

REPORT OF THE STATE LAW DEVELOPMENTS SUBCOMMITTEE

**ABA Section of Labor & Employment Law
Employment Rights and Responsibilities Committee
2011 Midwinter Meeting
March 22-26, 2011
La Concha Resort
San Juan, Puerto Rico**

**Summary of State Immigration Laws
Affecting Employment and Public Benefits**

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Although the Federal government dictates United States policy on issues relating to immigrants and immigration status, many laws impacting the rights of immigrants are also enacted on the state level. These laws deal with a range of issues, including entitlements and rights associated with employment, public benefits, education, health care, voting, licensing and identification, and trafficking.

The purpose of this report is to highlight state immigration legislation dealing with employment and public benefits. This report is not meant to be a complete and definitive listing of all state immigration laws; the reader should always check in his or her particular jurisdiction to obtain up-to-date information. Rather, the report provides an overview of the laws enacted by states in the past five years that may be most useful to us as employment lawyers. As explained in a report discussing U.S. immigration as of 2008, prepared by Ann Morse and Rosa Covarrubias for the National Conference of State Legislatures' Immigrant Policy Project:¹

Migration to the United States takes place at both ends of the socio-economic spectrum. [Immigrants] make up half of all scientist and engineers with a doctorate degree. Immigrants also make up 28.1% management, professional, and related occupations; 23.4% service occupations; 18% sales and office occupations; 16.1 production, transportation, and material moving occupations; 12.5% construction, extraction and maintenance occupations; and 1.9% farming, forestry, and fishing...

The United States expects a flat growth rate in native-born workers aged 25-54 years until 2020. Net increases in the workforce are expected to come only from older workers and immigrants... (citations omitted).

As such, it is important to be aware of how immigration laws may affect our practice and our clients.

After the state employment rights overview, to present a more complete picture, we have included information regarding Federal benefits available to immigrants, as well as general immigration statistics in the U.S.

¹ Full report with citations can be found at: <http://www.ncsl.org/default.aspx?tabid=19227>

**STATE LEGISLATION AFFECTING IMMIGRANTS
IN THE AREAS OF EMPLOYMENT AND PUBLIC BENEFITS²**

ALABAMA

No reported activity.

ALASKA

2008

Employment:

This act limits the disclosure of certain records of the state Department of Labor and Workforce Development. Some confidential information must be provided to federal agencies, such as the U.S. Department of Homeland Security, to verify the immigration status of an individual claiming unemployment benefits. (SB 120) (5/28/08).

ARIZONA

2007

Employment:

H.B. 2779: Perhaps the most well-known and controversial of State Immigration-related Laws, this law prohibits employers from knowingly or intentionally hiring unauthorized aliens and requires all employers to use the Basic Pilot (E-verify) Program to determine employees' legal status. The law requires all Arizona employers to file sworn legal employment affidavits attesting to their compliance. It provides criminal penalties and public contract disqualification for employers who violate the Act, and it calls for the creation of a committee to study employer-sanction laws in Arizona and provides penalties with respect to business licenses. Status: Enacted 7-2-07; ARS, Sections 23-211-214 and 41-2505.

Public Benefits:

H.B. 2467: This Act requires citizenship, permanent residency or lawful presence in the United States to as a condition to receipt of public benefits. It also requires a person who applies for public benefits to submit documentation proving his or her lawful presence in the United States. Status: Enacted 7-2-07; ARS – (various Sections).

² Information for this overview taken from the annual reports of the National Conference of State Legislators: 2010 report (updated as of 7/20/2010):

<http://www.ncsl.org/LinkClick.aspx?fileticket=HvbCBDNnewM%3d&tabid=20881>

2009 report: <http://www.ncsl.org/documents/immig/2009ImmigLaws.pdf>

2008 report: <http://www.ncsl.org/Portals/1/documents/immig/StateImmigReportFinal2008.pdf>

2007 report is available at: <http://www.ncsl.org/programs/immig/2007immigrationfinal.htm>

2006 report is available at: <http://www.ncsl.org/programs/immig/6ImmigEnactedLegis3.htm>

2005 report is available at: <http://www.ncsl.org/programs/immig/IMMIGStateLegisJuly06.htm>

2008

Employment:

H.B. 2745: This Act makes it unlawful for an employer to use an independent contract or subcontract to obtain the labor of an unauthorized alien. It also provides an affirmative defense to alleged violations of the overall law for employers who can demonstrate use of the E-verify program or demonstrate compliance with federal I-9 requirements. It also prohibits state licensure of any employer applicant who cannot demonstrate he or she is lawfully present or residing in the United States. Status: Enacted 5-1-08; ARS Sections 23-212, 214 and 215; Section 41-1080.

S.B. 1125: This Act amended Arizona's occupational safety and health statutes to provide for additional employer penalties and the payment of compensation to an employee or the employee's estate in the event of certain workplace injuries resulting in permanent disability or death. The term "employee" now expressly includes aliens legally *or illegally* permitted to work for hire. Status: Enacted 5-12-08; ARS Sections 23-401 *et. seq.*

2010

Public Benefits:

S.B. 1043: This Act relates to Arizona's Children's Health Insurance Program and limits eligibility for benefits under that program to individuals who are United States citizens or meet the requirements for qualified alien status. Status: Enacted 5-6-10; ARS 35-403.

ARKANSAS

2007

Employment:

An Act prohibiting state agencies from contracting with businesses that employ illegal immigrants, and further providing that contractors must certify that they do not employ or contract with illegal immigrants. (HB 1024 – Act 157) (Signed 02/28/07).

An act amending the minimum wage and overtime law to mirror certain provisions of federal minimum wage and overtime law. Pursuant to the Act, certain migrant farm laborers are excluded from the definition of “employee.” (HB 1699 – Act 545) (Signed 03/28/07).

CALIFORNIA

2007

Public Benefits:

A.B. 335: This law prohibits an alien who does not verify his or her "eligible alien status" from receiving temporary homeless shelter relief. Status: Enacted 10-14-07. California Welfare and Institutions Code, Section 11450.

S.B. 84: This law extends state cash assistance benefits to individuals in the process of naturalization but who are not yet able to receive federal Supplemental Security Income benefits. Status: Enacted 8-24-07; California Family Code, Sections 17601 and 17706.

COLORADO

2006

Employment:

Prospective contractors are required to verify legal work status of all employees. The contractor must confirm that the Basic Pilot Program has been used to verify the status of all employees. If the contractor discovers that an illegal alien is employed, the contractor must alert the state agency within 3 days (section 1). (HB 1343). (signed 6/6/2006).

Requires that contractors verify the work status of their employees before applying for economic development incentive awards. Contractors receiving awards and later found to employ unauthorized workers must repay the award and are ineligible for another award for 5 years (section 1). (HB 1001) (signed 7/31/2006).

Employers must withhold 4.63% from the wages of an employee without a validated Social Security number, a validated taxpayer ID number or an IRS-issued taxpayer ID for non-resident aliens (section 2). (HB 1015). (signed 7/31/2006).

Employers must examine the work status of each new employee within 20 days of hire and retain proof that employees have legal work status. Employers hiring unauthorized workers face a penalty of \$5,000 for the first offense of showing “reckless disregard” in submitting requested documents or for submitting falsified documents (section 1). (HB 1017). (signed 7/31/2006).

2007

Employment:

Documentation required that proves legal United States residence by an individual applying for unemployment insurance benefits pursuant to a reciprocal interstate agreement when the individual is not a Colorado resident. (HB 1286) (4/26/07).

