

ONE YEAR LATER: A LOOK AT SB 1070 AND COPYCAT LEGISLATION

By A. Elena Lacayo

OVERVIEW

On April 23, 2010, Arizona Governor Jan Brewer signed into law SB 1070, the nation's most punitive immigration legislation, catapulting her, State Senator Russell Pearce (the bill's sponsor), and anti-immigrant initiatives into the national spotlight. The legislation was immediately controversial and faced broad opposition within the state, including from the mayors of the state's two largest cities, the state's Native American tribes, the Arizona Association of Chiefs of Police, the business community, and faith and community organizations. Widely condemned by the country's leading civil rights organizations for essentially codifying and legitimizing racial profiling, the law also sparked great controversy nationally, leading to boycotts,* travel bans, and lawsuits against the state, and generating statements of opposition from a host of diverse voices ranging from religious institutions to the entertainment and sports world. Emboldened by worldwide attention—and in spite of the damage to the state's image, lost business and tourism revenue, and exorbitant legal fees that Arizona has faced since the passage of SB 1070—the legislators and private interest groups that helped pass this law announced their intent to introduce and pass copycat bills of this law in other states.

However, the jury is still out on how successful this state-by-state campaign has been. Changes in many state legislatures after the 2010 midterm elections, when Republicans won a majority or super-majority status in a number of states, resulted in speculation that Arizona copycat laws would quickly move forward. But while 31 states have attempted to advance a copycat measure since the passage of SB 1070—the vast majority in the form of legislation and several through the ballot initiative process—Utah is the only state where the governor has signed legislation similar to SB 1070, and even there, the law comes as a hybrid package that signals a need to address the adjustment to legal status for undocumented immigrants. In 2010, none of the states where copycat measures were introduced adopted them, and in 2011, with a number of legislative sessions in mid-course or coming to a close, 11 of the 24 states considering copycats have defeated them or denied them consideration. Even Arizona recently voted down another set of five extreme anti-immigrant bills.

While states continue to grapple with the consequences of and legitimate public frustration over federal inaction on immigration—conditions that were exploited to advance Arizona's racial profiling law—the defeat or stalled progress of SB 1070 copycat and related measures signals an opportunity to change direction on the difficult issue of immigration. As states are experiencing deep budget challenges, the prospect of implementing costly mandates of dubious constitutionality, with their related legal challenges and business and revenue losses, may finally be getting a much-needed, fact-based, economic analysis. Clearly, a handful of states may still pass copycats this year, and other states will see such bills reintroduced. However, as the lessons from Arizona continue to spread and opposition grows—including voices from the business community, local law enforcement, and civil rights, faith, social justice, and immigrant

* On May 5, 2010, the National Council of La Raza (NCLR) joined with 51 other civil rights and social justice organizations to call for a formal boycott of conventions, conferences, and other special events involving significant travel to Arizona from out of state. More information on the boycott can be found at www.boycottintolerance.org.

advocacy groups—there could be both a greater realization how a patchwork of state laws adds chaos to an already dysfunctional immigration system as well as renewed pressure on Congress to deliver the real solutions that it alone has jurisdiction over.

ORIGINS OF SB 1070

Arizona already had a reputation for advancing punitive anti-immigrant measures, and one of those is currently on the docket of the U.S. Supreme Court.* Another proposal similar to SB 1070 was previously vetoed by former Arizona Governor Janet Napolitano. Yet evidence shows that SB 1070 was not a grassroots effort but a coordinated campaign involving several national organizations and figures in the anti-immigrant movement. This national effort is also one of the key reasons why copycat legislation has spread so quickly to other states.

Although Arizona State Senator Russell Pearce introduced SB 1070, he had considerable assistance from national anti-immigrant organizations with whom he has been working for years. Primary authorship of the bill has been credited to Kris Kobach, a law professor from Kansas long associated with the Federation for American Immigration Reform (FAIR) and its legal arm, the Immigration Reform Law Institute. Kobach had a hand in drafting and defending a number of state and local anti-immigrant proposals, many of which have been challenged in or overturned by the courts for their dubious constitutionality, including those in Hazleton, Pennsylvania, Valley Park, Missouri, and Farmers Branch, Texas.¹ Kobach was recently elected as the Kansas Secretary of State and unsuccessfully pursued copycat efforts in that state.

Moreover, National Public Radio (NPR) has aired two reports uncovering the collaboration

between private prison industry lobbyists and anti-immigrant legislators, under the auspices of the American Legislative Exchange Council, to discuss and approve the “model legislation” that became SB 1070 and that could be introduced in multiple states. By increasing the criminalization of immigrants, therefore expanding grounds for their incarceration and detention, this type of legislation “could mean hundreds of millions of dollars in profits to private prison companies responsible for housing them.”²

According to the Southern Poverty Law Center (SPLC), which tracks extremist groups in the United States, FAIR is one of the organizations at the forefront of the anti-immigrant network created by John Tanton, who has been at the heart of the White nationalist movement for decades. SPLC lists FAIR as a hate group for accepting more than \$1 million from the Pioneer Fund, a White supremacist foundation devoted to proving a connection between race and intelligence, employing individuals who have joined White supremacist groups, recruiting board members who regularly write for hate publications, and producing television programming featuring White nationalists.³

REACTION TO SB 1070

While Arizona SB 1070 is the most extreme example of state immigration legislation to date, it is not the first attempt to regulate immigration at the state level. In recent years, spurred by the federal government’s failure to pass comprehensive immigration reform, states and localities have played a growing role in immigration regulation. Such state laws have attempted to restrict immigrants’ access to health care, licenses, and public benefits, penalize

* In 2007, Arizona passed the Legal Arizona Workers Act, which mandates the use of E-Verify by all employers and imposes sanctions on employers who are found to hire undocumented workers. The law is being challenged by business, labor, immigrant, and civil rights groups and is now pending before the U.S. Supreme Court (*Chamber of Commerce of the United States et al. v. Whiting*). According to the U.S. Citizenship and Immigration Services website, E-Verify is an Internet-based system that allows businesses to determine the eligibility of their employees to work in the United States. Various studies have shown that E-Verify uses error-ridden, outdated databases. It incorrectly identifies authorized workers as unauthorized to work in this country and is subject to employer misuse. For more information, see Catherine Singley, *Dangerous Business: Implications of an EEVS for Latinos and the U.S. Workforce* (Washington, DC: National Council of La Raza, 2008).

persons who employ or provide assistance and services to undocumented immigrants, and require local police to enforce federal immigration laws. SB 1070, however, is the most egregious of these, criminalizing undocumented immigrants, requiring law enforcement officials to demand immigration documents, permitting Arizonans to sue enforcement agencies if they believe the law is not enforced with sufficient rigor, and making all Latinos in Arizona suspect in their own communities, regardless of their immigration status.

