers sitting behind him.³⁵

Damage to foreign investment

“The companies we have approached through this campaign are some of the most innovative in the world. So we ask, why would these 21st century companies want to do business in a state that is trying to replicate some of its most egregious sins of the past century?”

— Janet Murguia, president and CEO, National Council of La Raza (NCLR)³⁶

A sizeable portion of the nation’s economy is fueled by foreign business investment on U.S. soil, with the most significant impact felt in manufacturing. In 2008, the most recent year with data available, more than 5.5 million workers across the United States were employed in a business owned by a foreign company.³⁷ Alabama is no exception to the trend: Foreign-owned businesses in Alabama employed 77,500 workers in 2009—5 percent of the workforce.³⁸

The state has gone to great lengths to court foreign investors, and business leaders from across the state have voiced concerns that H.B. 56 will have a negative impact on the state’s ability to continue to attract these coveted investments.

Alabama’s auto industry

The auto industry illustrates the importance of foreign investment to the state.

In 1993 Mercedes-Benz built the first vehicle assembly plant in Alabama, representing a capital investment of more than \$1 billion. Alabama was chosen as the site for the new plant over other southern states after the state government offered Mercedes-Benz an incentives package worth \$250 million to \$300 million.³⁹ Honda, Hyundai, and Toyota all followed within the next nine years. By 2005 the auto industry in Alabama had created 44,834 direct jobs, in addition to 79,356 indirect jobs, with a total payroll of \$4.8 billion.⁴⁰

The jobs created by the foreign auto industry not only kept Alabamans employed but also offered good wages. In 2004 the average weekly wage for manufacturing employees in Alabama was \$643, while those employed in motor vehicle manufacturing were earning more than twice that amount.⁴¹

H.B. 56 is likely to cause other companies to hesitate when considering whether to open or expand operations in Alabama, putting the benefits of these investments in jeopardy.

In addition to offering an aggressive tax incentive program for new industry, the Alabama Industrial Development Training, or AIDT, program was created in the early 1970s to help attract new industries. One of the nation's most highly rated workforce training programs, AIDT offers on-site customized technical training programs at no cost to employers.⁴² AIDT is funded as a line item through the Alabama Education Trust Fund, with \$5.5 million allocated for fiscal year 2012.⁴³

AIDT is just one of the many assets that the state uses to market itself to foreign companies who can choose between competing states when deciding to open up a new branch or plant, and it is not uncommon for companies to be offered incentive packages worth hundreds of millions of dollars to try and convince them to choose one state over another.

Culturally as well, the state has gone to some lengths to welcome the executives and managers who've come with their companies. After Hyundai announced it was locating in Montgomery County, Auburn University at Montgomery offered classes to the public on Korean culture to help the city get off on the right foot with its new neighbors.⁴⁴

The auto industry represents only part of the total foreign investment in the state and the state's efforts to encourage it. (see text box above) A case in point is the ThyssenKrupp AG steel mill in Mobile, which was the subject of a high-stakes bidding war between Louisiana and Alabama. Alabama went so far as to offer the German firm \$900 million in Gulf Opportunity Zone bonds, which were authorized by Congress to give areas affected by Hurricanes Katrina and Rita the ability to offer tax-free bonds at government rates to jumpstart development. ThyssenKrupp ultimately turned down the bonds, saying that it wanted to remain debt-free, but it still reaped an enormous incentive package to come to Alabama.⁴⁵

The foreign businesses already present in Alabama thus represent not only a significant portion of the state economy but also a serious investment from local government.

