

2008-2009 Immigration Update 7

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Colorado Jobs for Immigrants Decrease Sharply

Analysis of data from the Census Bureau's Current Population Survey indicates that employment of foreign-born workers decreased by 20 percent in Colorado during the first quarter of 2009, when compared to the third quarter of 2007. In real numbers, that is a decline from 315,000 to 252,000. The decline for U.S.-born workers was 0.8 percent, from 2.29 million to 2.28 million.

Employment of immigrants also decreased sharply in Georgia, North Carolina, Arizona, Nevada, and California, but the percentage decline was greatest in Colorado. Nationwide, the decrease in immigrant employment was 9 percent (about 2.1 million workers). Employment of U.S.-born workers nationally decreased by approximately 4 percent (4.5 million workers).

The change in employment is leading some to call for indexing legal immigration numbers to workforce needs. This idea will undoubtedly be part of the immigration debate, which recently resumed in the U.S. Senate.

President Obama Addresses Immigration Issue in Third Press Conference

At his April 29 press conference, President Barack Obama addressed the question of immigration reform in response to a question from Telemundo reporter Lori Montenegro. Affirming that he would work with Senator John McCain and others on this issue, the president provided a response that would be a good text for discussing legislative versus executive responsibility with respect to immigration issues:

We can't continue with a broken immigration system. It's not good for anybody. It's not good for American workers. It's dangerous for Mexican would-be workers who are trying to cross a dangerous border.

It is – it is putting a strain on border communities, who oftentimes have to deal with a host of undocumented workers. And it keeps those undocumented workers in the shadows, which means they can be exploited at the same time as they're depressing U.S. wages.

So, what I hope to happen is that we're able to convene a working group, working with key legislators like Luis Gutierrez and Nydia Velazquez and others to start looking at a framework of how this legislation might be shaped.

In the meantime, what we're trying to do is take some core – some key administrative steps to move the process along to lay the groundwork for legislation. Because the American people need some confidence that if we actually put a package together, we can execute.

So Janet Napolitano, who has great knowledge of this because of having been a border governor, she's already in the process of reviewing and figuring out how can we strengthen our border security in a much more significant way than we're doing.

If the American people don't feel like you can secure the borders, then it's hard to strike a deal that would get people out of the shadows and on a pathway to citizenship who are already here, because the attitude of the average American is going to be, well, you're just going to have hundreds of thousands of more coming in each year.

On the other hand, showing that there is a more thoughtful approach than just raids of a handful of workers as opposed to, for example, taking seriously the violation of companies that sometimes are actively recruiting these workers to come in. That's again something we can start doing administratively.

So what we want to do is to show that we are competent and getting results around immigration, even on the structures that we already have in place, the laws that we already have in place, so that we're building confidence among the American people that we can actually follow through on whatever legislative approach emerges. OK?

I see the process moving this first year. And I'm going to be moving it as quickly as I can. I've been accused of doing too much. We are moving full steam ahead on all fronts.

Ultimately, I don't have control of the legislative calendar, and so we're going to work with legislative leaders to see what we can do.

College Costs for Unauthorized Migrants Continue to Provoke Discussion

Colorado Senate Bill 170, Senator Chris Romer's bill that would have allowed undocumented students to pay in-state tuition at Colorado's public colleges and universities, failed to pass in the 2009 session, but the issue continues to prompt discussion. Romer has said he will introduce the bill again next year.

Meanwhile, the College Board, an organization comprised of 5,000 schools (including 60 Colorado high schools and colleges), released a report in April calling for legislation to make unauthorized migrants eligible for in-state tuition, financial aid, and legalization (upon graduation from college). More information on the College Board position is available at <http://www.collegeboard.com/press/releases/204864.html>.

As the defeat of the Colorado bill makes clear, however, opposition to the idea of giving unauthorized migrants access to higher education on an equitable basis with citizens also remains high. As part of a recent entry in its Room for Debate blog, *The New York Times* asked several experts to respond to a Times article on a family with one U.S.-born child and one undocumented child. The experts' commentary, as well as reader responses, provide insights into the arguments on all sides of the issue. Access the Room for Debate blog entry on this topic at <http://roomfordebate.blogs.nytimes.com/2009/04/27/siblings-divided-by-immigration-laws/#more-5611>.

El Paso County Accesses Federal Funds by Leasing Jail Space for Detention of Unauthorized Immigrants

El Paso County Sheriff Terry Maketa has found a way to supplement his recession-affected budget. He has leased space in the county's jail to the federal Immigration and Customs Enforcement, housing an average of 150 detained immigrants every night. With the federal

government paying \$62.40 per person per night, the arrangement is proving to be quite lucrative, bringing in \$3.6 million in the past year according to a *Denver Post* report (http://www.denverpost.com/news/ci_12174856).

Maketa says that the money is only one reason for working with ICE. "I feel like we're truly contributing to (solving) a national problem," he said. According to the *Post* report, 40 of Colorado's 64 county jails hold immigrants for ICE, but no others do so at the scale that El Paso County has taken on. Deputies who work at the jail in El Paso County have also had ICE training; these deputies can check the immigration status of people picked up by law enforcement agencies in the county and start deportation proceedings if someone is found to be in the country illegally. Some other Colorado counties are considering sending deputies for ICE training so they could take on a similar role. Training of local authorities helps to overcome the challenges created by unavailability of ICE agents to pick up detained immigrants; if no proceedings have been started, the detainees must be released after 48 hours.

The increasing local role in enforcement of immigration laws continues to provoke controversy about issues related to federalism, policy-community relations, and possible profiling.