The passage of SB 1070 incited an immediate response from the civil rights community in the form of an economic boycott of the state. Fifty-one civil rights, labor, and social justice organizations—including NCLR,* the Asian American Justice Center, the National Action Network, the Service Employees International Union, United Food and Commercial Workers, The Leadership Conference on Civil and Human Rights, the National Puerto Rican Coalition, and the League of United Latin American Citizens—called for a formal boycott of conventions, conferences, and other special events involving significant travel to Arizona from out of state.⁴ In addition, Sound Strike, a coalition of more than 400 performing artists, simultaneously initiated a boycott of the state, pledging not to perform there unless they were raising money for communities affected by the boycott. By the end of 2011, these efforts are expected to have cost Arizona \$752 million in conference cancellations, booking declines, and associated lost revenue, as well as another \$17 million of lost tax revenue due to losses in tourism spending and employment.⁵

Well-known former elected and appointed officials and law enforcement officials immediately spoke out against SB 1070 after its passage. New York City Mayor Michael Bloomberg said that “the law is so vaguely written that it may force officers to stop people who look or dress differently—or

who speak a foreign language, or English with an accent.” Notable politicians and sports figures also opposed the law, including former Florida Governor Jeb Bush, Phoenix Suns Guard Steve Nash, and even former George W. Bush political strategist Karl Rove, who said, “I think there is going to be some constitutional problems with the bill.” Within the law enforcement community, Phoenix Police Chief Jack Harris, Tucson Police Chief Roberto Villaseñor, and Pima County Sheriff Clarence Dupnik stated that the law would make their job, as law enforcement officers more difficult.⁶

Numerous lawsuits were also filed in opposition to the Arizona law, the first from Tucson police officer Martin Escobar, who aimed to enjoin the law. He was later joined by the City of Tucson in his suit.⁷ Additionally, on May 17, the American Civil Liberties Union (ACLU), Mexican American Legal Defense and Educational Fund, National Immigration Law Center, NAACP, ACLU of Arizona, National Day Laborer Organizing Network, and Asian Pacific American Legal Center joined in a lawsuit challenging the law, claiming that it “unlawfully interferes with federal power and authority over immigration matters in violation of the Supremacy Clause of the U.S. Constitution.”⁸ Furthermore, on July 6, the U.S. Department of Justice filed a lawsuit against the law, and on July 28, just one day before the law was to take effect, sections of SB 1070 were blocked by a U.S. Federal District Court.⁹ By November 2010, when an appeal was heard before the Ninth Circuit Court of Appeals, the legal fees to defend SB 1070 had cost Arizona taxpayers over \$1.5 million.¹⁰

THE STATUS OF SB 1070 COPYCATS THROUGHOUT THE COUNTRY

The passage of Arizona SB 1070 caused a flurry of interest from other states that were also frustrated

* NCLR—the largest national Hispanic civil rights and advocacy organization in the United States—works to improve opportunities for Hispanic Americans. Through its network of nearly 300 affiliated community-based organizations, NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico, and the District of Columbia. To achieve its mission, NCLR conducts applied research, policy analysis, and advocacy, providing a Latino perspective in five key areas—assets/investments, civil rights/immigration, education, employment and economic status, and health. In addition, it provides capacity-building assistance to its Affiliates who work at the state and local level to advance opportunities for individuals and families.

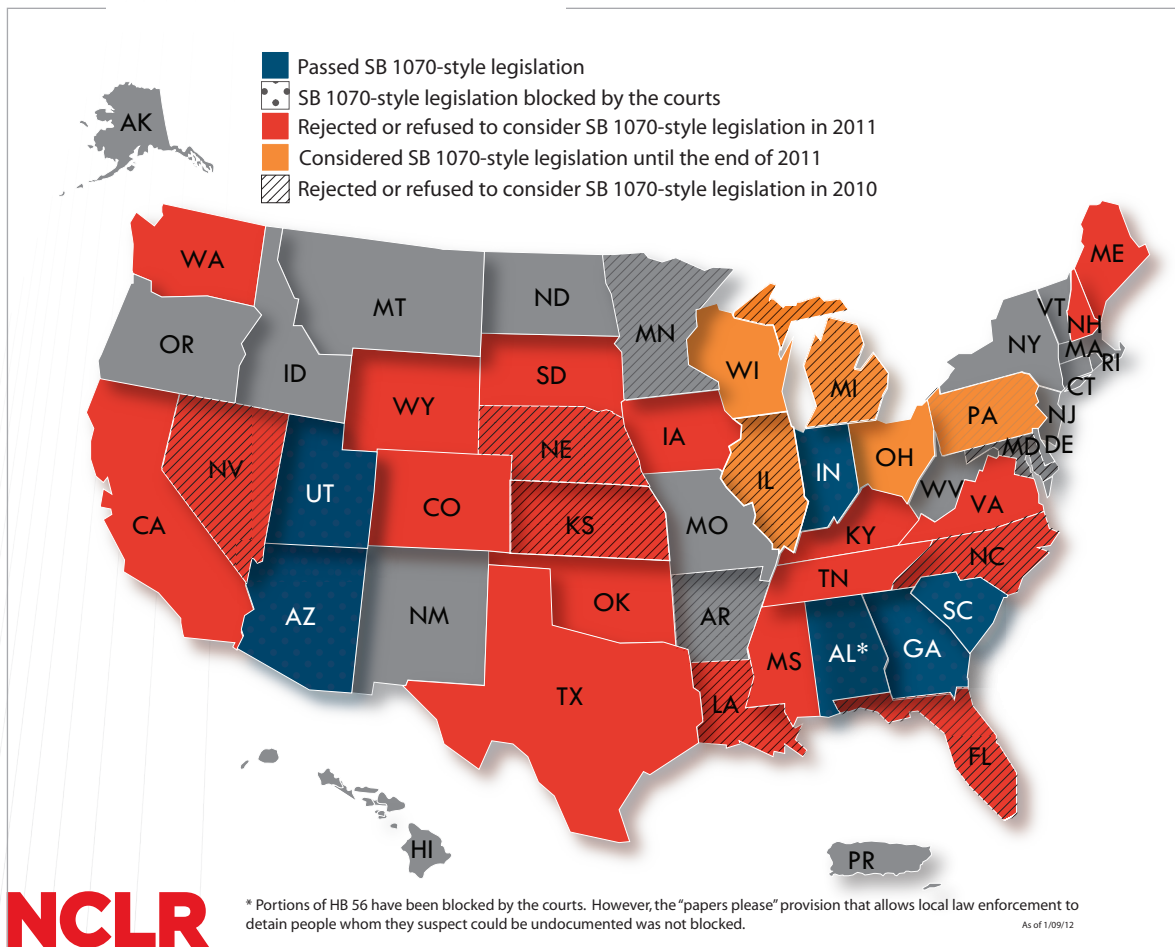
by federal inaction on immigration. In the months following its passage, a number of media reports indicated that nearly half of the country was considering SB 1070-like legislation and that a wave of such bills would be introduced in state legislatures across the nation.¹¹

