



REPORT OF THE TASK FORCE ON OKLAHOMA ILLEGAL IMMIGRATION ISSUES

March 12, 2007

Senator Daisy Lawler, Chair

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TABLE OF CONTENTS

Introduction.....	1
Task Force Members.....	1
Background Information.....	2
Summaries of Task Force Presentations.....	5
Concluding Remarks and Recommendations.....	12

TABLE OF APPENDICES

Appendix A	Legislation Creating Task Force, Excerpt from SR 125 (2006 Regular Session).....	15
Appendix B	NCSL Reports on Federal and State Immigration Legislation	19
Appendix C	Oklahoma Health Care Authority Illegal Immigration Information.....	31
Appendix D	CMS and Medicaid Provisions for Illegal Immigrants.....	33
Appendix E	Oklahoma Department of Corrections Illegal Immigration Information.....	38
Appendix F	State Criminal Alien Assistance Program (SCAAP) Funding.....	40
Appendix G	Advancement of Hispanic Students in Higher Education Task Force, Undocumented Student Survey - Summary.....	47
Appendix H	New Mexico Undocumented Worker Tax Policy.....	49

REPORT OF THE TASK FORCE ON OKLAHOMA ILLEGAL IMMIGRATION ISSUES

INTRODUCTION:

The Oklahoma State Senate adopted SR 125 in May, 2006 to create the Task Force on Oklahoma Illegal Immigration Issues (see Appendix A). The Task Force was charged with reviewing issues related to illegal immigration to determine the need for legislative action. In particular, the Task Force studied the impact on state resources of the presence of those who enter and remain in this state illegally.

The Task Force convened for its first meeting on September 18, 2006 and held three meetings through November 1, 2006.

A range of state agency and local government officials along with business and labor representatives from the private sector were asked to contribute their time and comments in appearances before the Task Force. Summaries of information and comments presented at the proceedings are recorded below.

TASK FORCE MEMBERS:

Task force members were appointed by President Pro Tempore of the Senate Mike Morgan. Members included:

- Senator Daisy Lawler, Chair
- Senator Kenneth Corn
- Senator Jim Wilson
- Captain Todd Blish, Oklahoma Department of Public Safety
- Ms. Pat Fennell, Latino Community Development Agency
- Dr. Sharon Lease, Assistant State Superintendent, Oklahoma State Department of Education
- Mr. Howard Hendrick, Director, Oklahoma Department of Human Services
- Mr. Paul Hitch, Hitch Enterprises
- Mr. Verej Jazirvar, General Manager, Petroleum Club of Oklahoma City
- Mr. Paul Kirkpatrick, Administrative Programs Officer II, Field Operations, Oklahoma Department of Corrections
- Mr. Armando Peña, Director of Student and Community Outreach Activities, Oklahoma Regents for Higher Education

BACKGROUND INFORMATION:

As an introduction to current immigration issues in the United States, Anne Morse, Director of The Immigrant Policy Project conducted by the National Conference of State Legislators, presented the following information to the Task Force:

Immigration in the U.S. – Demographics and Key Trends

There are approximately 36 million foreign-born persons living in the U.S., which comprises about 12 percent of the U.S. population. This is approaching the peak immigration level of the 1900s.

Approximately one-third have become U.S. citizens through naturalization, approximately one-third are legal residents in the U.S., and approximately one-third are here as unauthorized immigrants.

Approximately one million immigrants are granted lawful permanent resident status each year. These legal immigrants are granted visas based on family relation or employment to live and work permanently in the U.S.

It is estimated that illegal immigration increases by about 500,000 per year. Roughly 60 percent enter without authorization; about 40 percent overstay or otherwise violate the terms of the immigration visa.

Approximately 11-12 million unauthorized immigrants reside in the U.S. Of these, Mexico was the leading source country with nearly 6 million. El Salvador, Guatemala, India and China were next with a combined total of 1.4 million. Almost two-thirds of the 11-12 million arrived in the last 10 years.

The top 3 states with illegal immigrant populations are as follows: California (2.8 million); Texas (1.4 million); Florida (850,000).

States with the largest percentage increases 2000-2005 were as follows: Georgia (114 percent); Arizona (45 percent); Nevada (41 percent); North Carolina (38 percent).

In 15 states, the unauthorized population is about as large, or even exceeds, the size of the legal immigrant population.

Typically, immigrants have settled in 6 states: California, Texas, Florida, New York, Illinois, and New Jersey. But more recently, immigrants are settling in nontraditional states. States with the most rapidly growing foreign-born populations between 1990 and 2000 included North Carolina, Georgia, Nevada, Arkansas, Tennessee, Colorado, Arizona, Nebraska, and Utah.

Between 2000 and 2020, there will be no net increase in native-born workers aged 25 to 54. States are looking at economic planning projections and realizing that with the impending baby boomer retirement, there will be a need for both replacement workers and health care and other workers to serve an increasingly large elderly population. Iowa, for example, found that its fastest growing population was over 100 years old, and set out to identify ways to encourage workers to stay in the work force and to attract new workers, including immigrants, to the state.

Employment demand outstrips employment visas:

- Overall, less than 80,000 permanent visas are issued annually for employment purposes in an economy that absorbs over one million immigrant workers each year. The numerical cap on

permanent employment visas is 140,000.

- Only 5,000 permanent immigration visas are set aside for relatively low-skilled immigrants, who make up 43 percent of the foreign-born workforce in the U.S.
- There are also caps on visas that limit each country to no more than seven percent (approximately 25,600) of the total number of annual worldwide visas.

Immigration Reform

Immigration reform has increasingly become a state-level problem for the following reason:

- The increasing numbers and dispersal of illegal immigrants to new communities, which became widely publicized with the 2000 census and redistricting.
- The 9/11 terrorist attacks which led to increased attention to immigration enforcement (border enforcement, additional background checks on immigration applications, state driver license legislation).
- Lack of federal legislative action despite several proposals.

Since President Bush first proposed immigration reform in 2001, federal legislation has progressed erratically, sidetracked by the war on terrorism and by other domestic emergencies. In January, 2004, the Bush administration reinvigorated the public policy debate by setting out principles for "Fair and Secure Immigration Reform." These principles included a secure border, a streamlined foreign worker program, and a plan to bring unauthorized immigrants "out of the shadows."

The House passed an enforcement-only bill in December 2005, with provisions addressing border, interior, and worksite enforcement. A Senate bill passed in May of the same year included similar enforcement measures, along with a new temporary worker program, and a way to deal with the 11-12 million illegal immigrants residing in the U.S.

With no federal action, and continued public pressure, the issue percolated through state legislatures with more than 550 bills introduced in 2006, the highest level ever recorded.

Some History - The 1986 Immigration Reform and Control Act

The following passage is excerpted from a 1977 article on illegal aliens in NCSL's *State Legislatures* magazine:

Proposed action at both the state and federal levels would in various ways set penalties on both the illegal job-seeker and the American employer... Six states – CA, CT, DE, KS, MA and NH – now have statutes fining employers who knowingly employ illegal aliens. Florida and New Jersey have bills waiting for governors' signatures and 20 other states have introduced legislation dealing with illegal immigration.

These arguments from the 1970s are similar to concerns voiced today: labor and business feared that eliminating immigrant labor would reduce harvests, impacting the canners, the truckers, and others down the processing line. The Carter administration proposed a temporary employment program with civil fines on employers, amnesty, enforcement at points of entry, and foreign policy to reduce the

pressure to emigrate from countries of origin. After a federal commission on immigration reform and five years of efforts at bipartisan legislation, Congress enacted the 1986 Immigration Reform and Control Act (IRCA). With this law, the federal government for the first time prohibited employers from “knowingly hiring” a non-citizen who does not have work authorization. It also required employers to verify the identity and work eligibility of all employees and prohibited employers from discriminating in hiring or firing based on national origin or citizenship status.

IRCA requires employers of any size to file I-9 forms for all employees within three business days of initial date of hire. Employees may provide documentation from a list of acceptable documents to prove identity and work authorization. If the documents appear genuine, the employer may not ask for additional documentation (anti-discrimination/national origin). Employers are not required to fill out an I-9 for employees meeting specific characteristics: employees hired before November 7, 1986; employees hired sporadically as domestic workers in private homes; employees who work as independent contractors; and employees finding employment using a referrer or agent.

IRCA mandates that employers found hiring unauthorized workers face a first-time offense penalty between \$250 and \$2,000 for each worker, a second-time offense penalty between \$2,000 and \$5,000 for each worker, and for each subsequent offense, a penalty between \$3,000 and \$10,000. Employers can also face fines for failing to comply with I-9 paperwork requirements, with first time penalty fines between \$100 and \$1000. In knowingly violating IRCA provisions, employers can also face criminal penalties of up to 6 months of jail time for hiring an unauthorized immigrant and or up to 5 years in jail for violating requirements for I-9 documents. “Knowingly violating” implies that an employer has either actual knowledge about an employee’s unauthorized work status or inferred (referred to as constructive knowledge) that an employee is unauthorized to work, based on the documentation provide by the employee or by statements made by the employee indicating unauthorized work status. DHS has recently announced it will focus on employers that knowingly or recklessly hire illegal immigrants – employers will face criminal charges and seizure of assets rather than administrative fines.

IRCA also established preemptive language on states’ ability to fine employers: “the provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.”

State and Federal Legislation

An NCSL report summarizing recent state and federal immigration legislation is provided in Appendix B of this report.

SUMMARY OF TASK FORCE PRESENTATIONS:

Howard Hendrick, Director, Oklahoma Department of Human Services

- Citizenship status of persons receiving at least one or a combination of benefits including Child Care Subsidy, Food Stamps, Medicaid, and TANF:
 - Legal citizens - 99.31 percent
 - Eligible or qualified aliens - 0.61 percent
 - Ineligible aliens - 0.02 percent
 - Undocumented - 0.06 percent
- Description of statuses:
 - Legal citizen - Born in the United States or naturalized.
 - Eligible or qualified alien - Lawfully admitted and meets federal or state program requirements for receipt of benefits.
 - Ineligible alien - Lawfully admitted to the United States, but does not meet federal or state program requirements for receipt of benefits.
 - Undocumented - Status cannot be documented. Ineligible for most benefits.
- Eligibility for receipt of benefits:
 - Child Care Subsidy - Children must be citizens or eligible or qualified aliens.
 - Food Stamps - Recipients must be citizens or eligible or qualified aliens.
 - TANF - Recipients must be citizens or eligible or qualified aliens.
 - Medicaid - Recipients must be citizens or eligible or qualified aliens, with the exception that federal law requires that all otherwise eligible persons receive emergency services, which include labor and delivery.
- Verification requirements:
 - Child Care Subsidy - Self-declaration, unless questionable.
 - Food Stamps and TANF - Verified by birth certificate, Social Security card, green card, driver license, passport.
 - Medicaid - Precious self-declaration, but new federal requirements will require verification of identity and citizenship.
- Reporting requirements:
 - Child Care Subsidy and TANF - Reporting of recipients known to be illegally present in the United States is limited to those for whom the INS has made affirmative determinations of illegality.
 - Child Welfare - Federal regulations prohibit states from sharing information except in limited situations, such as eligibility determinations and services provisions, criminal or civil investigations related to administration of financial assistance, program audits, and reporting of suspected or known child abuse or neglect.
 - Food Stamps - State agency staff report a determination of illegal members of a receiving household to the Family Support Services Division of the Oklahoma Department of Human Services, which forwards the report to the INS.
 - Medicaid - Information on applicants and recipients is confidential and can be released only for establishing eligibility, determining amount of Medicaid, providing services, and lawsuits related to Medicaid.

Nico Gomez, Director of Communication Services, Oklahoma Health Care Authority

- In FY 2005, Oklahoma spent \$7.8 million on emergency health needs for illegal immigrants, which are federally protected benefits for all persons regardless of immigration status.
- More than 80 percent of that money was spent on labor and delivery costs.
- Oklahoma will spend approximately \$9 million of its allotted \$3 billion Medicaid money on approximately 4,450 illegal immigrants in FY 2006, but this expenditure will also go toward emergency services and labor costs.
- At least 83 percent of the \$9 million will pay for labor and delivery costs.
- The estimated Medicaid cost for illegal immigrants is 0.6 percent of the total Oklahoma will spend on its poor.

More details regarding the number of illegal aliens served by the Oklahoma Health Care Authority and the costs of those services, along with excerpts of federal law pertaining to health care for illegal immigrants, is provided in Appendix C.

Patti Davis, Executive Vice President, Oklahoma Hospital Association

- Oklahoma hospitals must meet many state and federal requirements. The Emergency Medical Treatment and Labor Act (EMTALA) mandates that hospitals treat anyone who needs emergency care, including undocumented immigrants, regardless of their ability to pay for that care.
- Title VI of the Civil Rights Act of 1964 "prohibits discrimination on the basis of race, color, or national origin in any program or activity, whether operated by a public or private entity that received federal funds or other federal financial assistance." The Centers for Medicaid and Medicare Services (CMS) requires that "hospitals treat all patients the same and not single out individuals who look or sound foreign and require them to provide additional documentation of citizenship or immigration status."
- Oklahoma hospitals do provide care to undocumented immigrants. In April, 2006, the Oklahoma Hospital Association released an updated report indicating that Oklahoma hospitals provided \$515 million in uncompensated care in 2005 to persons who were uninsured or underinsured. This report does not single out the cost of uncompensated care to undocumented immigrants or any other population segments. OHA is not aware of any hospital in the state that could provide this information.
- OHA is not aware of any state or federal requirement for hospitals to maintain or request documentation on immigration status. On May 13, 2005, the Centers for Medicare and Medicaid Services issued guidance for reimbursement of emergency service care provided to undocumented immigrants. In the Medicare Prescription Drug Improvement and Modification Act of 2003 (MMA), \$250 million per year for fiscal years 2005 to 2008 was made available to reimburse hospitals, certain physicians, and ambulance providers for emergency services furnished to undocumented immigrants.
- Initially CMS proposed that providers directly ask citizenship status but changed their position to neither require nor encourage providers to directly ask patients their immigration status.

