



# Your State Can't Afford It

## The Fiscal Impact of States' Anti-Immigrant Legislation

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### Introduction

It has been just over a year since the passage of Arizona's ill-fated anti-immigrant law, S.B. 1070.<sup>1</sup> In its wake, many states put copycat bills on their agendas for the 2011 legislative session. But as most states wrap up their legislative session for the year, only a handful (Alabama, Georgia, Indiana, and South Carolina<sup>2</sup>) actually passed anti-immigrant bills, while 26 others rejected them.<sup>3</sup> Even Arizona, which last year saw its anti-immigrant bill largely blocked by a federal judge, joined this movement and rejected a series of even harsher bills this year.<sup>4</sup>

While opponents have had some successes in a handful of states, far more states rejected anti-immigrant bills. One of the principal reasons for the failure of so many of these legislative efforts was cost. S.B. 1070 and bills like it in other states are expensive to implement at many levels, placing a heavy burden on state and local governments already feeling the effects of a down economy. This brief examines the costs of anti-immigrant legislation from a variety of perspectives, detailing the losses that states such as Arizona have already faced, as well as the future costs that states such as Alabama, Georgia, and South Carolina, which have only just recently passed their own anti-immigrant laws, will have to reckon with.

In particular, we focus on three costs:

- The **economic damage** stemming from a state being perceived as hostile, including lost tourist revenue and individuals choosing to live elsewhere rather than remain in an unwelcoming environment.
- The burden of **implementing** these laws, each of which requires significant resources to be deployed by state and local governments to turn local police into immigration officers—to the detriment of their regular law enforcement duties. The laws also force small businesses into costly immigration enforcement through the use of the electronic employment verification system, known as E-Verify, which some states have made mandatory as part of their anti-immigrant agenda.

- The expense of the **legal fees** associated with defending anti-immigrant legislation from the raft of ensuing lawsuits.

As we will demonstrate, these costs are crippling for states and their citizens—so much so that dozens of states have decided against pursuing an anti-immigrant agenda. We examine these costs in detail and then close our analysis with a brief overview of the only reasonable alternative: comprehensive immigration reform at the federal level.

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## States protect their wallets from Arizona-style bills

*[A state immigration law] would basically eliminate the tomato industry in the state. ... in agriculture we are totally dependent upon a hand process.*  
– Reggie Brown, executive vice president of the Florida Tomato Growers Exchange<sup>5</sup>

A number of states that considered Arizona-like legislation explicitly rejected it after uncovering the crushing fiscal burden such laws would impose. In Kentucky, for example, a fiscal-impact analysis by the state Senate found that passing S.B. 6 (legislation similar to Arizona’s) would cost \$40 million a year.<sup>6</sup> The analysis stated that the overall burden on local governments “including local law enforcement agencies, is expected to range from moderate to significant in the short-term.” These costs included such things as:

- Additional training for law enforcement on the new procedures
- Additional personnel to implement the ordinance
- New technology acquisition costs
- Transportation costs for those immigrants arrested under the law
- Increased jail usage
- Legal costs, both those needed to revise local ordinances and those to defend the overall legislation

In short, it identified a laundry list of unseen costs to consider.<sup>7</sup>

In Tennessee, legislators shelved their anti-immigrant bill in the face of a \$3 million price tag for the first year and \$2 million for every subsequent year.<sup>8</sup> These expenditures included the cost of hiring 24 new criminal investigations division officers,<sup>9</sup> a whopping \$1 million in first-year training costs for local law enforcement, and significant additional expenses to process, house, and transport the estimated 7,500 additional undocumented immigrants who would be detained each year.<sup>10</sup>

While Florida’s legislature did not formally “score” their bill—budget speak for calculating the cost of the legislation—the business community voiced their opposition to the almost certain economic losses that would incur. The Florida Chamber of Commerce Foundation argued that undocumented immigrant workers contribute \$4.5 billion in