Public Benefits:

Law requires proof of lawful residence in the United States for receipt of public benefits. (HB 1314) (signed 3/1/07).

2008

Employment:

Colorado Nonimmigrant Agricultural Seasonal Worker Pilot Program Act provides for expediting recruitment, application, and approval of workers through the federal H-2A visa (requiring a federal waiver). The law requires the labor, agricultural and economic development and international trade agencies in Colorado to seek agreements between Colorado and foreign countries to assist in the recruitment and selection of H2A workers. (HB 1325) (signed 6/5/2008).

Law requires that employers be notified of the prohibition against hiring an unauthorized alien and the availability of and participation requirements for the federal E-Verify program. (SB 139) (signed 5/20/08).

Contractors allowed to verify employment eligibility of all employees under a public contract and require future participation in the Federal Electronic Employment Eligibility Program or the department program to verify the employment eligibility of certain employees. (SB 193) (signed 5/13/08).

2010

Public Benefits:

An Act to mesh the eligibility requirements for the old age pension program with those of other public benefit programs, adding a five year waiting period and enforcing financial responsibility requirements for relative sponsors of noncitizens. (H 1384) (signed 5/6/10).

CONNECTICUT

2007

Employment:

The act allows for the state of Connecticut to issue a Visiting International Teacher Permit to individuals that meet several criteria: possession of a J-1 visa; presence in the country as a result of a memorandum of understanding between the state and their country or as part of the Exchange Visitor Program; has the equivalent of a bachelors degree; has completed a teaching preparation program; and has a sufficient level of performance in spoken English. SB 1287 (Signed 5/19/2007).

2009

Public Benefits:

This law relates to the human services budget. The Commissioner of Social Services shall seek federal funds to provide medical assistance to qualified alien children and pregnant women in their first five years of residence in the United States. Each managed care organization that enters into a contract with the Department of Social Services to provide foreign language interpreter services under the HUSKY Plan shall submit a report on services provided. H7005 10/05/2009 – Enacted.

DELAWARE

2009

Public Benefits:

This act provides for the Fiscal Year 2010 Appropriation Act, and includes funding for legal non-citizen health care. H290 07/01/2009 – Enacted.

FLORIDA

2007

Public Benefits:

This bill cuts funding from the state Refugee Assistance Trust Fund and the state Medical Care Trust Fund by limiting payment of claims for non-U.S. citizen/legal residents. (SB 2) (Signed 10/26/07).

2008

Employment:

This law addresses the requirements of farm labor contractors and provides that farm labor contractors are no longer required to submit a set of fingerprints. (HB 601) (Signed 06/30/08).

This Act raises the annual license taxes for wholesale and retail saltwater products dealers and addresses resident, non-resident, and alien dealers differently. (SB 1702) (Signed 06/10/08).

This law provides that one must be a Florida resident and a U.S. citizen or legal alien with work authorization from the federal government to be qualified for a public adjuster apprentice license. (SB 2012) (Signed 06/23/08).

Public Benefits:

This Act provides plans for housing assistance for certain specified populations, including migrant farm workers. (SB 360) (Signed 06/01/09).

GEORGIA

2007

Employment:

This act provides an additional adjustment to taxable income of corporations; compensation paid by a taxpayer to an unauthorized employee is disallowed as a business expense. (SB 184 – Act 147) (Signed 05/18/07).

2009

Employment:

Vetoed: This bill would have enacted the Jobs, Opportunity, and Business Success Act of 2009, which provides that for a period of time employers who hire persons receiving employment security benefits shall be entitled to a credit against employer contributions and income tax, including only U.S. citizens or lawful alien residents. (HB 481) (VETOED 05/11/09).

Employment/Public Benefits:

This act requires every public employer, contractor and subcontractor, by January 1, 2010, to verify the employment eligibility of all newly-hired employees with the federal work authorization program. No employer or agency is subject to lawsuit or liability arising from any act taken in compliance with this law. The Act further defines public benefits and requires applicants over 18 years of age to execute an affidavit verifying lawful presence and requires an annual report from the Attorney General. (HB 2) (Signed 05/11/09).

2010

Employment:

This law prohibits the use of private contractors for public projects within the state of Georgia that fail to register and participate in the federal work authorization program to verify information of all newly hired employees of subcontractors. (SB 447) (Signed 05/20/10).

HAWAII

2006

Public Benefits:

This law amends public housing rules and regulations to restrict down payment and mortgage loans to legal aliens. The law defines “qualified applicant” as one who is a citizen or resident alien. (HB 2966) (Signed 06/09/06).

2007

Employment:

This act provides the same type of unemployment insurance coverage in state law as provided by federal law and excluding certain alien agricultural workers. (HB 1379 – Act 070) (Signed 05/16/07).

This act provides that all persons seeking employment with the State government or in county service must be citizens, nationals, or permanent resident aliens of the United States, or eligible under federal law for unrestricted employment in the United States. (HB 1750 – Act 052) (Signed 05/03/07).

2009

Employment:

This act authorizes the Contractors License Board to suspend, revoke, or refuse to renew a contractor’s license for employment of a worker on a public work project who is ineligible under federal law to work in the United States. (HB 653) (Signed 06/23/09).

This act provides that applications for licensure of individuals offering genetic counseling services must prove that they are a U.S. citizen, a permanent resident, or are otherwise authorized to work in the U.S. (HB 1362) (Signed 07/15/09).

2010

Employment:

This law provides that a construction contractor’s license may be revoked or suspended for knowingly or intentionally employing a person who is not eligible to work in the United States under federal law. (SB 2469 – companion HI SB 2925) (Signed 06/30/10).

IDAHO

2006

Employment:

Unemployment benefits limited to U.S. citizens and legal residents only (section 2). (HB 577) (3/11/2006).

Prohibits balance billing when administering worker's compensation benefits. Benefits are available only to citizens and authorized immigrants. ("Balance billing" means billing or otherwise attempting to collect directly from an injured employee payment for medical services in excess of amounts allowable in compensable claims). (HB 649) (3/24/2006).

2009

Public Benefits:

This act amends existing law relating to restrictions on public benefits, revises the documentation that may be used to verify lawful presence in the United States. (H 314) (6/26/09).

ILLINOIS

2007

Employment:

PA 95-0137: This law prohibits employers participating in the federal-E-Verify program from refusing to hire, segregating, discharging, disciplining or withholding privileges or conditions of employment without first adhering to all procedures set forth under the E-Verify program. Status: Enacted 8-13-07. Effective 1-1-08. 775 ILCS 5/2-102.

PA 95-138: This law amends Illinois' Right to Privacy in the Workplace Act and provides several limitations and requirements on employers using the federal E-Verify program, including an outright prohibition on employers enrolling in the E-Verify program until the United States Social Security Administration and Department of Homeland Security databases are able to make a determination on 99% of the tentative non-confirmation notices issued to employers within three (3) days, unless otherwise required by federal law. Other limitations on employers participating in the E-Verify program include, most notably, notice to all applicants of such participation and training of all employer representatives involved with it. Status: Enacted 8-13-07 effective 1-1-08. 820 ILCS 55/12.

2009

Employment:

PA 96-623: This law further amends Illinois Right to Privacy in the Workplace Act and 820 ILCS 55/12. The earlier limitation on employers from enrolling in the federal E-Verify program is eliminated. Instead, employers are merely urged to consult with the Illinois Department of Labor's website for current information on the accuracy of the E-Verify program prior to enrolling. Many of the limitations and requirements placed on employees participating in the E-Verify program remain, but are amplified and refined in this law. In addition, this law makes it clear that employers may not use the E-Verify program prior to hiring and completion of required I-9 documentation, and employers are prohibited from taking

adverse employment action against any individual who is subject to a *tentative* non-confirmation notice from the Social Security Administration or Department of Homeland Security. Status: Enacted 8-24-09. 820 ILCS 55/12.

