

# TO COPY OR NOT TO COPY?

## STATE LAWMAKING ON IMMIGRATION AFTER ARIZONA SB 1070



A federal judge's decision to delay implementation of key provisions of Arizona's new immigration law has discouraged lawmakers in some states from going forward with copycat legislation. But others – some focused on policy, others for purely political reasons – are moving full speed ahead to draft and introduce tough immigration enforcement bills.

Gov. Jan Brewer of Arizona signed SB 1070 into law in April, generating controversy across the country and raising questions about whether states are constitutionally authorized to take immigration enforcement into their own hands. One of the broadest and strictest immigration enforcement measures in generations, the Arizona law makes illegal immigration a state crime and authorizes police to determine the immigration status of people they stop while enforcing other laws. In July, the Obama administration asked for and received a temporary injunction against core provisions of SB 1070, including those mandating police to make determinations about immigration status. The state of Arizona appealed, and the Ninth U.S. Circuit Court of Appeals in San Francisco is scheduled to hear the case on November 1.

With midterm elections in full swing, politicians and political candidates in more than 25 states have promised to introduce Arizona-like immigration enforcement bills when their state legislatures convene in 2011. What no one knows: how many will follow through.

For many states, this will be a second attempt to take immigration law into their own hands. The first generation of state immigration statutes, most passed between 2006 and 2008, focused on employers who hired illegal immigrants. And although a small number of states may pass employer sanctions laws this year, most are talking about following Arizona down the new path charted with SB 1070: enlisting local law enforcement and targeting illegal immigrants directly.

It's still too early to tell how big this second wave of state immigration enforcement laws will be. Lawmakers in at least ten states have already considered measures like SB 1070 that authorize police to inquire about immigration status. None of those bills have been passed into law.

The Ninth Circuit's ruling on the administration's suit against SB 1070 will undoubtedly influence lawmakers and probably deter some from going forward. Others will be watching closely when the U.S. Supreme Court considers the constitutionality of Arizona's 2007 employer sanctions law in December. The issue at the heart of that case – whether, as the plaintiffs claim, immigration enforcement is primarily a federal responsibility – clearly has repercussions for lawmakers who want to empower state and local police to detain illegal immigrants. Still, the Supreme Court case is expected to be argued on fairly narrow legal grounds, and it may not fully clarify where federal authority stops and state jurisdiction begins.

At least as important in most states will be local political dynamics. Poll results are consistent across states and over time: some 60 percent of the public approves of SB 1070, and sizeable majorities in most states would like to see local lawmakers pass something like it. Budgetary considerations will cut the other way: laws like SB 1070 will be expensive to implement, at a time when few states are looking for extra expenses. Still, the issue of illegal immigration came up in many statewide Republican primaries this spring. And hotly contested governors' races in several states – Colorado, Florida, Georgia, South Carolina, among others – may be what decide whether copycat measures are enacted as law.

If the last wave of state immigration enforcement laws is any guide, the results will be a mixed bag. In 2007, as today, Arizona was one of the first states in the nation to pass what was then considered a draconian legislative package, requiring all employers in the state to use the federal web-based employment-verification system, E-Verify. Lawmakers in many states threatened to follow suit with similarly sweeping measures, and a handful of legislatures did. But in the end, most states backed off or passed a much diluted version of the Arizona employer sanctions law, mandating E-Verify only for state contractors or targeting only businesses deliberately violating immigration law.

Hard as it is to predict what will happen in any state this winter, ImmigrationWorks believes that the 25 capitals where politicians are talking about following in Arizona's footsteps fall into three categories – DANGER LIST, MAYBE/MAYBE NOT and LESS LIKELY. The state of Utah, considering a hybrid compromise, is in a category by itself.

## DANGER LIST

### GEORGIA



The Republican candidate for governor, U.S. Rep. Nathan Deal, has been promising for months that if elected he will advance an Arizona-style immigration bill.

Then in late September, Lt. Gov. Casey Cagle and House Speaker David Ralston announced the formation of a 14-member, all-Republican joint commission on immigration. Ralston said the panel was needed because of the federal government's failure to get a grip on illegal immigration, and local sources read his move as a sure sign that lawmakers are on a path to introduce an Arizona-type bill – maybe more than one. Georgia observers rate the odds of passage good to very good.

Like Arizona and several other states poised to pass an Arizona-like bill this winter, Georgia has a history of taking tough positions on immigration. Through the 1990s and into the 2000s, the immigrant population in Georgia grew faster than almost any other state's, and Georgia was the first state in the nation to take immigration enforcement into its own hands. The 2006 Georgia Security and Immigration Compliance Act made it more difficult for illegal immigrants to work on state projects and to gain access to health care, higher education and public benefits.

