



## **Most State Proposals to Restrict Benefits for Immigrants Failed in 2005 MEASURES TARGETING IMMIGRANTS PROMISED FOR NEXT YEAR**

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### **INTRODUCTION**

Buoyed by the passage of Arizona's Proposition 200 in 2004, restrictionist groups actively lobbied other states to adopt similar measures targeting immigrants. The Arizona initiative requires employees of state and local agencies to verify the immigration status of benefit applicants, and to report any "discovered" immigration law violations to federal immigration authorities, making the failure to file such a report a criminal offense. It also mandates that persons registering or seeking to vote submit specific documents as evidence of U.S. citizenship. During the 2005 state legislative session, approximately 80 bills seeking to restrict immigrants' access to services or requiring benefit agencies to report applicants to federal immigration authorities were introduced in more than 20 states.<sup>1</sup> Measures proposed in at least seven states copied some of Proposition 200's provisions directly.<sup>2</sup>

The bills ranged from those denying all state or local public benefits to certain immigrants, to those restricting specific services such as financial aid, tuition waivers, adult basic education,

literacy, instruction in English as a second language (ESL), workers' compensation benefits, or adoption assistance. Some required local police, counties, social service agencies, or private organizations receiving state funds to cooperate with federal immigration authorities. Other measures required that persons seeking services or registering to vote present specific documents. One added "illegal immigration" to a list of state emergencies, while another proposed to establish a state border police agency.

An examination of these efforts reveals that the bills failed to garner significant support and, in some states, faced strong opposition by health care providers and by business, faith-based, labor, community-based, antipoverty, anti-domestic violence, civil rights, and immigrant rights groups. Republicans and Democrats alike distanced themselves from the measures, which were perceived by some as mean-spirited, divisive, or a political liability. Almost all the bills either stalled in legislative committees or were defeated. The few that did pass were narrowed significantly during the course of the legislative session and are likely to have little formal legal effect. Restrictionist groups have not given up, however, and are expected to pursue similar legislation or initiatives in several states during the coming year.

### **NARROW LEGAL EFFECT**

One of the only such bills to secure a governor's signature this year was a Virginia measure prohibiting undocumented immigrant adults from securing certain state or local benefits.<sup>3</sup> Virginia's Governor Warner blunted criticism of his signature by explaining that, in his opinion, the new law did not change existing state practice. He noted that the final bill was much less restrictive than the one originally introduced.<sup>4</sup> Similarly, Arizona's attorney general determined that Proposition 200's verification and reporting requirements applied only to five programs, from which undocumented immigrants already were excluded.<sup>5</sup> During the 2005 session, Arizona's governor vetoed a bill that would have denied immigrants' access to a broader array of services.

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*and publishes legal reference materials. NILC's staff specialize in immigration law and in immigrants' employment and public benefits rights. In addition to this newsletter, NILC produces legal manuals, a referral directory, and other community education materials.*

Several other restrictive measures in Arizona died before reaching the governor's desk.

#### HARMFUL PRACTICAL EFFECT

Despite the narrow legal effect of the measures that became law and the failure of the vast majority of similar bills to pass, the debate surrounding the bills and the threat of new bills or initiatives at once reflected and reinforced a climate of hostility toward immigrants. The impact in Arizona was palpable. After the passage of Proposition 200, many immigrants and their U.S. citizen family members were deterred from seeking services for which they remained eligible. The media reported drops in visits to health clinics and in participation in literacy training, nutrition assistance, and health programs, as well as accounts of domestic violence victims afraid to report abuse and parents confused about whether to keep their children home from school.<sup>6</sup>

Some proponents appeared to welcome indications that Proposition 200 deterred immigrant parents from seeking services that were not covered by the initiative, such as primary education and WIC, the supplemental nutrition program for women, infants, and children. Kathy McKee of Protect Arizona Now, the group that crafted the initiative, suggested that undocumented immigrants have only themselves to blame for their fear: "If people are in this country illegally, they're not entitled to a fear-free life. They should fear being deported."<sup>7</sup>

The harm extended far beyond the undocumented immigrants that the initiative purported to target, sowing fear and confusion in families that include immigrants who are lawfully present in the U.S.<sup>8</sup> and/or U.S. citizens. An Arizona state representative described the turmoil experienced by his constituents: "A fear factor has set in. People tell me that they are legal immigrants and their children are citizens, but they are afraid to apply for the Arizona Health Care Cost Containment System." He continued, "They ask me: 'Should I go to court on a traffic ticket?' They say they have witnessed a crime and are afraid to report it."<sup>9</sup>

