



DEFICITS, LAWSUITS, DIMINISHED PUBLIC SAFETY: YOUR STATE CAN'T AFFORD SB 1070

Contents

EXECUTIVE SUMMARY	3
INTRODUCTION	6
SB 1070: BUDGET DEFICITS, ENDLESS LAWSUITS, AND A THREAT TO PUBLIC SAFETY	8
Reactions.....	8
SB 1070: YOUR STATE CAN'T AFFORD IT	9
State Budgets – Including Arizona's - Are Feeling the Effects of a Severe Recession	10
SB 1070: A Windfall for Lawyers, Bad News for State and Local Taxpayers	12
Implementation Costs For States and Counties Add Up to Major Expenses	12
LEGAL LIMBO: SB1070 COULD BE MIRED IN THE COURTS FOR YEARS	13
Department of Justice Lawsuit	13
Other Lawsuits	14
SB 1070: A THREAT TO PUBLIC SAFETY.....	15
IN THE STATES: WHAT WILL THEY DO NOW?	17
Florida	18
Georgia.....	18
Idaho	21
Indiana	21
Kansas	21
Mississippi.....	21
Nebraska	23
Oklahoma.....	24
Pennsylvania	24
South Carolina.....	26

Tennessee	27
Texas	27
Utah.....	29
Virginia	30

EXECUTIVE SUMMARY

The historic 2010 mid-term elections gave the Republican Party unprecedented control of statehouses and Governors' mansions, and returned Republicans to control of the United States House of Representatives. Spurred by a motivated Republican base and capitalizing on economic anxiety, the party was able to achieve substantial gains all over the country but particularly in Midwestern states like Pennsylvania, Michigan, Ohio, and Indiana. Their electoral showing ensures that in many states, Republicans will have a very strong hand in a period teeming with high stakes legislative battles, especially around the issue of immigration, as more and more states attempt to step into a role meant for the federal government.

As Congressional debate on immigration reform has stalled, the number of state-based immigration laws has increased dramatically. In 2008 alone, 1,305 bills were considered by various state legislatures, 206 were enacted, and three were vetoed. Many of these new laws are attempts to enforce federal immigration law, and some are more far-reaching than others. In the spring of 2010, Arizona made history with a law that went further than any other. On April 21st, 2010, Arizona's Republican Governor Jan Brewer signed the "Support Our Law Enforcement and Safe Neighborhoods Act," commonly referred to as SB 1070. Overnight, Arizona became home to the nation's harshest and most controversial immigration law and simultaneously created a public policy, legal, and electoral ripple effect that would be felt all over the country.

Specifically, the new law makes it a state crime to fail to apply for or carry proper immigration documentation and gives police broad power to detain those suspected of being unlawfully present in the country. Further, SB 1070 allows citizens to sue law enforcement agencies whose enforcement efforts they consider to be insufficient and toughens laws against the performance of work by unauthorized immigrants and the transport or harboring of persons lacking valid immigration status.

Several key policy and public safety questions surrounding Arizona's new law remain unanswered by proponents. For example, independent analyses of the potential cost of the new law to the state have demonstrated that it is prohibitively expensive. Add in Arizona's already massive budget deficit, and it's hard to see how Arizona can afford to enforce its new law. Additionally, the new law triggered a national backlash that hurt the state's tourism and convention industry, exacerbating Arizona's already severe budget and economic woes. Multiple lawsuits triggered by the legislation will cost the state millions as it will have to defend the new law in court. Proponents, including Governor Brewer, have not demonstrated how Arizona, or any other state, can possibly afford a law like SB 1070, which forces states to play a role meant for the federal government. Similarly, they have not addressed the persistent public safety concerns presented by the new law.

The law enforcement community has said SB 1070 will make it more difficult for them to do their jobs, make communities less safe, and engender a fear of law enforcement in the very communities they are meant to protect.

Politically, the law had a stunning effect on races and campaigns in Arizona and the rest of the country. While her signature on the harsh new law catapulted Jan Brewer to a Republican primary win later in the summer (and probably into the Governor's mansion), the law had a powerful and negative impact on the Republican brand among the nation's fastest growing electoral demographic: Latino and immigrant voters.

Spurred into action by the extremist rhetoric triggered by Arizona's controversial new immigration law immigrant, Latino and Asian voters turned out in higher than expected numbers and flexed their growing electoral muscle on November 2nd. As a result, pro-immigrant candidates won re-election and Democrats retained control of the United States Senate. [According to polling](#), immigration reform had become a litmus test issue for Latino voters, and it was the second most important issue to this demographic, behind the economy and jobs. Simply put, the Republican brand suffered among Latino and immigrant voters as a result of perceived Republican cheerleading of Arizona's controversial new anti-immigrant measure.

Meanwhile, partially as a result of Arizona's new law, the debate over immigration in other places turned ugly. A combination of the federal government's decades-long neglect of the broken immigration system and the harsh rhetoric of some anti-immigrant candidates helped create a toxic political environment in many states that led some elected leaders and candidates in several states to campaign on fear of immigrants and immigration.

While the scapegoating of immigrants was not unique to one party, a particularly vocal faction of the Republican Party captured the public's attention in their effort to drive negative messages about immigrants and immigration reform. In fact, after the passage of SB 1070 in Arizona, several state legislators—mostly Republican—signaled their intent to introduce harsh anti-immigrant “copycat legislation” based on Arizona's SB 1070 in their own states.

While some state legislators may opt for harsh anti-immigrant legislation, they should heed Arizona's cautionary tale. The new law triggered a national firestorm, cost the state millions in revenue, and caused irreparable damage to the state's reputation. Arizona's passage of the law sparked a national outcry whose effects will be felt for years, and it guaranteed the state will spend millions defending their controversial new law in the courts when their budget shortfall is at near record levels. States must ask themselves whether it's good policy to pursue costly anti-immigrant measures or whether it makes more sense to use their powers to urge the federal government to finally fix the broken immigration system.

Each state is unique, and because of a constellation of factors, some are more likely than others to pass harsh, controversial measures. In some states, legislators are awaiting the decisions of the courts to decide how they should move forward. Of course, an Arizona-type law isn't the only option available to lawmakers, and some will undoubtedly pursue some less controversial measures as they try to craft policies to fill the void created by the federal government's neglect of the immigration system. In some others, efforts to pass an Arizona-type bill will run into a brick wall in the form of a veto-wielding governor or a vehement state-based opposition.

The exact number of states that will pass harsh immigration enforcement laws depends on a number of factors. We can, however, be certain that the immigration battle in state legislatures in 2011 and 2012 will have a profound impact on independent voters' perception of leadership in troubled economic times, immigrant voters' support of elected officials, and on the nation's recognition of the value of immigrants and immigration.

Thus, Republicans are presented with a choice: Will they use their newfound political clout to pursue harsh immigration enforcement legislation that is prohibitively expensive, endangers public safety, will result in costly lawsuits, undermines local economies, and turns off a key and growing voting demographic? Or, will they use their new power to lead states to practical solutions, court a powerful new Latino and immigrant electorate and pave a way for their party to make even more gains in 2012?

INTRODUCTION

Arizona's controversial immigration enforcement law, "Support Our Law Enforcement and Safe Neighborhoods Act" (SB 1070, amended by HB 2162¹) contains a variety of provisions designed to target unlawfully present immigrants. The naked intention of the law is to make "attrition through enforcement" public policy in Arizona. SB 1070 requires state and local law enforcement agencies to check the immigration status of individuals they encounter and makes it a state crime for noncitizens to fail to carry proper immigration documentation. Soon after Arizona's governor signed the bill, numerous legal challenges to the law were filed.

This report provides a political context for the Arizona law, explains why such legislation is neither the right approach nor a substitute for federal immigration reform, and attempts to assess the probability of passage of similar legislation in key states.

Arizona's harsh crackdown on immigrants triggered a heated national debate over the broken immigration system and the appropriate role of states. This report examines the law's impact on the state's politics, budget, economy, Latino and immigrant communities, reputation, and law enforcement community.

As of this writing, SB 1070 remains mired in a costly legal battle that appears headed for the United States Supreme Court and could take years to resolve. According to independent analysis, the law would exacerbate problems it purports to address like public safety, the state's budget deficit, and confusion around the role of law enforcement agencies to enforce federal immigration laws. Recent analyses also show that SB 1070 has already cost Arizona millions of dollars in tourist and convention revenue.

Measures like Arizona's SB 1070, which are intended to fill a role that can only be played by the federal government, only make our broken immigration system even more dysfunctional. The new law pre-empts exclusive federal immigration authority, and decreases trust between law enforcement and the community all while ensuring that the state will spend vast sums defending (and potentially implementing) the new law.