Development officials were therefore embarrassed in November when a German executive of Mercedes-Benz, the flagship of the Alabama auto manufacturing fleet, was stopped because the rental vehicle he was driving did not have a tag. The driver only had his German identification card on him, which would have meant a citation before the passage of the law. Under the new rules, however, he was arrested and detained at a police station until his passport, visa, and German

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driver's license could be retrieved from his hotel.⁴⁶ In response to the incident, the editorial board of the *St. Louis Post-Dispatch* published an open letter to Mercedes-Benz telling them flat out, "You should move your SUV plant to Missouri where we are the Show-Me State, not the 'Show me your papers State.'"⁴⁷

Mercedes-Benz was not the only foreign company to run afoul of H.B. 56. Less than two weeks later, Ichiro Yada, a Japanese manager for Honda, was ticketed but not arrested at a routine checkpoint in spite of the fact that he was carrying an international driver's license and a valid work permit.⁴⁸ The charges were later dismissed but both stories received unflattering international press.

Keivan Deravi, an economics professor at Auburn University-Montgomery who has done economic impact studies of several Alabama auto plants and foreign investment in Alabama, argues that "[foreign] executives basically look at every aspect. They don't want to go tell their stockholders that they have invested in a state which does not have the best reputation in terms of treatment of foreign citizens."

And while Deravi says that state officials have as of yet seen no evidence that the bill has been an obstacle to industrial recruitment, major recruiters for the state have identified it as a problem.

"Whether the negative [public relations] has really, truly led to negative recruiting results, that I have not seen any hard evidence of. ... but it would be very hard to say it has not received negative publicity," Deravi concludes.⁴⁹

As Alabama State Sen. Billy Beasley (D), a critic of the law, argued, "We've done a very good job of courting foreign companies, and we certainly don't want to do anything to hinder that."⁵⁰

Mark Sweeney, a senior partner at Sweeney Consulting, one of the world's most sought-after site selection consultants, agrees. Having worked for high-profile companies such as Mercedes-Benz, Caterpillar, and Boeing to identify locations for capital investment, Sweeney knows first hand how hard Alabama has worked "to reinvent itself as a destination for global manufacturing. It's really been a remarkable transformation," he said. "Unfortunately, this law really is counter to that effort."

According to Sweeney, what Alabama has to worry about now is that companies may begin to reject the state outright because of this law before giving it any con-

sideration. “The scary thing is, you may be losing prospects that you never even know about,” he said. “I am certain it will be an issue.”⁵¹

Mavi Figueres, who at one time was an advisor on Latin American trade to former Alabama Gov. Don Siegelman (D), still does some international business consulting. She said she recently told an Indian investment group looking at some downtown Birmingham real estate that they should look elsewhere. Tensions have reached such a stage since the passage of the bill, Figueres said, that when she reached the gate for the Birmingham flight at the Atlanta airport recently, she became nervous, looking around to make sure nobody would say anything to her or the child she was accompanying.

“So if I have that fear, I personally cannot advise investors with brown skin to come here,” she said.⁵²

Although foreign companies are unlikely to pull up stakes and leave Alabama—the cost to do so is simply too high to make that a reasonable course of action—there is mounting evidence that, as Sweeney predicted, H.B. 56 is causing other companies to think twice about opening or expanding operations in Alabama.

BBVA Compass, which owns Spanish bank BBVA Group, had planned to locate its U.S. headquarters in Birmingham, Alabama, where it would be building an \$80 million tower. These plans have since been scrapped, and while there has been no official statement made on the decision, those involved have speculated that the new law had something to do with it.⁵³

David Bronner, chairman and chief executive of the Retirement Systems of Alabama, frequently works with the state in its efforts to recruit international business. According to Bronner, H.B. 56 is already causing foreign investors to look elsewhere.⁵⁴

This appears to be the case for the Golden Dragon Precise Copper Tube Group. Golden Dragon announced plans earlier this year to invest \$100 million to open a new plant in Thomasville, Alabama, a particularly impoverished part of the state.⁵⁵ Among other incentives, the deal included the state giving Golden Dragon a 50-acre parcel of land, a \$1.5 million building, and between \$250,000 to \$300,000 to provide water and sewer connections, in addition to providing free AIDT services to recruit and train new employees.⁵⁶ Golden Dragon executives are now having second thoughts, and according to Bronner, it is due to H.B. 56.⁵⁷

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Responding to growing concerns over the high costs of H.B. 56, a national group of civil rights organizations—including the Center for American Progress—sent letters to the major foreign-owned car companies in Alabama on February 6, calling for them to step in and add their voices against the bill.⁵⁸

The concerns in Alabama from H.B. 56, though, go beyond the millions of dollars and thousands of jobs from foreign firms. The law is also affecting the daily life and community structure of the state.

