



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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TESTIMONY OF  
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EXECUTIVE COMMITTEE TASK FORCE ON IMMIGRATION AND THE STATES  
NATIONAL CONFERENCE OF STATE LEGISLATURES

ON BEHALF OF THE

**NATIONAL CONFERENCE OF STATE LEGISLATURES**

REGARDING

**THE IMPACT OF IMMIGRATION ON STATES AND LOCALITIES**

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND  
INTERNATIONAL LAW,  
COMMITTEE ON THE JUDICIARY,  
UNITED STATES HOUSE OF REPRESENTATIVES

MAY 17, 2007

Good Afternoon.

Madame Chairwoman, Ranking Member King and Members of the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. I am State Representative Sharon Tomiko Santos. I serve as a member of the Washington State House of Representatives and as House Majority Whip. I appear today on behalf of the National Conference of State Legislatures (NCSL), a bi-partisan organization representing the 50 state legislatures and the legislatures of our nation's commonwealths, territories, possessions and the District of Columbia. I am also co-chair of NCSL's Executive Committee Task Force on Immigration and the States.

Madame Chairwoman, I would like to take this opportunity to thank you for your leadership on this issue and your recognition of the importance of examining the impact of immigration on states and localities. State legislators deeply care about immigration reform and in a bipartisan fashion call on the federal government to pass legislation that will enhance our border security, while addressing the inequities in our current system. The federal government must also deal with the consequences of its immigration policy decision-making. Immigration reform must assist the states with the impact and integration of immigrants, especially on our health care, education and justice systems.

I represent one of the most diverse communities in Seattle, Washington, the 37<sup>th</sup> District, home to a 25 percent foreign-born population. Overall, more than 12 percent of the state's population is foreign-born and only nine other states have a higher growth rate when it comes to their foreign-born population. Our state has been strengthened by the contributions of immigrants. Immigrants have been a source of economic development, especially in the agriculture and technological sectors. Over 60 percent of the state's agricultural industry is comprised of immigrant labor.

Federal immigration policy will determine whether we have a stable and reliable workforce. The value of our hand-harvested fruit industries exceeds \$1.6 billion an year. Particularly, our apple and cherry industries are heavily dependent on migrant and seasonal farm workers. Immigration policy will also have an impact on other Washington-based industries, such as the public utility

industry and the impending retirement wave in this sector. Forty-two percent of Puget Sound Energy's work force is eligible to retire in the next five years.

Madame Chairwoman, the United States security needs must be met on all ports of entry, the southern and also the northern border. As you know, Washington is a border state and in late 1999, a terrorist was apprehended crossing this very northern border. We must keep our citizens secure. Yet, without compromising this critical security need, we need to consider that the northern border region is becoming increasingly economically integrated. One example that comes to mind is the upcoming 2010 Olympic Winter Games in Vancouver, Canada. For my state it is critical to harness the beneficial effects connected to an event of this magnitude and to facilitate a visit to the United States for many guests from all over the world.

Although immigration policy falls under the jurisdiction of the federal government, the impact of these policies are directly felt by the states. States are often left to pay for programs required by federal law as well as services mandated by the courts with limited federal reimbursements. The arrival of immigrants into an area requires programs and policies specifically directed towards the needs of immigrants while encouraging economic, social, and civic integration within the community.

Last year, NCSL's leadership created an Executive Committee Task Force on Immigration and the States to examine both the state and federal roles in immigration reform, to consider NCSL policy and to examine the impact of immigrants on states. I speak today representing the bipartisan consensus that led to the adoption of our current NCSL policy on Immigration Reform. Immigration is now a 50-state issue – concerning not only border states like my own but states in the South and Midwest, some of whom have seen a 400 percent increase in the number of foreign born residents over the last ten years. Madame Chairwoman, I ask that the NCSL policy be placed in the record.

While immigration policy is a federal responsibility, there has been an unprecedented level of activity in state legislatures on this issue, especially in the absence of a federal solution.

All 50 state legislatures have addressed immigration-related legislation in their 2007 legislative sessions and over 1150 bills have been introduced. This is already twice the number of bills compared to the full 2006 sessions (570). Up to this point, 18 states have enacted 57 bills (as compared to 90 enactments during the entire 2006 legislative sessions.)