Legislation designed to question the identity and legality of all immigrants, and place fear into the hearts of undocumented immigrants, turns off the nation's fastest growing electorate. Given the growing numbers of Latino and immigrant voters in states across the nation and the growing sophistication of Spanish language media to hold elected

¹ The bill is known as Senate Bill SB 1070 although it was amended by House Bill 2162 on April 30, 2010. The enactment of SB 1070 was modified by the April 30 amendments. Text of SB 1070, Arizona State Legislature, available at <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>. Text of HB 2162, Arizona State Legislature, available at <http://www.tucsonsentinel.com/files/pdf/hb2162.pdf>

officials accountable, neither Democrats nor Republicans can risk being on the wrong side of this increasingly powerful voting bloc.

SB 1070: BUDGET DEFICITS, ENDLESS LAWSUITS, AND A THREAT TO PUBLIC SAFETY

On April 23, 2010, Arizona Governor Jan Brewer signed the “Support Our Law Enforcement and Safe Neighborhoods Act”, commonly referred to as SB 1070, into law. Among other provisions, the law makes it a state crime to fail to apply for or carry proper immigration documentation and gives police broad power to detain those suspected of being unlawfully present in the country. Further, SB 1070 allows citizens to sue law enforcement agencies whose enforcement efforts they consider to be insufficient and toughens laws against the performance of work by unauthorized immigrants and the transport or harboring of persons lacking valid immigration status. Some immigration and civil rights advocates argue that the law will inevitably lead to greater racial profiling and subject Latinos and those perceived as “immigrants”, regardless of immigration or citizenship status, to discrimination.

What sets SB 1070 apart from previous anti-immigrant efforts is its scale, including an onerous requirement that would use the entirety of the state’s law enforcement apparatus to identify, detain and refer for deportation undocumented immigrants and legal immigrants who may be removable. Of course, undocumented immigrants cannot be easily distinguished among the general populace, a problem proponents have yet to properly address.

Arizona has long been a hot-bed for anti-immigrant hysteria and SB 1070 is only the most recent manifestation. For nearly a decade, anti-immigrant leaders in Arizona have pushed harsh legislation and ballot measures, including restrictive English-only measures and banning state schools from teaching ethnic studies. Arizona is home to Sherriff Joe Arpaio, notorious for his masked posses and raids of immigrant communities.

Reactions

The enactment of SB 1070 spurred a range of responses across the country from the federal government, local governments, advocacy community, and individuals. Immigrant and civil rights groups mobilized protests and called for a boycott of Arizona. Resolutions and proclamations calling for an end of SB 1070 and urging the federal

government to pass comprehensive immigration reform were adopted in more than 50 localities across the country.²

Local governments and legislators issued travel bans preventing city officials from using public funds to travel to Arizona. Organizations and businesses cancelled previously scheduled large-scale conferences and meetings that were to take place in the state. Celebrities and performers joined the public outcry with statements denouncing SB 1070 and concerts in support of the immigrant community. The law sparked several lawsuits, including a challenge by the Department of Justice based on federal preemption grounds and a class action suit by individuals and organizations built on preemption and civil rights claims.

Proponents of SB 1070 view it as a bold approach to combat illegal immigration. They filed amicus briefs supporting the law and made donations to Governor Brewer's legal defense fund. Some of the strongest support for SB 1070 comes from the private prison industry, which stands to benefit enormously from the law's detention requirements.³

The consequences for Arizona, however, have been dire. The new law, aside from its inherent policy and constitutionality flaws, has enormous costs associated with it in the form of legal fees, implementation costs, and the negative effect on the state's budget.

SB 1070: YOUR STATE CAN'T AFFORD IT

Arizona may have cornered itself into a ruinous financial position with SB 1070. The effect of the law on the state's budget will exacerbate the current financial crisis, as the state will have to pay millions to defend the law and millions to implement it as the state attempts to fill a role meant for the federal government.

Adding to the worsening financial picture are reports that Latinos, fearful of the new law, are fleeing the state and taking their tax dollars, capital, and purchasing power with them. In June, the Christian Science Monitor reported that Hispanics, both legal and undocumented, had begun to flee Arizona. By November, the anecdotal evidence was backed up by hard numbers. A study completed by BBVA Bancomer research found 100,000 fewer Latinos living in Arizona in the wake of the new law.

"The study says the decline could be due to a new law that would allow police to question the immigration status of those they suspect are in the country"

² Over 50 States/Localities Passed Resolutions Opposing Arizona SB 1070, available at http://act.reformimmigrationforamerica.org/cms/sign/elected_officials/

³ Laura Sullivan, "Prison Economics Help Drive Ariz. Immigration Law," National Public Radio, October 28, 2010, available at <http://www.npr.org/templates/story/story.php?storyId=130833741>

illegally, which partly took effect in July. It may also be due to Arizona's difficult economic situation.”⁴

Hispanics and immigrants are critical to Arizona's economy. The Perryman Group estimated that if all unauthorized immigrants were removed from Arizona—as the new law aims—the state would lose \$26.4 billion in economic activity, \$11.7 billion in gross state product, and 140,324 jobs. Facing unemployment hovering near 10% and a projected 2011-2012 budget deficit of \$1.4 billion—close to 2009's all-time high of \$1.6 billion—the state can ill afford to chase away precious tax dollars and jobs.

State Budgets—Including Arizona's—Are Feeling the Effects of a Severe Recession

The worst recession since the 1930s has caused the steepest decline in state tax receipts ever, and according to independent estimates, the fiscal outlook is even worse. According to the Center on Budget and Policy Priorities, at least 46 states struggled to close shortfalls and budget gaps this year, even after adopting deep spending cuts, and they continue to struggle to find the revenue needed to support critical public services for a number of years, threatening hundreds of thousands of jobs⁵. According to CBPP's analysis, states face:

- **Sharply constrained budgets in 2011.** *To balance their 2011 budgets, states had to address fiscal year 2011 gaps totaling \$125 billion, or 19 percent of budgets in 46 states. Most did so with spending cuts and revenue increases. This total is likely to grow over the course of the fiscal year, which started July 1 in most states....Families hit hard by the recession will experience the loss of vital services throughout the year, and the negative impact on the economy will continue.*
- **No diminishment in budget problems in 2012.** *States' fiscal problems will continue in the current fiscal year and likely beyond. Only six states are reporting new mid-year shortfalls for fiscal year 2011—a sign that conditions have stabilized compared to this time last year. But most states anticipate significant problems next year. Already 39 states have projected gaps that total \$112 billion for the following year (fiscal year 2012).*

⁴ “Fewer Latinos in Arizona; Law, Economy Cited,” Denver Post Wire Report, November 12, 2010, available at http://www.denverpost.com/nationworld/ci_16591373#ixzz154sCVrIW

⁵ “States Continue to Feel Recession's Impact,” Elizabeth McNichol, Phil Oliff and Nicholas Johnson, Center on Budget and Policy Priorities, December 13, 2010, available at: <http://www.cbpp.org/cms/index.cfm?fa=view&id=711>

Arizona hasn't escaped the fiscal crisis and faces a \$1.4 billion budget deficit in fiscal year 2011-2012 that could swell by FY 2012-2013. Add the costs of SB 1070, and the state's fiscal crisis is even bleaker.

While estimates of the effect of the response to the law on the state's economy have varied, the damage to Arizona's reputation cannot be overstated. Passage of the law triggered an organized national boycott and travel bans that cost the state hundreds of millions of dollars. Many conventions were cancelled by local governments and organizations who did not want to be associated with Arizona's harsh new law. A Phoenix official estimated that the losses to the city of Phoenix alone would total around \$90 million over the next five years.⁶ This enormous loss of revenue to the state is in addition to the sky-high legal fees Arizona will pay defending the law in court, and the high cost of implementation as local law enforcement is burdened with enforcing federal immigration law.

According to a study commissioned by the Center of American Progress to examine the economic effects of Arizona's SB1070, the consequences for the tourism industry and the jobs it supports have been severe:

*"The (tourism) industry's losses will cost the state \$253 million in economic output and more than \$86 million in lost wages over the next two to three years...The study, conducted by Arizona-based [Elliott D. Pollack & Company](#), found that the losses from meetings that were cancelled following approval of the immigration control law S.B. 1070 total \$141 million in direct spending by convention attendees. Further, the economic hit from cancelled meetings that would have occurred over the next two to three years—\$253 million in economic output—affects 2,800 jobs that would have been supported by that activity."*⁷

Estimates vary, but the net effect is clear: SB 1070 has measurably worsened Arizona's economy at a time when the state's budget was already in crisis. While leaders in every state must grapple with a tough economic climate, they must ask themselves whether measures like Arizona's will exacerbate existing problems facing states like unemployment, anemic job growth, falling state revenues, and a persistent crisis in the housing market. At best, laws like Arizona's are a wasteful distraction and a blemish on a state's reputation. At worst, they exacerbate the economic crisis and create more problems for already struggling states.