Timeline of H.B. 56 and foreign investment

1993: Mercedes-Benz becomes the first foreign car company to relocate to Alabama, investing more than \$1 billion in the state. Alabama won the plant over other southern states through an incentive package worth \$250 million to \$300 million.

2002: Hyundai announces that it will build a \$1 billion assembly plant in Montgomery, after receiving more than \$250 million in tax, infrastructure, and training incentives from the state.

2007: Alabama wins a bidding war with Louisiana to bring a ThyssenKrupp AG steel mill to Calvert, with an investment of \$4.6 billion.

2009: 77,500 people are employed by foreign companies in the state, representing 5 percent of the workforce.

June 2011: H.B. 56 is passed.

November 2011:

- Spanish bank BBVA Group cancels plans to build a new headquarters tower in Birmingham.
- A visiting German executive from Mercedes-Benz is arrested for driving without an Alabama license, prompting the St. Louis Post-Dispatch to tell the company to relocate to the Show-Me-State, from the “Show me your papers State.”
- Two weeks later a visiting Honda executive from Japan is also arrested for driving without an Alabama driver’s license.

Damage to society and civil rights

In Alabama, “the Latino man is the new Negro. ... it’s a sad thing to say, and I think it reflects reality.”

— Judge U.W. Clemon, former chief judge of the U.S. District Court, Northern Alabama⁵⁹

Because of the long patterns of settlement in Alabama, the issue of unauthorized immigration is not as cut-and-dry as it seems. Nationally 53 percent of unauthorized immigrants live in mixed-status families, meaning that there are both citizen and noncitizen members living under one roof. This combination of people means that fears of the new law affect not only the unauthorized but also relatives who fear for their safety.⁶⁰

On the next school day after the law went into effect, for example, more than 2,200 of the 34,000 Latino students in state public schools didn’t show up for school.⁶¹ Within a week the absences increased, and headlines about terrified Latino children were appearing in newspapers across the country. By early November the Department of Justice had sent a letter to Alabama school districts “reminding them of their obligation under federal law ... not [to] deny a child equal access to public education based on his or her immigration status,” and requesting information on absent students.⁶²

Latinos began leaving the state as soon as they found out about the law, often leaving in family units that included both U.S. citizens and undocumented immigrants. In a number of cases they put as much as they could in their vehicles and left everything else they had acquired behind in their haste to flee the state. Bishop Will Willimon of the Northern Alabama Conference of the United Methodist Church spoke out against the law in October 2011, telling talk show host Fernando Espuelas, “Children [are] being pulled out of school by their parents and are disappearing in middle of the night. ... we’re just daily hearing reports of people having to shut down their businesses and leaving fields unharvested.”⁶³

Rich Lopez, who runs an advocacy program for Latinos in the Wiregrass region in the southeastern corner of the state, said that as a notary, he has executed power of attorney documents involving neighbors who have agreed to care for the children of undocumented Latinos in the event that they are arrested or flee the state.⁶⁴

Lower-income Latinos comprise the majority of Alabama's immigration population but by no means all of it. Mavi Figueres, the former advisor on Latin American trade to the previous governor, lives in a neighborhood in Southside Birmingham with Indian and Middle Eastern stores, and works with a wide range of groups at her job with the County.

"The day after they passed it, I talked to members of the Kenyan community as well as the Indian and the Middle Eastern communities," Figueres said. "All three groups turned to me and said, 'I am so sorry for you Latinos.' And I turned to them and I said, 'Honey, this is not just Latinos.' And for the first time I saw fear in their eyes. They did not know this was affecting them, especially those of us who have brown skins."