To some degree, such reports were correct. For example, in the 2010 legislative session, 12 states—Arkansas, Florida, Illinois, Kansas, Louisiana, Maryland, Michigan, Minnesota, Nevada, North Carolina, Pennsylvania, and Rhode Island—rejected SB 1070 copycat legislation. In the 2011 session, at least 24 states have introduced Arizona-like laws, but despite predictions that these states would easily pass copycats, legislatures have observed the

fallout in Arizona and are instead opting to reject or delay passage of similar measures.

COPYCAT MOMENTUM STALLS

None of the states that discussed SB 1070 copycats in 2010 passed legislation. In 2011, 11 states have already defeated copycats or denied them consideration.* This is particularly notable given that the November 2010 elections ushered in a heavier Republican legislative composition in many states. This led some to assume that similar dynamics to those in Arizona’s 2010 legislature would ensue, and with that, the quick passage of copycats.



* A complete list of the states that have rejected SB 1070, along with a legislative analysis of the state, can be found in Appendix A.

The rejection of SB 1070 has been bipartisan. For example, in Kansas, a state with a largely conservative state legislature, the Republican-controlled House of Representatives soundly rejected their proposed copycat legislation. In fact, after multiple failed attempts to pass a bill through the House Judiciary Committee, the House refused to bring Representative Lance Kinzer's HB 2372 to the floor by a vote of 84–40.¹² The failure of this copycat bill is particularly notable as Kansas is the home state of Kris Kobach, one of the authors of Arizona SB 1070.

Some components of debate at the state level have included:

High cost of implementation. With 44 states facing budget shortfalls¹³ and high unemployment, legislatures are looking more carefully at measures that further burden their state economies. For many state legislatures, this means closer examination of the undue financial burdens associated with SB 1070 on cities, law enforcement agencies, or prisons. In several states where copycat legislation has been considered, cost estimates of the bill led to its defeat. For example, the Indiana State Police said they would expect to spend up to \$5 million in training for and enforcing the immigration law,¹⁴ and in Tennessee, a fiscal note released by the Tennessee General Assembly Fiscal Review Committee showed that the bill would increase state expenditures by nearly \$3 million for the first year and over \$1.8 million in each subsequent year of their Arizona copycat's implementation.¹⁵ In Kentucky, the Kentucky Legislative Research Commission's fiscal-impact statement showed that their copycat bill would cost the state \$89 million per year;¹⁶ shortly after the release of these figures, the bill died. Legal fees and loss in tourism revenue have also given legislators pause. In Arizona, Governor Brewer had to transfer \$250,000 to the Arizona Office of Tourism for a marketing campaign to improve the state's negative image.¹⁷

Losses in business revenue. The business community is getting involved in the conversation about SB 1070 copycats. In states such as Georgia, Kansas, and Utah, the business community has raised concerns about the negative impact such laws would have on the agricultural and ranching

industries in those states. One prominent example is found in Georgia, where a representative of one of the state's most important industries, the Georgia Farm Bureau, has opposed an Arizona-like bill for their state, with Bureau President Zippy Duvall stating, "Our concern with Georgia immigration legislation stems from the fact that legal immigrants might be fearful to work in Georgia if the state seems to be anti-immigrant...If immigrant labor were to avoid the state of Georgia, there would be major economic consequences within large sectors of agriculture."¹⁸ In addition, a group of 270 farmers and other businesses representing Georgia's agricultural and landscaping industries delivered a letter to lawmakers raising concerns that proposals like SB 1070 could harm their state's tourism and convention industry and make it more costly for them to do business.¹⁹ Although the bill now heads to the governor's desk, the unwavering opposition of one of the state's largest industries has highlighted the deep economic implications of SB 1070 copycat legislation.

Impact on public safety. Law enforcement voices have also continued to oppose state-level legislative mandates that require them to enforce federal immigration laws. Not only in response to SB 1070 but also to other state-level immigration enforcement measures, law enforcement has repeatedly cited the negative effect such laws could have on public safety. Many local law enforcement agencies rely heavily on local policing strategies that depend on the community's trust and cooperation when fighting crime. For example, in El Paso, a city that has been ranked one of the safest in the nation,²⁰ Sheriff Richard Wiles said that his agency has "worked years and years to build up that trust," and "if the people who live in our community are afraid to talk to us, they won't report crimes when they're victims or witnesses."²¹ Utah Attorney General Mark Shurtleff noted that "local law enforcement resources should focus on criminal activities, not civil violations of federal code."²²

Desire for civilized debate. In some states, community leaders from the business, law enforcement, and faith communities have joined together to sign "compacts" that reject Arizona copycats, reiterate that immigration is a federal

CASE STUDY: UTAH

Even though its legislative session did not begin until January 2011, Utah considered copycat legislation shortly after Arizona passed its bill in 2010 when Stephen Sandstrom, a Utah state representative and member of State Legislators for Legal Immigration, stated his intention to introduce an Arizona clone in the 2011 session. Before Sandstrom was able to introduce his bill, however, he began to face resistance from fellow elected officials and community leaders. In addition, in July 2010, an immigration scandal in which two public employees leaked a list of 1,300 allegedly undocumented immigrants to the public caused state officials, including Attorney General Mark Shurtleff, to condemn the act as an irresponsible breach of state security.²⁴ Shortly after this event, in July, Utah Governor Gary Herbert brought together a group of stakeholders for a conversation on the issue. At the meeting, he indicated that he wanted legislation that would address multiple facets of the immigration issue, not just enforcement as the Arizona law did.²⁵ Despite this, in September, Representative Sandstrom released a draft of his enforcement-only copycat bill, known as the Utah Illegal Immigration Enforcement Act.²⁶

In November, a coalition of conservative Utah leaders, including members of the business and religious communities, signed *The Utah Compact*, a document that recognizes immigration as a federal issue, supports family unity, and acknowledges the contributions of immigrants to Utah's economy. Among the signers of the bill were Utah Attorney General Mark Shurtleff, Salt Lake Chamber of Commerce President Lane Beattie, former Utah Governor Olene Walker, Catholic Bishop Mark