⁶Alicia E. Barrón, "Boycotts over SB-1070 could cost Phoenix up to \$90 million," [azfamily.com](http://www.azfamily.com/outbound-feeds/yahoo-news/Boycotts-over-immigration-law-could-cost-Phoenix-up-to-90-million-93489339.html), May 11, 2010, available at <http://www.azfamily.com/outbound-feeds/yahoo-news/Boycotts-over-immigration-law-could-cost-Phoenix-up-to-90-million-93489339.html>

⁷ "Stop the Conference: The Economic and Fiscal Consequences of Conference Cancellations Due to Arizona's S.B. 1070," Marshall Fitz and Angela Kelley, Center for American Progress, November 2010, available at: http://www.americanprogress.org/issues/2010/11/pdf/az_tourism.pdf

SB 1070: A Windfall for Lawyers, Bad News for State and Local Taxpayers

So far Arizona has paid nearly a half million dollars in legal fees, and could spend up to \$10 million should the case go to the United States Supreme Court as is widely predicted⁸. Arizona is following in the footsteps of other localities that have passed harsh anti-immigrant legislation and paid dearly for it. Repeatedly, a city or state government that passed a harsh anti-immigrant measure—California, Hazleton, Pennsylvania and Farmers Branch, Texas, for example—accrued millions in legal fees defending anti-immigrant measures that were ultimately stopped by the courts. On the other hand, the city council of Fremont, Nebraska, recognized the looming legal expenses their immigration control law would create, and shelved the measure prior to its implementation.⁹

In 1994, California's Proposition 187 required police to report suspected undocumented immigrants and sought to deny access to education and emergency care. It too sparked an intense immigration debate notable for its intense negativity, cost millions in legal fees¹⁰, and was eventually blocked by the courts. Legal fees for the Hazleton ordinance that prevented illegal immigrants from renting homes were nearly \$2.4 million¹¹. The law was eventually overturned by a federal judge. The Farmers Branch, Texas Ordinance 2952¹² banning illegal immigrants from renting in the city was declared unconstitutional twice and a permanent injunction was issued to prevent its enforcement. Legal fees accrued by Farmers Branch were projected to exceed \$5 million by the end of the 2010 fiscal year.¹³

Implementation Costs For States and Counties Add Up to Major Expenses

In 2006, Arizona attempted to pass a harsh enforcement measure similar to SB 1070. It was later vetoed by then-Governor Napolitano. However, in anticipation of potential passage, the Yuma County Sheriff's Department prepared a comprehensive cost assessment¹⁴ for the county. According to their analysis, the potential costs for that bill,

⁸ Miriam Jordan, "Donors Send Millions to Defend Arizona Law," *Wall Street Journal*, October 26, 2010, available at <http://online.wsj.com/article/SB20001424052702304248704575574461341942940.html>

⁹ Associated Press, "Nebraska: Housing Ban Shelved," *The New York Times*, July 28, 2010, available at http://www.nytimes.com/2010/07/28/us/28brfs-HOUSINGBANSH_BRF.html

¹⁰ "Rights Case Lawyers Seek to Bill State," *The New York Times*, September 7, 1998, available at <http://www.nytimes.com/1998/09/07/us/rights-case-lawyers-seek-to-bill-state.html>

¹¹ Kobach in Hazleton, PA, MediaMatters Action Network, July 15, 2010, available at <http://politicalcorrection.org/mobile/factcheck/201007150005>

¹² Kobach in Farmers Branch, Texas, Political Correction, A Project of Media Matters Action Network, July 15, 2010, available at <http://politicalcorrection.org/factcheck/201007150004>

¹³ Dianne Solis, "Farmer Branch Legal Costs Rise in Immigration Fight," *Dallas Morning News*, April 10, 2010, available at http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/DN-fblegalfees_10met.ART0.State.Edition1.4c87911.html

¹⁴ Can Arizona Afford to Implement SB 1070?, New American Media, April 23, 2010, available at <http://blogs.newamericamedia.org/immigration/1919/can-arizona-afford-to-implement-sb-1070>

which would have authorized the police to arrest illegal immigrants on trespassing charges, were staggering:

- Law-enforcement agencies would spend between \$775,880 and \$1,163,820 in processing expenses;
- Jail costs would be between \$21,195,600 and \$96,086,720;
- Attorney and staff fees would be \$810,067 – \$1,620,134;
- Additional detention facilities would have to be built at unknown costs

Under the 2006 immigration enforcement bill, these costs would have been incurred by a single county—and not Arizona’s largest. The 2006 bill, also sponsored by Russell Pearce, did not go as far as SB 1070. Therefore, based on the above figures, the potential costs to implement SB 1070 on a statewide level—which this state legislature has still not calculated—would clearly add a huge financial burden to taxpayers and the state budget.

LEGAL LIMBO: SB 1070 COULD BE MIRED IN THE COURTS FOR YEARS

Lawsuits challenging the constitutionality of Arizona’s SB 1070 were filed immediately by the United States, local law enforcement personnel, community organizations, labor unions, individuals, and national civil rights, religious, and advocacy organizations.

Department of Justice Lawsuit

The Department of Justice lawsuit argues that SB 1070 is preempted by federal law and violates the Supremacy Clause of the U.S. Constitution. The lawsuit alleges that because the Constitution relegates the power to set immigration policy for the nation exclusively with the federal government and makes federal law the supreme law of the land, SB 1070 impermissibly interferes with federal immigration laws and policy. Further, the Department of Justice argues that SB 1070 undermines the execution of Congressional objectives and harms foreign policy and national security interests. In addition to challenging the constitutionality of SB 1070, the Department of Justice sought to enjoin Arizona from enforcing the law pending a legal determination.

On July 28 2010, one day before SB 1070 was scheduled to take effect, United States District Judge Susan Bolton granted the Department of Justice’s request for a preliminary injunction in part, thus preventing the implementation of the law’s most controversial provisions. Judge Bolton enjoined the following sections of SB 1070:

- *requirements that an officer make a reasonable attempt to determine the immigration status of a person stopped, detained or arrested where the officer has reasonable suspicion that the person is unlawfully present, and verification of immigration status for all arrestees prior to their release*

- *the creation of a state crime for the failure to apply for or carry alien registration papers*
- *the creation of a state crime for an unauthorized alien to solicit, apply for, or perform work*
- *authorizing the warrantless arrest of a person where there is probable cause to believe the person has committed a public offense that makes the person removable from the United States*

Regarding these sections of SB 1070, Judge Bolton found that the Department of Justice was likely to prevail in its argument that Arizona had exceeded its constitutional authority with SB 1070.

On November 1, 2010, one day before the midterm elections, the U.S. Court of Appeals for the Ninth Circuit heard arguments on Arizona's appeal of the injunction against key elements of Arizona SB 1070. The appeal addressed only Judge Bolton's order stopping parts of the law from taking effect while the federal lawsuit proceeds. It is unclear when the appellate court will issue its decision. Regardless, the case could be appealed to the United States Supreme Court, potentially taking several years to resolve.

Other Lawsuits

In addition to the Department of Justice lawsuit, a coalition of civil rights groups, individuals, labor unions, and community organizations—including the American Civil Liberties Union, the Mexican-American Legal Defense and Education Fund, the National Association for the Advancement of Colored People, and the National Immigration Law Center—filed a class action lawsuit requesting an injunction and alleging that SB 1070 unlawfully attempts to regulate immigration, would violate prohibitions on unlawful interrogations, searches, and seizures, would threaten freedom of speech and expression, and would result in widespread racial profiling.

This class action lawsuit was challenged by Arizona, which asked the court to dismiss it. On October 8, 2010, the United States District Court denied most of the motion to dismiss and allowed several of the plaintiffs' arguments to survive.

A number of other lawsuits were filed in opposition to SB 1070¹⁵, including an additional class action claim by individuals and the League of United Latin American Citizens (LULAC), a suit brought by an organization of churches and pastors, and at least three suits filed by individuals.