Arizona's experience is similar to California's after the passage of Proposition 187. The California initiative, approved in 1994, would have denied access to public education and a broad array of services to certain immigrants and would have required state and local agencies to report individuals suspected of being undocumented to federal immigration authorities. Most of Proposition 187 was invalidated by federal courts as unconstitutional and never implemented. However, the harm and political fallout stemming from the initiative lingers today and contributes to the confusion and fear that prevent families from securing services. After the initiative passed, there was a documented rise in hate crimes, as well as harm resulting from a reluctance by immigrants to approach government agencies to report crimes, seek critical services, or otherwise participate in protecting public health and safety.<sup>10</sup>

A legislator's attempt to reintroduce part of Proposition 187 was killed swiftly in the California legislature this year, as were several other measures that proposed to deny services to immigrants or promote cooperation with federal immigration authorities. Similarly, Republican Governor Mike Huckabee of Arkansas

this year publicly denounced a bill similar to Proposition 200, calling it "inflammatory . . . race-baiting and demagoguery" and speculating that the measure could deter overseas corporations from bringing new business to Arkansas.<sup>11</sup>

Even the largely symbolic bills were intended to send a message, not only to community members but also to federal policymakers, in the midst of the debate on federal immigration reform. The state and local campaigns such as Protect Arizona Now (PAN) purport to be home-grown but were funded heavily by national groups such as the Federation for American Immigration Reform (FAIR), Americans for Better Immigration, Americans for Immigration Control, Popstop, Inc. (of Maryland), and Population-Environment Balance, which hope to build on anti-immigrant sentiment at the state and local levels to fuel a national restrictionist agenda.<sup>12</sup>

These anti-immigrant groups, testing the waters in various states, also hoped that the immigrant issues would help to advance or defeat candidates in state and local elections. Governor Warner of Virginia acknowledged that the bill he signed, rather than addressing any concrete problem, was designed to provide an issue for legislators to focus on in the upcoming state elections. Governor Napolitano of Arizona, feeling pressured to defend herself against accusations that she was soft on illegal immigration, pointed to her signature on a bill denying funding to day laborer sites.<sup>13</sup> Republicans and Democrats agree that the immigration issue will provide fodder for upcoming elections, either by energizing Latino voters or by drawing out those who are uncomfortable with current immigration or demographic trends.

#### STATE ADVOCACY HIGHLIGHTS

During the past year, advocates worked in broad coalitions to defeat measures targeting immigrants, underscoring the value of providing preventive care and critical services and highlighting the contributions of immigrants to the economy and workforce.

¶ A coalition of health care providers, labor, faith-based, civil rights, and immigrant rights groups in **Colorado** defeated a bill that would have denied services to undocumented immigrants and required agencies to maintain records of immigration documents. An initiative that would have denied nonemergency services to undocumented immigrants failed to attract enough support to qualify for the 2004 ballot. However, proponents plan to file an identical initiative, aiming for the 2006 ballot.

¶ Two Proposition 200 look-alike bills failed in **Georgia** this session, one because it could not garner the two-thirds vote needed to amend the state's constitution. Advocates expect that a version of these bills will be reintroduced next session. State Senate Republican leaders reportedly have designated these measures as "top priority" for the 2006 session.<sup>14</sup>

¶ In response to vociferous objections from businesses, health care providers, and community action organizations, **Idaho** legislators tabled a bill that would have denied services under the county indigent medical program to undocumented immigrants, required the county to pay for transportation of undocumented patients to their home countries, and held employers liable for the cost of their care.

¶ All of the anti-immigrant legislation introduced in **Maryland** this year was withdrawn, defeated in committee, or was not voted on during this session. A broad coalition of faith-based, civil rights, immigrant community, education, anti-domestic violence, and workers' rights groups, health care providers, and government staff lodged substantial opposition to these bills. The groups are monitoring a rise in hate crimes against immigrants in Maryland and preparing for similar legislation expected in the upcoming session, such as a bill that would deny workers' compensation coverage to undocumented workers and another that would outlaw the translation of Baltimore County documents into languages other than English. Unfortunately, as detailed below, Maryland's governor cut funding for lawfully present immigrant children and pregnant women who had been covered under a state medical program.