Not surprisingly, a hotline set up by the Southern Poverty Law Center for people to report issues under H.B. 56 saw more than 2,000 calls in the first week.⁶⁵

"It's separating families," said state Sen. Billy Beasley (D), who has introduced a bill to repeal the immigration law. "You may have one person who's legal [in a family], another person who's illegal, and they're afraid of intimidation, afraid of discrimination, and so some have left. And now you've got the children who were born in Alabama, citizens of this country, and they're going to attorneys to do a power of attorney to where someone else can take care of their children. That's a horrible thing to do, to just break up families like that."⁶⁶

If the experience of Alabama is anything like that of Arizona, then the effects of the law on children and students could be devastating. As a University of Arizona report found, many unauthorized immigrants who left Arizona in the wake of S.B. 1070 left citizen children behind to finish their studies. Those who were left behind saw a marked increase in stress levels and stress-related health issues in the wake of the law's passage.⁶⁷

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Echoes of the civil rights movement

There are some impressive monuments commemorating the recent past in Alabama, from Maya Lin's moving memorial at the Southern Poverty Law Center in Montgomery to the Civil Rights Institute in Birmingham, with its majestic view over the historic 16th Street Baptist Church. Fred Shuttlesworth, the fiery preacher who led the Birmingham campaign, lived long enough to see the local airport named Birmingham-Shuttlesworth International.

The state's political and business leadership has worked for decades with gestures like these to put that painful part of the state's history firmly in the past.

Among the greatest costs of the immigration bill has been the negative attention it has brought the state with headlines about Latino children whose parents are afraid to send them to school and televised coverage of the flight of immigrants from the state.⁶⁸

David Bronner, whose management of the Retirement Systems of Alabama is one of the state's most storied financial achievements, has questioned why, considering its history, legislators chose to make Alabama the "tip of the spear" in the immigration battle.

"What they did was put our state in the position of being by ourselves, and everybody watching," he told a *Birmingham News* columnist. "We don't need that, considering our history with the civil rights era. We don't need to be there. We need to be in the back, working on our growth."⁶⁹

It is difficult to shake off comparisons with the past, however, when the sponsor of the bill does so much to invite them.

Pulitzer Prize-winning journalist and undocumented immigrant Jose Antonio Vargas traveled to Alabama in October and interviewed Alabama's first African American federal justice, Judge U.W. Clemon—the predecessor of Judge Sharon Blackburn, who first ruled in favor of Alabama's immigration law. Aside from calling Judge Blackburn's ruling "mistaken," Clemon argued that in Alabama, "the Latino man is the new Negro," a sobering statement on the state of race relations after H.B. 56.⁷⁰

The NAACP has gotten involved, especially in protesting examples of racial profiling.⁷¹ And the African American church “began to pay attention,” said Scott Douglas III, director of Greater Birmingham Ministries, when it learned about the provision insisted on by Beason that would have prohibited churches from being involved in the lives of their parishioners. This drew a sharp reaction from churches with a tradition in the civil rights movement.⁷²

The memory of the past, some white religious leaders say, is why a number of them have spoken out more forcefully than was the case with most white churches in the 1950s and 1960s. Leaders of the United Methodist Church, the Episcopal Church, the Lutheran Church, and the Roman Catholic Church all condemned the law. Partially in response to the law, the Southern Baptist Convention at its meeting in Arizona approved a resolution condemning bigotry and harassment toward any group and calling for a path to legal status for illegal immigrants. “It is a profoundly disappointing decision and a sad moment for our state,” Episcopal Bishop Henry N. Parley of Birmingham said.⁷³

If the immigration story has stirred demagogic rhetoric suggestive of the past, the response has also been rooted in the state’s shared memory. Work stoppages closed at least six poultry plants, and Latino-owned business staged a one-day shutdown to protest the law—examples of documented Latino workers and business owners standing in solidarity with undocumented workers.⁷⁴

In events like one recently at the 16th Street Baptist Church in Birmingham—the site of a bombing in 1963 that resulted in the deaths of four young girls—opponents have drawn a conscious parallel between what is happening today and what happened during the civil rights movement. No wonder that the Alabama Coalition for Immigrant Justice chose the 16th Street Baptist Church as the site of the launch of their “One Family, One Alabama” campaign against H.B. 56.⁷⁵

It is a profoundly
disappointing
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moment for our
state.