PA 96-0171: This law amends the Department of Commerce and Economic Opportunity statute to prohibit unauthorized aliens from receiving training grants for skills in critical demand. Status: Enacted 8-10-09. 20 ILCS 605-800.

2010

Employment:

PA 96-1208: This law amends Illinois Unemployment Insurance Act to exclude service performed in agriculture labor by any individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214 and 101 of the Immigration and Nationality Act. Status: Enacted 7-22-10. 820 ILCS 405/211.4.

INDIANA

2007

Public Benefits:

S.B. 504: This law extends eligibility under Indiana's Temporary Assistance for Needy Families program to individuals who are "qualified aliens" under federal law, but specifically excludes from eligibility all aliens who are in the United States without the permission of lawful federal authorities. Status: Enacted 5-4-07. IC 12-14-2.5-1.

IOWA

2007

Employment:

All businesses that receive state economic development grants must certify that all new employees are authorized to work in the United States. (SB 562) (signed 5/29/07).

2010

Employment:

Every person, firm, or corporation employing migrant laborers are required to obtain and keep on file a work permit for migrant laborers prior to their employment. (S 2181) (signed 3/2/10).

KANSAS

2006

Employment:

Unemployment benefits and employment protection status limited to citizens and those with legal immigration status. Immigrants who were admitted into the United States legally and completed work

during this time period are also eligible for benefits for that specific time period only (section 1:4:C:m). (Kansas HB 2157). (signed 3/23/2006).

2007

Employment:

The act excludes certain alien agricultural workers from the definition of employee in the Employment Security Law. (SB 83,235) (signed 4/5/07).

Public Benefits:

Legislation describes which benefits immigrants may receive and requires verification of status. (HB 2599) (signed 5/11/07).

2010

Employment:

A modification to the Kansas criminal code that makes knowingly employing an undocumented worker a Class C misdemeanor. (H 2668) (signed 5/13/10).

KENTUCKY

2009

Employment:

This act amends license renewal requirements for a license to engage in the business of cashing checks or deferred deposit transactions. Applicants for such a business license must submit an employment authorization alien number, if applicable. (HB 444) (Signed 03/25/09).

2010

Employment:

This law clarifies the guidelines for making disability determinations and classifying workplace injuries. This law defines “alien” as a person who is not a citizen, national, or resident of the U.S. or Canada or who has relinquished his or her residency in the United States. (HB 38) (Signed 04/08/10).

LOUISIANA

2006

Employment:

This law provides that if a state agency or department suspects that a contractor who employs 10 or more persons is employing unauthorized immigrants, it may investigate the contractor’s hiring policies. The district attorney can issue orders to fire undocumented workers, and the contractor faces penalties of up to \$10,000 for failure to comply within 10 days of the notice. (SB 753) (Signed 03/23/06).

2007

Employment:

This law limits job-related tax credits to persons residing within the State who are U.S. citizens or who are legally present within the State. (SB 352)(Signed 07/10/07).

Public Benefits:

This law creates an accountability program to determine the eligibility of refugees to receive TANF, state grants, food stamps, Social Security, and other public benefits. (HB 1) (Signed 07/12/07).

This act allows a court in a child-custody proceeding to consider the probability that a party will abduct a child to another state or a foreign jurisdiction. It enables the court to issue an abduction prevention order with provisions the court determines necessary to protect the safety of the child after it finds evidence of a credible risk of abduction if the petitioner or respondent is undergoing a change in immigration or citizenship status that would adversely affect his or her ability to remain in the U.S. legally. (SB 73) (Signed 07/10/07).

MAINE

2006

Public Benefits:

Maine's HB 1242/LD 1734 is entitled "An Act to Increase Accessibility to Health Insurance," and defines a person as "legally domiciled" in the state if one has a resident visa (section 1). The bill allows those non-citizens who have resident visas and who are living in Maine to be eligible for Medicare coverage (section 2). HB 1242/LD 1734 Signed 3/16/2006.

2007

Employment:

An alien agricultural laborer may not receive unemployment benefits unless he or she is from a country with which the United States has an agreement concerning unemployment compensation. LD 1015 (Signed 6/05/2007).

2008

Public Benefits:

This law reduces funds for purchased social services, which include refugee services. It reduces funding for state-administered food stamps to legally-admitted aliens who are no longer eligible for federal food stamps. HB 1651 (Signed 3/21/2008).

2009

Employment:

This law adds migrant and seasonal farm workers to the law providing protections for forestry workers, requires farm labor contractors who are required to register under the federal Migrant and Seasonal Agricultural Worker Protection Act to file their federal registration with the State Department of Labor,

listing a contact within the State, requires provision of first aid training, first aid kits and safe transportation for a given number of workers. H133 05/26/2009 – Enacted.

This law triples the penalty for requiring foreign bond workers in logging occupations to use employer-owned equipment and requires proof of ownership to be carried in the equipment and be shown to enforcement officials. H1049 06/12/2009 – Enacted.

2010

Employment:

This law prohibits an employer in the logging industry from employing foreign laborers for a specified number of years if the employer violates foreign labor certification laws. S593 04/12/2010 – Enacted.

Public Benefits:

This budget law appropriates funds to state agencies and programs including the Migrant and Immigrant Services program. H1183 3/31/2010 Enacted.

MARYLAND

2006

Public Benefits:

Maryland HB 89 (signed 5/2/2006) requires the Governor to support the Maryland Medical Assistance Program for healthcare services for specified legal immigrant children under 18 and pregnant women in the annual budget, beginning in FY 2008. At least \$3 million shall be appropriated each year to provide these services. Pregnant legal immigrant women who entered the country after August 22, 1996 and who meet eligibility guidelines for federal and state medical assistance programs qualify (section 2). Maryland HB 89 Signed 5/2/2006.

2007

Public Benefits:

This act includes monies for immigrant programs, benefits, and supplements benefits in some areas, such as healthcare, when legal immigrants would be excluded from federal benefits. HB 50 Signed 5/8/07.

The law defines what benefits and aid legal immigrants may receive and the requirements they must meet to attain those benefits. SB 6 Signed 3/22/07.

2008

Employment/Public Benefits:

This law establishes a Workforce Creation and Adult Education Transition Council to coordinate adult education and literacy services with the Division of Workforce Development. The Council will include ten members appointed by the governor, one of whom will represent ESL providers. SB 203 Signed 4/24/2008.

The Act authorizes the commissioner of labor to investigate complaints relating to alleged violations of penal bonding requirements by employment agencies, including an agency or a person who obtains an immigrant visa for an individual. SB 650 Effective October 1, 2008.

2009

Employment:

This act clarifies specified qualifications of applicants for a license to practice psychology in the State and provides that the Council for the National Register of Health Service Providers in Psychology may determine if degrees from unaccredited or foreign institutions meet its qualifications. S951 05/07/2009 – Enacted.

2010

Public Benefits:

This law requires international marriage brokers to provide certain information to a recruit including basic rights information and criminal background check and marital history of the client. H65 5/20/2010 Enacted.

Employment:

This act alters certain requirements for certification as a nurse practitioner and authorizes the waiver if certain requirements for applicants who are licensed or certified in another state or country. S484 04/13/2010 – Enacted.