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taxes each year, which would be lost if those immigrants were driven from the state or entered the underground economy where they would pay no taxes. Even the state agriculture commissioner, Adam Putnam (R), argued that “we are known as a diverse, welcoming state ... we have to be very careful about messages we send explicitly and implicitly.” Growers like those represented by Reggie Brown of the Florida Tomato Growers Exchange worried particularly that they would lose their workforce, as migrant workers skip over the state for more friendly ones nearby, potentially devastating the \$500 million tomato industry.<sup>11</sup>

Even Arizona, the originator of S.B. 1070, declined to pass five additional anti-immigrant measures after a group of 60 business leaders sent a letter to the state Senate highlighting their potential impact on the state’s businesses.<sup>12</sup> The letter acknowledged the precarious financial state of Arizona in the wake of S.B. 1070, arguing that the boycott of the state was “adversely impacting our already-struggling economy and costing us jobs.” Even outside of the state, the letter continued, “Arizona-based businesses saw contracts cancelled or were turned away from bidding.”<sup>13</sup>

“We are known as a diverse, welcoming state ... we have to be very careful about messages we send explicitly and implicitly.”

–Florida state agriculture commissioner, Adam Putnam (R)

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## Arizona pays the price

*It is an undeniable fact that each of our companies and our employees were impacted by the boycotts and the coincident negative image.*

*– Letter from 60 chief executives to Arizona State Senate President Russell Pearce<sup>14</sup>*

Indeed, states stand to lose out significantly if they are seen as hostile and unwelcoming, especially to groups like Latinos. Even before Gov. Jan Brewer signed Arizona’s S.B. 1070 into law, leaders inside and outside of Arizona began to call for a national boycott of the state. One week after Gov. Brewer signed the bill, San Francisco Mayor Gavin Newsom instituted a moratorium on official travel to Arizona.<sup>15</sup> Los Angeles followed suit only a few weeks later, as have a number of other major U.S. cities.<sup>16</sup> Phil Gordon, the mayor of Phoenix, labeled the boycott’s effects as a “near economic crisis.”<sup>17</sup>

Within days as well, pundits in the state had already noticed that conferences were being cancelled, with some estimates of possible lost revenue as high as \$90 million. In the end, the actual figures for lost conference money were far higher.<sup>18</sup> Research conducted by Arizona-based economists for the Center for American Progress found that anti-Arizona sentiment resulted in a major hit to the tourist industry, with significantly decreased wages, lodging revenue, and tourist dollars. These losses have already totaled at least \$141 million, including \$45 million in hotel and lodging cancellations, and \$96 million in lost commercial revenue. Fewer tourists has meant that an incredible 2,761 jobs, \$253 million in economic output, and \$9.4 million in tax revenues have disappeared, with the potential for far worse results in the future.<sup>19</sup>

What's more, this analysis only focused on one sliver of the economy—conference cancellations—meaning the identified costs are likely just the tip of the iceberg.

And to what end? If Arizona accomplished the stated goal of S.B. 1070—“attrition through enforcement,”<sup>20</sup> making life so miserable for undocumented immigrants that they leave the state—it would shrink Arizona’s economy by \$48.8 billion. Eliminating all of the undocumented immigrants in Arizona would not occur within a vacuum but would instead destroy an important piece of Arizona’s overall economic pie. Undocumented immigrants make up roughly 7 percent of the state’s population, and eliminating them would evaporate 581,000 jobs—not just for immigrants but also for native-born workers who are employed in sectors dependent on immigrant labor.