¹⁵ For an overview of legal challenges and documents related to SB 1070 lawsuits, see the American Immigration Council, Legal Action Center webpage, available at <http://www.legalactioncenter.org/clearinghouse/litigation-issue-pages/arizona-sb-1070%E2%80%8E-legal-challenges-and-economic-realities>

SB 1070: A THREAT TO PUBLIC SAFETY

Supporters of the controversial law attribute their backing to a desire to “secure the border”, fend off violent crime and close the state’s budget gap. In an email explaining why she voted for SB 1070, Arizona State Senator Sylvia Allen painted a somewhat fantastical picture of drug cartel activity, vandalism, property theft, discovered dead bodies, and gun fire along the border.¹⁶

These arguments, however, are not consistent with the facts. Despite trumped up fear of so-called “spillover violence” from Mexico, official FBI statistics indicate that crime in the border region has been going down since 2006. Further, law enforcement officials—charged with public safety—argue that the law diverts precious resources from their ability to protect against dangerous criminals and violent crime, and it undermines public trust, crucial to police work, especially in immigrant communities.

Unsurprisingly, law enforcement officials indicated that already strained resources would have to be further stretched to meet the onerous demands of the state’s new law. As described previously, the squeeze on law enforcement resources would be increased by SB 1070 as the state budget will likely be negatively affected by legal fees and implementation costs. The Tucson Chief of Police, Roberto Villasenor, said about the law:

“SB 1070 reprioritizes the regulation of immigration above almost every other enforcement effort that my department pursues. This new law will take many officers from their patrol and enforcement duties while they process and/or transport what will amount to thousands of individuals, at a time when due to budgetary constraints my department is losing both resources and officer positions that I cannot fill.”¹⁷

Policing professionals also contend that SB 1070-style laws harm public safety by destroying public trust, endangering victims of crime, and discourage the reporting of crime. Raleigh, North Carolina Police Chief Harry Patrick Dolan said,

*“It would have a negative impact on community policing and public safety.”
“Neighbors [in Hispanic neighborhoods] would be more hesitant to report crimes if they think their neighbors and family are here without authority.”¹⁸*

Besides diverting scarce resources from the pursuit of violent crime and dangerous individuals, laws like SB 1070 that conflate local law enforcement and immigration

¹⁶Sinema Responds to Sen. Sylvia Allen’s SB 1070 Email, Arizona House Democrats, May 6, 2010, available at <http://www.azhousedemocrats.com/2010/05/sinema-responds-to-sen-sylvia-allens-sb.html>

¹⁷ Declaration of Roberto Villasenor, June 25, 2010.

¹⁸ Thomas McDonald, “Dolan Bucks Immigration Stops,” *News Observer*, April 22, 2010, available at <http://www.newsobserver.com/2010/04/22/448745/dolan-bucks-anti-immigration-bill.html#ixzz0mF8ZdzII>

enforcement make it less likely that communities, particularly immigrant communities, will report crimes because they fear deportation—making everyone less safe.

Policies like those enshrined in SB 1070 risk further exacerbating state budget woes, create obstacles to public safety as crime-fighting dollars are diverted and depleted, and divert attention away from more pressing issues facing state legislatures like the economy, jobs, and education.

IN THE STATES: WHAT WILL THEY DO NOW?

Republicans won sweeping victories in the 2010 mid-term elections, handing them control of many gubernatorial posts and state legislatures. Of the thirty-seven gubernatorial races, Republicans were elected in twenty-three. The Alabama and North Carolina Senates have not been Republican-dominated since the 19th century. Republicans have an enormous majority, over 100 seats, in the New Hampshire House. The Minnesota Senate will be controlled by the Republicans for the first time ever.

Republican leaders in these states now have tough choices to make as they weigh the responsibilities of governing. Who will speak for their party on immigration reform and what path will they choose as their states contemplate Arizona-style policies in response to the broken immigration system? How will they answer questions of cost and safety? How will Republicans prove to fast growing Latino, Asian and other immigrant populations their contributions are valued?

Some states may forge full steam ahead with SB 1070-style legislation in January. Others may decide not to pursue a bill at all or opt for a scaled-back version after seriously considering potential legal fees, implementation costs and public safety concerns. Sponsors of copycat legislation in at least three states (Idaho, Minnesota and Ohio) announced they will modify the language of their bill according to Judge Bolton's July ruling. What is certain, however, is that the tone of the debate will have an outsized influence on the national debate and how individual states and localities are viewed by the rest of the country and the rest of the world.

Preliminary assessments of the likely outcome of proposed copycat measures in state legislatures across the country indicate that at least seven states (**Georgia, Mississippi, Nebraska, Oklahoma, Pennsylvania, South Carolina and Tennessee**) are likely to pass a measure similar to Arizona's. These projections are based on Governors' publicly stated positions, intelligence and information gathered on the positions of key state legislators, and general information about the make-up of the state legislatures. This report is not intended to be an exhaustive account of all states that may consider copycat proposals. Several states are highlighted to showcase examples of the kinds of dynamics at play in states. These states have some combination of the following: a re-elected, highly motivated potential bill sponsor, an already introduced measure similar to Arizona or a legislature-approved resolution supporting Arizona's SB 1070, as well as a conservative Governor and conservative majority in the legislature.

State	Governor	Senate	House
Florida	Rick Scott (R)*	Republican	Republican
Georgia [^]	Nathan Deal (R)	Republican	Republican
Idaho	Butch Otter (R)	Republican	Republican

Indiana	Mitch Daniels (R)	Republican	Republican*
Kansas	Sam Brownback (R)*	Republican	Republican
Mississippi [^]	Haley Barbour (R)	Democrat	Democrat
Nebraska [^]	Dave Heineman (R)	Unicameral Nonpartisan	
Oklahoma [^]	Mary Fallin (R)*	Republican	Republican
Pennsylvania [^]	Tom Corbett (R)*	Republican	Republican*
South Carolina [^]	Nikki Haley (R)	Republican	Republican
Tennessee [^]	Bill Haslam (R)*	Republican	Republican
Texas	Rick Perry (R)	Republican	Republican
Utah	Gary Herbert (R)	Republican	Republican
Virginia	Bob McDonnell (R)	Democrat	Republican

*Indicates Party Change, ^ Indicates Likely to Pass an Arizona-Style Bill

Florida

Already, two prominent Florida Legislators have promised to move legislation similar to SB 1070, and the state just elected a Governor and Attorney General who were vocal in support of Arizona's harsh law. However, Florida has an organized coalition of immigrants' rights activists and others that has beaten back previous attempts to consider this kind of legislation, and key legislators have indicated that they don't support bringing an Arizona-style immigration law to Florida. Sure to weigh on legislators as they consider any type of harsh immigration bill is its probable impact on the tourism industry, easily Florida's largest and most lucrative sector.

After the midterm elections, both chambers remain controlled by Republican majorities, increasing the chances that the legislature will consider some version of Arizona's SB 1070. This summer, a few Republican members of the Florida Legislature filed bills similar to SB 1070 so that they could be considered during a special legislative session called by Governor Crist to debate a ban on offshore drilling after the BP oil spill disaster. Their efforts were largely symbolic, however, since the Governor called the special session to address the oil spill and adding other items to the agenda would have required consent from two-third majorities in both houses of the Legislature.

Representative Kevin Ambler (R) filed harsh immigration measures in July that closely mirrored Arizona's SB 1070 along with other provisions to prevent immigrants from accessing public benefits, but his bills died without being formally introduced.¹⁹

Meanwhile, Representative William Snyder (R), along with outgoing Attorney General Bill McCollum, then in the midst of a contested Republican primary for Governor, outlined a proposal for Florida similar to Arizona's this summer. Their proposal, like SB

¹⁹ See Florida House of Representatives, HB 1C, available at <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=44669>

1070, would require immigrants to carry valid documentation or serve time in jail and would allow judges to hand down stiffer penalties to illegal immigrants than to others who are convicted of crimes. The measure would also require Florida businesses to use a national registry to make sure that new hires are authorized to work in the United States. Snyder has yet to file his legislation, but he is Chairman of the House Judiciary Committee and has promised to move the measure.

In the Senate, Senator Mike Bennett, (R) has already filed legislation that is similar to the proposal outlined by Representative Snyder.²⁰ In July, Senator Paula Dokerly (R) partnered with Representative Ambler to force consideration of Ambler's controversial immigration measures during the oil spill disaster special session.

While proponents of Arizona's SB 1070 in Florida were introducing bills and outlining proposals, opponents of the measure were organizing their response. In August, the National Immigration Forum organized a national telephonic press conference showcasing key Democratic and Republican leaders in the Florida legislature that opposed efforts to bring Arizona's immigration approach to Florida. Efforts to pass a measure like SB 1070 were described by opponents as a frivolous waste of time in a state where the foreclosure crisis has been severe and unemployment hovers near 12%—two points higher than the national average.