The main topics addressed by these bills are employment, law enforcement, benefits and education. Also, there is significant activity by the states in preventing human trafficking. Many state legislatures are still in session, meaning that it is quite likely that there will be even more activity as the year progresses. Madame Chairwoman, I ask that the full NCSL reports of state legislative activity from 2006 and 2007 be placed in the record.

Madame Chairwoman, we urge you and the members of the Subcommittee to consider the impact of immigration policy changes on the states. Federal immigration policy must strike a balance among core principles of our democracy: preserving the safety and security of our nation, encouraging the economic strength of our states and communities, and recognizing our history as a nation of immigrants. Our nation's immigration laws must not contain unfunded mandates nor preempt areas of existing state authority. Federal immigration reform will not be comprehensive unless it addresses the impact of immigration on the states -- border security and law enforcement, the costs of health and education and civic integration.

#### Border Security and the Role of State and Local Law Enforcement

Border enforcement is critical and we support full federal funding, especially for personnel and improvements in technology and infrastructure. State lawmakers have also called for renewed cooperation to counteract human trafficking and drug-smuggling.

Madame Chairwoman, NCSL opposes proposals to shift the federal responsibility of enforcing civil immigration law to state and local law government, thus diverting critical resources from state and local law enforcement agencies and compromising public safety. Enforcement of federal immigration laws is a federal responsibility; state governments are already required to assist the federal government in criminal immigration violations. Civil immigration law enforcement, i.e. being in the country without permission, should remain the responsibility of the

federal government, and only the federal government. State and local government law enforcement and public safety personnel are already asked, without the benefit of adequate federal assistance, to incarcerate, detain and transport unauthorized immigrants who have committed crimes. States do not have the funding and/or resources to train their employees in the matters of immigration law, unless the state has signed a Memorandum of Understanding (MOU), which will be specific to that state. The MOU, currently used by states such as Alabama and Florida and counties such as Los Angeles County and Mecklenburg County, gives states and localities the option to enter into a voluntary formal agreement with the U.S. Department of Homeland Security. When training under the MOU process is fully funded by the federal government, we view this as a viable way to give states and communities the choice of whether local enforcement of federal immigration laws is appropriate for them. As you know, training for state and local officers regarding the complexities of immigration law is crucial to avoid the risk of compromising successful community policing efforts and exposing governments to increased liability from the very communities that they serve as well as to avoid complaints of racial profiling.

The burden of incarcerating unauthorized immigrants who have committed crimes, been convicted and are serving their time in state and local jails should be fully borne by the federal government. The State Criminal Alien Assistance Program (SCAAP) is a federal program through which states are reimbursed for the costs associated with incarcerating unauthorized aliens. SCAAP currently reimburses state and local governments for approximately 25 percent of the total costs incurred. There have been repeated efforts by the federal government to zero out this funding, including in the President's FY 2008 budget. Shifting these costs to cities and states weakens the intergovernmental partnership to combat crime. No immigration reform legislation will be complete without due attention to both the programmatic and fiscal aspects of SCAAP.

Madame Chairwoman, Washington state taxpayers bear a significant amount of the costs incurred through the incarceration of criminal unauthorized immigrants. I ask that correspondence between my Governor Christine Gregoire and the U.S. Attorney General be included in the record. Governor Gregoire has invoiced the federal government for not fairly reimbursing Washington state through the SCAAP program. In FY 2005, the Department of

Corrections incarcerated almost a thousand criminal unauthorized immigrants at a cost of \$74 a day. This amounts to a total of \$27 million. Of this amount, the federal SCAAP program only reimbursed Washington \$1.72 million. This represents approximately \$4.75 per day. The total shortfall of federal reimbursements amounted to over \$25 million in FY 2005. It is an untenable unfunded federal mandate. We urge you to ensure full reimbursement to the states for the cost of incarcerating undocumented immigrants both in any comprehensive immigration reform law and the FY 2008 appropriations. Madame Chairwoman, as the committee of jurisdiction we urge you to convey to the appropriators the vital need for full funding of this program.

### Health Care, Education and Civic Integration

CBO has estimated significant costs to the states in education and health care systems. The 1996 federal welfare law established a five year bar on SCHIP/Medicaid, food stamps, TANF and SSI for legal immigrants. Yet, state governments are still the providers of last resort, particularly in protecting public health and public safety and providing emergency health care. State governments also fund and provide critical English-language instruction and public education to newcomers that are essential for promoting public safety, reducing community tensions and integrating newcomers into our communities, including those who might be here on a temporary basis. Currently, public hospital emergency rooms are often the first point of entry when this population needs medical care. The costs are significant as medical conditions are often in an advanced stage. Because states and local governments enhance their partnership with the federal government in anti-terrorism activities, we are concerned about effectively providing public health services, which include encouraging residents to seek emergency health care and report disease to health officials in order to control potential bioterrorism threats, SARS, and avian flu. It is important that any immigration reform bill address health care planning and services that remove the burden from public hospitals and take into consideration the necessity of public health interventions.