Wester, Deseret Management Corporation CEO Mark Willes, former U.S. Representative Jim Hansen, and former U.S. Senator Jake Garn.²⁷ Moreover, while it did not officially sign the Compact, the influential Church of Jesus Christ of Latter-Day Saints endorsed it as a "responsible approach to the urgent challenge of immigration reform."²⁸

The Compact was not a prescription for state legislation, but it did have influence in slowing down Utah's copycat proposal. In the week before the end of the session, a series of negotiations took place in the legislature, and on March 15, Governor Herbert signed into law a package of bills that attempt to deal with immigration at the state level. Among these bills are HB 497, a less severe version of Arizona's immigration-enforcement bill, and HB 116, an attempt to create a "guest worker" program for undocumented workers in Utah.²⁹

Although Utah's final law attempted to take a more comprehensive approach to immigration, this package further demonstrates the ways in which states are inherently limited in their ability to legislate immigration enforcement. Not only are many of the provisions from the package likely to be unconstitutional, such guest worker laws would also create a state precedent that would result in a 50-state patchwork of immigration laws. Thus, despite Utah's laudable effort to produce a more sensible and humane approach to immigration, the resulting flawed legislation only highlights the need for a federal solution to immigration reform that includes enforcement as well as a path to legalization for immigrants who are contributing to the U.S. economy.

responsibility, and express a desire to ensure that any immigration debate remains constructive. In Utah, a state that began to debate a copycat bill months before its legislative session began, *The Utah Compact* played an essential moderating role. Leaders from Indiana announced *The Indiana Compact*, which has slowed the passage of their own Arizona-like bill, SB 590. Mayor Michael Bloomberg of New York City launched the bipartisan Partnership for a New American Economy, bringing together mayors and national

business leaders in support of sensible immigration reform.

Due to these factors, 11 states have already rejected Arizona copycat legislation in 2011. While many legislative sessions have yet to finish their term, the defeat of many copycat bills, as well as the passage of a hybrid yet flawed legislation in Utah, reveals the desire and need for federal action on immigration. Without civilized debate, even more egregious legislation could follow. In

fact, in January 2011, the State Legislators for Legal Immigration, a coalition of state legislators associated with FAIR, held a press conference to announce their intention to pass bills to repeal the 14th Amendment.²³

Deeper consideration of the above factors has led to the rejection or dismissal of copycat legislation in the majority of states that have concluded deliberations on this matter, trumping the political motivations that often led to their introduction. However, many states are still in session and some, primarily in the South, are still seriously considering or are in the process of passing (in Georgia's case) copycat legislation in spite of these factors. These include Alabama, Georgia, Oklahoma, South Carolina, and Tennessee.* Georgia and South Carolina already have some of the most punitive anti-immigrant laws on the books. South Carolina held hearings on its copycat bill even before the legislative session began, and many thought it would be the first state to pass legislation. However, concerns regarding the bill's impact on the economy have delayed passage.

NCLR will continue to monitor activity on copycat measures and release an updated version of this report once all state legislative sessions have concluded.

CONCLUSION

The stalled progress of costly and unconstitutional SB 1070 copycat measures presents an opportunity to forge a more effective, solutions-driven debate on immigration. Since passage of Arizona's controversial law, state legislatures in 2010 and 2011 have seen copycats rejected 21 times and signed into law once, in Utah, where lawmakers attempted to chart a different approach. In light of the current economic environment and the expected legal challenges and costs associated with copycat measures, in addition to expanding opposition to such measures, it is expected that several more states will defeat copycat proposals or deny them consideration by the time all 2011 legislative sessions conclude. The few states that currently seem intent on pushing ahead will

likely face similar legal challenges and losses to those that Arizona has experienced. Meanwhile, in Arizona, the injunction preventing the most egregious portions of SB 1070 from going into effect will stay in place, as ruled recently by the Ninth Circuit Court of Appeals.

Congressional failure to act on sensible immigration reform will continue to abet an environment ripe for false solutions like SB 1070. State legislatures could be a powerful force in pressuring Congress into action if they directed their energy toward truly holding their congressional delegations accountable for this issue—after all, many states where copycats were considered have members of Congress who have not supported meaningful immigration reform efforts. In doing so, state legislators would strengthen the ever-growing platform of business, faith, law enforcement, civil rights, labor, immigrant rights, and social justice leaders interested in finding the much-needed solutions to the systemic failure in our current immigration policies.

* A full list of these states can be found in Appendix B.

APPENDIX A: SB 1070 REJECTED

8

In the following states, the legislature defeated or refused to consider an Arizona-like bill in the 2011 legislative session. As shown below, these states not only vary greatly in geography and demographics, but also in the political makeup of their legislatures. From states that are split between parties, such as Colorado and Kentucky, to states with large Republican majorities, such as Kansas and New Hampshire, nearly a dozen state legislatures have rejected SB 1070 copycats.

CALIFORNIA

2011 Session: December 6, 2010–September 9, 2011

House: Democrat controlled; Senate: Democrat controlled; Governor: Democrat, Jerry Brown

Since the passage and subsequent political fallout of Proposition 187 in California's 1994 general elections, which would have barred undocumented immigrants from receiving public benefits, the California state legislature has stayed away from state immigration enforcement efforts, viewing them as politically unpopular. Despite this history, AB 26, California's Arizona copycat, was filed on the first day of their 2011 legislative session by Assemblyman Tim Donnelly. On April 5, 2011, the bill was rejected in committee by a 7–3 vote.³⁰

COLORADO

2011 Session: January 12–May 11, 2011

House: Republican controlled; Senate: Democrat controlled; Governor: Democrat, John Hickenlooper

As Colorado headed into the 2011 session, a debate on immigration was expected in the state legislature. In 2006, Colorado passed SB 90, which requires state law enforcement to cooperate with federal officials and prohibits policies to the contrary. Immigration also played a prominent role in the state's 2010 primaries and general election, with the large-margin defeat of the prominent anti-immigrant candidate Republican Tom Tancredo by Democrat John Hickenlooper, who expressed concern about SB 1070-like legislation and instead advocated for federal immigration reform during his campaign.³¹ In the state legislature, Democrats were able to keep a slight majority in the Senate while Republicans picked up a slight majority in the House.³²

Coming out of the 2010 elections, a number of state legislators, including Representative Randy Baumgardner and Senator-Elect Kent Lambert, announced plans to introduce Arizona copycat legislation. Although Lambert filed SB 54 in the Senate, Representative Baumgardner pulled his bill, HB 1107, before it was even heard out of concerns surrounding the constitutionality of the bill.³³ Although the Arizona copycat is considered dead, other pieces of immigrant-related legislation may still be considered in the 2011 legislative session.