Governor-elect Rick Scott (R) is a vocal proponent of bringing Arizona's SB 1070 to Florida and campaigned on the issue. In July, his campaign purchased airtime on Florida radio to urge the Legislature to bring Arizona's law to Florida: "Governor Crist has called a special session of the legislature. And, of course, Florida taxpayers are on the hook to pay for it. So as long as we are paying them anyway, here's something that the legislature should do: bring the Arizona immigration law here to Florida. Now. Pass it in the special session."²¹

Georgia

Conservatives control both chambers of the state legislature. The Georgia Assembly has developed a peculiar approach to immigration. They have created a special joint House and Senate committee, composed entirely of Republicans, to consider the state's response to immigration.²² The panel is studying whether Georgia should consider an

²⁰ Kathleen Haughney, The News Service of Florida, "Sponsor of Controversial Immigration Bill Wants Hispanic Support," Miami Herald, December 2, 2010, available at <http://www.miamiherald.com/2010/12/02/1953620/sponsor-of-controversial-immigration.html>

²¹ Brett Ader, Rick Scott; "Bring Arizona's Immigration Law to Florida. Now" The Florida Independent, July 15, 2010, available at <http://floridaindependent.com/3964/rick-scott-bring-arizonas-immigration-law-to-florida-now>

²² Dave Williams, "Georgia Legislature Forms Immigration Panel," *Atlanta Business Chronicle*, September 30, 2010, available at <http://bizjournals.com/atlanta/stories/2010/09/27/daily53.html>

SB 1070-style bill and, according to reports, it is considering several anti-immigrant options. The options include mandating the use of e-verify for all businesses, imposing penalties on government agencies that don't use e-verify, creating new criminal offenses for people who stop vehicles to hire and pick up day laborers or conceal, harbor or shield undocumented immigrants, or who "encourage" undocumented immigrants to move to Georgia.²³ Some version of the Arizona law is expected to be drafted by the panel, and Georgia has a history of passing crackdowns on undocumented immigrants including a 2006 effort passed by the Assembly requiring Georgia businesses seeking government contracts to make sure their employees were in the U.S. legally.²⁴

Georgia state law mandates that undocumented students pay the more expensive out-of-state tuition fee. However, following an arrest of an undocumented student attending Kennesaw State University, it was revealed that that student was paying the less expensive in-state tuition fee. That led to a vote by the Georgia State Board of Regents to ban undocumented immigrants from attending five of Georgia's most selective public colleges.²⁵ State Representative Tom Rice (R) filed legislation this November that would block undocumented immigrants from enrolling in public colleges state-wide.

Advocates in Georgia have responded to the ban on undocumented immigrants attending public colleges and the panel's consideration of an SB 1070-like law with protests, civil disobedience and speeches at public hearings. At a November hearing on whether Georgia should adopt something similar to Arizona's SB 1070, Helen Kim Ho, executive director of the Asian American Legal Advocacy Center of Georgia, said "A similar law would have a devastating effect on our economy. Such a policy would also hamper foreign economic development in our state because of the bad publicity which would result from boycotts and the image of Georgia as an anti-immigrant state."

The newly elected Governor, Nathan Deal²⁶ (R) favors Arizona's SB 1070 and has promised to push a similar bill in the Assembly. He said, "As governor of Georgia, I'd work to pass and sign similar legislation."²⁷

²³ Dave Williams, "Lawmakers May Toughen State's Immigration Law, *Atlanta Business Chronicle*, November 5 2010, available at <http://bizjournals.com/atlanta/print-edition/2010/11/05/Lawmakers.html>

²⁴ Dave Williams, "Lawmakers May Toughen State's Immigration Law, *Atlanta Business Chronicle*, November 5 2010, available at <http://bizjournals.com/atlanta/print-edition/2010/11/05/Lawmakers.html>

²⁵ Laura Diamond, "Regents Ban Illegal Immigrants From Some Georgia Colleges," *Atlanta Journal Constitution*, October 13, 2010, available at <http://www.ajc.com/news/regents-ban-illegal-immigrants-680750.html>

²⁶ "Nathan Deal says he'd implement Arizona-style immigration laws," *Atlanta Journal Constitution*, available at <http://blogs.ajc.com/political-insider-jim-galloway/2010/04/27/nathan-deal-says-hed-implement-arizona-style-immigration-laws/>

²⁷ "Nathan Deal says he'd implement Arizona-style immigration laws," *Atlanta Journal Constitution*, available at <http://blogs.ajc.com/political-insider-jim-galloway/2010/04/27/nathan-deal-says-hed-implement-arizona-style-immigration-laws/>

Idaho

Conservatives have the majority in the legislature and the governor supports Arizona's SB 1070. State Senator Mike Jorgenson (R) wanted to introduce an Arizona-style law in January,²⁸ but he lost the primary in May 2010. Governor Butch Otter (R) worked with the Attorney General to file a legal brief backing Arizona in its defense of SB 1070.²⁹

Indiana

The Indiana House turned Republican in November, giving conservative lawmakers control of the legislature. The Governor's position on SB 1070 is unclear.

Senator Mike Delph (R) plans to introduce a bill like SB 1070 in January and is closely watching what happens with the Arizona law. His past four attempts to pass immigration legislation passed the Senate, where Republicans dominated, but always failed in the House, where Democrats had the majority.³⁰ In November, the House flipped to a Republican majority, thus increasing the chance of a bill emerging from that body this session.

Commenting on SB 1070, Governor Mitch Daniels (R) said, "If the legislature wants to look at such a law, I would be glad to work with them on it. Again, I think Arizona has every right to pass that law. And it may well be an ideal fit for their circumstances. We are not in the same situation they are, and may not need the same sort of approach, but I'm open to it."³¹

Kansas

The legislature is dominated by conservatives and the Governor is unlikely to support a bill fashioned after SB 1070.

A measure similar to SB 1070, in the form of an amendment to the state budget presented by Representative Anthony Brown (R), failed a procedural challenge and was ruled out of order.³² The research department of the legislature issued a report on SB

²⁸ Jamie Griswold, "Senator Wants Arizona Immigration Law in Idaho, My Northwest.com," mynorthwest.com, May 19, 2010, available at http://www.mynorthwest.com/category/local_news_articles/20100519/Senator-wants-Arizona-immigration-law-in-Idaho/

²⁹ Press Release from Governor Butch Otter, September 3, 2010, available at http://gov.idaho.gov/mediacenter/press/pr2010/prsept10/pr_058.html

³⁰ Tom Spalding, "Delph Might Float Immigration Law," Indy.com, May 14, 2010, available at <http://www.indy.com/articles/news/thread/delph-might-float-immigration-law>

³¹ "Daniels shares views on immigration," WTHITC, August 2, 2010, available at <http://www.wthitv.com/dpp/news/indiana/daniels-shares-views-on-immigration>

³² "Statehouse Live: Legislator Says Kansas Needs Illegal Immigration Law Like the Arizona Law," Lawrence Journal-World and News, May 8, 2010, available at <http://www2.ljworld.com/news/2010/may/08/statehouse-live-legislator-says-kansas-needs-illeg/?print>

1070. It compared the Arizona law to a similar measure that was debated in the Kansas state legislature in 2008. That bill shared some of the law enforcement provisions of SB 1070 and also addressed hiring practices, crime, bail, unions, public benefits, and in-state tuition. The bill unanimously passed the Senate but died in the House.³³ It was introduced by Peggy Palmer (R), who is no longer a member of the legislature.

However, Kansas is the home state of Kris Kobach (R), who played a major role in crafting the Arizona bill (and other anti-immigrant bills around the country) and who was elected Secretary of State this November.

As a U.S. Senator, the newly-elected Governor, Sam Brownback (R), was very interested in refugee protection. In 2006, he was a key Republican supporter of comprehensive immigration reform.³⁴ Responding to political pressure back home, Brownback backed off his support for comprehensive immigration reform in 2007.³⁵ His specific position on SB 1070 is unclear. When asked in October 2010 about the law, Brownback stated he would, "watch what happens in the court system."³⁶

Mississippi

In 2008, when political control of the state was nearly the same as it is today (the legislature was dominated by Democrats and Republican Haley Barbour was Governor), the legislature passed a bill that made it a felony for undocumented immigrant to solicit or accept work in the state.