Not every tough measure has passed the Georgia legislature: last year, lawmakers defeated a bill mandating that local law enforcement cooperate with federal immigration authorities as part of a statewide 287(g) program. This year, local activists have mounted an all-out push to mobilize Latino voters. And a bill modeled on SB 1070 would face opposition in the business community: the state's influential textile, poultry and agricultural sectors all rely heavily on immigrant labor.

Still, if elected governor, Nathan Deal can be counted on to push hard for a new enforcement bill. He made opposition to illegal immigration a centerpiece of his career in the House of Representatives, including offering an amendment to the 2009 health care bill that would have required proving citizenship to receive and renew Medicaid benefits.

The Democratic gubernatorial candidate Roy Barnes is also on record supporting an Arizona-type measure. Local sources say he might have second thoughts if the bill appeared to be unconstitutional. But given the angry mood in Georgia, even this seems unlikely to do more than temper a strict new enforcement law.

## MISSISSIPPI

MS

The state passed one of the toughest employer sanctions laws in the land in 2009, becoming one of only four states to mandate E-Verify for all employers. But that apparently was not enough for voters or lawmakers in Mississippi, and all signs suggest that the state is getting ready to pass another immigration enforcement bill this winter.

Elected officials have been talking about it for months: “I think you are going to see an Arizona-type law here in Mississippi,” Republican Lt. Gov. Phil Bryant predicted on the radio in August. And Republican Party elder Gov. Haley Barbour has told reporters he would sign a measure modeled on SB 1070.

Three Republican state senators – Lee Yancey, Chris McDaniel and Michael Watson – have told the press they are working on legislation. And perhaps most significantly, according to local observers, Sen. Joey Fillingane, the new Republican chairman of the Senate Judiciary Committee, held two days of hearings on immigration in early October. More than a dozen witnesses from all sides of the debate testified on all aspects of the issue and left no doubt in people’s minds: Fillingane is getting ready to make a move.

It doesn’t help that 2011 is an election year in Mississippi and the state GOP sees immigration enforcement as a political winner. The Tea Party movement is strong in the state, and activists are clamoring for authorities to crack down on illegal immigrants. Many in the business community oppose an Arizona-like law, but there’s already a sense that it may not be stoppable in Mississippi.

## OKLAHOMA

OK

Just days after Arizona Gov. Jan Brewer signed SB 1070 into law, Republican state representative Randy Terrill told reporters he wasn’t going to let Arizona get the better of Oklahoma when it came to fighting illegal immigration – he was going to file an “Arizona-plus” law to do lawmakers in Phoenix one better.

Like Arizona, Georgia and Mississippi, Oklahoma has a history of tough immigration enforcement, most of it spearheaded by Terrill, who has built his political career on cracking down on illegal immigrants. His HB 1804, passed in 2007, was by some measures even more severe than Arizona’s 2007 employer sanctions law. In addition to requiring state contractors and public employers to use E-Verify, it allowed fired U.S. citizens to sue their employers if they believed they had been replaced by unauthorized workers.

In February, a three-judge panel of the Denver-based Tenth U.S. Circuit Court of Appeals ruled that two of the Oklahoma measure’s key provisions were unconstitutional. But this has not stopped Terrill from considering a second-generation bill. (He also seems undeterred by an Oklahoma County grand jury investigation into his alleged involvement in a political corruption scandal.)

This year, Terrill is teaming up with three other GOP lawmakers – Sen. Anthony Sykes and Reps. Mike Christian and Rex Duncan. They have until December to file a bill.

Opponents are pinning their hopes on changes in the leadership of the legislature. The new Speaker of the House will be Rep. Kris Steele, a Republican Methodist minister said to have a good understanding of business concerns. While he hasn’t said so publicly, sources believe Steele may be hesitant to go as far as SB 1070 and may in fact try to discourage Terrill from tackling immigration at all in 2011.

Oklahoma’s business community strongly opposed HB 1804 and is expected to oppose an Arizona-like measure.

There is also some chance, if an increasingly slim one, that the state’s new governor would block a harsh immigration bill. Republican Mary Fallin’s campaign ads proclaim her strong support for the Arizona law. Democrat Jari Askins has said little about immigration other than that it is a national problem that Congress should deal with. Askins is trailing badly – down by double digits in the polls – but should she win, sources say, she might not sign a harsh immigration bill.