- In order for a provider to be able to access the funds available under the MMA provision, providers are required to determine patient eligibility by asking the following indirect questions:
 1. Is the patient eligible for, or enrolled in, Medicaid or emergency Medicaid?
 2. Is the patient a Mexican citizen with a border-crossing card or has the patient been paroled in to the United States at a United States port of entry with a Form 8-94 that is stamped with term "Parole" or "Parolee"?
 3. The combination of a reported foreign place of birth and verification can be used as an affirmative demonstration of eligibility. Providers must demonstrate at least one of the following and obtain verification in order to submit a payment request:
 - a. Foreign birth certificate, a foreign passport, a foreign voting card, an expired visa, invalid border crossing card, foreign driver license, a "Matricula Consular" or other foreign ID card.
 - b. The patient's submitted Social Security Number is invalid.
 - c. The patient in question is in federal or state officer/agent custody.
- OHA does not have data from our hospitals to know if they have obtained funding under the MMA provision.
- Regarding the role of hospitals in collecting information to identify undocumented immigrants and costs related to their presence, OHA takes the position that hospital staffs are caregivers, not regulators or enforcers of the law. There is no doubt that health status and outcomes related to ethnicity have been widely discussed and will continue to be discussed on both the state and federal levels. The standard of care for all health care services should be the same for all and not be conditional upon the color of skin or nationality to determine how a person is to be treated.
- The Department of Human Services and the Oklahoma Health Care Authority are charged with eligibility determination and payment of services under the Medicaid program. Federal guidance is available to these agencies for determination of eligibility. OHA would take issue with any statutory reporting requirements imposed upon hospitals. Patients trust health care workers to be caregivers, not immigration officers. Any new state requirement along such lines would likely conflict with federal law and/or medical ethics.

A full report on CMS and Medicaid provisions for illegal immigrants is provided in Appendix D.

Sheriff Tom Shaffer, President, Oklahoma Sheriff's Association

- The Sheriff's Association reports 330 detainments of illegal immigrants in 2005, mostly through traffic stops, which resulting arrest due to lack of a driver license and/or lack of insurance. Such stops do result in confiscation of the vehicle.
- In Texas County, approximately 60 percent of the jail is populated by immigrants awaiting trial. About 70 percent of that population is comprised of illegal immigrants.
- Texas County estimates a cost of approximately \$10,000 in 2005 for detaining and keeping illegal immigrants until they were transferred to INS.
- INS typically assumes custody of the illegal immigrants one to two days after they have been arrested.
- No reimbursement is provided to the county for holding illegal immigrants. Costs can usually only be recovered if a vehicle is confiscated and sold.

- Texas County's law enforcement is budgeted \$160,000 a year, which makes the \$10,000 cost to deal with illegal immigration proportionally low.

Paul Kirkpatrick, Administrative Programs Officer II, Field Operations, Oklahoma Department of Corrections

Statistics and information on the 387 illegal immigrants currently under the custody of the Oklahoma Department of Corrections were distributed to the Task Force in a fact sheet, which is included in this report as Appendix E.

Kevin Ward, Commissioner, Oklahoma Department of Public Safety

- DPS encounters with illegal immigrants are most often the result of traffic stops or motor vehicle accidents.
- As a first procedure, DPS will contact Immigration and Customs Enforcement once a person has been identified as, or is suspected of being, an illegal immigrant.
- If the person has violated a state law, they are taken to a county jail and state charges are filed, but Oklahoma has no law making it a crime to be an illegal immigrant in this state. Federal law governs legal presence anywhere in the country.
- If a significant number of illegal immigrants are detained, and they have not violated any state laws, they will most likely be detained at a holding facility until such time that ICE is able to assume custody.
- Oklahoma has two essential requirements for driver licenses, employment and residency. Any person stopped for a violation with an out-of-state license is presumed to be traveling through. If DPS makes a determination that such a person has established a residency for 30 days or more, they will be issued a citation.
- While the federal government has made certain grant money available to state law enforcement agencies to aid in enforcement of immigration law, this money can only be used for initial training, leaving the cost of maintaining any immigration enforcement programs to the states.
- DPS views its primary responsibility as the enforcement of state laws. Immigration is more properly a federal issue, and immigration law is better enforced by federal personnel who have been provided with training specific to immigration issues.

K.C. Moon, Director, Oklahoma Criminal Justice Resource Center

- The State Criminal Alien Assistance Program (SCAAP) administered by the Bureau of Justice provides federal reimbursements to states and localities for certain costs incurred in the detainment and incarceration of undocumented criminal aliens.
- FY 2006 total funding for SCAAP will amount to \$376 million. The last SCAAP funding awarded to Oklahoma was in FY 2004, amounting to approximately \$820,000.

The information packet distributed to the Task Force on SCAAP funding and its assistance to Oklahoma is included in this report as Appendix F.

Lealon Taylor, Chief of Staff, Oklahoma State Department of Education

- The Department of Education must provide K-12 education to any student able to prove residency within a defined school district in the state of Oklahoma.
- No state or federal laws currently exist requiring public schools to determine a student's lawful presence in the U.S.
- Policies for recording names, aliases, and parents/ legal guardians of students differ from district to district, but these records could not be used to determine a student's lawful presence in the U.S.
- The Department of Education is not required to keep students' Social Security Numbers on record, but each student is issued a testing number.
- The Department of Education does make a determination of a student's age, preferably by birth certificate, but other forms of documentation (such as a baptismal certificate) are acceptable.
- A student's qualification for the free lunch program is determined only by the income of that student's family and the number of children in that family.
- A state measure that required the Department of Education to verify a student's legal presence in the U.S. would not violate federal law provided that verification process was required of every student, and that a student's right to an education was not contingent upon the results of that process.

Armando Peña, Director of Student and Community Outreach Activities, Oklahoma Regents for Higher Education

- Section 3242 of Title 70 of the Oklahoma Statutes, codified in 2003, entitles prospective students who cannot prove lawful status in the U.S. to in-state tuition rates for higher education and state financial aid provided they:
 - have graduated from high school or acquired a GED;
 - have resided in the state of Oklahoma for at least two years with a legal guardian;
 - have met the admissions requirements of the institute to which they are seeking admittance;
 - have submitted a signed affidavit to that institute declaring that they have initiated the process of obtaining legal immigration status within in the U.S., or intend to initiate such a process at the earliest possible opportunity.
- No timeline is established by this bill for the obtainment of legal immigration status. This is primarily because the time required to obtain legal status is highly dependent on several different factors, such as family ties in the U.S., employment ties in the U.S., and the student's country of origin.
- Section 3242.1 of Title 70 of the Oklahoma Statutes, codified in 2004, established the Advancement of Hispanic Students in Higher Education Task Force.
- This task force has remained active, and creates an annual report which includes data on undocumented students attending Oklahoma higher education institutes.
- The task force has found that all higher education institutes in this state are in compliance with Section 3242 of Title 70 and have procedures in place for identifying students who are not lawfully present in the U.S.
- Hispanics are underrepresented among higher education institutes, making up approximately 5.2 percent of the student population.

Mr. Peña provided the committee with a handout detailing the number of undocumented students attending state institutions, and the percentage of total financial aid and tuition waiver monies issued by the state to undocumented students. That handout is included in this report as Appendix G.

Richard Gilbertson, Director of Workforce Integrated Programs, Oklahoma Employment Securities Commission

- Each prospective employee seeking assistance through OESC must present a Social Security Number and a picture ID.
- Over 90 percent (estimated) of OESC job seekers present a driver license and Social Security card.
- OESC also requires that job seekers register for the draft, and males born after 1959 must prove registration for selective services.
- OESC serves employers and job seekers in two ways: 1) personal referrals processed through OESC offices (staff assisted); 2) Oklahoma Job Link Service, wherein the employer utilizes an OESC website to post jobs, and they perform their own screenings (non-staff assisted).
- OESC also provides unemployment insurance.
- For the purposes of unemployment insurance, it is not possible for OESC to determine that any Social Security Number in their system is invalid until a claim has been filed.
- If money is paid in to the OESC trust fund for unemployment insurance, but is never claimed, it does work to the benefit of the employers.
- It is the opinion of OESC that if legislation were enacted to open a legal path for currently undocumented workers, it would help assuage the labor shortage.
- Mr. Gilbertson indicated that he would provide a report projecting labor shortages for the near future.
- OESC does not perform background checks on prospective job seekers, but OESC employees are experienced to an extent in identifying false documents.
- The burden is more on employers to determine a prospective employee's lawful presence in the U.S.
- The OESC figures on unemployment (around 3 percent) are only based on legal workers and cannot take into account an "underground economy," but the fact that an underground economy exists is evidence that demand for labor is greater than can be reflected by documented workers and legitimate employers.
- OESC has conducted training in the past to ensure that its employees are able to detect false documents, but has not since the issuance of new Oklahoma driver licenses.
- OESC relates with temporary employment services like they would with any other employer.
- It is the opinion of OESC that if undocumented workers were removed from the workforce, the unemployment rate would be negatively affected.

Paul Hitch, Hitch Enterprises, Inc., Guymon, OK

- Hitch Enterprises is an agricultural company with presences in Oklahoma and Kansas. Its primary operation is as a cattle and pig supplier. Hitch employs about 365 workers.

- In January of 2007, Smithfield Co. will begin to build a beef packaging plant within driving distance of Hitch's operations that will employ nearly 3000 workers.
- Hitch projects that this plant will cut significantly into its workforce, not only upon opening, but even upon initiation of construction.
- Hitch Enterprises has been in the practice of verifying the citizenship of its employees for about 15 years.
- Hitch submits a Social Security Number, name, and birth date through an internet program called Basic Pilot.
- This system is not 100 percent reliable; an illegal worker may go a long time without detection if they have stolen a valid identity.
- Hitch has fired workers who are identified as undocumented, but the local sheriff will not pick up an undocumented worker unless they have broken a law.
- If an undocumented person is arrested and incarcerated, the sheriff can hold them up to 60 days at cost to the county of approximately \$40/ day, but INS rarely responds to a request to assume custody of them. This results in very few people identified as unlawfully present in the U.S. undergoing any penalty other than loss of employment.
- Hitch states that wage inflation is an immediate setback to the company's profitability; the company does not find it viable to pass along the cost of wage inflation to its customers.
- Hitch does not see much evidence of undocumented workers suppressing wages in his area.
- The Basic Pilot program is voluntarily used by employers; approximately 10,000 employers currently using it nationwide.
- In Mr. Hitch's opinion, employers would not react well to a mandate requiring the use of Basic Pilot, as some businesses would have to hire personnel or purchase equipment to make use of it.
- From the perspective of Hitch Enterprises, a business has very little incentive to ensure the legal status of its workers. Any employers applying such standards do so from a personal desire.
- The usage of Basic Pilot is of very little to no cost Hitch Enterprises, as it has the personnel available to run checks, and there is no direct cost for inquiries.

Walter Morris, President, Central Oklahoma Manufacturer's Association

- COMA consists of 265 members representing 13,000 jobs, along with 5,000 people listed as dependents on employees' healthcare.
- Mr. Morris himself owns three healthcare equipment plants.
- Mr. Morris states that if he were required to pay a minimum wage of \$10/ hour to his employees, he could not compete globally.
- Mr. Morris estimates that employers pay as much as \$5/ employee/ hour in addition to basic wage to provide healthcare programs, etc.
- Mr. Morris' companies use a temp service to check the legal status of workers for the first 30 days of their employment.
- If a worker is identified as being undocumented, Mr. Morris' companies allows them a certain number of days to amend their status or they are fired.
- Mr. Morris states that state actions on the issue of immigration do not matter if the federal government will not close the border.

- If the border is closed, it's up to the states to provide a creative solution to the current illegal immigrant population.
- Mr. Morris proposes a guest worker program that would allow a legal avenue for currently undocumented workers, which would benefit both the workers and the employers.
- Mr. Morris states that employers have a limited ability to verify a worker's legal status, and that is not the place of the employer to perform background checks or identify forged documents.
- Mr. Morris states that largest current problem associated with undocumented workers is their abuse of the healthcare system, though he states that a potential solution is underway involving Blue Cross and Blue Shield.
- Mr. Morris states that prohibiting undocumented workers will hurt Oklahoma's ability to compete in the global market.

Jim Curry, President, Oklahoma AFL-CIO

- The Oklahoma AFL-CIO is an umbrella organization for 215 local unions.
- Mr. Curry presented anecdotal evidence of the exploitation of undocumented workers: a brick contractor in Tulsa was underbidding most competition because of his use of undocumented workers. The INS would not respond to requests for investigation, so the AFL-CIO sent a Spanish organizer to investigate, who discovered that this contractor had several undocumented workers who had gone without pay for weeks. The contractor was also paying neither worker's compensation nor taxes, but the fact that the workers were undocumented left them beyond the aid of the AFL-CIO or the state.
- The AFL-CIO has no powers of enforcement over such an issue. It is only able to determine whether the employer was paying worker's comp. Protections for employers experiencing such exploitation would have to be established legislatively.