¶ Advocates in **Tennessee** defeated a bill that mirrored Arizona's Proposition 200. They worked hard to prevent a slew of anti-immigrant legislation from passing this year, including renewed attempts to restrict access to driver's licenses and public benefits. Advocates also introduced positive legislation, including a bill approved by the Senate Education Committee that would increase funding for the state's English Language Learning Program, which provides instruction in public schools to students whose first language is not English. The bill likely will continue to move next session. Advocates also plan to embark on a "Welcoming Tennessee" initiative, an education campaign aimed at highlighting the benefits that immigrants bring to the state. The initiative is modeled on a successful campaign in Iowa.<sup>15</sup>

¶ All of the bills targeting immigrants in **California** were defeated this year as well. Most California legislators, cognizant of the political damage from Proposition 187 and now more sensitive to the state's changing demographics, distanced themselves from measures perceived as discriminatory.<sup>16</sup> Advocates promoted positive messages about immigrants and their contributions<sup>17</sup> and are moving legislation to facilitate naturalization and civic participation. They also are gearing up to address proposed initiatives and anti-immigrant activity at the state and local levels.

¶ On Nov. 19, 2005, the governor of **Illinois** signed a "New Americans Executive Order," creating an Office of New Americans Policy and Advocacy. Under the order, a council of state and national experts will meet to develop recommendations on how to integrate immigrants fully into the state's economic and civic life, including policies on English acquisition, citizenship, education, health care, human services, security, entrepreneurship, workforce development, home ownership, and housing. An interdepartmental task force of state agencies also will examine how to address the needs of diverse immigrant groups in Illinois. Finally, the new office will analyze federal immigration law and policy changes, advise the governor on how the state should respond, and make contributions to the national discourse on immigrant integration policy.

## BILLS AND INITIATIVES PROMISED FOR NEXT SESSION

Although across the nation at least 75 bills aimed at restricting services for immigrants were defeated last session, sponsors in several states, including Alabama, Arizona, Arkansas, California, Colorado, Georgia, and Tennessee, vowed to reintroduce them or bring them to the voters as initiatives. Such initiatives are pending or circulating in Arizona, California, Colorado, and Washington. In states and localities across the country, the debate on immigrant-related measures is likely to play a prominent role in the 2006 elections.

The November 2006 general election ballot in Arizona, for example, will include a proposed state constitutional amendment that would deny bail to undocumented persons who are charged with a felony. Proposition 187 proponents in California have tried for several years to reignite the initiative in various forms, most recently taking advantage of the debate on access to driver's licenses for immigrants. One such initiative failed to qualify for the ballot earlier this year. Another initiative that would have established a "California Border Police" agency to assist federal agencies in enforcing immigration laws recently failed to garner enough signatures to qualify for the ballot. A third initiative, submitted to the California attorney general but not yet circulating, would deny a broad array of services to certain immigrants, prevent them from securing driver's licenses or in-state tuition for postsecondary education (e.g., at community or state colleges), and require proof of U.S. citizenship for persons applying or registering to vote.

In Washington State, an initiative modeled on Proposition 200 is circulating for signatures. If the measure is certified, it will be submitted to the state legislature in January 2006.<sup>18</sup> The main proponent of the initiative, Martin Ringhofer, gained notoriety when he challenged the credentials of voters during the 2004 governor's race, based on their "foreign-sounding" names. Both Republicans and Democrats condemned Ringhofer's efforts to disqualify voters.<sup>19</sup> Although the initiative does not appear to have significant support at this time, advocates are treating the threat seriously.

## STATES RESTORE, PRESERVE, AND EXPAND ACCESS TO CARE FOR IMMIGRANTS

As the restrictive measures were debated and in most cases defeated, many states preserved, restored or expanded access to services for immigrants this year, focusing in particular on preventive health care coverage. Legislators and governors in many of these states recognized that investing in preventive care for all community members is a cost-effective public health policy.<sup>20</sup>

The Colorado Legislature, for example, restored Medicaid and state medical coverage to the lawfully present immigrants whose eligibility would have been terminated by a 2003 law. Litigation challenging these cuts afforded additional time for the legislature to reconsider, and no terminations were implemented before the new law restored coverage.<sup>21</sup>

Washington State restored health coverage through a state-funded Medicaid look-alike program to all children in families

earning less than 100 percent of the federal poverty level, regardless of their immigration status. In 2002, the state had transferred children and some parents who were ineligible for federal Medicaid to a "Basic Health" program, with premiums, co-pays and a more restrictive scope of services than Medicaid. Policymakers discovered, however, that many children lost coverage and access to care, and that the administrative expenses, increased workload, and cost-shifts of this move outweighed any benefits or savings.<sup>22</sup> The legislature and governor opted to restore the Medicaid look-alike program for children, effective January 2006. Several counties and states, including New York, Massachusetts, Rhode Island, and, to a more limited extent, Washington, DC, already offer coverage to low-income children, without discriminating based on immigration status. Other states and counties, including California, are considering similar proposals.

