

## The Council of State Governments

### *Intergovernmental Affairs Committee*

#### Statement of Intergovernmental Policy: Immigration

**Overview:** Although immigration and naturalization is the primary responsibility of the federal government, these policies have direct implications for all three branches of state government. The Council of State Governments recognizes the invaluable contribution made by immigrants to our country. The pursuit of policies which facilitate legal and efficient integration of immigrants is both consistent with our founding principles and vital for the future of our society. However, these policies must be developed and pursued in close coordination with the states. The Council also expects the federal government to acknowledge and take steps to mitigate the negative impact upon state budgets caused by federal immigration and naturalization policies when it comes to education, law enforcement, health and other state provided services. This statement of policy outlines The Council's concerns as Congress pursues legislation on immigration policy, with emphasis on four primary principles.

- Any immigration legislation must state that the role of state and local law enforcement is limited to criminal, not civil violations of law, except in cases where a state or local government has voluntarily agreed to accept responsibility for enforcing federal immigration policy.
- Any immigration reform legislation must contain full funding for the State Criminal Alien Assistance Program.
- Any immigration reform legislation must ensure that state and local governments are able to address the public health concerns of their communities and prevent cost-shifts for the provision of basic and emergency health care services.
- Any immigration reform legislation should build on state and local government capacity to integrate newcomers into communities, through close coordination with state and local governments and adequate funding for English as a Second Language instruction and other vital services.

#### **Immigration and Law Enforcement:**

Congress is considering legislation that would shift the federal responsibility for enforcing civil immigration law to state and local government. Such a shift would divert critical resources from state and local law enforcement agencies and compromise public safety. In addition, since most state and local law enforcement agencies lack training in the complexities of immigration law, a shift of responsibility may risk complaints of racial profiling, compromise successful community policing efforts and expose

governments to increased liability from the very communities that they serve. Enforcement of federal immigration laws is a federal responsibility and should remain so, with the exception of the Memorandum of Understanding (MOU) process. This alternative, currently used by the states of Alabama and Florida, gives states and localities the option to enter into a voluntary formal agreement with the U.S. Department of Justice and the U.S. Department of Homeland Security. When training under the MOU is fully funded by the federal government, this process offers a viable way to give states and communities the choice of whether local enforcement of federal immigration laws is appropriate for them.

**The State Criminal Alien Assistance Program:**

The burden of incarcerating unauthorized immigrants who have committed crimes, been convicted and are serving their time in state and local jails should be fully borne by the federal government. The State Criminal Alien Assistance Program (SCAAP) is a program through which states are reimbursed for the costs associated with incarcerating unauthorized aliens. Without federal funding to share the burden among all states, the costs are unfairly borne by the few states heavily impacted by immigration. SCAAP currently reimburses state and local governments for approximately 25 percent of the total costs incurred. There have been repeated efforts by the federal government to zero out this funding, including in the President's FY 2007 budget. Shifting these costs to cities and states weakens the intergovernmental partnership to combat crime. No immigration reform legislation will be complete without due attention to both the programmatic and fiscal aspects of SCAAP.


**Education, Civic Integration, and Efficient Visa Processing:**

Any successful comprehensive immigration reform policy must address the issues associated with the adequacy and funding of English language instruction. English language instruction helps to provide an easier transition to newcomers and improves community relations. We support substantial federal funding for English language instruction in our nation's schools as well as in other organizations that provide services to immigrants. With regard to our nation's schools, we are committed to ensuring that all students receive a quality education, regardless of their citizenship. We also support increased funding for citizenship counseling and civics training to further facilitate the transition to citizenship. In addition, a sensible visa policy should be instituted both to allow immigrant students to attend colleges and universities in the United States and to facilitate foreign investment in state economies.

**Health Care:**

Another issue of concern to state and local governments is the provision of health care services to immigrant populations. Immigrant populations' use of medical services is a long-standing issue of concern for medical providers. Often, public hospital emergency rooms are the first point of entry when immigrant populations receive medical care. By law, hospitals that receive Medicare funding must screen everyone seeking emergency care and provide treatment, regardless of the individuals' ability to pay.

Adopted this 10<sup>th</sup> Day of May, 2006 at the  
CSG Spring National Committee and Task Force Meetings  
In White Sulphur Springs, West Virginia



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Governor Jim Douglas  
2006 CSG President



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Senate President Earl Ray Tomblin  
2006 CSG Chair