Tony Mastin, Director of Tax Policy and Research, Oklahoma Tax Commission

- Individual taxpayer IDs are issued regardless of whether a person is a legal resident of the U.S.
- The Oklahoma Tax Commission received approximately 7,000 tax returns filed with the tax payer ID rather than a Social Security Number in 2005. Collection from these returns amounted to around \$12.7 million.
- The Commission estimates that sales tax generated by those with tax payer IDs along with their dependents is around \$9.1 million.

Task Force member Ms. Pat Fennell stated during this presentation that the state of New Mexico has a formula for calculating taxes paid by undocumented workers. Ms. Fennell requested that the Oklahoma Tax Commission investigate the methods in use in New Mexico. Information on New Mexico's method for calculating these taxes is included in this report as Appendix H.

CONCLUDING REMARKS AND RECOMMENDATIONS:

The following is a summary of Task Force members' individual statements, comments, and recommendations:

- There is a need to establish a method for allowing the state Attorney General to request federal compensation for the costs of incarcerating illegal immigrants. Consideration of Colorado's SB 90 (signed May 1, 2006) could yield a model for such legislation.
- The desirability of educating undocumented persons in this state and the low impact of current undocumented persons in our higher education system receiving in-state tuition should be determining factors for consideration of future legislation.
- Many of the critical aspects of immigration policy are established at the federal level, and therefore preempt many actions that states might take to address local concerns.
- The state of Oklahoma faces a labor shortage, with unemployment at less than 3 percent. However, the state cannot create a legal avenue for illegal immigrants to work in this state. Legislation regarding labor will therefore need to focus on deterring employers from hiring illegal or undocumented workers and also establishing protections from exploitation and trafficking for the illegal immigrants who already work here.

At the close of its November 1, 2006 meeting, the Task Force on Oklahoma Illegal Immigration Issues expressed the intent to issue this report of its proceedings and take no further action.

Submitted: _____
Senator Daisy Lawler*, Chair

Senator Kenneth Corn

Senator Jim Wilson

* Former Senator Daisy Lawler's term with the Oklahoma State Senate ended on November 16, 2006.

APPENDIX A

Legislation Creating Task Force Except from SR 125 (2006 Regular Session)

ENROLLED SENATE
RESOLUTION NO. 125

By: Lawler and Leftwich

A Resolution creating the Task Force on Oklahoma Illegal Immigration Issues; stating purpose; designating members; providing for meetings; requiring compliance with Open Meeting Act and Open Records Act; requiring a report by a certain date; and providing for compensation of members.

WHEREAS, Oklahomans have a rich history and tradition of welcoming all persons to settle within the boundaries of our great state who are willing to become productive members of our society, respect the rights of others, pay their fair share of taxes and comply with all laws; and

WHEREAS, each year thousands of undocumented aliens enter this state and nation illegally despite the efforts of the federal government and border control agencies to interdict the flow of illegal immigration; and

WHEREAS, the presence of significant numbers of low-paid individuals with few resources of their own that are undocumented or are illegally residing in the State of Oklahoma creates a considerable burden on the resources of state, county and local human service, law enforcement, correctional and homeland security agencies, educational institutions as well as a noteworthy impact on the state's large and small businesses, industries and labor force; and

WHEREAS, as a result the hard-earned tax dollars of legal citizens of this state must be redirected to benefit those who enter this country and state illegally; and

WHEREAS, it is the responsibility of the Oklahoma State Legislature and other state, county and local entities and officials to adequately utilize and protect the valuable resources and services of this state; and

WHEREAS, it is imperative that the Oklahoma State Legislature pursue the necessary initiatives and enact or reform laws to achieve the objectives necessary to ensure the most appropriate, beneficial and fair use of public funds and resources for all eligible and in need persons residing in this state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE 2ND SESSION OF THE 50TH OKLAHOMA LEGISLATURE:

THAT the Oklahoma State Senate shall create the Task Force on Oklahoma Illegal Immigration Issues to study all issues related to the question of illegal immigration affecting the state.

THAT the issues to be addressed by the task force shall include, but not be limited to, the following state, county and municipal services as well as private sector business and industry:

1. Social assistance, medical and special needs services;
2. Public elementary and secondary education;
3. Higher education;
4. Public safety, law enforcement, corrections and homeland security;
5. Taxation;
6. Processes for verification of citizenship and residency;
7. Human trafficking; and
8. State and federal coordination.

THAT in order to accomplish the purpose set forth for the task force the President Pro Tempore of the Senate shall appoint eleven (11) members as follows:

1. One chair who shall be a member of the Oklahoma State Senate;
2. Two members of the Oklahoma State Senate;
3. The Director of the Department of Human Services or his or her designee;
4. The Commissioner of Public Safety or his or her designee;
5. The Director of the State Department of Corrections or his or her designee;
6. The Superintendent of Public Instruction or his or her designee;
7. The Chancellor of the Oklahoma State Regents for Higher Education or his or her designee;
8. One owner or chief executive officer of a large Oklahoma business or industry employing more than one hundred (100) employees or his or her designee;
9. One owner or chief executive officer of a small Oklahoma business or industry employing less than one hundred (100) employees or his or her designee; and
10. One person who represents a major Hispanic Community organization.

THAT the task force shall meet at the date(s) and location(s) at the call of the chair and that the proceedings of all meetings shall comply with the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

THAT the task force shall submit a report consisting of suggested legislation to the President Pro Tempore of the Senate no later than November 30, 2006.

THAT members of the task force shall receive no compensation for serving on the task force, but shall receive travel reimbursements as follows:

1. Senate members shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes;

2. Nonlegislative members shall be reimbursed by their respective agencies for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

3. Members of the task force who are not otherwise officers or employees of the state shall be reimbursed by the Oklahoma State Senate.

APPENDIX B

NCSL Reports on Federal and State Immigration Legislation

FEDERAL

Comprehensive Immigration Reform Act of 2006 S.2611

On May 25, 2006, the U.S. Senate passed S.2611 by a vote of 62-56. The bill addresses border security, interior enforcement and worksite enforcement, and authorizes increased funding levels for SCAAP, the establishment of a temporary guest worker program and earned paths to citizenship. The final version of the Senate bill was a compromise deal brokered between House Majority Leader Bill Frist and Senate Judiciary Committee Chairman Specter, and included a compromise crafted by Senators Hagel and Martinez that divided 11 million unauthorized immigrants into 3 categories, one allowing legalization after meeting certain conditions, one requiring departure before applying for legal status, and a third requiring departure. The bill also includes grants to assist states with health and education costs of immigrants. S.2611 must be reconciled with the House immigration bill, H.R. 4437.

The U.S. House of Representatives passed the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R.4437), on December 16, 2005. House Judiciary Committee Chairman James Sensenbrenner, Jr. (R-WI) introduced H.R. 4437, which passed with a 239-182 vote and focuses on three main areas: border security, interior enforcement, and worksite enforcement. H.R. 4437 authorizes \$1 billion to fund the State Criminal Alien Assistance Program (SCAAP) and mandates that states verify the legal status of all state employees. The bill would also criminalize violations of federal immigration law, including illegal presence, which indirectly shifts the responsibility of immigration enforcement to state and local law authorities. For a summary of H.R. 4437, visit: <http://www.ncsl.org/programs/immig/SensenbrennerBill.htm>.

STATE

2006 State Legislation Related to Immigration: Enacted, Vetoed, and Pending Gubernatorial Action

In 2006, almost 550 pieces of legislation concerning immigrants have been introduced in state legislatures around the country. While legislation covered a wide variety of topics, many states focused on employment, trafficking, public benefits, education, identification, voting rights and procedures, trafficking, law enforcement, and legal services. Thus far, at least 69 bills have been enacted in 2006, a pace that exceeds that of 2005. A handful of bills have been vetoed.

Bills were enacted in 30 states: Arizona, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

ENACTED BILL COUNT

Main Topics:		
Education	3 bills	3 states
Employment	13 bills	9 states
Identification/Driver's License	6 bills	5 states
Law Enforcement	5 bills	5 states
Legal Services	4 bills	4 states
Omnibus	1 bill	1 state
Public Benefits	11 bills	8 states
Trafficking	10 bills	8 states
Voting	5 bills	5 states
Miscellaneous	6 bills	5 states

ENACTED BILLS

Education

Nebraska LB 239 (signed 4/14/2006) allows unauthorized immigrant students to qualify for in-state tuition (section 1).

Virginia SB 542 (signed 4/6/2006) establishes eligibility for in-state tuition for those holding an immigration visa or classified as a political refugee in the same manner as any other resident student. Students with temporary or student visa status are ineligible for Virginia resident status and in-state tuition (section C).

Wyoming SB 85 (signed 3/10/2006) provides scholarships to Wyoming students to attend community colleges and the University of Wyoming. The bill bars non-citizens and non-Legal Permanent Residents (LPR) from receiving scholarship funding in this bill. Students whose parents have claimed foreign residency status during the student's high school attendance are also ineligible (section W.S. 21-16-1303).

Employment

Colorado HB 1343 (signed 6/6/2006) prohibits state agencies from entering into contract agreements with contractors who knowingly employ illegal immigrants and requires a prospective contractor to verify legal work status of all employees. The contractor must verify that the Basic Pilot Program has been used to verify the legal status of all employees. If the contractor discovers that an illegal alien¹ is employed, the contractor must alert the state agency within 3 days (section 1).

Idaho HB 577 (signed 3/11/2006) limits unemployment benefits to U.S. citizens and legal residents (section 2).

Idaho HB 649 (signed 3/24/2006) prohibits balance billing when administering worker's compensation benefits. Benefits are available only to citizens and authorized immigrants. ("Balance billing" means billing or otherwise attempting to

¹ A variety of terms exist that refer to the entire class of immigrants residing in the United States without authorization. These terms include unauthorized immigrant, unauthorized migrant, undocumented immigrant, illegal immigrant, and illegal alien. For consistency, this brief usually refers to 'unauthorized immigrant' for those immigrants who have either entered unauthorized into the United States or who have overstayed their visas. The term "illegal alien" is used where state legislation specifically refers to "illegal alien". The term "non-citizen" includes both legal and unauthorized immigrants.

collect directly from an injured employee payment for medical services in excess of amounts allowable in compensable claims.)

Kansas SB 108 (signed 4/15/2006) provides employment security measures and unemployment benefits to legal residents of the state. Qualifying terms of employment do not include those immigrants who were admitted under certain legal circumstances to perform agricultural services (section 4).

Kansas HB 2157 (signed 3/23/2006) limits unemployment benefits and employment protection status to citizens and those with legal immigration status. Immigrants who were admitted into the United States legally and completed work during this time period are also eligible for benefits for that specific time period only (section 1:4:C:m).

Louisiana SB 753 (signed 6/23/2006) allows any state agency or department to conduct an investigation of a contractor's hiring policies if the employment of unauthorized immigrants is suspected. The district attorney can issue an order to fire undocumented workers, and, if the contractor does not comply within ten days of receiving notice, the contractor is subject to penalties of up to \$10,000. This applies only to contractor's employing more than 10 people (section 1).

Missouri HB 1456 (signed 6/14/2006) denies unemployment benefits to any non-citizen worker (section 288.038).

Oklahoma SB 1401 (signed 6/6/2006) requires that no person shall be certified as a police or peace officer in the state unless the employing agency has reported that such person has provided proof of U.S. citizenship or resident alien status, pursuant to the Immigration and Naturalization Services (INS) (section 2).

Oklahoma SB 1634 (signed 5/22/2006) excludes nonresident aliens and immigrants who were admitted into the United States for agricultural labor from unemployment protections and benefits. (section 1-210).

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

Tennessee HB 111 (enrolled 6/1/2006) prohibits contractors from contracting with state agencies within one year of the discovery that the contractor employs illegal immigrants (section 1).

Washington SB 6194 (signed 3/27/2006) acknowledges that men and women of color suffer significant inequities in almost all aspects of daily life. To address this issue, this bill mandates multicultural education for health professionals in order to increase understanding of the relationship between culture and health (section 1).

Washington SB 6885 (signed 3/9/2006) excludes labor performed by nonresident aliens from the definition of “employment” when establishing Unemployment Insurance benefits (section 22).

Identification/Drivers' License

Colorado SB 110 (signed 5/30/2006) concerns the fabrication of fraudulent documents for legal status and identification purposes. This bill provides funding for a full-time investigator position in the attorney general’s office, and implements a \$50,000 civil fine for counterfeiting identification documents (section 1).

Colorado HB 1306 (signed 5/30/2006) requires an audit of a 2003 law restricting the use of foreign identification papers, including a consulate identification card. The report would, in part, determine if a birth certificate issued outside of Colorado should qualify as a verifiable document (section 1).

Florida HB 7079 (signed 6/22/2006) requires proof of legal immigrant status or proof of pending adjustment to legal immigrant status of driver’s license applicants (section 322.08).

Maine LD 501 (signed 2/10/2006) forbids the acceptance of these expired documents as identification for state driver’s licenses: expired visas issued by the United States; expired documents issued by foreign countries, and foreign passports with an elapsed departure date.

Missouri SB 1001 (signed 6/14/2006) states that a learner’s permit, driver’s license, or renewal license may not be extended to a person not lawfully residing in the state (section 302.171.1).

South Carolina HB 3085 (signed 6/12/2006) mandates that an individual is guilty of fraud if another person’s personal information, such as social security numbers, driver’s license numbers, checking and savings account numbers, and credit and debit card numbers, is used for the purposes of gaining employment (section 16).