On Nov. 15, 2005, Governor Blagojevich of Illinois signed a measure that will allow all children in the state to obtain health insurance, regardless of their immigration status. The Illinois program, to be implemented on July 1, 2006, will require copayments and premiums, depending on a family's income. To finance this program, 1.7 million children currently enrolled in the state's KidCare, FamilyCare, and Medicaid programs will be shifted to a system in which recipients choose a primary doctor to coordinate their care and referrals to specialists and hospitals.<sup>23</sup>

New Jersey began to offer coverage to "qualified" immigrant<sup>24</sup> parents through the NJ Family Care program, effective Sept. 1, 2005. Illinois created a new program, providing subsistence income to refugee and other "humanitarian" immigrant seniors and persons with disabilities who are ineligible for federal Supplemental Security Income (SSI). Advocates in New York secured a court order directing the state to provide cash assistance to lawfully present immigrant seniors and persons with disabilities who are ineligible for federal SSI.<sup>25</sup> And California extended basic dental care services to all pregnant women served under the state's Medicaid program, regardless of their immigration status.

All told, more than 30 states continue to provide state-funded services to some or all of their immigrant residents who are ineligible for federal Temporary Assistance for Needy Families (TANF), SSI, food stamps, Medicaid, or the State Children's Health Insurance Program (SCHIP).<sup>26</sup> These programs for immigrants, although not generally comprehensive, have been critical in helping to fill some of the gaps created by the 1996 federal welfare law, which severely limited immigrants' eligibility for federal safety-net programs. During the past several years, however, some of these state programs have been eliminated or threatened by budget pressures. Advocates in Massachusetts, where coverage for some immigrants was terminated in the previous year, this year were successful in preserving medical coverage for immigrant seniors and immigrants with disabilities.<sup>27</sup>

By contrast, Maryland's governor recently used his budget authority to cut health coverage for "qualified" immigrant children and pregnant women who are ineligible for federal Medicaid due to the five-year bar for recent entrants. Responding to public outcry, the governor amended the budget to maintain coverage for those currently receiving prenatal care. While welcomed, this

improvement left 3,000 immigrant children without coverage. Community-based organizations in Maryland are working to restore coverage for these immigrants during the next legislative session and have already generated positive press on the issue.<sup>28</sup> Advocates also have filed a legal challenge to these cuts.<sup>29</sup>

Despite the enactment of replacement programs in some states, participation by low-income immigrant families in critical safety-net programs plunged precipitously after the passage of the 1996 welfare law and, contrary to popular belief, remains lower than that of low-income families whose members are U.S. citizens.<sup>30</sup> Much more work will be needed to ensure not only that immigrants are eligible for services, but that they feel safe in securing them as well.

#### CONCLUSION

Despite an upsurge in anti-immigrant activity, state and local lawmakers and their constituents continue to recognize that investing in services for all community members makes fiscal, public health, and public policy sense. This past legislative session, most proposals to deny services to immigrants were rejected. Even when restrictive measures fail, however, the message sent to immigrant communities can be devastating. Moreover, bills and initiatives targeting immigrants are certain to resurface in the coming year and will be used to fuel divisions between communities. Advocates will need to develop strategies to ensure that the climate created by these initiatives does not impose new and unforeseen hardships on immigrants and their U.S. citizen family members.

With this goal in mind, advocates have launched affirmative campaigns, such as naturalization and civic participation initiatives, aimed at highlighting the contributions of immigrants and promoting policies that take advantage of their skills, facilitate English and vocational English capacity, improve language access policies, and help ensure that families can secure critical services that allow them to remain healthy and productive. They are identifying new allies, and participating in broader coalitions, to pursue policies that boost low-income communities generally, thwarting efforts to divide communities.