One of the first legislatures in the nation to consider Arizona copycat bills – one in the House and one in the Senate – South Carolina lawmakers ended their 2010 session in June without passing an immigration measure. But even after the court ruling blocking much of the Arizona law, South Carolina Senate President Pro Tempore Glenn McConnell said he would continue to push to pass an immigration bill next year. And a four-member Senate study committee – three Republicans and one Democrat – has recently been touring the state, talking to citizens about the immigration measure debated in the 2010 session.

Like much of the Southeast, South Carolina has experienced an unprecedented influx of immigrants in recent decades. Immigration is an increasingly charged issue for state voters. And according to inside sources, there is broad support among conservatives for a tough Arizona-like bill.

The only likely opposition would come from the business community. South Carolina's large and growing international business base must attract workers from all over the world in order to remain competitive. And several multinational companies have expressed concerns that an Arizona-style measure could have a negative effect on business.

What happens during the next legislative session could depend on the outcome of the November gubernatorial election.

## SB 1070 – CONSEQUENCES FOR BUSINESS

Should employers across the country be concerned about the prospect of Arizona copycat laws passing in their states? You bet!, say Arizona business owners reeling from the impact of SB 1070.

Arizona employers thought they had seen the worst in 2007, when then-governor Janet Napolitano signed the country's toughest employer sanctions bill into law. Tens of thousands of immigrants reportedly left Arizona that year, and every company in the state modified the way it did business in order to comply with E-Verify. But according to Arizona business owners, that turmoil hardly compares to what they're facing now.

After SB 1070 was signed into law, several dozen U.S. cities passed measures forbidding their employees to travel to Arizona on work-related business. Immigrant advocacy groups, athletes and a Who's Who of Latino pop stars announced that they were boycotting the state, and the Mexican government warned its citizens to use extreme caution if visiting. Corporate travel planners got the message loud and clear: there's nothing brand-name companies like less than controversy, and scores of conferences and conventions once scheduled to take place in Arizona were canceled. For a state like Arizona, where the economy is dependent on travel and tourism, it's hard to imagine anything worse.

The resulting drop in business has hurt a hospitality industry already flattened by the economic downturn. Smith Travel Research, an independent operation that tracks supply and demand for the hotel industry, says travel to Phoenix is down by 6.6 percent since 2009 – compared to a 1 percent drop in the rest of the United States. For some struggling hotels, particularly independent owners and small operations, a dip of even a few percentage points can be devastating.

And tourism industry executives estimate – conservatively, they say – that the state has lost \$100 million in business since SB 1070 was signed into law.

Nor does the future look much brighter for the state's hospitality industry. According to Arizona executives, most corporate meetings are booked two to three years in advance, and this year's losses have been limited by contractual arrangements – many groups that had already scheduled their events when SB 1070 became law decided to stay in Arizona in order to avoid paying penalty fees. But those protections will start running out soon, and according to one hospitality association executive, inquiries about future bookings are down by 40 percent – and that's compared to 2009's already historically low numbers.

Conventioneers are not the only ones deciding to steer clear of Arizona. Latino residents, already exiting the state in the wake of the 2007 employer sanctions law, have continued to leave in large numbers. And while that may be welcome news for the framers of SB 1070, in the long run it will be devastating for hospitality, agriculture and construction in Arizona. A recent *Washington Post* story described the damage: "Enrollment at predominantly Hispanic schools has dropped; restaurants and groceries that served the city's Hispanic enclaves are closing. Perhaps the most obvious signs are all the apartment buildings draped with banners – 'Three Months Free!' and 'Move-In Special!'"

Still another problem, particularly troubling for a border state like Arizona: tourism from Mexico – individuals and families crossing over legally to shop and dine – has fallen by 15 percent in recent months. Between 20,000 and 25,000 jobs in the state depend directly on that business.

Republican frontrunner Nikki Haley, a Tea Party favorite endorsed by Sarah Palin, has made passage of an Arizona-like bill a centerpiece of her campaign. And while the gubernatorial race has tightened in recent weeks, Haley still maintains a strong lead over Democratic state Sen. Vincent Sheheen, who has said little about immigration.

## MAYBE/MAYBE NOT

### TENNESSEE

TN

Two Republican lawmakers from Murfreesboro – Sen. Bill Ketron and Rep. Joe Carr – say they plan to introduce Arizona-type immigration bills when the legislature convenes in January.

Ketron, who is expected to become the new leader of the Senate Republican caucus, says he wants immigration to be the first topic considered by lawmakers. And he claims that 19 of the state's 33 senators are ready to vote with him on a tough enforcement bill.

Public opinion seems favorable. According to a July poll conducted by the Nashville *Tennessean*, 72 percent of voters say they would support a law requiring people stopped by police to prove they are in the U.S. legally.