For the coming legislative session, members in both chambers have expressed interest in introducing an SB-1070-style bill, the Lt. Governor is actively pushing for such a bill, and the Governor supports Arizona's SB 1070. In the Mississippi House, Representative Becky Curries (R) has stated that she plans to introduce a measure in January.³⁷ Senator Joey Fillingane (R) drafted legislation he says is very similar to SB 1070³⁸ and three other conservative Senators, Chris McDaniel, Michael Watson and Lee Yancy, also plan to introduce measures allowing for immigration checks after a person is stopped by a law enforcement officer for some other reason.³⁹

³³ Immigration Paper, Kansas Legislative Research Department, September 7, 2010, available at http://skyways.lib.ks.us/ksleg/KLRD/Publications/Immigration/2010_Immigration_Paper.pdf

³⁴ "Brownback Commends Passage of Immigration Bill," Press Release from the Office of Senator Brownback, May 25, 2006, available at <http://brownback.senate.gov/pressapp/record.cfm?id=256172>

³⁵ "Brownback Votes Against Cloture on Immigration Bill" Press Release from the Office of Senator Brownback, June 28, 2007, available at: <http://brownback.senate.gov/public/press/record.cfm?id=277998&>

³⁶ Jeannine Koranda, "Kansas May Look At Arizona-type Law," *The Wichita Eagle*, October 10, 2010, available at <http://www.gctelegram.com/news/wichita-kansas-immigration-10-21-10>

³⁷ "Arizona-Like Immigration Bill On The Horizon in 2011," *majorityinms.com*, July 12, 2010, available at <http://majorityinms.com/2010/07/12/arizona-like-immigration-bill-on-the-horizon-in-2011/>

³⁸ Colleen Donovan, "New Immigration Law proposed for Mississippi," *WDAM*, August 19, 2010, available at <http://www.wdam.com/Global/story.asp?S=12999016>

³⁹ "Cochran Says State's Immigration Laws Need To Be Tightened," *WATP.com*, July 27, 2010, available at <http://www.wapt.com/politics/24399596/detail.html>

Lt. Governor Phil Bryant is pushing for an SB 1070-type bill in Mississippi. He said, "My position has always been more aggressive. If we wait to find out if someone will file a challenge, then the federal courts will accept it, then we will never get a piece of legislation through these bodies."⁴⁰ Reports indicate that Governor Barbour (R) would sign a bill like Arizona's SB 1070. Barbour said, "It's not as applicable to us because we don't have a border. But there's nothing in that law that to me, that offends constitutional standards, whether it's the United States or the state of Mississippi."⁴¹

Nebraska

The state's unicameral, nonpartisan legislature would require only 24 votes to pass an Arizona-style bill in Nebraska.⁴² However, immigration proposals are considered by the Judiciary Committee before the full legislature debates them, a factor that may complicate passage for any SB 1070-type bill, as the Chairman of the Judiciary Committee appears unsupportive of Arizona's approach.

Senator Charlie Janssen expressed interest in introducing an SB 1070-type measure in January.⁴³ He also is a supporter of the ordinance that was tabled⁴⁴ by the Fremont City Council in late July due to anticipated legal fees, legal pressure, and local opposition. That ordinance would have banned renting to and hiring undocumented immigrants. In a statement on Fremont's ordinance, Janssen said, "This is a victory in the enduring fight against illegal immigration. We have taken an important first step, but we need support from all across this country. In the same way we have stood with the brave people of Hazelton, PA, and Farmers Branch, TX, we need the American public to shoulder this burden with us."⁴⁵

Senator Brad Ashford, Chairman of the Judiciary Committee, has said the state should await the legal outcome of SB 1070 prior to considering a similar version for Nebraska. In 2008, Chairman Ashford killed LB 963⁴⁶ in committee, a bill strongly supported by

⁴⁰ "Mississippi Lawmakers Battle Over Immigration Legislation," WATP.com, September 28, 2010, available at <http://www.wapt.com/politics/25197002/detail.html>

⁴¹ Emily Wagster Pettus, Associated Press, "Mississippi to Consider Arizona Style Immigration Bill," *Desert News*, August 3, 2010, available at <http://www.deseretnews.com/article/700053313/Mississippi-to-consider-Arizona-style-immigration-bill.html>

⁴² "Nebraska lawmaker plans Arizona-Style Immigrant Bill," *Bloomberg Business Week*, May 18, 2010, available at <http://www.businessweek.com/ap/financialnews/D9FPFB480.htm>

⁴³ Martha Stoddard, "Heineman Looks At Arizona Law," *Omaha World-Herald*, August 4, 2010, available at <http://www.omaha.com/article/20100804/NEWS01/708049847>

⁴⁴ "Hazelton, PA Anti-Immigrant Law Is Unconstitutional, Federal Appeals Court Rules," American Civil Liberties Union, September 9, 2010, available at <http://www.aclu.org/immigrants-rights/hazelton-pa-anti-immigrant-law-unconstitutional-federal-appeals-court-rules>

⁴⁵ See Statement by State Senator Charlie Janssen, June 22, 2010, available at <http://news.legislature.ne.gov/dist15/>

⁴⁶ Leslie Reed, "Setback for Heineman's Immigration Bill," *World Herald Bureau*, 2008, available at <http://www.alipac.us/modules.php?name=News&file=article&sid=3000>

Governor Heineman (R). That bill would have repealed in-state tuition benefits for the undocumented. Chairman Ashford has also publically questioned the propriety of Attorney General Bruning's decision to file a legal brief supporting Arizona's SB 1070.⁴⁷ "Brad Ashford of Omaha said Bruning should not be taking on so-called cause célèbres when Nebraska has such budget troubles. 'Having the attorney general involved in some other state's litigation is troubling...The resources of this state should not be spent defending a law that is not our law,' he said." If Ashford remains Chairman of the Judiciary Committee, the biggest hurdle to passing an SB 1070 for Nebraska appears to be his committee.

Nebraska Governor Dave Heineman (R) built his career opposing illegal immigration and has said he will work with the state Attorney General to craft a law similar to Arizona's SB 1070 for the 2011 legislative session. The Attorney General is a strong supporter of SB 1070, and she has weighed in on Arizona's other controversial measure—a 2007 law tied up in litigation before the United States Supreme Court that permits the revocation of business licenses for businesses that knowingly hire undocumented immigrants. Bruning, in coalition with the Attorney Generals of three other states filed a brief urging the Supreme Court to uphold the measure.

Oklahoma

Conservatives have the majority in the legislature and Oklahoma Governor elect, Mary Fallin (R) favors Arizona's SB 1070.⁴⁸

Representative Randy Terrill (R) plans to introduce a bill even tougher than SB 1070. Terrill has been successful in obtaining bipartisan support in the past. A known leader on immigration in the state, he has been successful in passing bills that deny public benefits to undocumented immigrants, stopped Spanish-language driving tests, and imposed fees on overseas wire transfers.⁴⁹ Newly-elected Senator, Ralph Shortey (R) has also sworn to introduce a bill modeled on Arizona's SB 1070.⁵⁰

Pennsylvania

Both chambers in the Pennsylvania legislature are now controlled by conservative law makers and a very vocal member of the House has promised to introduce a harsh anti-immigrant bill in the next session.

⁴⁷ JoAnne Young, "Brunings, Involvement With Arizona Immigration Law Questioned," *JournalStar.com*, November 5, 2010, available at http://journalstar.com/news/local/govt-and-politics/article_9e1eaa88-e92c-11df-a5c4-001cc4c002e0.html

⁴⁸ Glenn Schroeder "Fallin Touts Arizona Immigration Law," *News Talk Radio KRMG.com*, July 28, 2010, available at <http://krmg.com/localnews/2010/07/fallin-touts-arizona-immigrati.html>

⁴⁹ Miriam Jordon, "Immigration Debate Flares in Oklahoma," *Wall Street Journal*, May 10, 2010, available at <http://online.wsj.com/article/SB10001424052748703322204575227320006734604.html>

⁵⁰ "Oklahoma State Senator Wants 'Arizona Style' Immigration Reform," *News9.com*, November 17, 2010, available at <http://www.news9.com/Global/story.asp?S=13522154>

Re-elected Representative Daryl Metcalfe (R) introduced House Bill 2479 in May 2010. His legislation is closely modeled after Arizona's SB 1070. Metcalfe's bill would direct police officers "to attempt to verify the immigration status of suspected illegal aliens." It would also: create a new third-degree misdemeanor "for illegal aliens who violate federal law by either willfully failing to register as an alien or failing to possess proper proof of such registration when stopped for another primary offense, such as a traffic violation;" crack down on employers who hire illegal aliens without first checking to see if they had registration papers and are in the state legally; create a new third-class felony "for intentionally smuggling illegal aliens (into the state) for profit;" and allow police officers to "impound any vehicle driven by an illegal alien or used to transport illegal aliens." Metcalfe's measure obtained 43 cosponsors last session, out of a total of 203 members who make up the state's House of Representatives.