The debate on immigrant-related measures at the state and local level arises, in part, from a lack of an effective, cohesive federal policy to incorporate immigrants into U.S. society.

There is a widespread recognition that the federal immigration system is deeply flawed, separating family members from one another for extended periods and providing no legal pathway for millions of essential workers to participate in an economy that demands their labor. The result is a growing population of long-term undocumented workers. Some advocates of restrictive measures believe that denying access to services or to the basic documents that make it possible to perform daily activities in a normal manner — and generally making life more difficult for families with members who are undocumented — will force them to "self-deport." But the notion that restrictive measures drive immigrants back to their countries of origin is belied by the facts.<sup>31</sup> While the restrictive measures and proposals may have succeeded in instilling fear and uncertainty within immigrant communities,

they have done little or nothing to affect immigration patterns. Ironically, the threatening proposals have the counterproductive effect of inhibiting integration into communities. "As immigration restrictionists advance their agenda," Tom Barry notes, "the very act of assimilation that they demand of immigrants will become increasingly impossible."<sup>32</sup>

Frustrated by the lack of a coherent federal policy, state and local governments have taken steps, both positive and negative, to address the presence and needs of immigrants in both the new "gateway" states and in more established immigrant communities.<sup>33</sup> Government commissions and research institutions increasingly have recognized that immigrant workers are essential in supporting our economy, tax base, and Social Security sys-

tem.<sup>34</sup> Federal, state and local policies will need to promote the successful integration of immigrant workers by providing access to work supports and other services that help to maximize their valuable skills and resources. Conversations on state policy as well as federal immigration reform<sup>35</sup> should focus on ensuring that all families are able to participate fully in the workforce, public health system, schools, neighborhoods, and crime-prevention efforts — common sense policies that will improve health and safety for immigrants and U.S. citizens alike.

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## Notes

<sup>1</sup> See the accompanying table, "2005 State Legislation Restricting Benefits for Immigrants or Promoting State and Local Enforcement of Immigration Laws" (National Immigration Law Center, Nov. 2005), available at [www.nilc.org/immisps/sf\\_benefits/2005\\_anti-imm\\_bills\\_tbl\\_112305.pdf](http://www.nilc.org/immisps/sf_benefits/2005_anti-imm_bills_tbl_112305.pdf). The table does not cover bills aimed only at restricting access to driver's licenses or in-state tuition for immigrants, or those affecting immigrants' rights in the workplace. For more information on these issues, see NILC's website at [www.nilc.org](http://www.nilc.org), especially its "Employment Issues," "Driver's Licenses," and "DREAM Act" pages.

<sup>2</sup> Bills or initiatives introduced in Alabama, Arkansas, California, Georgia, North Carolina, Tennessee, and Washington mirrored some or all of Proposition 200's provisions.

<sup>3</sup> See also discussion of Maryland governor's actions, under "States Restore, Preserve, and Expand Access to Care for Immigrants," below.

<sup>4</sup> C.L. Jenkins, "Warner Signs Limits on Immigrant Benefits: Virginia to Require Verification of Legal Status to Receive Non-Emergency Aid," *Washington Post*, Mar. 30, 2005.

<sup>5</sup> State of Arizona Office of the Attorney General, "State and Local Public Benefits Subject to Proposition 200," Opinion No. 104-010 (R04-036) (Nov. 12, 2004) (finding that the initiative applies only to the General Assistance, Sight Conservation, "Neighbors Helping Neighbors," Utility Repair, Replacement and Deposit, and Supplemental Payment Programs). An attempt to broaden the scope of this initiative is pending in the Arizona courts. Yes on Prop. 200 v. Napolitano, CA-CV 05-0235 (Ariz. Ct. App., filed Apr. 28, 2005). The initiative did not alter immigrants' eligibility for benefits but instead introduced verification and reporting requirements. See also "9th Circuit Dismisses Challenge to Arizona's Prop. 200 and Vacates District Court Ruling Denying Injunction," *Immigrants' Rights Update*, Oct. 5, 2005, available at [www.nilc.org/immisps/vr/verifreptg009.htm](http://www.nilc.org/immisps/vr/verifreptg009.htm).

<sup>6</sup> See, e.g., Mary Vandeveire, "Prop 200 Confusion Being Lamented, Participation Drop Seen in Services Not Affected by New Law," *Arizona Daily Star* (Tucson ed.), April 4, 2005; Elvia Diaz and Robert Sherwood, "Prop. 200's Effect Minimal: Political Fall-

out May Loom Large in '06 Races," *Arizona Republic*, June 5, 2005 (immigrants are missing medical appointments and are delivering babies elsewhere).