IOWA

2011 Session: January 10–April 29, 2011

House: Republican controlled; Senate: Democrat controlled; Governor: Republican, Terry Branstad

Iowa was not one of the most likely states to take up Arizona copycat legislation. Although the 2010 elections allowed for some shift in power as the Republicans gained control of the House of Representatives, state politicians did not make immigration a legislative priority for their campaign. However, copycat laws were introduced in the Senate and the House. Both bills, SF 102 and HF 27, died as they failed to move before the March 11 "funnel date" for bills to be approved by their originating chamber. Among the local groups that weighed in on the issues were the Iowa Immigration Education Coalition, Iowa Citizens for Community Improvement, and the Iowa Catholic Conference.³⁴

KANSAS

2011 Session: January 10–May 4, 2011

House: Republican controlled; Senate: Republican controlled; Governor: Republican, Sam Brownback

As the home of Kris Kobach, author of SB 1070 and various other anti-immigrant ordinances, Kansas's traditionally conservative legislature seemed positioned to seriously consider a copycat law. In the 2010 elections, Republicans increased their majorities in the both the House and Senate and Kris Kobach was elected Kansas Secretary of State.

On February 16, Representative Lance Kinzer introduced HB 2372, an Arizona copycat immigration bill. After multiple failed attempts to

pass it through the House Judiciary Committee,³⁵ the full House refused a special procedure that would have brought the bill directly to the floor by a vote of 84–40.³⁶ The bill also drew criticism from prominent business groups, including the Kansas Business Coalition.³⁷ The bipartisan nature of this vote along with the large vote margin delivered a blow to Kobach, who has been a proponent of copycat bills in state legislatures across the country.

KENTUCKY

2011 Session: January 4–March 25, 2011

House: Democrat controlled; Senate: Republican controlled; Governor: Democrat, Steve Beshear

Kentucky's legislature remained relatively unchanged by the 2010 election. Though Republicans made some gains in both the House and the Senate, Democrats retained their majority in the House and Republicans slightly increased their majority in the Senate.

Senator John Schickel's SB 6 was passed out of the Senate in early January.³⁸ However, according to a fiscal-impact statement, the law was estimated to cost the state \$89 million per year and members of the House stated their intentions to block Arizona-like legislation from becoming law. The bill did not pass out of the House Local Government Committee before the Kentucky legislative session ended on March 25.

MISSISSIPPI

2011 Session: January 4–April 3, 2011

House: Democrat controlled; Senate: Republican controlled; Governor: Republican, Haley Barbour

Before SB 1070, Mississippi had one of the nation's most punitive anti-immigrant laws in the country: the Mississippi Employment Protection Act, which went into effect in July 2008. The law requires that all employers begin using the flawed federal E-Verify program and elevates working without authorization to a felony. Mississippi did not have elections in 2010, so the House went into its session with a Democrat majority while the Senate began with a Republican majority.

During the 2011 session, separate bills were passed through both chambers: in the Senate, Senator Joey Fillingane's SB 2179 was passed on January 18 and an altered version of the bill, HB 54, passed out of the House on January 28. However, both bills were proclaimed "dead" on March 29, as legislators failed to agree on a single version of the bill to send to Republican Governor Haley Barbour before the session ended on April 3.³⁹

NEBRASKA

2011 Session: January 5–May 26, 2011

Nonpartisan Unicameral Legislature; Governor: Republican, Dave Heineman

At the beginning of the 2011 session, Nebraska seemed positioned to pass an Arizona copycat bill through its legislature. The state has the only one-house, nonpartisan legislature in the country, meaning that simple agreement from 24 senators is needed to pass a bill. Nebraska passed LB 403 in 2009, which requires the use of E-Verify for public contractors, and the state also filed a legal brief in support of the Arizona law.

Despite multiple attempts by Senator Charlie Janssen to pass LB 48, the proposal died at the committee level, as it only carried two votes out of five needed to advance it from the Judiciary Committee to the full legislature.⁴⁰ This result came after a great deal of organizing on the part of social justice organizations in the state, including Nebraska Appleseed.

NEW HAMPSHIRE

2011 Session: January 5–June 30, 2011

House: Republican controlled; Senate: Republican controlled; Governor: Democrat, John Lynch

While New Hampshire has not taken on immigration issues much in the past, the state's legislature was deeply changed during the 2010 elections. The Republican Party swept both chambers with large majorities. Despite this political shift, New Hampshire's House Committee on Criminal Justice and Public Safety voted unanimously to kill HB 644 before it reached the full House due to opposition from a variety of sectors including the state police, criminal defense

lawyers, legal services providers, municipal governments, and the state's biggest business lobby.⁴¹

SOUTH DAKOTA

2011 Session: January 5–March 28, 2011

House: Republican controlled; Senate: Republican controlled; Governor: Republican, Dennis Daugaard

Similar to New Hampshire, South Dakota has not historically viewed immigration as a priority issue in the state. In the 2011 session, South Dakota's heavily Republican legislature failed to move forward its Arizona-style bill when House State Affairs Committee rejected the bill by a vote of 11–2. This vote came after legislators heard of the negative impact of this bill from law enforcement groups and others who work with immigrants.⁴² South Dakota's legislative session ended on March 28.

VIRGINIA

2011 Session: January 12–February 26, 2011

House: Republican controlled; Senate: Democrat controlled; Governor: Republican, Bob McDonnell

Immigration has played a prominent role in Virginia politics for a number of years. Most notably, a number of law enforcement agencies, including the Prince William County Sheriff's Office, have been engaged in the failed 287(g) program,* leading to controversy and debate at the local level. In August 2010, Attorney General Ken Cuccinelli issued a legal opinion that authorized Virginia police officers to check the immigration status of anyone stopped by police for any reason.

Coming into their short 2011 legislative session, Democrats held a majority in the Senate and Republicans held a majority in the House. Although it appeared that various immigration-related bills

would not be moving, on February 8, the House of Delegates revived and passed HB 2332. After a great deal of pushback from local advocates, including the Virginia Coalition of Latino Organizations, on February 17 the Senate subcommittee refused to move forward the copycat bill as well as numerous other anti-immigrant provisions for full Senate consideration.⁴³ Virginia's legislative session ended on February 26 and legislators head into state elections at the end of 2011.