This mass attrition would reduce the state’s tax revenues by 10.1 percent, both in terms of revenue lost from fewer people in the workforce, as well as fewer people in the state paying income, employment, and consumption taxes, such as sales tax.<sup>21</sup>

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## Georgia’s costly decision

Georgia passed its own version of S.B. 1070, H.B. 87, in mid-May. Business groups, especially in the agricultural industry, attempted to stop the bill from being passed in the first place, with 200 agribusiness leaders sending a petition to the legislature expressing their displeasure.<sup>22</sup> The letter argued that “our state’s unemployment rate still leads the nation, and we should look for alternatives to adding new costly mandates that could discourage legal job creation.”<sup>23</sup> The Atlanta Convention & Visitors Bureau also expressed its concerns about the possible effects of the law on future tourism and conventions. Nevertheless, the bill easily cleared both the House and Senate, and Gov. Nathan Deal signed it into law.<sup>24</sup>

It is too early to say what the full economic ramifications of H.B. 87 will be, though we conjecture that losses could be considerable in industries heavily dependent on immigrant labor. Anecdotal evidence suggests that undocumented immigrants are leaving the state to work elsewhere or else have decided not to come work in the state. According to the *Atlanta Journal-Constitution*, businesses that cater heavily to immigrants, such as grocery stores focusing on Latino products, have seen steep declines in their sales.<sup>25</sup>

Indeed, nearly half of Georgia’s agribusinesses have reported shortages of workers, and employers such as Georgia’s Vidalia onion growers worry that they will not have enough workers to pick their crops—a potentially disastrous result to the \$65 billion state agriculture industry.<sup>26</sup> The Georgia Fruit and Vegetable Growers Association estimates that the losses stemming from H.B. 87 will total at least \$250 million this year alone.<sup>27</sup> A state survey of agriculture employers found more than 11,000 jobs, or 14 percent of the total, unfilled. Gov. Deal suggested a novel solution to this dearth of farm labor—replacing immigrant workers with parolees from the state’s prison system.<sup>28</sup>

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## Businesses and taxpayers bear the high cost of implementation

*[There has been] little or no savings in government services from the ordinance. ... the issue is not what it cost the government to implement, it's the rhetoric about the issue and the negative impact it has had on the brand and reputation of Prince William County.*

*– Prince William County, VA, Supervisor Frank Principi.<sup>29</sup>*

Anti-immigrant legislation places a double burden on states and localities. It hurts businesses that have to shoulder the costs of programs such as use of the electronic employment verification system E-Verify. And it imposes significant unfunded mandates on local law enforcement officials, passing the fiscal burdens to localities that simply cannot afford them. Let's examine each of these costs in turn.

### E-Verify is costly

Participating in E-Verify imposes a high price on employers, and is ineffective.<sup>30</sup> Eight states so far have mandated E-Verify for all employers (Alabama, Arizona, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Utah) but many other states require the system for some portion of employers.<sup>31</sup> Government surveys have found that the system has an error rate as high as 54 percent for unauthorized workers, meaning that it catches less than half of all people without status.<sup>32</sup>

What's more, a Public Policy Institute of California report on Arizona's experiences under E-Verify found evidence that the program shifted many unauthorized immigrants in Arizona from the formal economy, where they pay income taxes, to the informal economy where they do not.<sup>33</sup> The tax revenue from undocumented immigrants in 2010 for Arizona was more than \$433 million, \$130 million for Alabama, and \$456 million in Georgia, according to the Institute for Taxation and Economic Policy.<sup>34</sup>

E-Verify disproportionately harms small businesses. A Bloomberg study from January 2011 estimates the costs to these employers, which make up more than 99 percent of all businesses, would be \$2.6 billion if the system were made mandatory.<sup>35</sup> Most disturbing, with an error rate of roughly 0.8 percent for legally authorized workers, the National Immigration Law Center estimates that roughly 770,000 American workers would lose their job nationwide because of the system.<sup>36</sup> These hard-working, innocent Americans would be unemployed simply because a state decided to implement E-Verify.

E-Verify does not inoculate a business from prosecution under the federal immigration laws. Pilgrim's Pride Corporation, for example, the largest chicken producer in the United States, was raided by federal Immigration and Customs Enforcement officers in 2008. The company "prided" itself on having each and every one of its

plants enrolled in E-Verify, and according to their own admission, had “relied on the ICE Best Hiring Practices in designing its immigration compliance practices.” Since E-Verify only checks that the information provided by the employee matches the information on file, it cannot catch identity fraud, leaving the company open to charges of hiring unauthorized workers.