<sup>7</sup> *Arizona Daily Star*, *supra* note 6.

<sup>8</sup> In this article, the term "lawfully present" refers to persons who are "lawfully present in the U.S."

<sup>9</sup> John Turner Gilliland, "Anti-Immigration Initiative Takes Effect in Arizona," *CNSNEWS.com*, Dec. 24, 2004.

<sup>10</sup> See, e.g., Fenton, Catalano and Hargreaves, "Effect of Proposition 187 on Mental Health Service Use in California: A Case Study," *Health Affairs*, Vol. 15, No. 1 (1996); Fenton, Moss, Khalil, Ghattas, and Asch, "Effect of California's Proposition 187 on the Use of Primary Care Clinics," *Western Journal of Medicine*, Vol. 166, No. 1 (Jan. 1997); "Hate Unleashed: Los Angeles in the Aftermath of 187" (Coalition for Humane Immigrant Rights of Los Angeles, 1995); Kenneth B. Noble, "Attacks against Asian-Americans on the Rise, Especially in California," *New York Times*, Dec. 13, 1995; see also Tanya Broder and Clara Luz Navarro, "A Street Without an Exit: Excerpts from the Lives of Latinas in Post-187 California," *Hastings Women's Law Journal*, Summer 1996.

<sup>11</sup> "Huckabee Blasts Immigrant Bill as 'Race-Baiting,'" *Associated Press*, Jan. 28, 2005; "Governor Says Anti-Illegals Measure Could Scare off Companies Like Toyota," *Associated Press*, Feb. 3, 2005.

<sup>12</sup> See Tom Barry, "Restrictionism Resurgent in Post 9/11 Politics: Protect America Now" (International Relations Center (IRC), Dec. 3, 2004), available at [www.irc-online.org/content/710](http://www.irc-online.org/content/710). See also Tom Barry, "Immigration Debate: Politics, Ideologies of Anti-Immigration Forces" (IRC, June 17, 2005), available at [www.irc-online.org/content/652](http://www.irc-online.org/content/652) (describing origins of and relationships among national anti-immigrant groups). A list of major contributors to PAN can be found at [www.pan2004.com/funding.htm](http://www.pan2004.com/funding.htm). See also "Federation for American Immigration Reform (FAIR): Center for New Community Special Report" (Center for New Community, Nov. 2004), available at [www.newcomm.org/fair2004.pdf](http://www.newcomm.org/fair2004.pdf) (details links between FAIR and white supremacist organizations and describes some of the group's state and local work).

<sup>13</sup> Elvia Diaz and Robert Sherwood, "Prop. 200's Effect Mini-

mal: Political Fallout May Loom Large in '06 Races," *Arizona Republic*, June 5, 2005.

<sup>14</sup> Dick Pettys, "Conservatives Campaign to Block Benefits for Illegal Immigrants," *Associated Press*, Oct. 17, 2005.

<sup>15</sup> The Iowa campaign, sponsored by the Center for New Community, used outreach, leadership training, and public education to build support for immigrants in various sectors. Caucuses across Iowa adopted resolutions welcoming immigrants and denouncing anti-immigrant groups that had come to Iowa from out of state.

<sup>16</sup> The political fallout from Proposition 187 left an indelible mark on the state and, to some extent, the nation. Former Governor Pete Wilson, who had campaigned heavily on the immigration issue, came to be viewed as anti-Latino and inspired a growing demographic and political force to register as Democrats in record numbers.

<sup>17</sup> See, e.g., "Looking Forward: Immigrant Contributions to the Golden State" (California Immigrant Welfare Collaborative, 2005), available at [www.caimmigrant.org/source/Immigrant\\_contribution.pdf](http://www.caimmigrant.org/source/Immigrant_contribution.pdf).

<sup>18</sup> The legislature could adopt the initiative as proposed or, if it rejects or refuses to act on it, the measure would be placed on the ballot in the following election. Alternatively, the legislature can approve an amended version, in which case both the original and the amended version would be placed on the ballot.

<sup>19</sup> "A Nasty Turn in Election Challenge," *Seattle Times*, April 5, 2005.