Tennessee business leaders are preparing to fight back. They hope to enlist the state attorney general to steer lawmakers away from provisions of the kind that have already been struck down in Arizona. Ketron has promised to consult them in November about the specifics of a bill. And some observers predict that the outcome may be a compromise: a measure that cracks down on illegal immigration but without the most draconian provisions of the Arizona law.

The overwhelming favorite to win the Tennessee governor's race – Republican Bill Haslam, now mayor of Knoxville – is expected to sign whatever immigration bill is put before him.

UT

### UTAH

Republican Rep. Stephen Sandstrom was one of the first elected officials in the country to talk about introducing a bill modeled on SB 1070, and voters in Utah, one of the most conservative states in the nation, appear to be supportive. According to an April poll by the *Deseret News* and KSL-TV, 65 percent of Utah voters want their representatives to pass a measure similar to Arizona's.

But a funny thing happened on the way to the legislature in Utah: in the months since Sandstrom kicked off the debate, an array of other lawmakers and civic leaders have come forward with very different immigration proposals that are also gaining traction. And according to local sources, there is a good chance that when the legislature convenes next year it will pass a compromise package – one that combines tough immigration enforcement with a measure addressing the state's need for immigrant workers and perhaps even the unauthorized immigrants already in the state.

One proposal, put forward by Republican state Sen. Howard Stephenson, would create a stand-alone Utah guest worker program. Another, backed by the Salt Lake Chamber of Commerce, would issue guest worker permits to immigrants already living in the state. Still another, being developed by Democratic state Sen. Luz Robles – herself an immigrant from Mexico – would create what she calls an "integration program" for unauthorized immigrants who pay a fine and agree to learn English.

Neither Sandstrom nor the lawmakers backing these alternative measures seem eager to risk a federal legal challenge of the kind unleashed in Arizona, and several say their proposals would be accompanied by requests for a federal waiver – official permission to experiment with immigration policy in order to help break the federal logjam on reform.

Republican Gov. Gary Herbert has made it clear that he would like to sign an immigration bill next year. "Utah is not Arizona," he declared this spring, and he says he supports a "hybrid between worker permits and Arizona-style enforcement."

## NEBRASKA



NE

Just after SB 1070 was signed into law in April, Republican Charlie Janssen, who represents the city of Fremont in Nebraska's unicameral legislature, announced that he was planning to introduce a bill modeled on the Arizona statute.

A city of 25,000 people just west of Omaha, Fremont is the new flashpoint in the Nebraska battle over immigration. Hispanic workers seeking jobs in local meatpacking plants have dramatically changed the demographics of the city in recent years, triggering anxieties among native-born residents. And this year, attorney Kris Kobach, the legal mind behind SB 1070, helped the Fremont city council draft an ordinance that would ban hiring and renting to illegal immigrants. The measure attracted national attention, and when it was challenged in court, the city council decided to suspend implementation until the legal issues were resolved.

Over the summer, Fremont Sen. Janssen conferred with state attorney general Jon Bruning, who then had a conversation with Republican Gov. Dave Heineman, and in August, Heineman announced that he would support a state law encouraging cooperation between local law enforcement and federal immigration authorities as long as it did not lead to racial profiling.

Local sources aren't sure the legislature will go even that far, and some predict that any bill will get stuck in the Judicial Affairs Committee. Still, observers say, this isn't likely to stop Janssen and others from trying, if only for political reasons.

## FLORIDA



FL

The legislature wasn't in session last summer, but attorney general Bill McCollum, then a Republican gubernatorial candidate, and state Rep. William Snyder, Republican chairman of the House Criminal and Civil Justice Policy Council, couldn't wait. Their tough immigration enforcement bill was released in early August, and though it didn't help McCollum win the Republican primary, it jumpstarted a debate sure to continue into next year's legislative session.

The McCollum-Snyder bill goes further than SB 1070 – another “Arizona-plus” measure. Like the Arizona law, it empowers local law enforcement officers to check the immigration status of people they stop for other reasons. But it also allows judges to consider defendants' immigration status in setting bail and mandates longer prison sentences for illegal immigrants than for other offenders. Most troubling for the business community, it would require all Florida employers to use E-Verify – and if passed would make Florida the fifth state to impose that sweeping mandate.

Immigration politics are complicated in Florida, where Hispanic voters make up more than 12 percent of registered voters and have for decades split their ballots between Republicans and Democrats. Former GOP Gov. Jeb Bush and current Gov. Charlie Crist, now running for U.S. Senator as an independent, have both come out strongly against the McCollum-Snyder proposal. The Republican Senate hopeful, former Florida House Speaker Marco Rubio, has sent mixed signals – declaring at one point that the bill would create a “police state,” but later saying he would vote for it with changes. At least one GOP state lawmaker, Rep. J.C. Planas of Miami, has publicly dismissed the proposal as an election-year stunt.