WYOMING

2011 Session: January 11–March 2, 2011

House: Republican controlled; Senate: Republican controlled; Governor: Republican, Matt Mead

In the Republican-controlled Wyoming legislature, Representative Charles Childer's HB 94 was defeated at the committee level. In fact, no member of the House Minerals, Business and Economic Development Committee moved to vote on the bill after hearing from representatives from business and industry groups regarding their opposition to the bill.⁴⁴ Wyoming's legislative session ended on March 2.

* Enacted in 1996, section 287(g) of the Immigration and Nationality Act allows the federal government to enter into agreements with state and local law enforcement agencies, allowing them to deputize local officials to enforce federal immigration law. Numerous studies have shown that the 287(g) program has had a negative impact on the community's safety and willingness to report crimes, even as victims and witnesses. For more information, please see A. Elena Lacayo, *The Impact of Section 287(g) of the Immigration and Nationality Act on the Latino Community* (Washington, DC: National Council of La Raza, 2010).

APPENDIX B:

SB 1070 CONSIDERED

11

More than halfway through most legislative sessions, 12 states are still considering copycat bills. In some states, such as Illinois and Texas, these bills appear to have limited traction or support in the legislature. In a few other states, such as Michigan, North Carolina, and Ohio, copycat bills have been introduced but have not been taken up by any chamber or committee.

The following are states where bills have been filed for the 2011 legislative session:

- In **Alabama**, Representative Micky Hammon's HB 56 passed out of the House of Representatives on April 5 despite protests at the state capitol.⁴⁵
- In **Florida**, despite the legislature's inability to pass an Arizona copycat bill in the 2010 special session, on March 16 Representative William Snyder filed HB 7089 in the House, which was approved by the House Economic Affairs committee on April 14.⁴⁶ Senator Mike Bennett pre-filed SB 136 in November but withdrew it from consideration on March 15.⁴⁷
- In **Georgia**, Representative Matt Ramsey's HB 87 was passed by the full House on March 3 and Senator Jack Murphy's SB 40 was passed in the Senate on March 14. On March 28, the House Judiciary Non-Civil Committee substituted the language in SB 40 with language in HB 87, a larger, more punitive bill.⁴⁸ In the final hours of their legislative session, the House and Senate passed HB 87, which now heads to the governor's desk for consideration.
- In **Illinois**, Representative Randy Ramey introduced HB 1969.⁴⁹
- In **Indiana**, Senator Mike Delph introduced SB 590, and on February 22 the bill passed in the Senate. Pushback on the proposal has been voiced by the state police, who say that they would expect to spend up to \$5 million in training for and enforcing the immigration law, as well as by national organizations that have threatened conference cancellations if the law is passed.⁵⁰ In addition, business and faith leaders have opposed the law, with many signing *The Indiana Compact* on February 9.
- In **Michigan**, Representative Dave Agema introduced HB 4305 amid concerns of racial profiling and the release of a new report from the Michigan League for Human Services detailing how the law would hurt Michigan's economy.⁵¹
- In **North Carolina**, Representative George Cleveland introduced HB 343 on March 14.⁵²
- In **Ohio**, Senator Jimmy Stewart introduced SB 98.⁵³
- In **Oklahoma**, Representative Randy Terrill's Arizona-style bill passed the House on March 12, and in the Senate a committee approved Senator Ralph Shortey's SB 908. Legislators call the bill "Arizona-plus," as it allows police to confiscate the property of those found to be in the country illegally.⁵⁴
- In **South Carolina**, Senator Larry Grooms's S 20 was approved by the Senate on March 10 and must now be taken up by the House Judiciary Committee.⁵⁵ A House version of the bill, H 3129, has also been introduced by Representative Eric Bedingfield.
- In **Tennessee**, Arizona copycat legislation was introduced by Senator Bill Ketron (SB 0780) and Representative Joe Carr (HB 1380) on March 16. On March 30, HB 1380 was passed by the House General Subcommittee of State and Local Government and now heads to the General Subcommittee of the House Finance, Ways and Means Committee.⁵⁶ A fiscal note released by the Tennessee General Assembly Fiscal Review Committee shows that the bill would increase state expenditures by nearly \$3 million for the first year and over \$1.8 million in each subsequent year.⁵⁷
- In **Texas**, Representative Debbie Riddle filed HB 17 at the start of the 2011 legislative session, though Republican Governor Rick Perry has publicly opposed an SB 1070 copycat for Texas.⁵⁸

ENDNOTES

- 1 Melinda Warner, “Meet Kris Kobach: Lawyer for the Anti-Immigrant Movement,” Media Matters, July 15, 2010, <http://politicalcorrection.org/blog/201007150011> (accessed April 5, 2011).
- 2 Laura Sullivan, “Prison Economics Help Drive Arizona Immigration Law,” National Public Radio, October 28, 2010, <http://www.npr.org/templates/story/story.php?storyId=130833741>; and “Shaping State Laws with Little Scrutiny,” National Public Radio, October 29, 2010, <http://www.npr.org/templates/story/story.php?storyId=130891396>.
- 3 Southern Poverty Law Center, *The Nativist Lobby: Three Faces of Intolerance* (Montgomery, AL: Southern Poverty Law Center, 2009), http://www.splcenter.org/sites/default/files/downloads/splc_nativistlobby.pdf.
- 4 National Council of La Raza, “Civil Rights and Labor Organizations Announce Boycott to Protest Arizona Immigration Law,” news release, May 5, 2010.
- 5 Marshall Fitz and Angela Kelley, *Stop the Conference: The Economic and Fiscal Consequences of Conference Cancellations Due to Arizona’s S.B. 1070* (Washington, DC: Center for American Progress, 2010), http://www.americanprogress.org/issues/2010/11/pdf/az_tourism.pdf (accessed December 17, 2010).
- 6 National Council of La Raza, “What People Are Saying about SB 1070 and Copycat Legislation,” <http://www.boycottintolerance.org/updates/p/saying> (accessed April 6, 2011).
- 7 Steve Nunez and Brian Pryor, “City of Tucson Joins Officer’s Lawsuit against SB 1070,” KGUN.com, June 2, 2010, <http://www.kgun9.com/Global/story.asp?S=12578063> (accessed April 6, 2011).
- 8 American Civil Liberties Union, “ACLU and Civil Rights Groups File Legal Challenge to Arizona Racial Profiling Law,” news release, May 17, 2010, <http://www.aclu.org/immigrants-rights-racial-justice/aclu-and-civil-rights-groups-file-legal-challenge-arizona-racial-pr> (accessed April 2011).
- 9 Randal Archibold, “Judge Blocks Arizona’s Immigration Law,” *The New York Times*, July 28, 2010, <http://www.nytimes.com/2010/07/29/us/29arizona.html> (accessed April 4, 2011).
- 10 Ginger Rough, “\$1.5 Million Spent Defending SB 1070,” AZCentral.com, February 28, 2011, <http://www.azcentral.com/12news/news/articles/2011/02/25/20110225arizona-immigration-bill-lawsuit-cost-millions.html> (accessed April 4, 2011).
- 11 Fred Lucas, “Nearly Half of United States Considering Arizona-Style Immigration Legislation,” CNSNews.com, August 18, 2010, <http://www.cnsnews.com/node/71294> (accessed April 4, 2011); John Miller “Twenty Other States Considering Copying Arizona Immigration Law,” *The Huffington Post*, June 25, 2010, http://www.huffingtonpost.com/2010/06/25/twenty-other-states-consi_n_626095.html (accessed April 4, 2011); and John Miller “Utah among 18 States Aiming to Copy Arizona Immigration Law,” *Deseret News*, June 26, 2010, <http://www.deseretnews.com/article/700043391/Utah-among-18-states-aiming-to-copy-Arizona-immigration-law.html> (accessed April 4, 2011).
- 12 “Immigration Bill Remains Stalled in Kansas House,” KOAMTV.com, March 23, 2011, <http://www.koamtv.com/Global/story.asp?S=14305978> (accessed April 4, 2011).
- 13 Elizabeth McNichol, Phil Oliff, and Nicholas Johnson, “States Continue to Feel Recession’s Impact,” <http://www.cbpp.org/cms/?fa=view&id=711> (accessed April 1, 2011).