— Henry N. Parley,
Episcopal Bishop

Revamping the law

“I made some mistakes in voting for the bill as it was, and I’m big enough to admit it.”
— State Sen. Gerald Dial (R)⁷⁶

In the wake of serious economic losses, Alabama’s politicians have reluctantly acknowledged that changes must be made to H.B. 56. Gov. Bentley told a business group in November that he’d been working behind the scenes with business and law enforcement officials to tweak the bill, which he termed too “complicated.”⁷⁷

But even before the new legislature, which began on February 7, will have a chance to look at the bill, a number of legal and bureaucratic decisions have already limited the scope of the law.

With section 30 of H.B. 56 making it a felony for unauthorized immigrants to enter into a business contract with the state, mobile-home owners quickly found out that they would have to prove their legal status to renew their home registries. The American Civil Liberties Union and the Southern Poverty Law Center sued in late November and won a restraining order against that section of the law right before Thanksgiving, on November 23. Then, on December 13 U.S. District Court Judge Myron Thompson issued an injunction against section 30, ruling that it was likely discriminatory.

In making his ruling Judge Thompson argued that, “H.B. 56’s treatment of children in mixed-status families, who are overwhelmingly Latino, is so markedly different from the state’s historical treatment of children in general [it] suggests strongly that the difference in treatment was driven by animus against Latinos.”⁷⁸

Section 30 has proven to be a particularly difficult issue for Alabama. Not long after the law went into effect, municipal water services put their customers on notice that residents would have to be able to prove their legal status to continue receiving water in their homes. Aside from the basic issues of human rights that

allow water to continue to be delivered to one's home, section 30 also meant that any municipal service would have to come first with a proof of legal status, inconveniencing all Alabamans who would now have to prove their status for just about any service, including library cards, permits, and licenses.⁷⁹

But there were even more problems: How would municipal officers, most of whom had no formal training in how to identify proper documentation, be able to tell who is a valid resident and who is not? Reports from Alabama have argued that municipalities are “completely lost” on how to verify legal status of their clients.⁸⁰

In response to the confusion, Alabama's Attorney General Luther Strange issued a guidance letter on December 1 stating that Alabama's cities and counties could only use the federal Systematic Alien Verification for Entitlements program—a U.S. Citizenship and Immigration Services resource that allows government agencies to determine immigration status for the purpose of public benefits and licenses—for status verifications, and could not implement parts of the law that require such verification prior to being enrolled in SAVE. Though the ruling does not apply to law enforcement, it significantly delays much of the enforcement of the business and government provisions of H.B. 56.⁸¹

On December 2 Strange went one step further and issued guidance on section 30 significantly narrowing the scope of the law. The guidance argued that the term “business transaction” only encompasses “the issuance of official government documents,” rather than “services that governmental entities may provide such as water, sewer, power, sanitation, food, and healthcare.”⁸²

Not surprisingly, with such confusion already occurring, a number of voices have come out in favor of changing the immigration law in the next legislative session. State Sen. Slade Blackwell (R) told *The New York Times* that “the longer the bill has been out, the more unintended consequences we have found. ... all of us realize we need to change it.”