Local sources predict that the bill will pass easily in the House, especially if, as expected, Republicans make gains in November. The Senate is also heavily Republican, but handicappers say the sailing will be rougher there. Senate president Mike Haridopolos is said to support cracking down on illegal immigration. But his priority, sources say, is education reform. And some insiders speculate that he may sideline the immigration bill so the legislature can focus on education.

Latino Senate Republicans from Miami may also work to derail a harsh enforcement measure. And the business community believes that the business-related provisions of the law can be watered down.

The hotly contested governor's race could be the deciding factor. If Republican Rick Scott wins, he is sure to push an Arizona-type measure. A victory by Democrat Alex Sink would make it harder for immigration opponents to gain traction. With only a few weeks to go before the election, the race is too close to call.

## PENNSYLVANIA



One of the first states in the nation to consider an Arizona copycat bill, Pennsylvania is not expected to pass a measure mandating local law enforcement to cooperate with federal immigration authorities. But lawmakers may well vote before the 2010 legislative session ends to require all employers in the state to use E-Verify.

The battle in Pennsylvania began in May when Republican Rep. Daryl Metcalfe introduced one of the harshest and broadest immigration measures seen since SB 1070 – a double-barreled bill that combined an E-Verify mandate with requirements for local law enforcement. The purpose of the measure, Metcalfe said, was to give “every illegal alien residing in Pennsylvania two options – leave immediately or go to jail.”

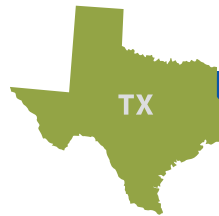
Metcalfe’s bill made it out of the House State Government Committee and is now in the Appropriations Committee. It has some two dozen sponsors in a body of 203 members, but local sources doubt that leadership will embrace it. Democratic Gov. Ed Rendell has promised to veto it.

A more likely alternative is HB 1502 – a stand-alone E-Verify mandate that has already passed in the House, virtually unanimously, and is now before the Senate.

Unlike Metcalfe’s measure, HB 1502 has strong bipartisan support – thanks in large part to the backing of construction trade unions that believe it would help keep state public works projects in the hands of union contractors.

The frontrunner for Pennsylvania governor, Republican attorney general Tom Corbett, is thought to be supportive. He joined attorneys general from ten other states in filing a brief with the Ninth U.S. Circuit Court in support of the Arizona law. But he has also expressed a fairly nuanced view of who – states or the federal government – should be responsible for immigration enforcement.

In mid-October, Pennsylvania enacted a law cracking down on construction companies that knowingly hire illegal immigrants. And according to insiders, the E-Verify mandate, HB 1502, is likely to pass, and outgoing Gov. Rendell will probably sign it.



## TEXAS

Republican Rep. Debbie Riddle has been pushing for years – long before SB 1070 – to require local law enforcement to cooperate with federal immigration authorities. Her 2009 bill never made it out of committee, but encouraged by public support for the Arizona law, she announced this spring that she would reintroduce it during the Texas legislature’s pre-filing period in November. She and other Texas Republicans are gearing up for a fight when the legislature convenes in January.

A poll released in early October by the Texas Lyceum found that 55 percent of Texans support an Arizona-type bill. The state’s large and politically formidable Hispanic community – Latinos make up 20 percent of Texas registered voters – would surely mobilize to fight a proposal.

Republican Gov. Rick Perry, seeking reelection and ahead in the polls, has sent mixed signals about SB 1070. When the measure passed in April, he said it “would not be the right direction for Texas.” But Texas later signed the joint state brief in support of the Arizona law filed in the Ninth U.S. Circuit Court. And Perry now regularly defends Arizona’s “sovereign right” to do whatever it needs to do to get control of illegal immigration.

Inside sources in Austin say there is sure to be a battle over immigration in the legislature this year, and they are watching what they say will be a critical litmus-test vote likely to come early in the session.

Lawmakers who support an Arizona-like law are expected to propose that the Senate waive the tradition that requires two-thirds majority support before any bill can be considered – in the case of immigration-related bills, they want to whittle the requirement to a simple majority. If that were to pass, insiders say, an Arizona-like law would probably prevail in Texas.

But a fight over the two-thirds rule could also cut the other way, against passage of an immigration enforcement measure. Even some Republicans who want to crack down on illegal immigration may balk at changing the rule because of the precedent it would set for other issues.