MASSACHUSETTS

2010

Public Benefits:

This budget law codifies the requirement that unlawful immigrants may not receive state benefits. The law provides for a citizenship for new Americans program to assist legal permanent residents of the commonwealth in becoming citizens of the United States. It also provides funding intervention and services for immigrants and refugees that are victims of domestic violence. The law was subject to a line item veto from the Governor. In his report, the Governor asked the legislature to find funding for health care coverage for legal immigrants living and working in Massachusetts. H4800 06/30/2010 - Line Item Vetoed.

MICHIGAN

2007

Public Benefits:

P.A. 127 (Appropriations): This comprehensive Bill, effective October 31, 2007, dealt with immigration-related issues in a variety of ways: (1) It directed state agencies to consider a variety of factors when awarding or cancelling contracts for work with or purchase from private businesses, including immigration and residency status of persons employed by prospective state contractors; (2) It prohibited funding directed toward multi-cultural services from going to undocumented aliens, with an exception for

emergency medical situations; and (3) It limited aliens' eligibility to receive state disability assistance benefits to those exempt from the federal Supplemental Security Income citizenship requirement. (These provisions have been carried forward in subsequent years' appropriations legislation).

MINNESOTA

2007

Employment:

S.F. 167: This law amended Minnesota's Unemployment Insurance statute to provide that undocumented aliens are ineligible for unemployment benefits and that no unemployment benefits may be paid on the basis of wage credits earned by an alien who was (1) not lawfully admitted for permanent residence at the time of the employment, (2) was not lawfully present for the purposes of employment, and (3) was not permanently residing in the United States under color of law at the time of employment. The law further provided that personal data gathered from an applicant may be disseminated to federal immigration authorities, but also stated that any information required of applicants to determine eligibility because of alien status must be required of all applicants. Status: Effective 5-24-07. Minn. Stat. 2006, Sections 268.19, Subdivision 1, and 268.085, Subdivision 12.

2008

Employment/Public Benefits:

Executive Order 08-01: This executive order implements procedures to insure that state contracts in excess of \$50,000.00 are awarded to vendors which: (1) certify compliance with federal immigration laws; and affirm they do not knowingly employ persons in violation of those laws; and (2) certify they have implemented or are in the process of implementing the E-Verify program for all newly hired employees who will perform work under contracts with the State of Minnesota. The Executive Order also provides for contract termination and/or debarment of a vendor if the State determines the vendor or contractor has knowingly employed unauthorized alien workers in violation of federal immigration laws. Status: Effective 1-29-08.

2009

Public Benefits:

S.F. 1503: This law requires that a child be a citizen of the United States to be eligible for state-funded adoption assistance. Status: Enacted 5-22-09. Minn. Stat. 2008, Section 259.67, Subdivision 1 (c).

H.F. 1988: This law requires United States citizenship as a precondition to eligibility for state-funded medical assistance. Status: 5-22-09. Minn. Stat. 2008, Section 256B.06, Subdivision 4 (this requirement was continued in subsequent legislation regarding general assistance medical care in Minnesota; *cf.* S.F. 460, enacted 3-26-10.

MISSISSIPPI

2007

Employment:

This act provides that unemployment compensation benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time his or her services were performed, or was lawfully present within the State for purposes of performing such services. (SB 2448) (Signed 04/25/07).

2008

Employment:

This act requires every employer in the state to verify employment authorization status of all newly-hired employees using the E-Verify program. The Act prohibits contractors and subcontractors from hiring any employee unless they are registered and participating in the E-Verify system. The Act provides different deadlines for compliance: state agencies and employers with at least 250 employees must comply by July 1, 2008; employers with 100 – 249 employees must comply by July 1, 2009; employers with 30 – 99 employees must comply by July 1, 2010; and all employers by July 1, 2011. Penalties for noncompliance include the loss of public contracts for up to three years, the loss of licenses for up to one year, or both. Additionally, the law provides that it is a felony for unauthorized workers to knowingly accept or perform work in the state. Finally, the act creates a private cause of action for legal U.S. residents laid off and replaced by unauthorized workers. (SB 2988) (Signed 03/17/08).

2010

Employment:

This law requires an individual to be lawfully admitted for permanent residence, a U.S. citizen, or otherwise legally present in the U.S. at the time of her or her employment in order to receive unemployment benefits. (SB 3132) (Signed 05/24/10).

MISSOURI

2008

Employment/Public Benefits:

The law prohibits immigrants unlawfully present from receiving state or local public benefits with exceptions under 8 U.S.C. 1621(b), for emergency medical care, prenatal care, services offering alternatives to abortion, emergency assistance or legal assistance. The law provides no employer shall knowingly employ an unauthorized alien; any public contractor or subcontract must, by sworn affidavit, affirm its enrollment and participation in a federal work authorization program; provides punishment for business' knowingly employing someone not authorized to work; and prohibits issuance of driver's licenses to illegal aliens or any person who cannot prove lawful presence in the U.S. (HB 1549) (signed 7/7/08).

2009

Employment:

Public contractors are only required to provide affidavits of participation in the federal work authorization program annually. (HB 390) (signed 7/7/09).

MONTANA

2007

Employment:

New exclusions from the definition of employment are services performed by an alien, as identified in 8 U.S.C. 1101, i.e. an alien having a residence in a foreign country coming temporarily to the United States to perform agricultural labor or services, or an alien, who is a bona fide student and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study. (HB 111) (3/27/07).

Definition of independent contractor modified to exclude an alien having a residence in a foreign country coming temporarily to the United States to perform agricultural labor or services, or an alien, who is a bona fide student and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study. (HB 214) (4/28/07).

2009

Employment:

Unemployment insurance laws were revised to include aliens entitled to benefits under the provisions of 39-51-2110. (S 150) (3/5/09).

NEBRASKA

2007

Public Benefits:

This Act prohibits tax credits, exemptions or refunds for any former employee who has been deported due to immigration status. (LB 223) (signed 4/4/07).

2009

Employment/Public Benefits:

A comprehensive law that requires verification of lawful presence in the United States to receive public benefits, requires verification of work eligibility status for public employment, employment under public contracts and tax incentives under the Advantage Rural Development Act, prohibits membership in state retirement systems unless lawfully present, requires every public employer and every public contractor to use a federal immigration verification system. (LB 403) (signed 4/8/09).

2010

Employment:

The Employee Classification Act mandates that any contract between the state or a political subdivision and a contractor require that the employer completed a federal I-9 immigration form, has such form on file for each employee performing services, and has no reasonable basis to believe that any individual performing services for such contractor is an undocumented worker. (L 563) (signed 4/13/2010).

Nebraska retirement system for public employees modified to require that employees be a U.S. citizen or a qualified alien under the federal Immigration and Nationality Act. (L. 950) (signed 4/13/10).

Amendment to unemployment benefit eligibility under the Employment Security Law. An individual can be disqualified for benefits if they are unlawfully present in the United States and lack legal authorization to work. (L 849) (signed 4/14/10).

NEVADA

2009

Employment:

A.B. 124: This law amends the Nevada Unemployment Insurance statute to include within the definition of "employment" work performed for hire by aliens admitted to the United States to perform agricultural labor pursuant to the Federal Immigration and Nationality Act. It also exempts such labor from the specific agricultural service requirements contained in the Nevada Unemployment Insurance statute, unless the alien or his or her services are required to be covered by the Federal Unemployment Tax Act. Status: Enacted 5-28-09. NRS 612.090.