Others such as state Sen. and Majority Whip Gerald Dial (R) recounted the story of a returning Afghanistan veteran who could not register his new truck because he needed to show his birth certificate. Dial argued that although he voted for the law, he would not have done so had he understood its devastating effects.⁸³ Dial is among a number of Republican legislators in Alabama who have already introduced bills in the 2012 legislative session to significantly change H.B. 56, recognizing the deep flaws and high economic costs.⁸⁴

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Even Gov. Bentley recently admitted that the law needed fixing, arguing that, “We recognize that changes are needed to ensure that Alabama has not only the nation’s most effective law, but one that is fair and just.”⁸⁵ Strange has also added his voice to the chorus calling for changes, even suggesting that the parts of the law that make it a crime for unauthorized immigrants to be without papers proving their status be scrapped.⁸⁶

Nonetheless, state Sen. Scott Beason, one of the law’s co-sponsors, has publicly stated that he has “no intention to support any measure that would weaken the anti-immigration law,” and even Gov. Bentley has rejected the idea of repealing the law entirely.⁸⁷

It is too early to tell how the legislature will handle H.B. 56 in the current session, though a number of Democrats have introduced bills to repeal the law, and a number of Republicans have introduced bills to change the law.⁸⁸ As this report shows, it is apparent that the law has already caused far more unintended consequences than any of its sponsors or supporters could have imagined.

Conclusion and recommendations

The big unanswered question is how much of the damage already done by this legislation, passed in such a rush, can be repaired?

Alabama has been left with a problem that could potentially weaken its agricultural sector and threatens to undermine its foreign investment appeal. Samuel Addy at the Center for Business and Economic Research at the University of Alabama argues that the “economic and fiscal impacts of the reduction in aggregate demand” from the state losing 40,000 to 80,000 unauthorized immigrants would cost the state between \$2.3 billion and \$10.8 billion in GDP reductions, 70,000 to 140,000 jobs (that are supported by these workers and their buying power in the state), and would reduce tax revenues by between \$56.7 million and \$264.5 million on the state level and \$20 million to \$93.1 million on the local level.⁸⁹

As Auburn University-Montgomery economics professor Keivan Deravi states, “I think the damage is done. ... Unfortunately the unintended consequences of this law far exceeded any intended benefit that it may have. I don’t see any positive in this, and all of it is negative.”⁹⁰

So how can the state of Alabama move forward, and what lessons can the nation learn from its experiences under H.B. 56?

Alabama’s first order of business should be to cut its losses, acknowledge the damage the law has caused, and repeal it. That would help minimize the immediate economic harm and help repair the state’s image before lasting damage is done to its ability to attract foreign investment.

Other states that have flirted with these laws should take heed before following Alabama down the garden path. As Adam Putnam, Florida’s agriculture commissioner, succinctly put it: “thank goodness [Florida] didn’t do it because it would have been devastating to our state, to our reputation, to our economy.”⁹¹

Putnam, a former Republican congressman, pointed out that frustration with the federal government's failure to fix our immigration system is no reason for states to make a bad situation worse: "In swinging wildly out of frustration that Washington hasn't done something, [Georgia and Alabama] have passed bills that are causing their businesses and their economies great harm."⁹²

On the national level, the prevalence of laws such as Alabama's H.B. 56 illustrate the need for comprehensive immigration action at the federal level. Only Congress can pass a real and lasting reform that deals with the currently unauthorized population, while also fixing future legal flows and ensuring that our borders and our workplaces are secure and free from both crime and discrimination. A comprehensive immigration reform package that included a legalization program for people who pay a fine and back-taxes, who go through a background check, and who learn English would go a long way to ensuring that all people in the United States can live full and open lives and ensuring that Alabamans of all stripes will no longer have to fear profiling or the infringement of their civil rights and civil liberties.

About the author

Tom Baxter, columnist at the SaportaReport, has written about politics and the South for more than four decades. He was national editor and chief political correspondent at the *Atlanta Journal-Constitution*, and later edited *The Southern Political Report*, an online publication, for four years. Tom was the consultant for the 2008 election night coverage sponsored jointly by Current TV, Digg and Twitter, and a 2011 fellow at the Robert J. Dole Institute of Politics at the University of Kansas. He recently surveyed the impact of Georgia's immigration law in a report for the Center for American Progress. Tom and his wife, Lili, have three adult children and six grandchildren.

Acknowledgments

Special thanks to Sarah Jane Glynn, Economic Policy Analyst, and Philip Wolgin, Immigration Policy Analyst, from the Center for American Progress for their assistance with research and analysis.

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