One thing is certain, local sources say: political pressure



will be intense. The Texas legislature meets only every other year, and all of the state's 150 state representatives and 16 state senators are up for reelection in November.

## ARKANSAS



AR

The state appeared to dodge a bullet in July when the grassroots group Secure Arkansas failed to submit enough signatures to get a voter initiative cracking down on illegal immigration on the ballot in November.

But local sources anticipate that an Arizona-like bill may be considered in one or both chambers when the legislature convenes in January.

Election prognosticators expect the Republican Party to make gains in what has been a predominantly Democratic legislature. Several GOP lawmakers, including House minority leader John Burris, have been talking about moving an immigration measure in 2011. And while Burris backed off this summer, saying he wants to wait and see how the Ninth Circuit rules on the Arizona law, other sponsors are likely to come forward in the months ahead.

If recent history is any guide, Arkansas lawmakers may consider a bill but then think better of it. That's what happened in 2009, when a wide-ranging enforcement measure modeled on Oklahoma's tough immigration law was introduced in the Arkansas legislature but then went nowhere – it never made it out of the Judiciary Committee.

Insiders are also encouraged by what they see as lawmakers' pragmatic focus. "They realize," one source said, "the huge impact an Arizona-type bill would have on the Arkansas economy."

## INDIANA



IN

Republican state Sen. Mike Delph was in the first wave of state lawmakers nationwide to speak out in favor of SB 1070 last spring, promising to introduce an Arizona-like measure when the Indiana legislature convenes in January.

Like SB 1070 champions in several states, Delph is a veteran of the immigration enforcement wars. He has been calling for Indiana to take matters into its own hands since 2008, when he introduced a measure almost identical to the tough employer sanctions law passed in Arizona the year before. Both chambers of the Indiana legislature approved versions of his 2008 bill, and it looked all but certain to pass despite opposition from the business community and immigrant advocates. But then Delph lost control of himself in conference committee, lashing out emotionally at colleagues, and the bill died.

Public opinion in Indiana is running strongly in favor of an SB 1070 copycat measure. Former U.S. Sen. Dan Coats, frontrunner for the Senate again this year, took up the cudgels in July. "I support the implementation of Arizona's anti-illegal immigration legislation," he declared. And as in 2008, many of the state's Democrats also favor a tough approach.

The bill's opponents predict a hard battle but hope to repeat what worked for them in 2008, including well-organized pushback by a broad range of business interests – not just companies that hire less skilled immigrants but also manufacturers and banks. So far this year, as in the past, Gov. Mitch Daniels, now on a short list of 2012 Republican presidential hopefuls, has remained on the sidelines, speaking out generally in favor of immigration enforcement but also underscoring immigrants' economic contribution to the state.



CO

## COLORADO

It once looked as if Colorado might be one of the first states in the nation to follow in Arizona's footsteps and mandate cooperation between local law enforcement and federal immigration officials. Former GOP Rep. Scott McInnis, then a candidate for governor, pledged to advance an Arizona copycat bill, and a delegation of Colorado lawmakers visited Phoenix to learn more. But then McInnis lost the Republican primary, and the issue seemed to fade.



Sources in Colorado say they still expect one or more immigration measures to be introduced when the legislature convenes in January, but no new champion has emerged and no specific proposals have been offered.

The November elections could make a difference. If the House flips from Democratic to Republican, immigration hardliners will gain an edge. But even then, it remains unclear how far the legislature will go.

Insiders are paying close attention to the state's contested gubernatorial election, where former U.S. Rep. Tom Tancredo is running as a third-party candidate against Democrat John Hickenlooper, now the mayor of Denver, and Republican Dan Maes, a former businessman.

Tancredo built his political career on opposition to illegal immigration and emerged in his last terms in the House as one of the nation's foremost immigration hawks. His bid for governor has taken off in recent weeks: according to statewide polls, his support has more than doubled since mid-September, putting him well ahead of Maes with 35 percent of likely voters now in his column. But surprisingly, immigration has not been front and center of Tancredo's campaign, and when asked recently what he would do as governor, he said the state should start by enforcing existing immigration law.

With just a few weeks left before the election, Hickenlooper is leading, and few insiders believe he would sign an Arizona-like law.

## MINNESOTA



Six Minnesota House Republicans introduced Arizona-inspired immigration legislation in May, but the 2010 session ended before any action had been taken.

The Minnesota bill would require immigrants to carry an "alien registration" card, and like SB 1070, it would mandate local police to determine on the spot during an encounter with someone behaving suspiciously whether that person was likely to be an illegal immigrant.