- 14 Heather Gillers, "Kenley: Revamp Immigration Proposal," *Indystar.com*, March 15, 2011, <http://www.indystar.com/article/20110315/NEWS05/103150323/1001/ENTERTAINMENT/Kenley-urges-alternatives-state-s-immigration-proposal?odyssey=nav|head> (accessed April 4, 2011).
- 15 James W. White, *Fiscal Note SB 780 - HB 1380*. Tennessee General Assembly Fiscal Review Committee. Nashville, TN, March 14, 2011, <http://www.capitol.tn.gov/Bills/107/Fiscal/SB0780.pdf> (accessed April 4, 2011).
- 16 "Cost of Ky. Immigration Bill Could Reach \$89M," *NECN.com*, February 2, 2011, http://www.necn.com/02/02/11/Cost-of-proposed-immigration-bill-could-/landing_politics.html?&blockID=3&apID=afa35211c610423885efe43ff85b0dad (accessed April 4, 2011).
- 17 Ginger Rough and Dawn Gilbertson, "Governor Out to Rebrand Arizona Over Immigration Law Criticism," *AZCentral.com*, May 14, 2010, <http://www.azcentral.com/news/election/azelections/articles/2010/05/13/20100513governor-rebrand-arizona-over-immigration-law-criticism13-ON.html#ixzz1laVelz8w> (accessed April 4, 2011).
- 18 Jeremy Redmon, "Governor, Georgia Farm Bureau Weigh In on Immigration Legislation," *AJC.com*, February 8, 2011, <http://www.ajc.com/news/georgia-politics-elections/governor-georgia-farm-bureau-831515.html> (accessed April 4, 2011).
- 19 Jeremy Redmon, "Georgia's Farming, Landscape Industries Raise Concerns about Immigration Legislation," *AJC.Com*, April 5, 2011, <http://www.ajc.com/news/georgia-politics-elections/georgias-farming-landscape-industries-898444.html> (accessed April 5, 2011).
- 20 "El Paso Ranks Safest City in US: City Safest for Populations Over 500,000," *kvia.com*, November 21, 2010, <http://www.kvia.com/news/25870470/detail.html> (accessed March 28, 2011).
- 21 Elizabeth Llorente, "Sheriff Fears Texas Gov. Perry's Anti-Illegal Immigration Push," *FoxNews.com*, January 13, 2011, <http://latino.foxnews.com/latino/politics/2011/01/13/sheriff-safest-city-says-took-years-gaining-trust-immigrants/> (accessed March 28, 2011).
- 22 "'Utah Compact' Urges Guidelines for Immigration Discussion," *KSL.com*, November 11, 2010, <http://www.ksl.com/?sid=13237741&nid=148> (accessed April 12, 2011).
- 23 State Legislators for Legal Immigration, "State Lawmakers Convened in D.C. to Deliver Historic, Nationwide Correction to the 14th Amendment Misapplication," news release, January 5, 2011, <http://www.statelegislatorsforlegalimmigration.com/NewsItem.aspx?NewsID=10195> (accessed April 4, 2011).
- 24 "Utah Identifies 2 Allegedly Behind Illegal Immigrant List," *FoxNews.com*, July 16, 2010, <http://www.foxnews.com/us/2010/07/16/utah-identifies-allegedly-immigrant-list/#ixzz1laf5cm4Y> (accessed April 4, 2011).
- 25 Richard Piatt, Randall Jeppesen, and Shara Park, "Gov. Herbert Calls Immigration Roundtable Discussion a Success," *KSL.com*, July 20, 2010, <http://www.ksl.com/?nid=833&sid=11644008> (accessed April 4, 2011).
- 26 Ben Winslow, "Utah Legislator Unveils Controversial Immigration Bill," *Fox13Now.com*, August 13, 2010, <http://www.fox13now.com/news/local/kstu-utah-immigration-bill-unveiled,0,7518733.story> (accessed April 4, 2011).
- 27 Deseret News editorial, "Sign the Utah Compact," *Deseret News*, November 14, 2010, <http://www.deseretnews.com/article/700081235/Sign-the-Utah-Compact.html> (accessed April 4, 2011).