NEW HAMPSHIRE

2009

Public Benefits:

This act raises the limit of recovery from the victim's assistance fund and allows individuals who are not citizens of the United States, including illegal aliens to be eligible for the fund. H601 07/1/2009 – Enacted.

NEW JERSEY

2006

Public Benefits:

New Jersey SB 2007 (signed 7/8/2006) appropriates \$5,000,000 for the State Criminal Alien Assistance Program and \$2,403,000 for the Alien Labor Certification service grant.

2009

Employment:

This measure requires owners and employees of international labor matching or matchmaking organizations to undergo background checks and requires their recruits be given basic information about domestic violence. A1942 11/20/09 Enacted.

NEW MEXICO

2007

Employment:

HB 247: This law amended New Mexico's unemployment insurance statute to exclude from the term "employment" services of certain aliens admitted to the United States to perform service in agriculture labor pursuant to federal law. Status: Enacted 4-2-07; effective 7-1-07. NMSA Section 51-1-42.

2010

Employment:

HB 144: This law again amended the New Mexico unemployment insurance statute to include within the definition of employment for benefit eligibility purposes certain agricultural labor conducted by legal immigrants and migrant workers for businesses meeting the definition of "employer" under the statute. Status: 3-8-10. NMSA 1978, Section 51-1-42.

NEW YORK

2006

Employment:

New York SB 6504 extends the waiver of the citizenship requirement for obtaining a veterinary license until 2009. SB 6504 (signed 8/16/2006).

VETOED- New York SB 7405 would have provided an additional one year waiver from citizenship and immigration status requirements for obtaining a pharmacist's license. SB 7405 (vetoed 9/13/2006).

2007

Public Benefits:

The act appropriates funds for various Health and Human Service activities. It includes an allocation to the Department of Agriculture and markets for the farmers' market program and migrant worker services. It increases the cost of living for migrant health workers, among other groups, with the commissioner making the final decision regarding requirements and standards necessary for these raises. The law allocates money for a grant pool for community health centers whose principal objectives are to provide primary healthcare and outreach activities for migrant workers and their families. At least 70 percent of these grants will be allocated to centers that receive their funding from the federal Public Health Service Act. SB 2104 (Signed 4/9/2007).

Employment:

This amendment extends to 2012 an amendment to the state education code that permits a permanent resident or an alien in the process of applying for citizenship to acquire permanent certification as a teacher. AB 8975 (Signed 8/15/2007).

Due to a shortage of veterinarians and veterinarian technicians, this law grants a one-time three year waiver of citizenship or permanent resident alien status, allowing immigrants who are working toward becoming a citizen or permanent alien resident the chance to receive a veterinary license. SB 4083 (Signed 07/03/2007).

2008

Public Benefits:

This law appropriates funds, including \$126 million for administration of federal grants in connection with federal law, including title III language instruction for limited English proficient and immigrant students. The law provides \$2.4 million for services related to programs to assist non citizens in attaining citizenship status and \$25 million for services to refugees, asylees, victims of human trafficking, and other immigrant populations eligible for refugee services, including case management, ESL, job training and placement assistance, and post-employment services. SB 6803 (Signed 4/23/2008).

The law extends the current proportional distribution of community services block grant funds for migrant and seasonal farm worker organizations for FY 2009. SB 6809 (Signed 4/23/2008).

This law includes an allocation for migrant worker services. It also provides \$430,000 for services and expenses to community health centers to provide care to migrant and seasonal farmworkers and their families, among others. SB 6804 (Signed 4/23/2008).

The Act provides that an alien, including a nonqualified alien, is eligible for residential services for victims of domestic violence. AB 10228 (Signed 9/25/2008).

Employment:

The law provides that in order to be eligible for a restricted dental faculty license an applicant must be a U.S. citizen or an alien lawfully admitted for permanent residence in the United States. SB 6026 (Signed 9/4/2008).

This Act relates to citizenship requirements to qualify for a license as a physician. It provides that the Board of Regents may grant a three year waiver and up to a six year extension for the holder of an H-1B visa or its equivalent or successor visa to comply with citizenship requirements for a physician's license. SB 8276 (Signed 7/21/2008).

2009

Public Benefits:

This law establishes a higher education loan program, applicants must be citizens, lawful permanent residents, or refugees. A157 04/07/2009 – Enacted.

Employment:

This act extends for one year the expiration provisions of law authorizing a one-time 3 year waiver of citizenship or permanent resident alien status for licensure as a veterinarian or veterinary technician. It also eliminates, for veterinarians, the requirement that there exist a shortage of qualified veterinarians and that the licensee is working toward becoming a citizen or permanent resident alien in order to be granted such a waiver. A6394 07/11/2009 – Enacted.

2010

Public Benefits:

VETOED: This law makes appropriations to educational agencies and programs in the state of New York. It requires that college students must be citizens of the United States in order to receive certain scholarships and financial aid packages. A9707 07/07/2010.

This law appropriates funds to agencies in the state of New York including refugee resettlement and assistance programs and programs which assist non-citizens in their attainment of citizenship status. S8167 06/14/2010 – Enacted.

This budget law funds and amends public health programs. In authorizing express lane health programs, the law refers to citizenship and immigration documents for eligibility. A9708 07/02/2010 – Enacted.

Employment:

This omnibus law implements the Public Protection and General Government Budget. It amends real estate law in the state of New York and requires that any person seeking a real estate broker license be legally permitted to work in the United States. A9706 06/22/2010 – Enacted.

This law amends the retirement and social security law, the education law, the workers' compensation law and the state finance law, in relation to increasing participation by minority and women-owned business enterprises. The law defines minority group member as U.S. citizen or permanent resident alien who can demonstrate membership in certain racial or ethnic groups. S6888 07/15/2010 – Enacted.

NORTH CAROLINA

2009

Public Benefits:

This law provides that a couple who jointly adopted a child in a foreign country while married must re-adopt the child jointly, even if divorced. (HB 1106) (Signed 06/26/09).

This law clarifies provisions of the Federal Work First Program, clarifying that a reference to “legal immigrants” should be to “qualified immigrants.” (HB 1280) (Signed 08/26/09).

NORTH DAKOTA

2009

Public Benefits:

Act relates to child care assistance, eligibility and applications for benefits, includes tribal entities, and requires verification of citizenship or resident alien status of the children. (HB 1090) (signed 5/1/09).

OHIO

2007

Public Benefits:

This legislation defines state benefits for immigrants in terms of public education and for migrant workers mostly in terms of childcare and healthcare. HB 119 (Signed 6/30/2007).

2008

Public Benefits:

The Act establishes the African immigrants commission which is tasked: to investigate a variety of issues concerning sub-Saharan African people; to coordinate and assist other public and private organizations that serve sub-Saharan African people; and to advise the governor and general assembly in the development and implementation of comprehensive policies, especially in the fields of education, employment, energy, health, housing, welfare, and recreation. HB 500 (Signed 1/6/2009).

OKLAHOMA:

2007

Employment/Public Benefits:

Oklahoma Taxpayer and Citizen Protection Act of 2007: This law prohibits all persons from transporting, moving or attempting to transport any unauthorized alien in furtherance of such unauthorized alien's illegal presence in the United States. It also prohibits any person from concealing, harboring or sheltering from detection unauthorized aliens. It also prohibits private businesses, service organizations and governmental agencies from issuing identification documents, cards or certificates to people other than United States citizens, legal permanent resident aliens or holders of valid, unexpired non-immigrant visas. The law requires all public employers and their contractors or sub contractors to register for and participate in the federal E-Verify program. It also prohibits any Oklahoma employer from discharging any United States citizen or permanent resident alien employee if, on the date of the discharge, that employer also employed an unauthorized alien. Finally, the law contains broad provisions requiring verification of lawful presence in the United States of any natural person fourteen years of age or older who has applied for state or local public benefits, or for federal public benefits administered by the state. It also provides at several junctures private causes of action to Oklahoma citizens as enforcement mechanisms. Status: Enacted 5-8-07; O.S. 21-446, 21-1550.42, 22-171.2, 25-1312, 25-1313, 56-71, 68-2385.32, 70-3242, 70-3242.2, 74-20J and 74-151.2.