Supporters have promised to bring the bill up again in the

2011 session. But even they seem to recognize that their chances are slim unless the midterm elections alter the political balance in the legislature, now controlled by the Democratic-Farm-Labor party.

Immigration has not emerged as a major issue in the campaign. The Minneapolis-St. Paul *Star Tribune* asked gubernatorial candidates whether they believed states should take immigration into their own hands, and all said no. The Republican gubernatorial candidate, Rep. Tom Emmer, has made favorable comments about SB 1070 in the past but modified his position on the campaign trail: he is now calling for Congress to get control of illegal immigration.

Still, with polls showing the Minnesota midterms too close to call, inside sources are making no predictions. "We won't know until January," said Minnesota Chamber of Commerce executive Bill Blazer, whether an Arizona-type bill will be reintroduced.



## VIRGINIA

The lawmaker doing most to advance an Arizona-like law in Virginia isn't a state legislator – it's local official Corey Stewart, chairman of the Prince William County Board of Supervisors. Stewart introduced a measure similar to SB 1070 in suburban Prince William County in 2007 and has recently stepped up a campaign to get similar bills passed elsewhere in the state.

So far, no lawmaker has come forward to introduce a proposal in the state legislature. But in July, in a response to a request from Prince William County's representative in the House of Delegates, Republican attorney general Ken Cuccinelli issued a legal opinion on immigration enforcement. What it said: that law already on the books in Virginia authorizes state and local law enforcement to check the immigration status of people they stop in the course of enforcing other laws. Cuccinelli has also joined ten other state attorneys general in signing onto a Ninth Circuit amicus brief in support of the Arizona measure.

GOP Gov. Bob McDonnell's position is more difficult to

pinpoint. He supports active state involvement in immigration enforcement and in August formally requested that the Department of Homeland Security enter into a 287(g) agreement with Virginia State Police – an agreement that would allow state troopers to perform some functions usually reserved for federal immigration officers. But McDonnell has expressed reservations about SB 1070, saying that as governor he lacks legal authority to force local police to check people's immigration status before they are arrested. (Virginia law already requires that sheriffs and jail authorities check the immigration status of suspects taken into custody.)

With legislative elections looming in 2011, immigration is sure to be an issue in the Virginia legislature next year, with possible proposals ranging from new rules for landlords to mandatory E-Verify. Local observers are prepared for the possibility that an Arizona copycat law will come up but feel the odds of passage are long in Virginia.

## IDAHO



Several GOP lawmakers in this strongly conservative state have talked about introducing an Arizona-like bill when the legislature convenes in January, and last summer the state Republican Party Convention passed a resolution supporting SB 1070. Still, party members stopped short of calling for Idaho to adopt a similar law, and no immigration enforcement measure has yet been circulated among legislators.

According to local sources, the leadership in both chambers is waiting to see how the Arizona case plays out in the Ninth Circuit before deciding whether to act.

Opponents of a strict enforcement measure also take hope from the 2010 legislative session, when the Idaho business community succeeded in blocking several bills that would have punished employers who hire illegal workers. Editorials in newspapers across the state have come out strongly against an Arizona copycat law.



## MISSOURI

Lawmakers in Missouri were already considering their own tough immigration bill, making it a felony to knowingly transport or harbor an unauthorized immigrant, when the Arizona legislature passed SB 1070 last spring.

After passage of the Arizona law, the sponsor of the Missouri measure, Republican Rep. Mark Parkinson, said he would go further and introduce an Arizona-like bill next year, and several influential voices in the state, including Republican U.S. Rep. and now Senate candidate, Roy Blunt, seemed to support him.

But the state's long-time attorney general now governor, Democrat Jay Nixon, moved quickly to nip the effort in the bud: "Arizona took a political solution in which they tried to be the toughest in the world," he said in June. "I think [they] crossed a line that's not a line we should cross in America."



## KANSAS

Lawmakers in Topeka have already had an opportunity to consider a measure modeled on SB 1070. Proposed by Rep. Anthony Brown last May as a last-minute amendment to the state budget bill, the provision was ruled not relevant and never came up for a vote.

Other powerful lawmakers appear to be supportive. Republican Speaker of the House Mike O'Neal and Republican Senate Leader Derek Schmidt, now a candidate for attorney general, filed a brief in the Ninth Circuit Court in support of the Arizona law. The research arm of the state legislature just issued an exhaustive report on the repercussions of SB 1070 and the options for Kansas lawmakers. And with SB 1070 author Kris Kobach, a former GOP party chairman in Kansas, now running for secretary of state, it's hard to imagine that immigration enforcement will not come up again in 2011.