Judge Rules Tax Records Were Illegally Seized in Weld County Investigation

In the last two updates, we reported on a Weld County identification theft investigation in which the county was using tax records seized from a tax service to identify unauthorized migrants in the county. In early March, a Larimer County judge ordered all documents taken from the tax service be turned over to the court, in effect suspending the investigation until he ruled on the constitutionality of the search.

In April, Judge James H. Hiatt, acting in a civil case brought by the ACLU on behalf of the owner of the tax service, ruled that the search of the tax service was unconstitutional, violating the privacy rights of clients of tax-preparer Amalia Cerrillo. The ruling prevents criminal charges from being filed against any additional unauthorized migrants turned up in the investigation. However, the district attorney can proceed with the cases already filed; judges in those cases will be asked to rule on the admissibility of the seized evidence.

Weld County District Attorney Ken Buck has filed an appeal in the case, asking the Court of Appeals to expedite its examination of the matter.

Number of Children Born to Unauthorized Migrants Increasing

According to a new report from the Pew Hispanic Center, the past five years have seen a sharp rise in the number of U.S. citizens born to parents who are unauthorized migrants. The number has grown from 2.7 million in 2003 to 4 million in 2008.

The report also noted that more than one-third of these children were living below the poverty line in 2007; approximately 18 percent of children born to legal immigrants or U.S.-born parents live in poverty. The percentage of these children who are without health insurance is also significantly higher—25 percent compared to 14 percent for children of legal immigrants or U.S.-born parents.

Children of unauthorized migrants are estimated to make up 6.8 percent of elementary and secondary school students nationwide; the percentages are higher in several Southwestern

states, including Colorado. Adult unauthorized migrants were found to have lower rates of education than legal immigrants and U.S.-born citizens: nearly one-third have less than a ninth-grade education; the numbers for legal immigrants and U.S.-born residents are 13 and 2 percent respectively.

The report can be accessed at <http://pewhispanic.org/reports/report.php?ReportID=107>.

The Economy and Immigration: H-1B Visa Applications Slow

H-1B visas are temporary work visas granted for highly skilled workers (often in high-tech industries). For FY 2010, the number of H-1B visas is capped at 65,000. In recent years, the U.S. Citizenship and Immigration Service has received significantly more applications than the capped limit, often within a week of the first day on which applications are accepted (April 1). This year, however, by April 24, only 45,000 applications had been received at USCIS. Many observers believe the decline in applications is due to the economic downturn. Others say it is due to attitudes toward H-1B hires; Congress recently limited banks' ability to hire H-1B workers, and other employers believe this is a signal that such hires are a growing public relations problem. Employers do not have to prove that there is no American qualified and willing to take the jobs for which they seek H-1B visas; thus, the reasons for hiring a foreign worker may be economic (companies may pay H-1B workers less than they pay a U.S. citizen holding a similar job). Many U.S.-born workers find this an unpersuasive reason for hiring a foreign worker instead of a U.S. citizen.

An NPR story on the decline in H-1B visa applications is available at <http://www.npr.org/templates/story/story.php?storyId=102887311>.

AP Investigation Reveals Citizens Mistakenly Detained and Deported

Pedro Guzman is a natural-born U.S. citizen. This young man in his 30s was deported in 2007; he did sign a waiver agreeing to leave the United States, but this fact must be considered in light of the fact that Guzman is both illiterate and mentally ill. Guzman's case is one of 55 documented in a Associated Press report of its months-long investigation revealing that increased enforcement of immigration laws has resulted in detention and deportation of increasing numbers of U.S. citizens. Immigration attorneys say there are many more such cases.

Hispanic citizens are most likely to be affected; those who are poor, mentally ill, or having outstanding warrants (whether for unpaid traffic tickets or serious offenses) are also at greater risk. Some of the detentions of U.S. citizens occurred as a result of immigration raids at workplaces. These raids, which increased dramatically in recent years, have resulted in a number of lawsuits alleging that the government illegally detained citizens.

Articles based on the report can be found on many news sites, including Yahoo! News (http://news.yahoo.com/s/ap/20090412/ap_on_re_us/mistaken_for_illegal_i).

The Widow Penalty

Across the country, an estimated 200 people find themselves in a unique legal position—while they were applying for green cards, their U.S. citizen spouses died before their second wedding anniversary.. These widows and widowers have faced automatic denials of their green

cards as well as threat of deportation. Currently, a number of lawsuits are underway regarding these cases. In mid-April, U.S. District Judge Christina Snyder made a preliminary ruling that the Department of Homeland Security should reopen the cases. In addition DHS Secretary Janet Napolitano listed the so-called "widow penalty" as an area of immigration policy that needed attention. Senator Bill Nelson (D-Florida) and Congressman Jim McGovern (D-Massachusetts) have introduced legislation to end the so-called "widow penalty."

The New York Times published an editorial on the widow penalty on April 27 (http://www.nytimes.com/2009/04/28/opinion/28tue3.html?_r=1); the advocacy group Surviving Spouses Against Deportation (<http://www.ssad.org/>) provides links to numerous articles related to the topic.

June 20: Colorado Refugee Day

The Colorado legislature recently passed a resolution declaring June 20 to be Colorado Refugee Day. Colorado Refugee Day is designated to honor refugees for their contributions to their communities, especially Colorado communities; to remember the millions of refugees who await relocation in perilous circumstances and encourage Coloradans to support refugee protection and assistance efforts; to pay tribute to humanitarian workers who work to assist refugees; and to encourage Coloradans to learn more about efforts to resettle refugees in our communities.

June 20 is the day the United Nations has set aside as its annual World Refugee Day. Information on the UN observance, including information on a student poster contest, is available at http://www.unrefugees.org/site/c.lfIQKSOWFqG/b.5106135/k.B3C4/World_Refugee_Day.htm.