<sup>20</sup> See "Comprehensive Health Care for Immigrants: A Sound Strategy for Fiscal and Public Health" (NILC, 2004), available at [www.nilc.org/immspbs/health/Issue\\_Briefs/comphealth\\_care\\_0404.pdf](http://www.nilc.org/immspbs/health/Issue_Briefs/comphealth_care_0404.pdf). See also Mohanty, Woolhandler, Himmelstein, Pati, Carrasquillo and Bor, "Health Care Expenditures of Immigrants in the United States: A Nationally Representative Analysis," *American Journal of Public Health*, Vol. 95, No. 8 (Aug. 2005), at 1431. The report found that immigrants in the U.S. used health care at a lower rate, and account for a disproportionately lower portion of health care spending, than U.S. citizens. The report noted that although immigrant children had a lower average number of emergency room visits, their costs per visit were higher, suggesting that immigrant children delayed seeking care until their conditions became more serious and costly.

<sup>21</sup> See "Colorado Legislature Votes to Restore Medicaid Eligibility for Immigrants," *Immigrants' Rights Update*, Feb. 10, 2005, available at [www.nilc.org/immspbs/health/health032.htm](http://www.nilc.org/immspbs/health/health032.htm).

<sup>22</sup> See, e.g., Mark Gardner and Janet Varon, "Moving Immigrants from a Medicaid Look-Alike Program to Basic Health in Washington State: Early Observations" (Kaiser Commission on Medicaid and the Uninsured, May 12, 2004), available at [www.kff.org/medicaid/7079a.cfm](http://www.kff.org/medicaid/7079a.cfm); "Condition Critical: Washington's Curable Children's Health Crisis" (Children's Alliance, Dec. 2004), available at [www.childrensalliance.org/publications/reports.cfm](http://www.childrensalliance.org/publications/reports.cfm).

<sup>23</sup> Monica Davey, "Illinois Law Offers Coverage for Uninsured Children," *New York Times*, Nov. 16, 2005; "Illinois Gov. Blagojevich Signs Legislation to Expand Children's Health Insurance," *Kaiser Daily Health Policy Report*, Nov. 16, 2005.

<sup>24</sup> "Qualified" immigrants, as defined by the 1996 federal welfare law, include lawful permanent residents, refugees, persons

granted asylum, withholding of deportation/removal, conditional entrants, persons paroled into the U.S. for at least one year, Cuban and Haitian entrants, and certain abused immigrants. 8 USC § 1641(b) and (c).

<sup>25</sup> *Khrapunskiy v. Doar*, No. 404175104 (NY Sup. Ct., Aug. 11, 2005) (state's failure to provide assistance to lawfully present seniors and persons with disabilities under its "Additional State Payments" program violates Article 17 of the state constitution, which requires the state to aid and support the needy, as well as the Equal Protection clauses of the state and U.S. constitutions). The lower court's order likely will be placed on hold (or "stayed") while the state appeals.

<sup>26</sup> See NILC tables on state-funded Medicaid, SCHIP, TANF, food stamp, and SSI replacement programs, updated from NILC's *Guide to Immigrant Eligibility for Federal Programs*, available at [www.nilc.org/pubs/Guide\\_update.htm](http://www.nilc.org/pubs/Guide_update.htm).

<sup>27</sup> Legislators in Massachusetts also hope to restore medical services for the lawfully present immigrants who lost coverage in 2003. "Call to Reinstate MassHealth for Legal Immigrants," *Sentinel & Enterprise*, Sept. 22, 2005.

<sup>28</sup> See, e.g., "Unhealthy Thinking," *Washington Post* editorial, Oct. 9, 2005; "May We Have Some More?" *Baltimore Sun*, Oct. 6, 2005.

<sup>29</sup> *Flor P. v. Ehrlich* (Montgomery County Circuit Ct, filed Oct. 26, 2005) (alleging that terminating coverage for lawfully present immigrants violates the Equal Protection clause of the Maryland Declaration of Rights).