Still, like Tancredo, Kobach has said surprisingly little about immigration on the campaign trail, and no one in Kansas is yet circulating an Arizona copycat measure.

## LESS LIKELY

### MARYLAND



Delegate Pat McDonough, a Baltimore Republican, has pledged to introduce an Arizona-style bill. And former Republican Gov. Bob Ehrlich, running to retake his old seat, made a last-minute attack on illegal immigrants in an October debate with the Democrat incumbent, Martin O'Malley. Still, the odds of passing a harsh immigration enforcement bill are long in this strongly Democratic state.

### MASSACHUSETTS



Illegal immigration emerged as an issue in the legislature in May, when a group of Senate Republicans sought to add Arizona-style amendments to a budget bill. But immigration advocates successfully persuaded leadership to block the hardliners, and the 27 pages of amendments they had proposed were reduced to a few provisions restating existing Massachusetts law that bars unauthorized immigrants from seeking public benefits.

### MICHIGAN



Republican Rep. Kim Meltzer, now running for state senator, introduced an Arizona-style bill in the legislature in June. But Democrats and immigrant advocates mobilized against it, and the leadership of the legislature has shown little inclination to pursue the matter. Perhaps the most important reason: the state's dire economic situation. "I am concerned that an Arizona-style law in Michigan could add a financial burden on local law enforcement while they're struggling to adjust to their already declining revenues and tightened budgets," Republican gubernatorial candidate Rick Snyder says on his campaign website.



### NEVADA

A June poll by the Las Vegas *Review-Journal* found Nevada voters strongly in favor of the Arizona legislation – by 57 percent to 32 percent. And last spring Republican Assemblyman Chad Christensen, then running in the primary for U.S. Senate, launched a voter initiative to get a provision calling for passage of an Arizona-like law on the Nevada ballot in November 2011. But several statewide organizations, including the Nevada Resort Association and the Las Vegas Convention and Visitors Authority, took him to court and squashed the idea. In their view, nothing could be worse for the tourism and gambling industries that drive the state economy – industries already hurting badly in the downturn.



### NORTH CAROLINA

Republican Sen. Don East introduced a resolution in June giving police broad powers to detain anyone they suspect is in the country illegally. Twelve other Republican senators signed on to cosponsor the resolution, but it was still in committee when the legislative session ended in July. The resolution may be reintroduced when the state legislature convenes in January. Still, even the measure's supporters doubt that an Arizona-like bill will get very far in North Carolina as long as Democrats control the state legislature.



### OHIO

Politicians in Ohio were among the first in the nation to call on their state legislature to follow Arizona's lead. Butler County Sheriff Rick Jones and Republican State Rep. Courtney Combs sent a letter to Gov. Ted Strickland in April demanding that he introduce legislation modeled on SB 1070. A June Quinnipiac University poll suggested that voters were behind them: according to the survey, 45 percent of the state's residents support an Arizona-style law, with 35 percent disapproving. But Strickland has made clear that he would veto any Arizona copycat measure. And though he is now locked in a tight

reelection battle with former GOP Rep. John Kasich, neither candidate has made an issue of immigration, focusing instead on how they will improve Ohio's dismal economy.

## RHODE ISLAND



Not only was Rhode Island one of the first states in the nation to file a measure modeled on SB 1070; strikingly, it was a Democratic lawmaker who was behind it, State Rep. Peter G. Palumbo. But Democratic House Speaker Gordon Fox quickly blocked Palumbo's proposal, arguing that immigration is best handled at the federal level. And while the state's hotly contested gubernatorial election is too close to call, neither leading candidate would sign an Arizona copycat measure. Former U.S. Sen. Lincoln Chafee, once a Republican, now running as an independent, is adamantly opposed to the state taking action on immigration: "I absolutely disagree with this [Arizona] law," he said in June. And his Democratic opponent, general treasurer Frank T. Caprio, agrees – the only solution, Caprio says, is federal action on comprehensive immigration reform.





ImmigrationWorks USA is a national organization advancing immigration reform that works for all Americans – employers, workers and citizens. Its twin goals: to educate the public about the benefits of immigration and build a mainstream grassroots constituency in favor of an overhaul – business owners and others from across America willing to speak out and demand that it gets done. The organization links some 25 state-based business coalitions: employers and trade associations from Florida to Oregon and from every sector of the economy that relies on immigrant workers. For more information, visit [www.ImmigrationWorksUSA.org](http://www.ImmigrationWorksUSA.org) or contact us at [info@immigrationworksusa.org](mailto:info@immigrationworksusa.org).

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