- 28 Elizabeth Stuart, "Community Leaders Urge Moderate Approach to Immigration Reform," *Mormon Times*, November 15, 2010 http://www.mormontimes.com/article/18365/Community-leaders-urge-moderate-approach-to-immigration-reform?s_cid=queue_title&utm_source=queue_title (accessed April 4, 2011).
- 29 Marjorie Cortez, "Utah Gov. Gary Herbert Signs Immigration Bills into Law" *Deseret News*, March 15, 2011, <http://www.deseretnews.com/article/705368733/Utah-Gov-Gary-Herbert-signs-immigration-bills-into-law.html> (accessed April 4, 2011).
- 30 "Committee Rejects California Immigration Bill," NBC SanDiego, April 5, 2011, <http://www.nbcsandiego.com/news/local/Lawmaker-Proposes-Bill-to-Go-After-Sanctuary-Cities-119250224.html> (accessed April 6, 2011).
- 31 John Hickenlooper, "Federal Immigration Reform Is a Must," October 24, 2010, *The Denver Post*, http://www.denverpost.com/opinion/ci_16401217 (accessed April 6, 2011).
- 32 National Conference of State Legislatures, "Map of Post 2010 Election Partisan Composition of State Legislatures," <http://www.ncsl.org/tabid/21253/default.aspx> (accessed April 4, 2011).
- 33 Joe Hanel, "'Ariz.' Bill to Get Ax in Colo," *The Durango Herald*, February 8, 2011, <http://durangoherald.com/article/20110209/NEWS01/702089924/-1/News01/%E2%80%98Ariz%E2%80%99-bill-to-get-ax-in-Colo> (accessed April 6, 2011).
- 34 Tom Chapman, "Iowa Catholic Conference Supports Pro-Life Laws, Payday Loan Regulation, More," *The Catholic Messenger*, February 1, 2011, http://www.catholicmessenger.org/articles/2011/02/04/diocesan_news/doc4d4865f9abf27229284652.txt (accessed April 6, 2011).
- 35 Brad Cooper, "Kansas House Committee Bottles Up Anti-Immigration Bill," *The Kansas City Star*, March 14, 2011, <http://www.kansascity.com/2011/03/14/2726156/kansas-committee-bottles-up-immigration.html#ixzz1lkkvR6l3> (accessed April 4, 2011).
- 36 "Immigration Bill Remains Stalled in Kansas House," *Associated Press*, March 23, 2011, <http://www.ksat.com/Global/story.asp?S=14305978> (accessed April 6, 2011).
- 37 "Kansas Business Group Opposing Immigration Changes," *Associated Press*, March 2, 2011, <http://www.ktka.com/news/2011/mar/02/kansas-business-group-opposing-immigration-changes> (accessed April 6, 2011).
- 38 Beth Musgrave "GOP Leaders Push Immigration Bill, Other Priorities through State Senate," *Bluegrass Politics*, January 7, 2011.
- 39 Elizabeth Crisp, "Immigration Bill Dies, but Battle's Not Over," *Clarion-Ledger*, March 29, 2011, <http://www.gannettonline.com/external/scripts/momslikeme/?siteid=6475> (accessed April 6, 2011).
- 40 Paul Hammel, "Clash of Opinions on Immigration," *Omaha World-Herald*, March 1, 2011, <http://www.omaha.com/article/20110301/NEWS01/703029887/0> (accessed April 6, 2011).
- 41 American Friends Service Committee, "NH House Committee Gives Unanimous 'NO' to Anti-Immigrant Bill," <http://afsc.org/story/nh-house-committee-gives-unanimous-%E2%80%9Cno%E2%80%9D-anti-immigrant-bill> (accessed April 6, 2011).
- 42 "Arizona-style Immigration Bill Fails in SD House" NECN.com, February 14, 2011, http://www.necn.com/02/14/11/Arizona-style-immigration-bill-fails-in-/landing_politics.html?&blockID=3&apID=5018936a9f4d4006b93895b2ce72e617 (accessed April 6, 2011).

- 43 Fredrick Kunkle, "Senate Panel Kills House-Approved Bills Targeting Illegal Immigration," *Washington Post*, February 16, 2011, http://voices.washingtonpost.com/virginiapolitics/2011/02/senate_panel_kills_house-appro.html (accessed April 6, 2011).
- 44 Ben Neary, "Wyo. House Committee Shoots Down Immigration Bill," *Bloomberg*, January 24, 2011, <http://www.bloomberg.com/news/2011-01-24/wyo-house-committee-shoots-down-immigration-bill.html> (accessed April 6, 2011).
- 45 Alabama House Republicans, "Speaker Hubbard Praises House Passage of 'Handshake' Bills," <http://www.alhousegop.com/2011/04/05/speaker-hubbard-praises-house-passage-of-%E2%80%9Chandshake%E2%80%9D-bills> (accessed April 6, 2011).
- 46 Florida House of Representatives, "HB 7089 - Enforcement of Immigration Laws," <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=46685&SessionIndex=-1&SessionId=66&BillText=&BillNumber=7089&BillSponsorIndex=0&BillListIndex=0&BillStatuteText=&BillTypeIndex=0&BillReferredIndex=0&HouseChamber=H&BillSearchIndex=-1> (accessed April 6, 2011).
- 47 The Florida Senate, "SB 136: Enforcement of Immigration Laws," <http://www.flsenate.gov/Session/Bill/2011/136> (accessed April 11, 2010).
- 48 Jeremy Redmon, "Panel Swaps Out Senate Immigration Bill with More Extensive House Version," *AJC.com*, <http://www.ajc.com/news/georgia-politics-elections/panel-swaps-out-senate-887963.html> (accessed April 6, 2011).
- 49 Illinois General Assembly, "Full Text of HB1969," <http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=84&GA=97&DocTypeId=HB&DocNum=1969&GAID=11&LegID=59170&SpecSess=&Session=> (accessed April 6, 2011).
- 50 "Convention to Cancel If Immigration Bill Passes," *NECN.com*, March 5, 2011, http://www.necn.com/03/05/11/Convention-to-cancel-if-immigration-bill/landing_politics.html?&blockID=3&apID=f066146b3d2845a5be77fa72958efad7 (accessed April 6, 2011).
- 51 Eartha Jane Melzer, "Arizona-Style Immigration Reform Would Hurt Michigan Economy," *The Michigan Messenger*, February 14, 2011, <http://michiganmessenger.com/46542/report-arizona-style-immigration-reform-would-hurt-michigan-economy> (accessed April 6, 2011).
- 52 North Carolina General Assembly, "House Bill 343," <http://ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=hb+343&submitButton=Go> (accessed April 6, 2011).
- 53 129th General Assembly of the State of Ohio, "SB 98," http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_98 (accessed April 6, 2011).
- 54 "Oklahoma House Passes Arizona-Style Immigration Bill," *Fox News Latino*, March 12, 2011, <http://latino.foxnews.com/latino/politics/2011/03/12/oklahoma-house-passes-arizona-style-immigration/#ixzz1llhOcrnC> (accessed April 6, 2011).
- 55 South Carolina General Assembly, "S. 20," http://www.scstatehouse.gov/sess119_2011-2012/bills/20.htm (accessed April 6, 2011).
- 56 Tennessee General Assembly, "Bill Information for HB1380," <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB1380> (accessed April 6, 2011).
- 57 James W. White, *Fiscal Note SB 780 - HB 1380*.
- 58 Nathan Bernier and Ben Philpott, "Texas Lawmaker Files 'Arizona Style' Immigration Bill," *KUT News*, November 8, 2010, <http://kutnews.org/post/texas-lawmaker-files-arizona-style-immigration-bill> (accessed April 6, 2011).