Law Enforcement

Colorado SB 90 (signed 5/1/2006) prohibits any state or local government from enacting legislation that impedes law enforcement agencies from cooperating or communicating with federal officials concerning an arrestee who is suspected to be illegal (section 1). Police officers are required to report any suspected illegal

immigrant arrestees to ICE, although this does not apply to suspected domestic abuses until a conviction has been reached. The act also declares that state and local law enforcement officials should actively pursue any and all federal monies available that reimburse states for enforcing federal immigration laws. Any local government that does not subscribe to this act will not be eligible for state grants (section 2).

Illinois SB 2962 (signed 7/3/2006) maintains that if an undocumented immigrant is found guilty of crime, the person may be deported (section 19).

Ohio SB 9 (signed 3/1/2006) states that state and local authorities should comply with the US Patriot Act. This bill requires that a driver's license applicant be a resident or a temporary resident of the state of Ohio (section 4507.08). The legislation requires ICE to be notified when a suspected non-citizen pleads guilty to or is convicted of a felony. The bill also requires a list of all unauthorized immigrants currently serving prison terms to be compiled and given to ICE to determine if ICE wishes to gain custody of any undocumented prisoner. Aliens currently serving prison terms should be released to the custody of ICE upon completion of their prison term (section 2909.30).

Oklahoma SB 1970 (signed 4/10/2006) requires that all police or peace officers prove U.S. citizenship or legal immigration status before being certified as an officer (section 1).

South Dakota SB 63 (signed 2/28/2006) includes ICE officers in the definition of federal law enforcement officer (section 1).

Legal Services/Assistance

Kansas HB 2485 (signed 3/20/2006) requires notary publics to advertise that they are not authorized to practice law nor give advice as immigration lawyers (section 1). Notary publics can be terminated if their citizenship status is revoked (section 2).

Maine HB 1398/ LD 1996 (signed 5/4/2006), referred to as the Immigration and Nationality Law Assistance Act, specifies requirements for those wishing to provide immigration law services, allowing only those lawyers who have passed the bar to dispense legal immigration advice. The bill also makes state requirements the same as federal requirements for those wishing to practice immigration law (section 3). An immigration assistance provider may not state that he or she receives special privileges or expedited service from any government agency. Notary publics are required to advertise that they do not offer immigration legal services (section 4).

Tennessee HB 3069 (signed by House and Senate Speakers 6/8/2006) prohibits a notary public who is not an attorney licensed to practice law in the state from

advising or assisting in selecting or completing forms affecting or relating to a person's immigration status unless that conduct is specifically authorized by federal law (section 3).

Vermont SB 182 (signed 5/2/2006) requires courts to advise defendants of immigration consequences when pleading guilty to criminal offenses. These consequences include denial of U. S. citizenship or deportation. If the court fails to alert the defendant prior to an admission of guilt, the verdict must be retracted and the defendant may enter a plea of not guilty (section 1).

Omnibus

Georgia's SB 529 (The Georgia Security and Immigration Compliance Act) covers multiple topics and was signed by the Governor on April 17, 2006. The bill requires public employers to participate in a federal **work authorization** program for all new employees beginning July 1, 2007; subcontractors must also register and participate (section 2). The bill increases the penalties for **human trafficking** (section 3). The bill authorizes the state to negotiate a memorandum of understanding with the U.S. Department of Justice or U.S. Department of Homeland Security regarding **enforcement** of federal immigration and customs laws (section 4). If a person is charged with a felony or drunk driving and confined to **jail**, an effort shall be made to determine the nationality; if the person is a foreign national, a reasonable effort shall be made to determine that the person has been admitted into the United States lawfully (section 5). The bill also establishes and enforces standards of ethics by those that provide **immigration assistance services** who are not licensed attorneys (section 6). The bill denies certain deductible **business expenses** unless the worker has been authorized and verified to work in the U.S., beginning in 2008 (section 7). The bill requires **income tax withholding** at 6 percent for those who failed to provide a correct taxpayer identification number (section 8). State agencies must also verify the lawful presence of an individual before awarding certain **benefits**; emergency assistance, vaccines and other programs are exempted (section 9).

Public Benefits

Arizona HB 2448/SB 2738 (signed 4/24/2006) requires U.S. citizenship or legal immigrant status to receive health benefits. An unauthorized immigrant can receive emergency medical services only (section 1).

Arizona HB 2177 (signed 6/28/2006) gives tax credits for health insurance costs for citizens and legal residents only (section 2).

Arizona SB 1137 (signed 6/1/2006) limits eligibility for the Comprehensive Care for the Elderly program to citizens and those with legal alien status (section 1).

Colorado SB 06-219 (signed 6/6/2006) qualifies lawfully present aliens for eligibility for state health benefits and states that emergency medical services should be provided for all people, regardless of status (section 25.5-3-105).

Hawaii HB 2966 (signed 6/9/2006) amends public housing rules and regulations to restrict down payment and mortgage loans to legal aliens, and defines 'qualified applicant' as one who is a citizen or resident alien (part II).

Illinois SB 918 (signed 5/3/2006) outlines requirements for eligibility for the Comprehensive Health Insurance Plan. The Act requires U.S. citizenship or legal immigrant status to be eligible for the state health plan coverage (section 7).

Illinois HB 4302 (signed 6/23/2006) provides prescription drug cost benefits to those who are "not eligible for federally funded means-tested benefits due to immigration status" (section 10).

Kansas HB 2352 (signed 5/22/2006) enacts general eligibility requirements for federally funded programs for public benefits. Medical services offered under a state medical care plan funded by both state and federal monies require citizenship or legal residency status. (section 97:4:e) The bill requires recipients of federally funded child care and protective services to be citizens of the United States. (section 97:2)

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

Maryland HB 89 (signed 5/2/2006) requires the Governor to support the Maryland Medical Assistance Program for health care services for specified legal immigrant children under 18 and pregnant women in the annual budget, beginning in FY 2008. At least \$7 million shall be appropriated each year to provide these services. Pregnant legal immigrant women who entered the country after August 22, 1996 and who meet eligibility guidelines for federal and state medical assistance programs qualify (section 2).

Nebraska LB 1248 (signed 4/13/2006) deems lawfully admitted immigrants eligible for U.S. citizenship to qualify for food stamp benefits, regardless of date of entry (section 70:1). Refugees and those admitted for asylum are also eligible (section

70:2). The income of a U.S. citizen sponsoring a non-U.S. citizen can be used to determine the non-U.S. citizen's eligibility until citizenship is granted (section 70:3).

Trafficking²

Colorado SB 206 (signed 5/30/2006) makes smuggling humans a class 3 felony, unless the adult is an illegal immigrant, which makes the offense a class 2 felony. Smuggling includes offering transportation to someone of illegal residency status enter, pass through, or remain in either the United States or Colorado in exchange for money. A separate offense is brought against the smuggler for each person assisted (section 1).

Colorado SB 207 (signed 5/30/2006) makes human trafficking a crime and increases penalties. Trafficking a human includes selling, exchanging, bartering or leasing an adult (16 years old or older) in exchange for money. Trafficking also includes receiving the services of an adult in exchange for money (section 1). Trafficking of any child under the age of 16 results in a class 3 felony (section 2).

Colorado SB 225 (signed 6/6/2006) creates a division in the Colorado State Patrol Department of Public Safety to address human smuggling and human trafficking on state highways (section 1).

Florida SB 250 (signed 6/12/2006) makes human trafficking a crime. Trafficking includes threatening to or destroying immigration documents for the purposes of forced employment (section 1). Victims of trafficking can receive up to three times the monetary amount for their services as restitution (section 3).

Hawaii HB 2051 (signed 7/3/2006) establishes a task force to study effective strategies to combat human trafficking (section 1).

Iowa SB 2219 (signed 4/21/2006) makes human trafficking a crime and increases penalties. Training regarding the sensitive treatment of trafficking victims is ordered, and communication by law enforcement officials in the language of the victims is encouraged (section 1). A person engages in trafficking by physically restraining the victim or threatening to do so. A person also engages in trafficking by benefiting from the services of the victim or by receiving money for the victim's services. Threatening to or destroying identification documents to force a person into service constitutes trafficking. Trafficking carries a Class D felony charge if the victim is over 18 and a class C felony charge if the victim is under 18 (section 3).

²The terms *smuggling* and *human trafficking* are often thought to be interchangeable. However, *smuggling* refers to illegally crossing a border, and it is a crime for both the smuggler and the person smuggled. *Human trafficking* is the practice of forced labor, typically in the sex industry, and does not require a crossing of any border. The trafficker, not the victim, commits the criminal act.

The value of the labor provided by the victim will be taken into account when restitution is considered (section 5). A trafficking victim may qualify under certain circumstances for a special immigrant visa and may qualify for some federal assistance (section 6). The bill institutes a Victim Compensation Fund (section 8). The bill also calls for a study to examine the effects of trafficking on victims (section 9).

Maine HB 893/ LD 1296 (signed 4/28/2006) establishes a task force to investigate possible deterrents to trafficking (section 1).

Michigan HB 5747 (signed 5/25/2006) stiffens penalties for human trafficking. The bill defines trafficking as threatening a person into forced labor by causing or threatening bodily harm. The penalty for this crime is a prison sentence varying from up to 10 years to life, depending on the severity of the offense (section 462b). The bill also forbids forced labor or services by threatening the destruction of immigration documents, and increases penalties for human trafficking (section 462e). The intention of trafficking a human is also criminal (section 462h). Finally, kidnapping, attempting to kill, murdering, or engaging in criminal sexual conduct with a trafficking victim is punishable by life imprisonment (section 462i).

Mississippi HB 381 (signed 4/21/2006) increases the penalties for a person found guilty of human trafficking of any kind to a possible prison sentence of up to 20 years. A person found guilty of recruiting a minor for employment in the sex industry can receive a prison sentence of up to 30 years (section 3). Destroying or threatening to destroy immigration documents for the purposes of restricting travel will result in a prison term of no more than 5 years. (section 4).

Virginia SB 291 (signed 3/30/2006) makes the act of threatening an individual with reporting illegal status to officials for the purposes of extorting money a class 5 felony.

Voting/Elections

Delaware SB 162 (signed 2/1/2006) amends the Delaware Code Relating to Elections. The amended bill requires that appointed elected officials swear "I will not knowingly or willfully receive or consent to the receiving of the vote of any alien..." upon the opening of a polling place on election day (section 52).

New Hampshire SB 403 (law without signature 6/16/2006) requires proof of citizenship for voter registration purposes (section 1).

Missouri SB 1014 (signed 6/14/2006) mandates that applicants for voter registration may only use identification issued in the U.S. or Missouri (i.e. driver's license, passport, etc). The ID used must include a picture (section 115.427.1).

South Dakota SB 118 (signed 2/22/2006) amends the requirements necessary for voting. When requesting a ballot, a voter must present a passport or government-issued photo identification card before receiving a ballot (section 1).

Virginia HB 170 (signed 5/18/2006) requires the Department of Motor Vehicles (DMV) to provide the State Board of Elections with a list of non-citizen driver's license applicants each month. When collecting this information, the DMV may not offer voter registration to the applicant. The general registrar can cancel voter registration as a result of non-citizen status. The DMV is not required to verify any claims of residency (section 24.2-410.1). The general registrar is required to delete the names of those voters who have non-citizen status. Those names must be kept in a separate database for 4 years (section 24.2-404).

Miscellaneous

Alcohol and Tobacco: Wyoming HB 144 (signed 3/11/2006) allows a permanent resident card or internationally accepted passport to be used as acceptable documentation to rent a keg (section 1).

Gun permits: Georgia HB 1032 (signed 4/20/2006) provides for a check of ICE records for non-citizen applicants. Non-citizen applicants are not permitted to obtain a gun permit (section 1).

Hawaii SB 2263 (signed 4/25/2006) requires the issuing authority to perform an inquiry on non-citizen applicants by using the ICE databases for the National Instant Criminal Background check system before approving or denying a gun permit (section 3).

Virginia HB 1577 (signed 4/19/2006) denies anyone unlawfully residing in the U.S. permission to obtain a handgun permit.

Residency Definition: Idaho HB 457 (signed 3/15/2006) excludes non-resident aliens, defined under the Internal Revenue Code, from the definition of state resident (section 1).

Reporting: Virginia HB 1046 (signed 4/5/2006) requires officers to report to ICE a juvenile who has committed a violent act that would be a crime if committed by an adult and who has also been found to be in the U.S. illegally.

VETOED BILLS

Arizona SB 1157 (vetoed: 4/17/2006) would have criminalized illegal entry into Arizona and allowed trespassers to be prosecuted.

Arizona HB 2577 (vetoed: 6/6/06) would have criminalized illegal immigration status, provided \$160 million in aid to law enforcement agencies to stop flow of immigrants, established fines for businesses who continue to hire undocumented workers after warnings, required law enforcement agencies to train employees in immigration enforcement procedures, and denied education benefits to immigrants.

Arizona HB 2701 (vetoed 3/9/2006) would have allowed the governor to mobilize the National Guard to enforce the border if the state issues a state of emergency resulting from an excessive number of illegal border crossings.

Wisconsin SB 567 (vetoed 5/26/2006) would have required all applicants for state benefit programs to show proof of citizenship or legal immigration status.

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APPENDIX C

Oklahoma Health Care Authority Illegal Immigration Information

MIKE FOGARTY
CHIEF EXECUTIVE OFFICER



BRAD HENRY
GOVERNOR

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

September 18, 2006

Illegal Alien Medicaid Claims (SFY 2003 - 2006)

Below are the Illegal Alien and Medicaid total figures for SFY2003 through SFY2006 (July 2002 - June 2006). Dollars paid figures are based on paid claims history for dollars paid within the state fiscal year, not by the dates of service. Service dates could be for prior fiscal years.