<sup>30</sup> See, e.g., Michael Fix and Jeffrey Passel, "The Scope and Impact of Welfare Reform's Immigrant Provisions" (Urban Institute, Jan. 15, 2002), available at [www.urban.org/urlprint.cfm?ID=7522](http://www.urban.org/urlprint.cfm?ID=7522); Leighton Ku, Shawn Fremstad, and Mathew Broaddus, "Noncitizens' Use of Public Benefits Has Declined Since 1996: Recent Report Paints Misleading Picture of Impact of Eligibility Restrictions on Immigrant Families" (Center on Budget and Policy Priorities, April 21, 2003), available at [www.cbpp.org/4-14-03wel.pdf](http://www.cbpp.org/4-14-03wel.pdf); Randolph Capps, Michael E. Fix, Jason Ost, Jane Reardon-Anderson, and Jeffrey S. Passel, "The Health and Well-Being of Young Children of Immigrants" (Urban Institute, Feb. 2005), available at [www.urban.org/url.cfm?ID=311139](http://www.urban.org/url.cfm?ID=311139); Douglas S. Massey, "Five Myths About Immigration: Common Misconceptions Underlying U.S. Border-Enforcement Policy," *Immigration Policy in Focus*, Aug. 2005, available at [www.aifl.org/ipc/policy\\_reports\\_2005\\_fivemyths.htm](http://www.aifl.org/ipc/policy_reports_2005_fivemyths.htm) ("While 66 percent of Mexican immigrants report the withholding of Social Security taxes from their paychecks and 62 percent say that employers withhold income taxes, only 10 percent say they have ever sent a child to U.S. public schools, 7 percent indicate they have received Supplemental Security Income, and 5 percent or less report ever using food stamps, welfare, or unemployment compensation.").

<sup>31</sup> Indeed, Arizona voters did not believe that Proposition 200 would reduce the number of undocumented immigrants in the state or even make Arizona less appealing to immigrants. "What are Arizona Voters Thinking About Illegal Immigration," *thinkAZ*, Oct. 2005, available at [www.thinkaz.org/documents/WhatareArizonaVotersThinkingaboutIllegalImmigration.pdf](http://www.thinkaz.org/documents/WhatareArizonaVotersThinkingaboutIllegalImmigration.pdf). And even if such a plan could be effective, more than half of the Republicans surveyed by the Manhattan Institute would oppose a policy making life so unpleasant that undocumented immigrants

would be forced to leave the U.S. "A National Survey of Republican Attitudes" (Manhattan Institute, survey conducted Oct. 2-5, 2005), available at [www.manhattan-institute.org/ppt/Tarrance\\_Immigration\\_Poll\\_files/frame.htm](http://www.manhattan-institute.org/ppt/Tarrance_Immigration_Poll_files/frame.htm).

<sup>32</sup> Tom Barry, "Restrictionism Resurgent in Post 9/11 Politics: Protect America Now," *supra* note 12.

<sup>33</sup> See, e.g., Paul Vitello, "As Illegal Workers Hit Suburbs, Politicians Scramble to Respond," *New York Times*, Oct. 6, 2005; Mark K. Matthews, "Immigration Bedevils State Lawmakers," *Stateline.org*, Sept. 2, 2005.

<sup>34</sup> See, e.g., *Economic Report of the President* (Washington, DC: U.S. Govt. Printing Office, 2005), at 93-116; "We the People: Helping Newcomers Become Californians" (Little Hoover Commission, June 2002), available at [www.lhc.ca.gov/lhcdir/report166.html](http://www.lhc.ca.gov/lhcdir/report166.html) (bipartisan commission recognizes immigrants' vital role in the state's workforce and economy, and recommends that the state enact policies to encourage full participation by immigrants of all statuses); Stuart Anderson, "The Contribution

of Legal Immigration to the Social Security System" (National Foundation for American Policy, Feb. 2005), available at [www.nfap.net/researchactivities/studies/SocialSecurityStudy2005Revised.pdf](http://www.nfap.net/researchactivities/studies/SocialSecurityStudy2005Revised.pdf) (over the next 75 years, new legal immigrants will provide a net benefit of approximately \$611 billion in present value to the Social Security system; a reduction in legal immigration could devastate the system over time); Eduardo Porter, "Illegal Immigrants Are Bolstering Social Security with Billions," *New York Times*, Apr. 5, 2005 (Social Security Administration estimates that immigrants without valid Social Security numbers contribute up to \$8.5 billion in Social Security and Medicare taxes annually).

<sup>35</sup> Numerous proposals to reform the federal immigration system are circulating in Congress. For a summary of recent proposals, see "A Discussion of Immigration Reform Bills Introduced in 2005," *Immigrants' Rights Update*, Sept. 16, 2005, available at [www.nilc.org/immlawpolicy/CIR/cir001.htm](http://www.nilc.org/immlawpolicy/CIR/cir001.htm).

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