Representative Metcalfe is also the founder of the innocuously titled State Legislators for Legal Immigration (SLLI), a front group for FAIR, a Washington D.C.-based hate group.⁵¹ The SLLI announced in October 2010 that it is leading an effort with anti-immigrant lawmakers in several states to contest the interpretation of the 14th Amendment.⁵² The group's release crow: "State Legislators Form Nationwide Task Force to Halt Anchor Baby-Exploited Illegal Alien Invasion." SLLI contends that the 14th amendment is being misapplied, and "...As a result, hundreds of thousands of illegal aliens are crossing U.S. borders to give birth and use their child, or 'anchor baby,' as a means to obtain residency, access taxpayer-funded benefits and steal American jobs for themselves and for their families." The group claims legislator participation in Idaho, Indiana, Michigan, Mississippi, Nebraska, Oklahoma, Texas, and Utah.

A failed legislative effort in the summer of 2010 could provide insight into how Pennsylvania will behave if an SB 1070-type bill moves forward. In June, Metcalfe led an effort to mandate the use of e-verify for state contractors.⁵³ HB 1502 and HB 1503 would have barred contractors and subcontractors who hire illegal immigrants from bidding on state construction contracts and would have taken away state licenses and certifications from private contractors who hire illegal immigrants. Both measures passed with overwhelming bipartisan support in the Democrat-controlled House, but they failed in the Republican-controlled Senate where an odd coalition of the Chamber of Commerce, SEIU, the ACLU, Governor Rendell and others were able to engineer its failure. The bills were notable not for their provisions, but for the odd coalitions they created on both sides of the debate.

⁵¹ Mark Potok, "FAIR: Crossing the Rubicon of Hate," Southern Poverty Law Center, December 11, 2007, available at <http://www.splcenter.org/blog/2007/12/11/fair-crossing-the-rubicon-of-hate/>

⁵² "Arizona Lawmakers Preparing Citizenship Legislation," Associated Press, October 19, 2010, available at <http://www.abc15.com/dpp/news/national/arizona-lawmakers-preparing-citizenship-legislation>

⁵³ Tom Barnes, "House Passes Crackdown on Illegal Immigrants," *post-gazette.com*, June 9, 2010, available at <http://www.post-gazette.com/pg/10160/1064181-454.stm>

Finally, SB 1070-style legislation has a friend in Governor-elect Tom Corbett, where as Attorney General of Pennsylvania he filed a legal brief in support of Arizona's controversial law.

South Carolina

Both houses of the South Carolina legislature are Republican-dominated, and members of both houses have introduced versions of SB 1070. In fact, South Carolina was the first state to introduce a measure similar to Arizona's law.

Representative Eric Bedingfield (R) introduced House Bill 4919 on April 29, 2010, mere days after Governor Jan Brewer signed SB 1070 into law in Arizona. During the 2010 session, the measure garnered 33 cosponsors, and the House held hearings on it in May 2010, but never voted on it. In December, he reintroduced the measure as House Bill 3129 for consideration in the next session.

In October 2010, the members of the Senate Judiciary Subcommittee held statewide hearings that included Senator Larry Martin (R), Senate President Pro-Tempore Glenn McConnell (R) and Senator Chip Campsen (R). The committee held the hearings to gauge public support as they consider legislation that would allow state law enforcement officers to enforce federal immigration laws. Senate Pro-Tempore McConnell is a supporter of Arizona's SB 1070. However, according to reports from the hearings, "Most spoke in opposition to the proposed bill. Opponents to an Arizona-style immigration bill for the Palmetto State said it would be too expensive, would encourage racial profiling, and would be divisive to the state's 4 million residents... Of the 22 people who addressed the subcommittee, 15 asked the senators to drop the idea."⁵⁴

In the Senate, Senator Larry Grooms (R) also introduced a bill, S 1446, shortly after the signing of SB 1070, but it did not advance because the legislative session ended before it could be considered. In December, Senator Larry Grooms and Senator Ronnie Cromer introduced separate copycat bills for the 2011 legislative session.

This is not the first time South Carolina has proposed harshly anti-immigrant legislation. In 2007, South Carolina passed an immigration enforcement law that called for local law enforcement agencies to work with federal authorities to obtain training for staff and officials of local law enforcement agencies and holding facilities for undocumented immigrants. However, the program was never implemented because the state has not provided the necessary funding⁵⁵.

⁵⁴ <http://senatormcconnell.com/many-at-hearing-on-state-immigration-reform-rip-bill.htm>

⁵⁵ "Immigration Laws Must Come with Money for Enforcement," *Islandpacket.com*, October 17, 2010, available at <http://www.islandpacket.com/2010/10/17/1409625/immigration-laws-must-come-with.html>

Governor-elect Nikki Haley (R) supported the state Attorney General's legal brief in support of SB 1070 and said she would sign a similar law for South Carolina⁵⁶.

Tennessee

Tennessee, despite the absence of a large immigrant population, debated a large number of immigration-related bills in the last legislative session. Many of these provisions would have required employers, public and private, to verify the immigration status of their employees. Other measures would have prevented immigrants from attending community colleges, blocked access to pre-natal care, and prevent some U.S. citizen children from registering their birth certificates in Tennessee. According to immigrant advocates in Tennessee, they were able to block "95% of the anti-immigrant bills this session."⁵⁷

After the 2010 elections, Republicans have an even larger 64-34 majority in the House. Tennessee is notable for becoming the only legislature to adopt a resolution (HJR 1253) supporting Arizona's SB 1070. The resolution was introduced by Representative Joe Carr (R) and passed with the vote 67 to 25 in the House and 18 to 7 in the Senate.⁵⁸ Representative Carr was re-elected on November 2nd and plans to introduce a bill like SB 1070 in January 2010.⁵⁹

The Senate is overwhelmingly Republican. They control 29 of a possible 35 seats.

During his campaign, Governor-elect Haslam (R) aired an ad backing Arizona's SB 1070.⁶⁰ Looking into the camera, Haslam declares "Arizona stepped up and passed a tough new law, that addresses the unique challenges they face and Tennessee should do the same."⁶¹ He also promised to sign an SB 1070-like bill if the Legislature passes it.⁶²

Texas

⁵⁶ See Website for Nikki Haley, "Nikki Haley Will be Tough on Illegal Immigration," available at <http://www.nikkiahaley.com/mcmaster-nikki-haley-will-be-tough-on-illegal-immigration>

⁵⁷ Tennessee Immigrants Rights Coalition, 2010 Tennessee Legislative Session Wrap Up, available at <http://www.tnimmigrant.org/policy/2010-tennessee-legislative-wrap-up.html>

⁵⁸ Chris Cannon, "Tennessee House Commends Arizona on Immigration Law," NewsChannel5.com, May 25, 2010, available at <http://www.newschannel5.com/global/story.asp?s=12535162>

⁵⁹ David Oatney, "Illegal Immigration May be 107th General Assembly's Elephant in the Room," Examiner.com, July 12, 2010, available at <http://www.examiner.com/tennessee-statehouse-in-knoxville/illegal-immigration-may-be-107th-general-assembly-s-elephant-the-room>

⁶⁰ Andy Sher, "Tennessee: Haslam, Ramsey Ads Support Arizona-Style Immigration Law," Timefreepress.com, July 12, 2010, available at <http://www.timesfreepress.com/news/2010/jul/12/tennessee-ramsey-ad-promises-arizona-style-immigra/>

⁶¹ See Bill Haslam, "Protecting Jobs," available at <http://www.youtube.com/watch?v=cisqcsRXkiw>

⁶² See Bill Haslam on whether he would sign an SB 1070 like law, available at http://www.youtube.com/watch?v=CmuNnOjN_Ac&feature=related

Should an SB 1070-style measure pass the Republican-dominated legislature in Texas, it could be vetoed by the governor who appears to be unsupportive of bringing the Arizona law to Texas. However, the pushback on SB 1070-style measures will be an uphill battle.