State Fiscal Year	Unduplicated Alien Members Served	Dollars Spent	Unduplicated Medicaid Members Served	Total Medicaid Dollars Spent	Alien % of Total Served	Alien % of Total Dollars
SFY2003						
TOTAL	2,054	\$3,808,601.24	635,299	\$2,453,828,931	0.32%	0.16%
SFY2004						
TOTAL	3,117	\$6,057,617.12	669,102	\$2,711,005,909	0.47%	0.22%
SFY2005						
TOTAL	3,558	\$7,795,268.10	687,451	\$2,805,599,501	0.52%	0.28%
SFY2006						
TOTAL**	4,450	\$9,692,118.38	733,072	\$3,111,109,496	0.61%	0.31%

SFY = July through June

** SFY2006 *Unduplicated Medicaid Members Served* is an *estimate* based upon past year's percentages of enrolled and served. Final SFY2006 served and Alien percent of served will differ from figures presented above.

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS
AND CHILDREN-ELIGIBILITY
PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS

317:35-5-25. Citizenship requirements

(4) Illegal aliens. Illegal aliens who do not meet any of the definitions in (1)-(2) of this subsection are eligible for emergency services only when the individual has a medical condition (including emergency labor and delivery) with acute symptoms which may result in placing his/her health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of body organ or part without immediate medical attention.



STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

What does the Code of Federal Regulations (CFR) say?

42 § 440.255 Limited services available to certain aliens.

(a) *FFP for services.* FFP is available for services provided to aliens described in this section which are necessary to treat an emergency medical condition as defined in paragraphs (b)(1) and (c) or services for pregnant women described in paragraph (b)(2).

(b) *Legalized aliens eligible only for emergency services and services for pregnant women.* Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not in one of the exempt groups described in §§435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services—

(1) Emergency services required after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

(2) Services for pregnant women which are included in the approved State plan. These services include routine prenatal care, labor and delivery, and routine post-partum care. States, at their option, may provide additional plan services for the treatment of conditions which may complicate the pregnancy or delivery.

(c) Effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under the color of law must receive the services necessary to treat the condition defined in paragraph (1) of this section if—

(1) The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part, and

(2) The alien otherwise meets the requirements in §§435.406(c) and 436.406(c) of this subpart.
[55 FR 36823, Sept. 7, 1990; 56 FR 10807, Mar. 14, 1991]

APPENDIX D

CMS and Medicaid Provisions for Illegal Immigrants

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Room 352-G
200 Independence Avenue, SW
Washington, DC 20201



Public Affairs Office

MEDICAID FACT SHEET

July 06, 2006

Contact: CMS Public Affairs
(202) 690-6145

HHS ISSUES FINAL REGULATIONS WITH COMMENT ON CITIZENSHIP GUIDELINES FOR MEDICAID ELIGIBILITY

Overview of New Requirements on Citizenship Documentation for Medicaid Benefits

On July 06, 2006 HHS placed on display at the Federal Register interim final regulations to be published July 12, 2006 for states to implement a new requirement. Effective July 1, persons applying for Medicaid must document their citizenship. The new documentation requirement is outlined in Section 6036 of the Deficit Reduction Act of 2005 (DRA) and is intended to ensure that Medicaid beneficiaries are citizens without imposing undue burdens on them or the states.

Recognizing the diversity of beneficiaries served by Medicaid, the regulations provide for a range of ways that citizenship status and personal identity may be documented. Because seniors and people with a disability who receive Medicare or Supplemental Security Income already have met certain documentation requirements, the regulation does not include new documentation requirements for these groups. This exemption reflects the special treatment of these groups in the statute, implying that they should be exempt from additional documentation requirements.

For all other individuals, in addition to the range of documents outlined in the regulation, states can also document citizenship and identity through data matches with government agencies. Additional types of documentation, such as school records, may also be used for identity of children. If other forms of documentation cannot be obtained, documentation may be provided by a written affidavit, signed under penalty of perjury, from two citizens, one of whom cannot be related to the applicant or recipient, who have specific knowledge of a beneficiary's citizenship status. Applicants or recipients must also submit an affidavit stating why the documents are not available. Affidavits are only expected to be used in rare circumstances. Current beneficiaries should not lose benefits during the period in which they are undertaking a good-faith effort to provide documentation to the state.

The interim final regulations match most of the guidance that was provided to State Medicaid Directors on June 9, 2006. Comments from the public will be accepted through August 11, 2006.

American citizenship or legal immigration status has always been a requirement for Medicaid eligibility; however, beneficiaries could assert their status by checking a box on a form. The DRA requires actual documentary evidence before Medicaid eligibility is granted or renewed beginning July 1, 2006. The provision requires that a person provide both evidence of citizenship and identity. In many cases, a single document will be enough to establish both citizenship and identity such as a passport. However, if secondary documentation is used, such as a birth certificate, the individual will also need evidence of their identity. Once citizenship has been proven, it need not be documented again with each eligibility renewal unless later evidence raises a question.

Guidance Details

Documentary Evidence

The law specifies certain forms of acceptable evidence of citizenship and identity, and provides for the use of additional forms of documentation as established by federal regulations, when appropriate. Today's regulations outline acceptable additional forms of documentary evidence.

The regulations adopt a hierarchical approach already in use by other programs in which documentary evidence of citizenship and identity is sought first from a list of primary documents. If an applicant or recipient presents evidence from the listing of primary documentation, no other information would be required. When such evidence cannot be obtained, the state will look to the next tier of acceptable forms of evidence.

In particular, the following forms of documentation may be accepted:

- Acceptable primary documentation for identification and citizenship:
 - A U.S. Passport.
 - A Certificate of Naturalization (DHS Forms N-550 or N-570).
 - A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561).
- Acceptable secondary documentation to verify proof of citizenship (an identity document is also required):
 - A U.S. birth certificate (data matches with a State Vital Statistics Agency may be used in place of a birth certificate, at the State's option).
 - A Certification of birth issued by the Department of State (Form DS-1350).
 - A Report of Birth Abroad of a U.S. Citizen (Form FS-240).
 - A Certification of Birth Abroad (FS-545).
 - A U.S. Citizen I.D. card (DHS Form I-197).
 - An American Indian Card issued by the Department of Homeland Security with the classification code "KIC". (Issued by DHS to identify U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).
 - Final adoption decree

- Evidence of civil service employment by the U.S. government before June 1976,
- An official military record of service showing a U.S. place of birth
- A Northern Mariana Identification Card. (Issued by the INS to a collectively naturalized citizen of the United States who was born in the Northern Mariana Islands before November 4, 1986).
- Acceptable third level documentation to verify proof of citizenship:
 - Extract of U.S. hospital record of birth established at the time of the person's birth and was created at least 5 years before the initial application date and indicates a U.S. place of birth.
 - Life or health or other insurance record showing a U.S. place of birth and was created at least 5 years before the initial application date.
- Acceptable fourth level documentation to verify proof of citizenship:
 - Federal or State census record showing U.S. citizenship or a U.S. place of birth.
 - Institutional admission papers from a nursing home, skilled nursing care facility or other institution and was created at least 5 years before the initial application date and indicates a U.S. place of birth.
 - Medical (clinic, doctor, or hospital) record and was created at least 5 years before the initial application date and indicates a U.S. place of birth unless the application is for a child under 5.
 - Other document that was created at least 5 years before the application for Medicaid. These documents are Seneca Indian tribal census record, Bureau of Indian Affairs tribal census records of the Navaho Indians, U.S. State Vital Statistics official notification of birth registration, an amended U.S. public birth record that is amended more than 5 years after the person's birth or a statement signed by the physician or midwife who was in attendance at the time of birth.
 - Written affidavit. Written affidavits may be used only in rare circumstances when the state is unable to secure evidence of citizenship from another listing. If the documentation requirement needs to be met through affidavits, the following rules apply: There must be at least two affidavits by individuals who have personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship (the two affidavits could be combined in a joint affidavit). At least one of the individuals making the affidavit cannot be related to the applicant or recipient and cannot be the applicant or recipient. In order for the affidavit to be acceptable the persons making them must be able to provide proof of their own citizenship and identity. If the individual(s) making the affidavit has (have) information which explains why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be readily obtained, the affidavit should contain this information as well. The State must obtain a separate affidavit from the applicant/recipient or other knowledgeable individual (guardian or representative) explaining why the evidence does not exist or cannot be obtained. The affidavits must be signed under penalty of perjury.
- Acceptable documentation to verify proof of identity:
 - A current state driver's license bearing the individual's picture or State identity document also with the individual's picture.
 - Certificate of Indian Blood, or other U.S. American Indian/Alaska Native tribal document.

- A school identification card with a photograph of the individual.
- U.S. military card or draft record.
- Identification card issued by the Federal, State, or local government with the same information included on driver's licenses.
- Military dependent's identification card.
- Native American Tribal document.
- U.S. Coast Guard Merchant Mariner card.
- Data matches with other agencies can be used to verify identity such as those with Federal or State governmental, public assistance, law enforcement, or corrections agencies, at the State's option. Such agencies may include food stamps, child support, corrections, including juvenile detention, motor vehicle, or child protective services.
- For Children under 16, an Affidavit signed under penalty of perjury by a parent or guardian attesting to the child's identity.

Driver's License Documentation to Establish Both Citizenship and Identification

Section 6036(a)(3)(B)(iv) of the DRA permits the use of a valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the Immigration and Nationality Act, but only if the state issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a Social Security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen. CMS is not currently aware that any state has these processes in place at this time. Therefore, until such time that a state has this requirement in place, this documentation may not be accepted.

Reasonable Opportunity

At the time of application or redetermination, the state must give an applicant or recipient a "reasonable opportunity" to present documents establishing U.S. citizenship or nationality and identity. The guidance advises:

- An individual who is already enrolled in Medicaid will remain eligible if he/she continuously shows a good faith effort to present satisfactory evidence of citizenship and identity.
- Applicants for Medicaid should not be made eligible until they have presented the required evidence.
- If the applicant or recipient tries in good faith to present satisfactory documentation, but is unable because the documents are not available, the state should assist the individual in securing these documents.
- If the applicant or recipient cannot obtain the necessary documents and needs assistance (i.e., is homeless, mentally impaired, or physically incapacitated), and lacks someone who can act on their behalf, then the state must assist the applicant or recipient to document U.S. citizenship and identity.

Compliance

As with other Medicaid program requirements, states must implement an effective process for assuring compliance with documentation of citizenship in order to obtain federal matching funds, and effective compliance will be part of Medicaid program integrity monitoring. In particular, audit processes will track the extent to which states rely on more indirect (third and fourth level) categories of documentation, and on affidavits, with the expectation that such categories would be used relatively infrequently and less over time, as state processes and beneficiary documentation improves.

States will receive the normal 50 percent match for administrative expenses related to implementation of the new law.

Outreach

The Centers for Medicare & Medicaid Services, the agency that oversees the Medicaid program, has launched an outreach program to educate states and interested groups about the new requirement. These outreach efforts include presentations to interested groups and tools that states may use to help applicants and recipients understand the requirement. The tools include talking points, questions and answers, a sample press release, drop-in article and lists of acceptable documents. The agency will also work closely with states to help them reach out to their current Medicaid enrollees and the general public outlining the new rules. CMS has already begun to hold training sessions with state officials including regular telephone consultations during which the agency provides whatever technical assistance the states request. CMS has also provided speakers at national conferences of interested groups such as tribal organizations and advocacy groups for minority communities.

For more information about the citizenship documentation requirement, go to:
http://www.cms.hhs.gov/MedicaidEligibility/05_ProofofCitizenship.asp#TopOfPage

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APPENDIX E

Department of Corrections Illegal Immigrant Information

Oklahoma
Department of Corrections

October 2, 2006
www.doc.state.ok.us

Fact Sheet

A.

Information on currently incarcerated offenders with Immigration & Customs Enforcement (ICE) detainers reflected in the Offender Management System*

Gender

	Males	Females	Both
Number	375	12	387
Average Age	33.97	36.75	34.05
Std. Deviation	9.88	9.20	9.86

Ethnicity

	Males	Females	Both
Asian	15	0	15
African American	7	0	7
Hispanic	333	10	343
Native American	0	0	0
Pacific Island	1	0	1
Caucasian	7	2	9
Other	12	0	12
Unknown	0	0	0
Totals	375	12	387

Age

	Males	Females	Both
Age <= 20	5	0	5
Age 21 to 25	68	1	69
Age 26 to 30	100	3	103
Age 31 to 35	67	2	69
Age 36 to 40	44	2	46
Age 41 to 45	41	1	42
Age 46 to 50	24	2	26
Age 51 to 55	14	1	15
Age >= 56	12	0	12
Totals	375	12	387

**Estimated Cost of Incarceration

Number of Offenders	387
Estimated Daily Cost	\$20,782
Estimated Annual Cost	\$7,585,430
<i>**Estimated Cost based on FY 2007 Budgeted Cost of Incarceration.</i>	

*Please be advised that sentence information changes on a daily basis. Reliance of any information provided herein is at users sole risk. The Oklahoma Dept. of Corrections shall not be responsible for any use or reliance on information provided resulting in damages of any kind. We suggest contacting DOC Offender Records for any information on specific records.

Fact Sheet

B.