2010

Employment:

S.B. 1280/H.B. 2704: Together, these laws amend Oklahoma's Employment Security Act to exclude from the definition of "employment" services performed by an individual who is a non-resident alien admitted to the United States to perform agricultural labor under the auspices of federal law. The laws also authorize the Employment Security Commission to require any applicant for unemployment benefits to produce documents, information or otherwise appear in person to make a claim for benefits. Status: Enacted 5-6-10 and 6-6-10. 40 O.S. 2001, Sections 2-203C and 1-210.

OREGON

2007

Employment:

Workers' compensation laws clarified to state that compensation will not be granted to individuals who are found in violation of U.S. immigration laws. (HB 2247) (6/13/07).

2010

Employment:

New requirement that all members of the Public Employees Retirement Board be at least 21 years of age, be a citizen of the United States, and have been residents of the state for at least 2 years immediately preceding appointment to the board. (S 897) (2/8/10).

PENNSYLVANIA

2006

Employment:

Pennsylvania HB 2319 is known as the Prohibition of Illegal Alien Labor on Assisted Project Act. The bill defines an illegal alien as one who violates federal immigration laws yet is a paid employee within the state. This bill prohibits the use of labor by illegal immigrants on projects financed by grants or loans from the state government. Appropriate federal authorities should be contacted in the event a contractor knowingly employs illegal aliens and continues to accept a state contract (section 3). HB 2319 (signed 5/11/2006).

2007

Employment:

This legislation waives the usual citizenship requirement for teachers employed in public schools who speak the language or idiom of immigrant children in the school district and are employed for easing their transition to English. HB 842 (Signed 7/20/2007).

This act allows the state Board of Nursing to certify a nurse who has been certified to practice nursing in another country as long as that country's nursing certification requirements are equivalent to Pennsylvania's standards. HB 1254 (Signed 7/20/2007).

2008

Employment/Public Benefits:

The law extends tax exemptions for unoccupied parcels and additional opportunity expansion zones and prohibits illegal alien labor in such zones. SB 1412 (Signed 7/10/2008).

Public Benefits:

The Department of Education may establish a restricted receipt account for emergency immigration education assistance. SB 1297 (Signed 7/4/2008).

2009

Public Benefits:

This act funds refugee, migrant and immigrant student programs and zeroes out the state appropriation for the payment for maintenance of summer schools for school-age children of migrant laborers including child-care services. S850 08/05/2009 - Line Item Vetoed.

2010

Public Benefits:

This budget law includes appropriations for alien inmates and refugee services. H2279 07/06/2010 – Enacted.

RHODE ISLAND

2006

Public Benefits:

Rhode Island HB7120 provides that no new non-citizen child be enrolled in the Rhode Island Medicaid program after December 31st 2006 (40-8-1(d)). HB7120 (enacted 6/30/2006).

2009

Public Benefits:

This appropriations bill includes provisions related to cash and medical assistance and immigrant eligibility. It sets eligibility standards for Rhode Island Works, including citizenship and immigration status. Medical assistance shall be provided to a non citizen child who was lawfully admitted for permanent residence on or after August 22, 1996 or who first becomes otherwise entitled to reside in the United States on or after August 22, 1996, if such person meets all other eligibility requirements under Medicaid or SCHIP. H5983 06/30/2009 – Enacted.

2010

Public Benefits:

This law amends the tax code in the state of Rhode Island. It prohibits nonresident alien individual from receiving basic standard deductions for dependents. S2921 06/09/2010 – Enacted.

SOUTH CAROLINA

2010

Employment:

This law amends South Carolina migrant labor statutes and provides that employers must publicly post labor laws on the regulation of hours and working conditions. (SN 929) (Signed 03/31/10).

SOUTH DAKOTA

No reported activity.

TENNESSEE

2006

Employment:

This bill prohibits that contractors who are found to employ illegal immigrants are precluded for one year from contracting with state agencies. (HB 111) (enrolled 06/01/06).

2007

Employment:

This act provides that administrative procedures, including the temporary suspension of the employer's business license, may be taken against employers who knowingly hire illegal immigrants. (HB 729) (Signed 06/26/07).

This act prohibits the use in the State of Tennessee of federal individual taxpayer identification numbers (ITIN) as a form of identification to prove immigration status. For purposes of an employment application or offer, no person shall accept ITIN as a form of identification. Any person, including contractors, who is presented with an ITIN by a potential employee or subcontractor as a form of identification or to prove immigration status, shall reject such number and request the lawful resident verification information. (SB 903 – Chapter 220).

2008

Employment:

This act provides that the Commissioner of the Department of Labor and Workforce Development, upon receipt of a complaint regarding the hiring of an illegal alien, shall inform the person against whom the complaint is made that they may learn the name of the person filing the complaint, upon request. (SB 4069) (Signed 04/29/08).

2009

Employment:

This act creates a Class A misdemeanor offense for a person knowingly providing, transferring, or submitting to any other person false identification for the purposes of obtaining or maintaining employment. The Act further provides that if it is determined that any person in connection with the

violation is not lawfully present within the United States, the court will notify the U.S. Department of Homeland Security. (SB 294) (Signed 05/07/09).

This act directs the Tennessee Department of Labor and Workforce Development to establish the We Want To Learn English initiative. (SB 1745) (Signed 06/05/09).

This act imposes penalties on employers and employees in certain cases involving workers' compensation claims by employees not authorized to work in the U.S. (SB 2162) (06/25/09).

2010

Employment:

This law allows the State of Tennessee to give preference to contracts with vendors who solely employ U.S. citizens residing in the U.S., or any person authorized to work within the U.S. (HB 2822/SB 2839) (Signed 06/23/10).

TEXAS

2007

Public Benefits:

H.B. 1196: This law requires all businesses applying to receive a public subsidy from a public agency, state or local taxing jurisdiction to include in the application a statement certifying that the business does not and will not knowingly employ an undocumented alien worker. It also provides for a civil action brought by the public agency or the Attorney General on its behalf as an enforcement mechanism. Businesses violating their commitments by knowingly employing undocumented alien workers may be required to repay the entire amount of the public subsidy, with interest. Status: Enacted 6-15-07. Government Code, Sections 2264.001, 051-053, and 101.

Texas Senate Bill 589: This law makes United States citizenship or legal presence in the United States and verification of same a requirement for participation in the state's Temporary Assistance for Needy Families (TANF) programs. Status: Enacted 6-15-07. Subchapter A, Chapter 31, Human Resources Code, Section 31.0021 (B) (2).

2009

Public Benefits:

S.B. 1403: This law requires that to obtain coverage from the state's Health Insurance Pool an individual must be a legally domiciled resident and either a United States citizen or permanent resident of the United States for at least three continuous years. Status: Enacted 6-19-09. Subchapter A, Chapter 1506, Insurance Code, Section 1506.152(F)(1) and (2).