Eager to introduce a copycat to SB 1070, Representative Debbie Riddle (R) camped out at the statehouse over a weekend to ensure she would be the first to pre-file her copycat bill, HB 17,⁶³ for the 2011 session.⁶⁴ Representative Leo Berman (R) also wants to introduce legislation similar to Arizona's immigration law.⁶⁵ House Speaker Joe Straus (R) appears to want to focus the next session on border security and leave responsibility for immigration enforcement to the federal government. A spokeswoman for the Speaker, Tracy Young, said, "Speaker Straus agrees with Governor Perry that the heart of the issue is an immediate need to focus on border security and the safety of Texans, and the federal government should do its job."⁶⁶

Important issues facing Democrats include preserving the Senate's two-thirds rule and House Democrats switching to the Republican Party. The Senate's two-thirds rule mandates two-thirds majority support before advancing a bill. If maintained, the rule could prohibit SB 1070 copycat legislation from advancing because Republicans are short of the requisite two-thirds majority, provided Democrats do not support it.

In the House, reports indicate that Democratic Representative Allan Ritter moved to the Republican party and Democratic Representative Aaron Pena may follow. Ritter's party change gives the House Republicans a two-thirds majority, enabling them to pass measures without the need for Democratic votes.⁶⁷

Governor Rick Perry (R) and the business community have expressed concern about replicating SB 1070 in Texas.⁶⁸ Yet, their ability to staunch the tide of anti-immigrant legislation sure to come from the House and Senate is untested.

⁶³ Text of House Bill 17, Texas State Legislature, available at

<http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB17>

⁶⁴ Kimberly Reeves, "Debbie Riddle Wastes No Time, Pre-Files Bills On Voter In, Arizona-Style Immigration Legislation," *The Quorum Report*, November 8, 2010

⁶⁵ Shannon Wolfson, "Some Texas Representatives Jump on Arizona Bandwagon," *Fox 11*, April 29, 2010, available at http://www.fox11online.com/dpps/news/national/texas-reps-jump-on-arizona-bandwagon_3335125

⁶⁶ "Eyes Front," *Houston Chronicle*, Editorial, August 7, 2010, available at <http://www.chron.com/disp/story.mpl/editorial/7144050.html>

⁶⁷ Jason Embry, "East Texas Lawmaker Leaving Democrats," *statesman.com*, December 11, 2010, available at <http://www.statesman.com/news/east-texas-lawmaker-leaving-democrats-1114642.html?printArticle=y>

⁶⁸ Marcelo Ballve, "Arizona's Immigration Law Spurs Copycats Legislation," *New America Media*, May 3, 2010, available at <http://newamericamedia.org/2010/05/arizonas-immigration-law-spurs-copycat-legislation.php>

Efforts to pass anti-immigrant measures in Texas extend beyond the state legislature. Ordinance 2952⁶⁹ adopted by the Farmers Branch City Council banning illegal immigrants from renting in the city was declared unconstitutional by the courts and a permanent injunction was issued that prohibited it from being enforced.

Utah

Republicans have the majority in the legislature and Governor Gary Herbert (R) appears unlikely to support a bill similar to SB 1070. Also noteworthy in Utah, there appears to be good-faith bipartisan efforts underway to fight any attempt to pass legislation similar to SB 1070.

In November, just after the midterm elections, a broad coalition of Utah elected leaders, business leaders, and people of faith joined together to formulate the Utah Compact, a broad set of principles—supported by the LDS Church—meant to influence the immigration debate in a positive way.⁷⁰

Deciding that Arizona’s approach wasn’t right for Utah, this coalition of leaders signed their allegiance to five principles: that immigration reform should be a federal, not a state priority; that a new anti-immigrant law would place an undue burden on law enforcement; that families should be kept together; that Utah’s immigration policies must reaffirm its reputation as a welcoming and business-friendly state; and that Utah works best with a free and open society where government stays out of the way. To the signatories, SB 1070 represents a government overreach that would tear apart families and create onerous new burdens on communities.

Also in July, a bipartisan group of Utah leaders joined together to denounce the release of the so-called immigrant “blacklist.” The list was a dossier compiled by purportedly anonymous “Concerned Citizens” who sent the list to news outlets and law enforcement agencies. It contained the names, birthdates, social security numbers and the names of children who the group believed were in the country illegally. Worried about the tone and the precedent this list would set, Utah leaders denounced the effort and the breaches of privacy required to compile the list.⁷¹

Representative Sandstrom (R) has already introduced Arizona SB 1070-style legislation and is refusing to curtail his efforts in the face of growing opposition. Senator Luz Robles (D) has been working on a state-based immigration reform measure intended to put forth a more constructive vision.

⁶⁹ “Kobach in Farmers Branch, Texas,” Political Correction, A Project of Media Matters Action Network, July 15, 2010, available at <http://politicalcorrection.org/factcheck/201007150004>

⁷⁰ Utah Compact Website, <http://theutahcompact.com/read-the-utah-compact>

⁷¹ See National Immigration Forum, “Utah Attorney General, Conservative Leaders Sign the “Utah Compact,”” November 15, 2010, available at <http://www.immigrationforum.org/press/release-display/utah-attorney-general-conservative-leaders-sign-the-utah-compact/>

Governor Gary Herbert (R) expressed concerns about the constitutionality of Arizona's law and the risk of racial profiling⁷².

Virginia

Control of the Virginia legislature is split between the parties and Governor Bob McDonnell (R) supports Arizona's SB 1070.

Several copycat proposals with elements of Arizona's SB 1070 are expected to be on the legislature's agenda in January, including an immigration proposal that Board of Supervisors Chairman Corey Stewart (R) of Prince William County has been lobbying to have adopted by the Commonwealth.⁷³

Delegate Bob Marshall (R) said if Stewart's bill does not violate the U.S. or Virginia constitutions, he would introduce it⁷⁴. However, Attorney General Ken Cuccinelli (R) has noted that part of Stewart's measure does conflict with the state constitution.⁷⁵

Delegate Marshall has a history of spearheading anti-immigrant effort and was the impetus behind the legal opinion issued by Attorney General Ken Cuccinelli that expressed that Virginia's law enforcement entities are permitted to check the immigration status of anyone stopped or arrested. Marshall wrote Cuccinelli seeking the clarification. Perhaps Marshall was seeking to clear the way for his pursuit of a bill similar to Arizona's SB 1070. Past efforts to adopt similar measures did not pass the Senate⁷⁶ where Democrats have the majority. Commenting on the possibility of an SB 1070 copycat, Senate Majority Leader Richard L. Saslaw (D) said, "I think they will have a problem in court." "They're going to be told to go back to the General Assembly."⁷⁷

Delegate David Albo (R) introduced House Bill 1421 for the next session. This bill would prohibit the limiting or restricting of the enforcement of federal immigration laws. It is

⁷² Lisa Riley Roche, "Governor Gary Herbert Voices Concern Over Arizona Immigration Law," *Deseret News*, May 28, 2010, available at <http://www.deseretnews.com/article/700035593/Gov-Gary-Herbert-voices-concern-over-Arizona-immigration-law.html>

⁷³ Seth Freed Wessler, "Virginia Attorney General Issues His Own SB 1070," *Colorlines*, August 4, 2010, available at http://colorlines.com/archives/2010/08/virginia_attorney_general_sb1070.html

⁷⁴ Seth Freed Wessler, "Virginia Attorney General Issues His Own SB 1070," *Colorlines*, August 4, 2010, available at http://colorlines.com/archives/2010/08/virginia_attorney_general_sb1070.html

⁷⁵ Hank Silverberg, "Virginia Lawmakers Eye Immigration Reform in New Session," *WTOP.com*, November 28, 2010, available at <http://www.wtop.com/?nid=25&sid=2180230>

⁷⁶ Anita Kumar and Rosalind S. Helderman, "Virginia Wades Into National Immigration Debate," *Washington Post*, August 3, 2010, available at <http://www.cbsnews.com/stories/2010/08/03/politics/washingtonpost/main6738533.shtml>

⁷⁷ Anita Kumar and Rosalind S. Helderman, "Virginia Wades Into National Immigration Debate," *Washington Post*, August 3, 2010, available at <http://www.cbsnews.com/stories/2010/08/03/politics/washingtonpost/main6738533.shtml>

likely aimed at Arlington County where the Board of Supervisors passed a resolution to withdraw from the federal immigration enforcement program, Secure Communities.⁷⁸

FOR MORE INFORMATION

Ali Noorani

anoorani@immigrationforum.org

202-383-5988

Dawn Mabery

dmabery@immigrationforum.org

202-383-5996

⁷⁸ “County Board Votes To Withdraw From Immigrant Enforcement Program,” ARLnow.com, September, 28, 2010, available at <http://www.arlnow.com/2010/09/28/breaking-news-county-board-votes-to-withdraw-from-immigration-enforcement-program/>