Controlling Offense

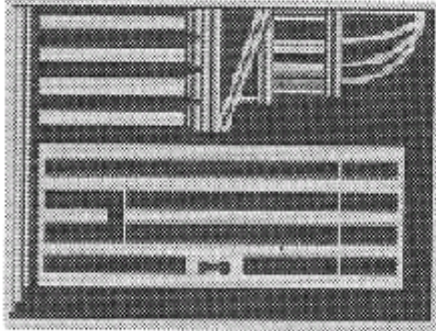
	Males		Females		Both	
	#	Average Sentence*	#	Average Sentence*	#	Average Sentence*
Alcohol Related	16	4.87	0	0	16	4.87
Arson	1	9.00	0	0	1	9.00
Assault	27	9.69	0	0	27	9.69
Bogus Check, Card	1	10.00	0	0	1	10.00
Burglary I	6	5.67	0	0	6	5.67
Burglary II	6	8.33	0	0	6	8.33
Distributing CDS	155	13.23	8	14.25	163	13.28
Embezzlement	0	0	0	0	0	0
Escape	4	3.94	0	0	4	3.94
Explosives	0	0	0	0	0	0
Forgery	1	5.00	0	0	1	5.00
Fraud	0	0	0	0	0	0
Kidnapping	1	6.00	0	0	1	6.00
Larceny	10	4.30	0	0	10	4.30
Manslaughter	3	26.67	0	0	3	26.67
Misc. Non-violent	11	11.95	1	3.00	12	11.21
Misc. Violent	2	26.00	1	45.00	3	32.33
Murder I	12	45.00	0	0	12	45.00
Murder II	4	23.75	0	0	4	23.75
Not Assigned	3	2.00	0	0	3	2.00
Possession, Obtaining CDS	15	2.91	0	0	15	2.91
Rape	37	15.62	0	0	37	15.62
Robbery	21	13.86	0	0	21	13.86
Sex	30	7.92	1	25.00	31	8.47
Unauth. Use of Motor Veh.	2	9.00	0	0	2	9.00
Weapons	7	11.29	1	4.00	8	10.38
Grand Total	375	12.63	12	15.92	387	12.73
Total Violent	145	15.29	2	35.00	147	15.56
Total Non-Violent	227	10.98	10	12.10	237	11.03
Not Assigned	3	2.00	0	0	3	2.00
Total 85%	89	12.79	1	25.00	90	12.93
Total Life	6	N/A	0	N/A	6	N/A
Total Life Without Parole	7	N/A	0	N/A	7	N/A
Total Death Sentences	0	N/A	0	N/A	0	N/A

*Note: "Avg. Sentence" substitutes 45 years for Life, Life without Parole and Death Sentences.

Data Accurate as of: 10/02/06

APPENDIX F

SCAAP Funding



**Oklahoma
Criminal
Justice
Resource
Center**

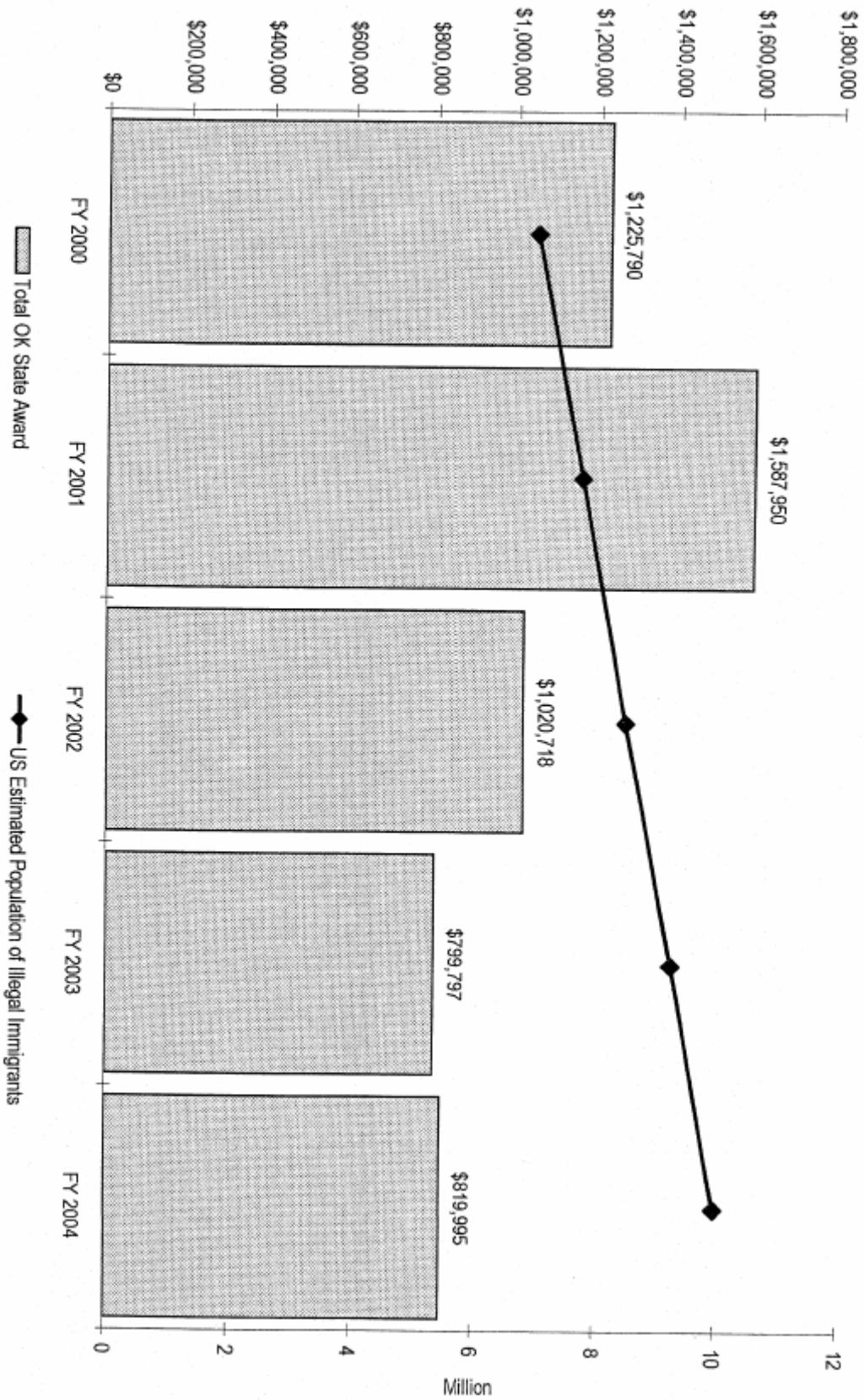
**Report to the Task force on
Oklahoma Illegal Immigration Issues**

October 4, 2006

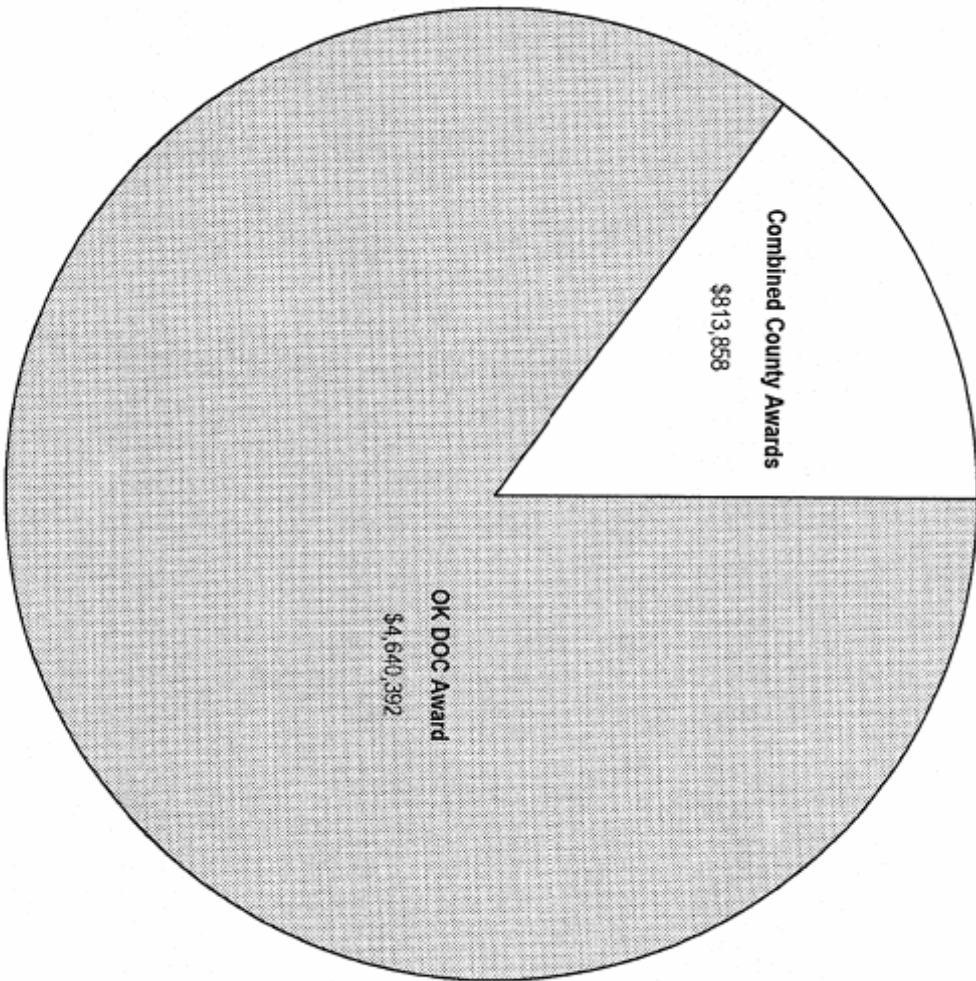
State Criminal Alien Assistance Program (SCAAP)

- Bureau of Justice Assistance administers the program in conjunction with the Bureau of Immigration and Customs Enforcement (ICE), Department of Homeland Security.
- SCAAP provides federal reimbursements to states and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and incarcerated for at least 4 consecutive days during the reporting period.
 - Prior to FY 2003 the incarceration period was 3 consecutive days.
- **Eligible Inmates:** Unless otherwise prohibited, applicants may submit records of inmates in their custody during the reporting period who: were born outside the United States or one of its territories and had no reported or documented claim to U.S. citizenship; were in the applicant's custody for four or more consecutive days during the reporting period; were convicted of a felony or second misdemeanor for violations of state or local law; were identified and reported using due diligence. Once a person meets these criteria, all pre-trial and post-conviction time served from July 1, 2004 through June 30, 2005 may be reported to BJS.
- **Legislation:** SCAAP is governed by Section 241(j) of the Immigration and Nationality Act, 8 U.S.C. § 1231(j), as amended, and Title II, Subtitle C, Section 20301, Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322.
- **Funding:** \$376 million in FY 2006 SCAAP funds will be distributed to eligible applicants. SCAAP payments will be calculated using a formula that provides a relative share of funding to jurisdictions that apply and is based on the number of eligible criminal aliens, as determined by ICE.
- President Bush has consistently eliminated SCAAP funding in his proposed budgets, including the FY'07 budget. Congress has consistently funded it. The executive budget gives the following rationale: "State Criminal Alien Assistance Program (SCAAP) grants ... serve as a form of revenue sharing rather than assistance targeted to a particular need. A 2005 PART assessment rated SCAAP as Results Not Demonstrated. Ending this program will save \$301 million a year."

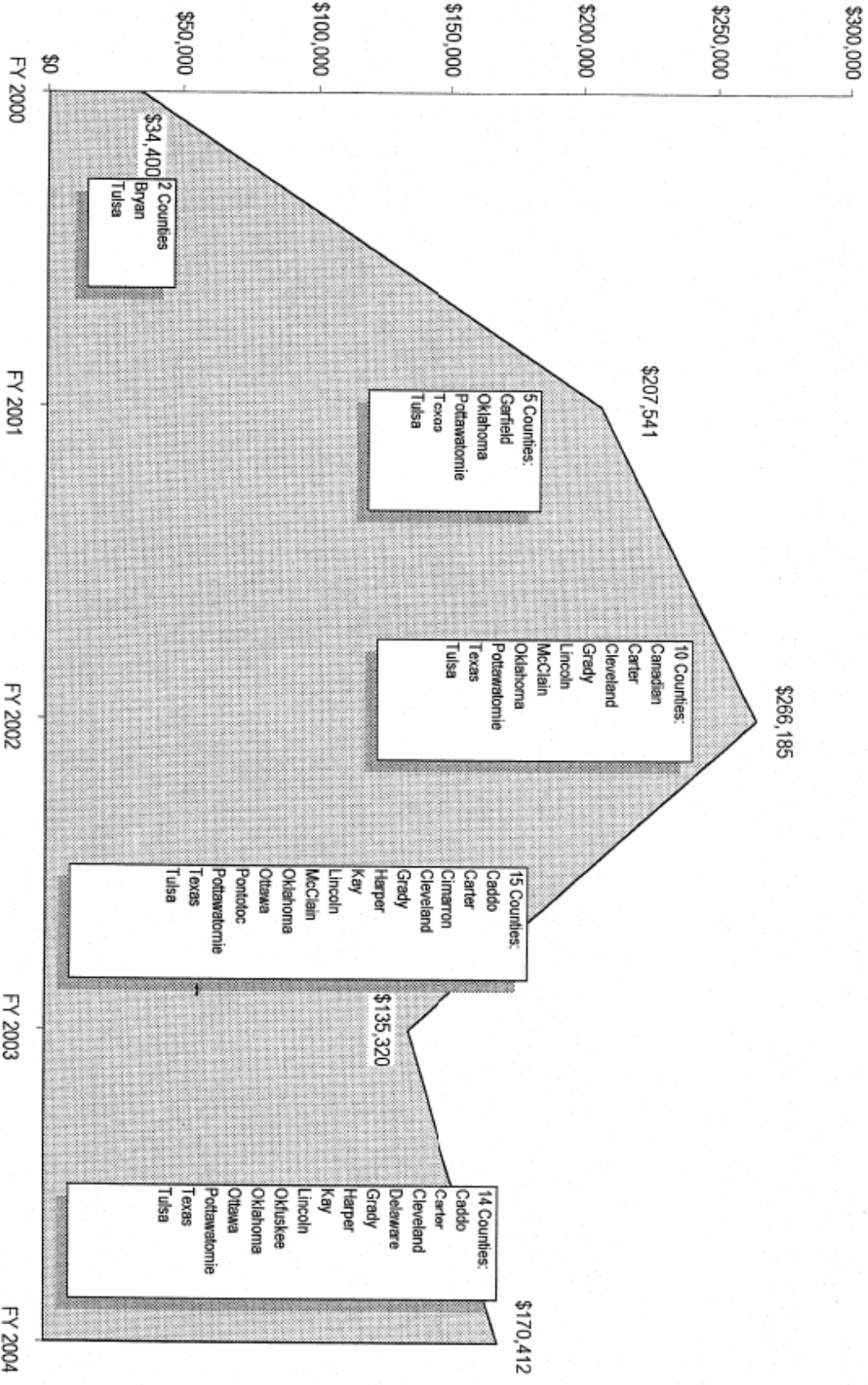
SCAAP Awards to Oklahoma



**5-Year History of Total SCAAP Awards by Recipient of Funds
FY 2000-2004**



Annual SCAAP Award for Oklahoma Counties



Convicted Aliens vs. 'Reimbursable' Aliens

	Immates incarcerated by state prisons and local jails and submitted to SCAAP for reimbursement ¹
Number of convicted criminal aliens	262,105
Number of unique convicted criminal aliens with a FBI identification number and an alien identification number ^{2,3}	59,427
Number of the above unique convicted criminal aliens that ICE determined to have entered the U.S. illegally.	36,741

In FY'03, the SCAAP program reimbursed states for only about 14% of criminal aliens that states had identified.