The upshot: Even with strict E-Verify usage, Pilgrim’s Pride ultimately settled with the federal government for \$4.5 million.<sup>37</sup>

Ensuring a legal workforce is an important part of any immigration system, and penalizing employers who intentionally hire undocumented immigrants is critical to reducing the flow of undocumented immigration. But E-Verify cannot work unless it is accompanied by a stable, legal workforce. Deploying it universally, when 5 percent of the workforce is undocumented, will create more enforcement challenges than it solves.

#### Local law enforcement costs are significant

Prince William County, VA, provides a cautionary example of the high costs to law enforcement of implementing anti-immigrant measures. County legislators failed to consider these expenditures before passing their immigration ordinance, to their significant detriment. A county ordinance of July 2007 required police to check the status of anyone they had probable cause to suspect was not in the country legally. But the chief of police, Charlie T. Deane, estimated the county would have to spend \$3.2 million to install cameras in every patrol car to ensure no racial profiling would occur. On top of these expenditures, the county estimated its law would require \$1.3 million just to implement, and would trigger annual costs between \$700,000 and \$750,000. After considering the burden, the county board of supervisors revised its ordinances to allow immigration status checks only for those already under arrest.

Had they continued with the strictest enforcement provisions, their expenditures would have unquestionably been higher.<sup>38</sup> But even still, the costs were significant and failed to accomplish the stated purpose of reducing crime. A 2010 evaluation of the enforcement ordinance by the Center for Survey Research, the University of Virginia, and the Police Executive Research Forum found that “the policy has not affected most types of crime in Prince William County, in large part because illegal immigrants account for only a small percent of arrests overall and a small to modest share of offenders for most types of crimes.” The report did find a reduction in the number of undocumented immigrants in the county but it also found that “Hispanics elsewhere in the metropolitan area are not eager to move to Prince William,” while other legal immigrants simply left.<sup>39</sup>

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## Mounting legal fees

*They already owe \$3 million just to their cavalcade of lawyers, who keep getting it wrong. It is clearly [other people's money].*

– William A. Brewer III on the lawsuit challenging Farmers Branch, TX's local anti-immigrant ordinance<sup>40</sup>

Beyond lost tourist and agricultural revenue, passing anti-immigrant legislation means having to expend a significant amount of money on legal fees. The federal preemption doctrine, which gives the national government alone the power to decide immigration law, precludes most state and local action on immigration enforcement. And to date, most anti-immigrant statutes have been struck down and virtually all have been challenged in the courts.

In July 2010 U.S. District Court Judge Susan R. Bolton issued an injunction blocking the most controversial parts of Arizona's S.B. 1070 from taking effect.<sup>41</sup> Judge Bolton argued that “based upon well-established precedent,” provisions such as those that require law enforcement to check legal status under reasonable suspicion are likely preempted by federal law, and thus unconstitutional.<sup>42</sup> Arizona appealed the injunction but in April 2011 the 9th Circuit Court of Appeals rejected the appeal.<sup>43</sup>

While the legal saga around S.B. 1070 has not yet concluded and might ultimately require Supreme Court intervention, it will almost certainly be declared unconstitutional. Lawsuits have quickly spread to the other states that have passed copycat legislation. On May 4, 2011, the American Civil Liberties Union and National Immigration Law Center filed suit against Utah for the enforcement provisions in its immigration law, and within a few days a federal judge issued a temporary stay against the law.<sup>44</sup> On May 25, 2011, they filed suit against Indiana, and on June 2, 2011, against Georgia. As with Arizona and Utah before them, federal judges have stayed the harshest provisions of the Indiana and Georgia laws.<sup>45</sup> The ACLU and NILC have also filed suit against Alabama, and are now preparing a suit against South Carolina. It is only a matter of time before these laws are struck down as well.<sup>46</sup>