Madame Chairwoman, we also struggle with the needs of pre-K to 12 education. I represent two school districts, Seattle and Renton. In the Seattle public schools district, students speak more than a hundred languages and dialects, including Vietnamese, Spanish, Chinese, Cambodian, Lao, Tagalog, Korean, Samoan, Amharic, Tigrigna, Russian, Ukrainian, and Somali. In the

Renton school district, seventy-five home languages or dialects are represented among students and the English learner population (ELL) has increased more than 51 percent since 2000. Statewide, the ELL population has doubled in the last ten years. Most of these students are second and third generation, rather than immigrant students, and the majority of these students are Hispanic.

Thirty-five superintendents from districts with high Hispanic student enrollment petitioned Governor Gregoire, the State Superintendent and Members of the Legislature regarding the delay of Washington State Assessment of Student Learning (WASL) requirements. In the petition, the superintendents identify improvements in the system but also make it very clear that 16,000 students in Washington are in danger of not being allowed to graduate from high-school due to language requirements. Let me quote the superintendents' petition: "The educational system (...) has failed to let us meet the needs of so many of our students because the system has not provided us with adequate time and resources to get the job done." We need additional resources to ensure that these children meet the No Child Left Behind (NCLB) standards.

Additionally, we believe that it is imperative to provide language and education to newcomers to our country in order to accomplish successful integration into American society and culture. English-language acquisition is essential for newcomers, including temporary workers. Substantial federal support for English-language instruction would enable states and towns to better educate children and adults and help to integrate these newcomers into our communities. As state and local government elected officials we find that the inability to communicate and understand each other serves as a flash point for aggravating tensions between newcomers and citizens. Assisting state and local government in English-language instruction for newcomers can help to alleviate these tensions and improve overall community relations.

### State Impact Grants

A critical component of last year's Senate bill and this year's STRIVE bill is state impact grants to ameliorate the costs states bear in health and education. NCSL will only support comprehensive immigration reform legislation if it includes these crucial grants.

It is essential that state and local governments have a reliable, guaranteed funding source to manage the fiscal impacts of providing health, education (both pre-K – 12 as well as ESL and civics for adults) to immigrant populations, including temporary and guest workers. These funds must be subject to state legislative appropriations, providing accountability for application of these funds to vital services. We urge inclusion of this or a similar provision in comprehensive immigration reform legislation this year.

### Other Key Issues for Comprehensive Immigration Reform

There are a number of key features that NCSL deems necessary in order for any comprehensive immigration legislation to succeed. NCSL supports comprehensive immigration reform that includes a temporary worker program and an earned legalization program for unauthorized immigrants that is not amnesty but a way for people who want to remain in this country to accept a reasonable punishment and work towards legalizing their status.

NCSL supports the creation of a temporary worker program, which will better ensure border security by providing a legal channel for people wanting to come into our country. This program will require state-federal cooperation.

NCSL supports efforts prioritizing the promotion of citizenship and creating an earned legalization program for unauthorized immigrants currently in the country. This should not be a program providing for amnesty, but rather create a way for people who want to remain in this country to accept a reasonable punishment and work towards citizenship.

NCSL supports full, appropriate and necessary federal funding for increases in Department of Homeland Security border enforcement personnel and for improvements in technology and infrastructure. Investments in technology and infrastructure can effectively leverage manpower and maximize the capacity of federal border enforcement agents in securing the borders. Related to efforts against human trafficking and drug smuggling, states have been leaders in addressing these concerns. We encourage the federal government to increase its enforcement of these crimes. The federal government should plan and fully fund the required services and facilities related to these crimes.

Madame Chairwoman, Ranking Member King and Members of the Subcommittee, I thank you for this opportunity to testify and look forward to questions from members of the subcommittee.

Attachments:

1. NCSL Immigration Reform Policy
2. 2006 State Immigration Legislation
3. 2007 State Immigration Legislation
4. Letter From Washington Governor Gregoire to U.S. Attorney General Alberto Gonzales