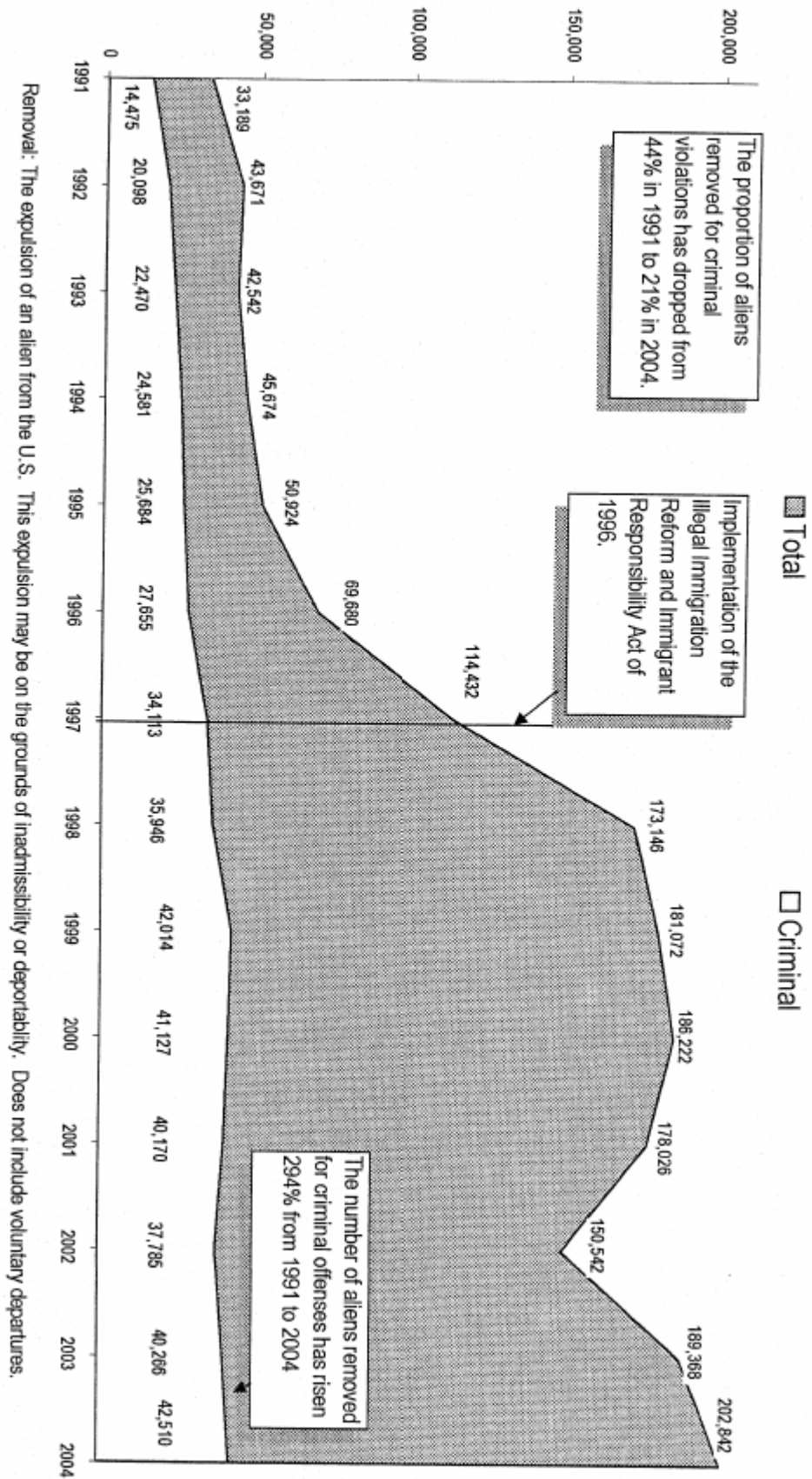
¹ These represent the inmates incarcerated in state prisons and local jails between July 1, 2002, and June 30, 2003.

² The FBI identification number is a unique identifier the FBI assigns to a set of fingerprints that allows linking relevant records of arrest and any subsequent activity within the criminal justice system.

³ An alien identification number is a unique number assigned to an alien who has come into contact with immigration authorities.

Source: U.S. Government Accountability Office, Information on Certain Illegal Aliens Arrested in the United States, Congressional Briefing, April 2005, p. 12 [Online].
 Available: <http://www.gao.gov/docsearch/abstract.php?prno=GAO-05-646R> [October 2, 2006]

Aliens formally removed from the U.S. for violation of immigration laws FY 1991-2004



APPENDIX G

Advancement of Hispanic Students in Higher Education Task Force Undocumented Student Survey - Summary

UNDOCUMENTED STUDENT SURVEY - SUMMARY SUMMER/FALL 2005 & SPRING 2006							DRAFT
INSTITUTION	Number of Undocumented STUDENTS	OTAG	OHLAP	Resident Tuition Waiver	Other State Financial Aid	NOTES	
Cameron University	0						
Carl Albert State College	1						No financial Aid
Connors State College	3				\$2,338.10		1 student receiving financial aid
East Central University	1						No financial Aid
Eastern Oklahoma State College	0						
Langston University	0						
Murray State College	6	\$2,823.00		\$3,328.00	\$2,352.00		6 students receiving financial aid
Northern Oklahoma College	2						No financial Aid
Northeastern State University	2			\$698.50			1 student receiving financial aid
Northwestern Oklahoma State University	1				\$1,500.00		
Northeastern Oklahoma A&M College	0						
Oklahoma City Community College	113	\$8,450.00	\$145.65	\$43,603.31			49 students receiving financial aid
Oklahoma Panhandle State University	5	\$1,500.00		\$2,150.00	\$500.00		3 students receiving financial aid
OSU-Oklahoma City	15	\$3,500.00		\$7,795.00			5 students receiving financial aid
OSU-Oklmulgee	3			\$1,506.00			2 students receiving financial aid
OSU -Stillwater & Tulsa	4	\$1,000.00			\$18,752.09		2 students receiving financial aid

Advancement of Hispanic Students in Higher Education Task Force

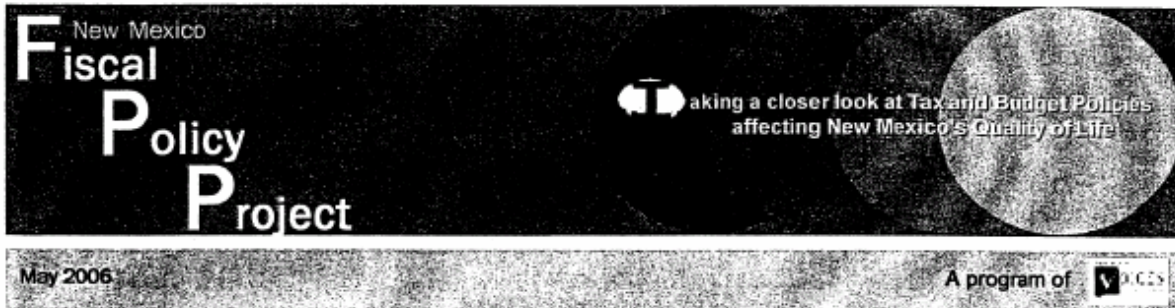
**UNDOCUMENTED STUDENT SURVEY - SUMMARY
SUMMER/FALL 2005 & SPRING 2006**

INSTITUTION	Number of Undocumented STUDENTS	OTAG	OHLAP	Resident Tuition Waiver	Other State Financial Aid	NOTES
Redlands Community College	0					
Rogers State University	3	\$922.00				2 students receiving financial aid
Rose State College	0					
Southeastern Oklahoma State University	1			\$1,600.00	\$1,324.55	
Seminole State College	2					No financial Aid
Southwestern Oklahoma State	3			\$825.00	\$500.00	1 student receiving financial aid
Tulsa Community College	70	\$2,333.00	\$1,195.00	\$1,720.80		7 students receiving financial aid
University of Central Oklahoma	3	\$1,000.00	\$1,499.20			2 students receiving financial aid
University of Oklahoma	8	\$1,000.00		\$8,490.20	\$1,000.00	5 students receiving financial aid
University of Science and Arts of Oklahoma	0					
Western Oklahoma State College	0					
TOTALS	246	\$22,528.00	\$2,839.85	\$71,706.81	\$28,266.74	Total Financial Aid Reported for Undocumented Students \$125,341.40
		0.023%	0.003%	0.074%	0.029%	0.129%
		<p>Percent of \$96.8 million (total program state financial aid and tuition waivers given to ALL Oklahoma students.</p>				<p>86 out of 246 undocumented students received state financial aid (35%)</p>

* Above information is based upon the institutional responses to a survey issued in August 2006 *

APPENDIX H

New Mexico Undocumented Worker Tax Policy



Undocumented Immigrants in New Mexico: State Tax Contributions and Fiscal Concerns

Introduction

Undocumented immigrants are currently the focus of contentious public debate. Even in the recently concluded 2006 legislative session, New Mexico legislators proposed several bills to address increasing concern over unauthorized immigration into the state. Proposed legislation sought to halt the growth of the undocumented population through restricting access to driver's licenses and requiring state and local law enforcement officials to enforce federal immigration laws. One memorial even went so far as to recognize "the failure of the Mexican government to cooperate with the United States in addressing the problem of illegal immigration and insisting that Mexican President Fox and Mexican government officials take immediate, meaningful, and comprehensive action to stop the rapidly increasing flow of migrants illegally crossing New Mexico's southern border."

One argument that regularly surfaces in this discussion is that American taxpayers are subsidizing undocumented persons through government expenditures. The Federation for American Immigration Reform (FAIR), an anti-immigration group, has devoted an extensive section of their website to estimating the costs to government of services provided to unauthorized immigrants. However, the FAIR site — unfairly — makes no attempt at estimating tax payments by unauthorized immigrants, which could offset the costs of government services, if any.

In addition, undocumented immigrants are prohibited by federal law from receiving government services or

transfer payments other than certain mandated services. The mandated services include primary and secondary education and emergency medical care. The services and payments undocumented immigrants are restricted from receiving are non-emergency medical care, Medicaid, Medicare, Social Security, food stamps, child care subsidies, housing assistance, and Temporary Assistance to Needy Families (TANF). Unaware of the federal restrictions, many New Mexicans believe that undocumented immigrants receive many or all of these services.

The public discussion of undocumented immigration has included much speculation on the cost of services provided to, and the tax contributions of, New Mexico's relatively small undocumented population. As pointed out in a recent study by the Georgia Budget and Policy Institute, estimates of the cost of services provided to undocumented immigrants in one specific state often rely on data and studies from other states and include the federally mandated services. In most studies, the cost of services that are not federally mandated cannot be estimated due to the absence of underlying data. Similarly, the absence of data on the undocumented population makes it difficult to estimate the tax contribution that undocumented immigrants make in a specific state.

But there is no question that undocumented immigrants pay taxes. In New Mexico, and in some other states, several types of taxes are impossible to avoid. Several

sources have provided data that, with reasonable assumptions, allow us to estimate the tax contribution undocumented immigrants make in New Mexico. Surprisingly, similar results are arrived at using the data from different sources.

Estimates of the Number of Unauthorized Immigrants in New Mexico

The U.S. Immigration and Naturalization Service (INS) provides an estimate of the undocumented population for each state, although that estimate has not varied since the 2000 Decennial Census. The INS estimates that New Mexico's undocumented population is about 40,000 – or 2 percent of the New Mexico population. Of that undocumented population, the Pew Hispanic Center,¹ estimates that 38,000 have been in the United States fewer than ten years. The average size of undocumented families is 2.3 persons, while the size of families that have been in the U.S. fewer than ten years is slightly smaller at 2.05. The smaller family size for more recent arrivals is presumably due to a heavier representation of migrants who intend to return to Mexico.