A separate ruling on the 2007 Legal Arizona Workers Act, which mandates the use of the electronic employment-status verification system E-Verify for all businesses in Arizona, was found to be constitutional on May 26 of this year. But the Supreme Court made it clear that they were only ruling on a narrow point of law—the ability of states to retain their traditional role in licensing decisions—not on the overall issue of federal preemption. The ruling has little to say about the constitutionality of S.B. 1070 and legislation like it.<sup>47</sup>

Arizona's S.B. 1070 case should serve as a warning sign for other states considering anti-immigrant legislation. In just over a year since its passage, the state has already spent \$1.9 million to defend lawsuits against it, prompting Gov. Jan Brewer to set up a legal defense fund to solicit contributions. That is \$1.9 million expended just for the preliminary injunction and appeal—the case itself has yet to be decided.<sup>48</sup>

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The litigation costs around other local anti-immigrant laws are likewise instructive. The township of Hazelton, PA, passed one of the earliest local ordinances, which included fining landlords who rented to undocumented immigrants and penalizing businesses that hired undocumented immigrants. In July 2007 a district court struck down the laws, arguing that they were preempted by federal law and violated the due process protections of the Constitution's 14th Amendment. On appeal, the 3rd Circuit in September 2010 agreed with the earlier ruling, noting that under the statute, "employers might quite rationally choose to err on the side of discriminating against job applicants they perceive to be foreign," an egregious case of injustice.<sup>49</sup>

In Farmers Branch, TX, the city council passed a law requiring landlords to seek proof of legal status to rent an apartment. Four separate lawsuits were filed, including one by business owners claiming they had lost customers because of the harsh English-only ordinances that accompanied the crackdown. In January 2007 a district court ruled against the law, which Farmers Branch quickly repealed and replaced with a second. In a tragi-comical turn, after this second ordinance was declared unconstitutional, the city council passed yet another. This third ordinance was also declared unconstitutional in April 2010, proving the dictum that if at first you don't succeed ... well, in this case you will not succeed regardless.<sup>50</sup>

These legal battles have come at a hefty price. Hazelton has already spent \$2.8 million to defend its laws and could ultimately spend up to \$5 million to fight through the appeals process. These costs arrived at the same time as a serious budget deficit, and to rectify the gaping hole in the city's finances, Hazelton Mayor Lou Barletta proposed tax increases of, on average, \$249 per homeowner.<sup>51</sup> Farmers Branch likewise has paid out a hefty sum, with more than \$3.7 million in legal fees already expended and total costs which are estimated to top \$5 million.<sup>52</sup>

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## Conclusion: A better solution?

On their surface, crackdowns against undocumented immigrants sound appealing to state legislators looking to get tough on immigration. But the hidden costs in legal fees, training fees, additional personnel, and lost tourist revenue, among others, all add up quickly.

So can your state afford anti-immigrant legislation? Definitely not.

There is a better solution. Instead of going the Arizona route and attempting to kick out all undocumented immigrants in your state, why not bring them into the legal system and ensure they can fully contribute economically? In Arizona alone, full legalization would create jobs, increase state revenue, and raise the wages of *all* workers. Full legalization would grow tax revenues in the state by \$1.68 billion, add 261,000 jobs, and increase total employment by 7.7 percent.<sup>53</sup>



As Raúl Hinojosa-Ojeda and Marshall Fitz argue in their recent report, “A Rising Tide or a Shrinking Pie: The Economic Impact of Legalization Versus Deportation in Arizona,” “if state legislators really intend to promote the best interests of their constituents, they should reject these counterproductive deportation initiatives and focus instead on holding their federal counterparts responsible for reforming our immigration laws.”<sup>54</sup> Sound words, especially since a comprehensive immigration reform program on the federal level, which includes a legalization program for undocumented workers, would:

- Add \$1.5 trillion to America’s gross domestic product over the next 10 years by raising average wages for immigrants and native-born Americans alike
- Increase net tax revenues: \$4.5 to \$5.4 billion in the first three years
- Support the creation of a significant number of new jobs

These gains accrue by bringing undocumented workers out of the shadows and making them equal partners in economic growth.<sup>55</sup>

Now those are numbers we can all live with.

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## Endnotes

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