UTAH

2007

Employment:

S.B. 103: This law excludes unauthorized alien workers from eligibility for unemployment compensation under Utah's unemployment insurance statute. It also provides any documentation of citizenship or legal

residency status required by the state's Unemployment Insurance Agency must be uniformly required of all applicants. Status: Enacted 3-13-07. U.C. Section 35A-4-405 (10)(a-c).

2008

Employment/Public Benefits:

S.B. 81: This law requires certain law enforcement authorities to make a reasonable effort to determine the citizenship status of any person charged with a felony or operation of a motor vehicle while under the influence of intoxicants. U.C. Section 17-22-9.5. The law also provides various requirements and limitations on public entities that issue identification documents, cards or certificates regarding same. It also requires all public employers and their contractors and subcontractors to register and participate in the federal E-Verify program with respect to newly hired employees. The law also regulates those eligible for receipt of state, local or federal public benefits and requires those agencies charged with distributing such benefits to verify the lawful presence in the United States of any individual eighteen years of age or older who has applied for them. Finally, the law prohibits all persons from transporting, moving or attempting to transport into or through the State of Utah any unauthorized alien for commercial advantage or private financial gain. Status: Enacted 2008; effective July 1, 2009. U.C. 63-99a-101-104, 67-5-22.5, 67-5-26, and 76-10-2701.

2009

Employment:

S.B. 39: This law refines provisions of Utah's Identity Documents and Verification Act by further defining a contract for purposes of the requirement that all contractors to public entities verify the federal authorization status of new employees. It also provides an exception from verification of lawful presence in the country for any individual who is eligible to receive a benefit under Utah's State Retirement and Insurance Benefits Act. Status: Enacted 3-23-09; effective July 1, 2009. U.C. 63G-11-103 and 104.

2010

Public Benefits:

S.B. 72: This law exempts a public transportation pass issued by a public transit district from the requirement and restrictions applicable to issuance of identification documents, cards or certificates by public entity. Status: Enacted 3-29-10. U.C. 63G-11-102 (5)(c).

H.B. 431: This law modifies the governmental provisions of the Identity Documents and Verification Act and accords Utah's Department of Commerce slightly greater latitude with regard to the verification process when issuing a motor vehicle license to an applicant. Status: Enacted 3-25-10; U.C. 63G-11-104.

Employment:

SB 251: This law requires Utah employers verify the legal immigration status of their employees using the federal E-Verify system. Status: Enacted 3-31-10; U.C. 13-47-102 and 103, 201-204.

VERMONT

2007

Public Benefits:

This act relating to moving families out of poverty establishes different social programs and prescribes boundaries for programs that would help immigrants who would be federally ineligible for certain benefits by supplementing them with state funds. HB 523 (Signed 5/17/07).

Employment:

This joint resolution urging Congress to enact S. 340 or H.R. 371, the “Agricultural Job Opportunities, Benefits, and Security Act of 2007”. This joint resolution states the tremendous value of immigrant and migrant workers to Vermont and requests that Congress pass said act. SJR 22 (4/13/07).

VIRGINIA

2008

Employment:

This law provides that violations of state of federal law prohibiting the employment of illegal aliens may result in revocation or cancellation of a certificate of authority, certificate of organization, or certificate of trust of any domestic or foreign corporation, limited liability company, limited partnership, or business trust conducting business within the state. (HB 926/SB 782) (Signed 03/12/08).

This law provides that all public bodies shall include in all written contracts that the contractor does not and will not knowingly employ an authorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986, during the performance of a contract for goods and services in the Commonwealth. (HB 1298/SB 517) (Signed 03/12/08).

This law establishes a program for small business owned by service-disabled veterans who are U.S. citizens or non-citizens in full compliance with immigration law. The program’s federal eligibility requirements are set by the U.S. Department of Veterans Affairs. (HB 1386)(Signed 03/10/08).

2009

Employment:

This law provides that actions of a limited liability company’s members constituting a pattern or practice of employing unauthorized aliens in the Commonwealth in violation of 8 U.S.C. §1324a(f), as amended, may result in the cancellation of the existence of the limited liability company. (HB 2126) (03/23/09).

This act changes the name of the Department of Minority Business Enterprise to the Department of Supplier Diversity and Procurement Advocacy and clarifies that small, minority-owned and women-owned businesses and their affiliates must be comprised of individuals who are U.S. citizens or legal resident aliens, and must be managed by such individuals. (HB 2672) (Signed 05/06/09).

Employment:

This law requires enrollment in the E-Verify program by December 1, 2012 by state agencies. The E-Verify program must be used for each newly-hired employee working in Virginia. (HB 737) (Signed 04/11/10).

This law creates new definitions for purposes of the Virginia Workers' Compensation Commission, including a definition of employee as every person, including aliens and minors, in the service of another under any contract of hire or apprenticeship, written or implied, whether lawfully or unlawfully employed. (HB 761) (Signed 04/08/10).

This law provides that materials may be filed with the Virginia Workers' Compensation Commission by means of electronic transmission. The definition of employee is amended to include legal aliens and minors under contract or apprenticeship. (SB 610) (Signed 03/11/10).

WASHINGTON

2006

Employment:

Excludes labor performed by nonresident aliens from the definition of "employment" when establishing unemployment insurance benefits (section 22). (SB 6885) (3/9/2006).

2010

Employment:

This law appropriates \$750,000 in funding for naturalization services and \$3,550,000 in funding for refugee employment services per year for fiscal years 2010 and 2011. It also calls upon the Department of Social and Health Services to review the general assistance caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. (H 2921) (2/15/10).

This law requires international labor recruiters and domestic employers of foreign workers to disclose federal and state labor laws to foreign workers including information on the minimum wage and occupation safety and health laws. The law also mandates employers to provide information to workers on available services for human trafficking. (S 6332) (3/19/10).

Individuals receiving disability benefits required to be legal residents of the United States. (H 2782) (3/29/10).

WEST VIRGINIA

2007

Employment:

This law prohibits employers from knowingly employing an unauthorized worker, and provides that employers are required to verify a prospective employee's legal status or work authorization. This law provides penalties for employment unauthorized workers, including fines, jail sentences, and revocation of business licenses. (SB 70 – Chapter 144) (Signed 04/03/07).

Public Benefits:

This law defines eligibility for the West Virginia Works program and creates specific categories of immigrants for which exceptions are made. (SB 518) (Signed 04/03/07).

2008

Employment:

This law authorizes the Division of Labor to promulgate a legislative rules regarding verification of the legal employment status of workers within the state. (HB 4255) (Signed 03/27/08).

2010

Employment:

This law requires legal verification of employment status for employers in the state of West Virginia and provides penalties for employers who knowingly employ undocumented workers. Penalties may include fines and measures to permanently revoke business licenses. (HB 3301) (Signed 03/16/10).

This law provides vendor preference to certified small business owned by owmen and minorities, including businesses owned by legal immigrants. (Signed 04/01/10).

WISCONSIN

2007

Public Benefits:

W.S.A. 49.84: This statute provides that all applicants for various kinds of public assistance in Wisconsin must provide a declaration and verification of United States citizenship or satisfactory immigration status as required by the federal government. Status: Enacted *see*, W.S.A. 49.84 (5) and (6) (b) (1).

Employment:

W.S.A. 108.04: This provision of the Wisconsin Unemployment Insurance statute excludes wages paid to illegal aliens from an unemployment insurance applicant's base period wages. The provision does not apply to an alien who is lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed. The provision also requires that any documentation or other proof of citizenship or legal immigration status be uniformly required of all applicants for benefits. *See*, W.S.A. 108.04 (18) (a).