The estimate of taxes paid by undocumented immigrants is based on a national method developed by the Institute for Taxation and Economic Policy (ITEP). The ITEP methodology combines national estimates of the average income of the undocumented population with tax rates specific to the state of New Mexico. Sales tax is an indirect tax, meaning that it is levied on sellers of goods and services, who typically pass it on to consumers. Since consumers must pay the sales tax at the point of purchase, these “gross receipts taxes” are impossible to avoid.

Property taxes paid by undocumented immigrants are also impossible to avoid, since they are likewise passed from landlord to tenant within rental fees. Income taxes are more problematic, since their collection depends on whether the employer withholds taxes from an undocumented worker and then pays them to the government.

Estimates of Tax Payments Made by Unauthorized Immigrants

The method for estimating the total state and local taxes paid collectively by unauthorized immigrants begins with an estimate of those taxes paid by each family of unauthorized immigrants. According to numbers calculated by ITEP, and updated to 2004 by New Mexico Voices for Children, the average income for an undocumented family is estimated at \$25,850. Based on this average income, spending patterns for food and other necessities that are subject to gross receipts taxes, and housing patterns for undocumented immigrants, ITEP estimates New Mexico's average tax rates for that wage level are 7.4 percent of income for gross receipts tax, 0.84 percent of income for property tax (passed on to renters) and 1.4 percent for income tax. An unauthorized immigrant family with an income of \$25,850 would pay \$2,230 in sales taxes, \$254 in property taxes, and \$422 in income tax. The combined sales and property tax burden on this family would be \$2,485, while the total tax burden if income taxes are paid would be \$2,907 (Table 1).



Table 1
Annual Taxes Paid by Average Undocumented Immigrant Family
to New Mexico Using ITEP Methodology

	ITEP (New Mexico)			Undoc. Families
	2nd Quintile	3rd Quintile	Avg. 2nd & 3rd Quintile	National Average
Average Income	\$20,130.00	\$31,570.00	\$25,850.00	\$30,140.00
Sales Tax	8.80%	7.20%	8.00%	7.40%
Property Tax (rentals only)	0.80%	0.90%	0.83%	0.84%
Income Tax	0.70%	1.50%	1.10%	1.40%
Sales Taxes Paid				\$2,230.36
Property Taxes Paid				\$254.31
Income Taxes Paid				\$421.96
Total Sales & Property Taxes				\$2,484.67
Total Sales, Income & Property				\$2,906.63

The first set of total tax payment estimates are built from the estimate of the number of undocumented families in the state produced by the INS. With an INS-estimated population of 40,000 and an average family size of 2.3, the number of unauthorized immigrant families is about 17,500. Multiplying the total sales and property tax payment per family of \$2,485 by the total number of undocumented families of 17,500 yields an estimate of \$43.4 million paid in sales and property taxes. If the income tax burden per family of \$422 is included, then the state would collect an additional \$7.37 million.

However, it is widely thought that income taxes are either not withheld from the paychecks of unauthorized

immigrants or that withheld income taxes do not make their way to the Internal Revenue Service or New Mexico's Tax and Revenue Department, instead staying in the bank accounts of the employers. To account for this variable, the ITEP and many other analysts reduced the estimate of personal income taxes paid by unauthorized immigrants by a half (for an estimated 50 percent tax withholding compliance rate by employers). That yields an estimate of \$3.685 million in state income tax payments by undocumented migrants. Adding the \$3.685 million to the \$43.4 million paid in sales and property taxes yields a total of \$47.085 million in taxes paid by undocumented immigrants to the state of New Mexico (Table 2).

Table 2
Total Taxes Paid by Undocumented Immigrants
to New Mexico Using INS Population Estimates

INS Population	Undocumented Families
Undocumented Population (INS 2000)	40,000
Average Family Size (Pew 2004)	2.29
Undocumented Families	17,467.25
Undocumented Aggregate Sales & Property Tax	\$43,400,284
Income Aggregate (INS)	\$7,370,480
Less 50% Compliance Rate	\$3,685,240
Aggregate Income, Sales & Property Tax	\$47,085,524

The second set of total tax payment estimates are built from the population estimate of undocumented families in New Mexico that was produced by the Pew Hispanic Center for 2004² (Table 3). The Pew Hispanic Center estimated New Mexico's undocumented immigrant population at 55,000 – higher than the INS estimates. Using an average family size of 2.3, the number of unauthorized immigrant families is about 24,000. Multiplying the total sales and property tax payment per family of \$2,485 by this number of undocumented families yields an estimate of \$59.675 million paid in

sales and property taxes. With an income tax burden per family of \$422, the total income tax payment is \$10.1 million. However, as explained above, the estimate of personal income taxes paid by unauthorized immigrants has been reduced by a half. This yields an estimate of \$5.067 million in income tax payments by undocumented immigrants. Adding the \$5.067 million to the \$59.675 million paid in sales and property taxes yields an estimate of total taxes paid in New Mexico of \$64.743 million.

Table 3
Total Taxes Paid Using Pew Hispanic Center Population Estimates

Pew Upper Bound Population	Undocumented Families
Undoc. Pop. (Pew 2004)	55,000
Avg. Family Size (Pew 2004)	2.29
Undoc. Families	24,017
Undoc. Aggregate Sales & Property Tax	\$59,675,390
Income Aggregate	\$10,134,410
Less 50% Compliance Rate	\$5,067,205
Aggregate Income, Sales & Property Tax	\$64,742,596

The Pew Hispanic Center also furnishes a separate estimate of family income paid by unauthorized immigrants who have been in the United States fewer than ten years, which is calculated using their estimates of family size. The vast majority of unauthorized immigrants have been here fewer than 10 years. When replicating the estimating procedures described above for unauthorized immigrants who have been in the United States fewer than ten years, the estimates of taxes paid are slightly higher (Table 4). The slightly higher estimates are due to the fact that the

family size for recently arrived immigrants is slightly smaller than those of longer-term immigrants, meaning there are more families relative to the population estimates produced by the INS and the Pew Hispanic Center. More families translates to more households and property taxes paid. The new estimate for sales and property taxes paid for the INS population of 40,000 is \$50.371 million. For the Pew Hispanic Center population estimate of 55,000 that same tax estimate is \$69.260 million.

Table 4
Total Taxes Paid by Families in the U.S. Fewer Than Ten Years

INS Population	Undocumented Families	In U.S. fewer than 10 years
Undoc. Population (INS 2000)	40,000	40,000
Average Family Size (Pew 2004)	2.29	2.05
Undocumented Families	17,467.25	19,512.20
Undocumented Aggregate Sales & Prop. Tax	\$43,400,284	\$46,870,917
Income Aggregate (INS)	\$7,370,480	\$7,001,201
Less 50% Compliance Rate	\$3,685,240	\$3,500,600
Aggregate Income, Sales & Property Tax	\$47,085,524	\$50,371,518
Pew Upper Bound Population		
Undocumented Population (Pew 2004)	55,000	55,000
Average Family Size (Pew 2004)	2.29	2.05
Undocumented Families	24,017	26,829
Undocumented Aggregate Sales & Property Tax	\$59,675,399	\$64,447,511
Income Aggregate	\$10,134,410	\$9,626,651
Less 50% Compliance Rate	\$5,067,205	\$4,813,326
Aggregate Income, Sales & Property Tax	\$64,742,596	\$69,260,837

Estimates of Total Public School Expenditures on Unauthorized Immigrants

The largest category of expenditure imposed by undocumented immigrants on state and local taxpayers is that of public education. Again making reasonable assumptions, it is possible to calculate the state's expenditures for providing education to the children who are undocumented. The per-pupil expenditure on Kindergarten through 12th grade students in New Mexico is \$8,838, with \$1,523 of this per-pupil revenue coming from the federal government, \$6,158 coming from the state government, and \$1,157 from municipal governments. New Mexico's centralized educational finance system leads to the preponderance of educational support coming from the state government's general fund.

The combined per-pupil cost of K-12 education to state and local governments is \$7,331.

The Pew Hispanic Center estimates that one-sixth of the unauthorized population is composed of K-12 school age children. Given this assumption – and the assumption that all undocumented K-12 school age children are in

school – the cost of K-12 education to state and local government is \$49.117 million when using the lower INS population of 40,000 and \$67.445 million when using the higher Pew Hispanic Center population of 55,000.

In either case, the cost of education for unauthorized students is comfortably below the tax payments their families make if we make another reasonable assumption that most of the undocumented immigrant families have been in the US fewer than 10 years, and therefore have fewer children, more families and higher tax payments (Table 5). In the case of the INS estimate, the \$50.371 million paid in taxes minus the \$49.117 million spent for education means undocumented families that have been in the U.S. fewer than ten years paid \$1.253 million more in taxes than undocumented children cost in K-12 education. In the case of the Pew Hispanic Center estimate, the \$69.260 million paid in taxes minus the \$67.445 million spent on education means undocumented families paid \$1.814 million more in taxes than undocumented children cost in K-12 education (Table 6).

Table 5
Public Expenditure on K-12 for Undocumented Students

	Unauthorized Students (according to the Pew Hispanic Center)		Unauthorized Students (according to INS)	
	2003-04	2003-04	2003-04	
	Per Pupil	# of Students		# Students
Per-Pupil Elementary-Secondary	\$8,838	9,200	\$81,309,600	6,700
Revenue from Federal Sources	\$1,523	9,200	\$14,011,600	6,700
Revenue from State Sources	\$6,158	9,200	\$56,653,600	6,700
Revenue from Local Sources	\$1,157	9,200	\$10,644,400	6,700
Revenue from State & Local Sources	\$7,315	9,200	\$67,298,000	6,700
*Source - NM Voices analysis based on Pew Hispanic Center				
The Size and Characteristics of the Unauthorized Migrant Population in New Mexico				
Per-Pupil Current Expenditures	\$7,331	9,200	\$67,445,200	6,700
*Source - Public Education Finances 2004 U.S. Census Bureau, Government Division ITEP or Pew Hispanic Center Analysis of March 2004 CPS				

Table 6
**Difference Between Taxes Paid by Undocumented Immigrant Families
and the State and Local Public Education Expenditures**

Undocumented Families in U.S. fewer than 10 years	
INS Population	
Taxes Paid	\$50,371,518
Education Expenditures	\$49,117,700
Difference	\$1,253,818
Pew Upper Bound Population	
Taxes Paid	\$69,260,000
Education Expenditures	\$67,445,200
Difference	\$1,814,800

Conclusion

Contrary to popular belief, undocumented immigrants pay taxes and are not able to receive public benefits, except for K through 12 public education for their children and emergency health care.³ The taxes that these families pay through unavoidable sales and property taxes cover the state and local share of the public education costs.

In addition to paying their own way for education, undocumented immigrants often pay for Social Security and Medicare when those taxes are deducted from their paychecks. Neither of these social programs is available to them as they age, so in effect, they contribute to the

costs of caring for the elderly who are citizens of this country.

Finally, it is impossible to document the positive impact undocumented workers make to our state. They are often gardeners, housekeepers and nannies; they provide care for our elderly, and work as dishwashers and janitors and in other low-wage industries where they are paid less than the minimum wage. All of their efforts make life easier and richer for the rest of us. But to assume that they get a free ride in New Mexico is a mistake: they pay for the services they receive, and then some.

NM VOICES believes that much of the government's approach to immigration is unnecessarily punitive. Aside from the twin memorials aimed at Mexico's role in immigration, other anti-immigrant bills were introduced during the 2006 Legislative session. None of those bills passed. However, in December of last year, the U.S. House of Representatives passed a draconian bill that would, among other things, make it a felony to be in this country without the proper documentation and to render humanitarian aid to someone who is.

NM VOICES endorses the Principles for Comprehensive Immigration Reform as set forth by the New American Opportunity Campaign (NAOC), which follows six principles:

- 1) Immigration reform must be comprehensive
- 2) Immigration reform must provide a path to citizenship
- 3) Immigration reform must protect workers
- 4) Immigration reform must reunite families
- 5) Immigration reform must restore the rule of law and enhance security
- 6) Immigration reform must promote citizenship and civic participation and help local communities

For the complete text visit http://www.cimnow.org/content/en/about_principles.htm

Federal income taxes that do make it to the state and IRS are filed under Social Security numbers that are either invalid or belong to someone other than the undocumented employee. It is worthwhile to note that in 2005 the Social Security Administration received \$7 billion in benefits that were paid under invalid SS numbers. This is money that undocumented workers will never collect. Likewise, few – if any – undocumented workers ever file for state or federal income tax refunds. Moreover, Immigration and Customs Enforcement officials have targeted employers who provide the SSA with numerous invalid SS numbers, which has resulted in the arrest of undocumented immigrants.

(Endnotes)

¹ The Pew Hispanic Center was founded in 2001 as a non-partisan research organization supported by The Pew Charitable Trusts. Its mission is to improve the understanding of the U.S. Hispanic population and chronicle the growing impact of the Hispanic and Latino populations on the entire nation. It is a nonpartisan "fact tank."

² The Pew Hispanic Center estimates are based on a well-established methodology applied to data from the March 2005 Current Population Survey. A full report on the estimates, including a description of the methodology, can be found in *Size and Characteristics of the Unauthorized*

Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey (<http://pewhispanic.org/reports/report.php?ReportID=61>).

³ While not discussed in this paper, the costs of emergency health care for undocumented people is often re-captured by the University of New Mexico Hospital, which is the state's public hospital. UNMH policy requires payment from undocumented people for health care delivered.