WYOMING

No Reported Activity.

Federal Benefits Available to Unauthorized Immigrants³

Prepared by: Holly Gierisch, Immigrant Policy Project,
National Conference of State Legislators⁴

In general, unauthorized immigrants within the United States are not eligible for any federal public benefits, except:

1. Emergency medical treatment under Medicaid, if the individual otherwise meets the eligibility requirements and the medical condition is not related to an organ transplant procedure
2. Immunizations for immunizable diseases and testing for and treatment of symptoms of communicable diseases (does not include assistance from Medicaid)
3. Short-term, non-cash, in-kind emergency disaster relief
4. Programs, services, or assistance that deliver in-kind services at the community level, do not have conditions for assistance on the recipients' income or resources, and are necessary for the protection of life and safety
 - Includes access to soup kitchens, crisis counseling and intervention, short-term shelter, mental health services, and child and adult protective services
5. To the extent that an immigrant was receiving assistance on 8/22/08, programs for housing, community development, or financial assistance administered by the HUD⁵ Secretary, which include:
 - Financial assistance in rural areas to farmers, owners, developers, and the elderly for loan insurance, the purchase of property, housing for trainees, and low rent housing for farm workers under title V of the Housing Act of 1949
 - Loans and grants for water access and waste treatment to alleviate health risks under Section 306C of the Consolidated Farm and Rural Development Act
6. Free public education for grades K-12
7. Federally subsidized school lunch and school breakfast programs for individuals eligible for free public education under state or local law
8. At state option, medical coverage under SCHIP,⁶ including prenatal care and delivery services, for unborn children who meet other program eligibility criteria

Note: Exceptions 2 and 3 above only grant access to disaster relief and emergency assistance for the protection of life and safety, and do not extend to non-emergency aid based on each recipient's need.

³ The term "unauthorized immigrants" refers to immigrants without legal status in the U.S.

⁴ Report can be found at: <http://www.ncsl.org/Default.aspx?TabId=13096>. Footnotes not in original.

⁵ U.S. Department of Housing and Urban Development

⁶ State Children's Health Insurance Program, now just the Children's Health Insurance Program, provides health insurance to uninsured children and is jointly financed by the Federal and State governments.

<http://www.cms.gov/NationalCHIPPolicy/>

Unauthorized immigrants are eligible for the following nutrition assistance programs:

- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Child and Adult Care Food Program (CACFP)
- Summer Food Service program
- Special Milk program
- Commodity Supplemental Food Program (CSFP)
- The Emergency Food Assistance Program (TEFAP)
- Food Distribution Program on Indian Reservations (FDPIR)

Note: States may, at their discretion, deny unauthorized immigrants' access to the above programs, though none have done so as of 5/21/08.

Unauthorized immigrants also appear to be able to receive services provided by federally funded community health centers regardless of immigration status; however, migrant health center services are statutorily prohibited to unauthorized immigrants by Title IV of PRWORA.⁷

⁷ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, created a welfare plan "that requires work in exchange for time-limited assistance." <http://aspe.hhs.gov/hsp/abbrev/prwora96.htm>

Chart of Immigrant Eligibility for Federal Programs⁸

Federal Program	Eligibility
SSI	Refugees: eligible for nine years, plus one additional year if a naturalization application is pending (effective FY2009-FY2011, when eligibility reverts to seven years)
	Legal immigrant SSI recipients resident in the U.S. on or before 8/22/96
	Legal immigrants resident on or before 8/22/96 who are or become disabled
	Legal immigrants with 40 work quarters
	Veterans, active military and their spouses and dependents
Food Stamps	Legal immigrant children (benefits restored as of 10/01/03)
	Legal immigrants with 5 years residence in the U.S. (benefits restored as of 04/01/03)*
	Legal immigrants with 40 work quarters
	Refugees
	Elderly, resident in the U.S. on or before 8/22/96
	Disabled or blind immigrants, regardless of when they entered the U.S.
	Veterans, active military and their spouses and dependents
TANF	Legal immigrants residing in the U.S. on or before 8/22/96 at state option
	Legal immigrants who enter the U.S. after 8/22/96: barred for first 5 years*
	Legal immigrants with 40 work quarters
	Refugees
	Veterans, active military and their spouses and dependents
Medicaid	Legal immigrants residing in the U.S. on or before 8/22/96 at state option
	Legal immigrants who enter the U.S. after 8/22/96: barred for first 5 years*
	Legal immigrants with 40 work quarters
	Refugees (eligible for first 7 years of residence)
	Veterans, active military and their spouses and dependents
	SSI recipients
SCHIP	Legal immigrant children residing in the U.S. on or before 8/22/96
	Legal immigrant children who enter the U.S. after 8/22/96: barred for first 5 years*
	Refugees (eligible for first 7 years of residence)
	Children of veterans and active military (unmarried, dependent)

NOTES: “Refugee” on this chart also includes asylees, Cuban-Haitian entrants, Amerasians, and those whose deportation has been withheld. Victims of domestic abuse and victims of trafficking may be eligible for the above programs, but they must still meet eligibility requirements (for example, 5 years residence or 40 work quarters.)

*Sponsor-to-immigrant deeming applies to legal immigrants who have signed a legally binding affidavit of support on or after 12/19/1997. The income and resources of the sponsor are counted as available to the immigrant when determining the immigrant’s eligibility.

*Prepared by Ann Morse, Immigrant Policy Project, NCSL, October 10, 2008
Last Updated: October 14, 2008*

⁸ Chart prepared by Ann Morse, Immigrant Policy Project, National Conference of State Legislators, October 10, 2008. It can be found at: <http://www.ncsl.org/Default.aspx?TabId=13075>

Snapshot of U.S. Immigration 2008⁹

Total foreign-born population	38 million		
Total US population	304 million		
% Foreign-born	12.5%		
Legal Immigrants			
Naturalized Citizens	16 million		
Noncitizens	10 million		
Unauthorized immigrants	12 million		
Main source of immigrants:			
Latin America	53%	Asia	27%
Europe	13%	Africa	4%
North America	4%	Oceania	1%

Permanent Residence (people approved)

In 2008, 1.1 million visas were issued for permanent residence:

Family & immediate relatives		
Employment	715,659	65%
Refugees and Asylees	166,511	15%
Diversity (underrepresented countries)	166,392	15%
	41,761	5%

Of the 1.1 million permanent visas:

640,568 adjustments were within the U.S.

466,558 were new arrivals	58%
	42%

Main source of legal immigrants by country and year:

	2005		2006		2007	
	Mexico	14%	Mexico	14%	Mexico	14%
	India	8%	China	7%	China	7%
	China	6%	Philippines	6%	Philippines	7%
Total	1,122,257		1,266,257		1,052,415	

Unauthorized Immigration

Approximately 11.9 million unauthorized immigrants are estimated to live in the United States. There has been a decline in unauthorized immigration from nearly 1 million unauthorized immigrants a year in 2006 to about 500,000 in 2008. Three-fourths of all unauthorized immigrants are Hispanic (mainly from Mexico, but also from Central and South America, and the Caribbean). About 60% enter illegally and 40% overstay or otherwise violate the terms of their visas. More than 8.3 million unauthorized immigrants (4% of US population) are estimated to be working, about 5.4% of the nation's 154 million civilian workforce.

⁹ Excerpt from report prepared by Ann Morse and Rosa Covarrubias, National Conference of State Legislators' Immigrant Policy Project, November 2009 (citations omitted). Full report and citations can be found at: <http://www.ncsl.org/default.aspx?tabid=19227>