

**MINORITY REPORT
OF THE
INTERIM STUDY COMMITTEE ON
IMMIGRATION ISSUES**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

November, 2008

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2008

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INTERIM STUDY COMMITTEE ON IMMIGRATION ISSUES

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at [http://www.in.gov/legislative/.](http://www.in.gov/legislative/)

I. LEGISLATIVE COUNCIL DIRECTIVE

The Legislative Council directed the Committee to make findings and recommendations on the following topics:

- A. The financial impact of individuals unlawfully present in the United States on the following, in Indiana:
 - (1) Education.
 - (2) Health care.
 - (3) The criminal justice system.
 - (4) Social services.
- B. The impact of individuals unlawfully present in the United States on the following, in Indiana:
 - (1) Wages and employment.
 - (2) State and local entities that issue or routinely check identification.
- C. Federal limitations on state actions regarding immigration.
- D. The current and future potential of the E-Verify system (including its successors and/or alternatives) regarding reliability, accessibility, and dependability.

II. REQUEST FOR A MINORITY REPORT

Legislative Council Resolution 08-02, Section 12, reads as follows:

SECTION 12. STUDY COMMITTEE MINORITY REPORTS. LSA study committee staff may not prepare a "minority report" for members of a study committee unless at least 4 legislator members of that committee jointly make such a request in writing to the Executive Director of the LSA. The request must be made within 5 working days after adoption of a final report, and the minority report must be completed by not later than 10 working days after the date the request is made. No more than 1 minority report may be prepared for any study committee.

Pursuant to this provision of the Legislative Council Resolution, Senator Delph, Representative Tincher, Representative Walorski, and Representative Koch, all members of the Interim Study Committee on Immigration Issues (Committee), made a request in writing to Mr. Jack Ross, Executive Director of LSA, to include a minority report in the final report of the Committee. The request was made within 5 working days after the adoption of the final report, and no other minority report has been requested or prepared for this Committee.

III. REASONS FOR THE MINORITY REPORT AND FINDINGS

Senator Delph, Representative Tincher, Representative Walorski, and Representative Koch requested that the minority report include additional items that were not included in the Committee's final report. The four Committee members specifically requested that the following findings be included in this minority report:

(1) After the Committee heard from law school professors on preemption and constitutional issues concerning state illegal immigration legislation at the Committee meeting on September 9, 2008, the Ninth Circuit Court of Appeals in *Chicanos Por La Causa, Inc. v. Napolitano*, No. 07-17272, 2008 WL 4225536 (9th Cir. 2008) contradicted the testimony provided by the law school professors with its ruling upholding the constitutionality of the Arizona legislation concerning illegal immigration. Language from the Arizona legislation was a key component of Senator Delph's and Representative Tincher's proposed legislation in the 2008 session of the Indiana General Assembly.

(2) A public opinion survey conducted by WISH TV, Channel 8 Indianapolis in mid-October of 2008 concluded that 71% of respondents supported tougher penalties on employers who knowingly and willingly hire illegal immigrants.

(3) The Committee's limited interaction with the federal government, specifically the United States Department of Homeland Security, has hampered full public vetting of complex law enforcement matters. This is a result of the United States Immigration and Customs Enforcement agency's (ICE) policies that restrict ICE experts from sharing testimony at public meetings and also restrict collaboration with state and local governments. However, ICE has offered to participate in private meetings with members of the Indiana General Assembly.

(4) The 287(g) program (section 287(g) of the Immigration and Nationality Act) is an effective tool for the enforcement of immigration laws. Local law enforcement officials testified in support of the 287(g) program at the Committee meeting on September 16, 2008. In addition, Representative Murphy testified at the Committee meeting on November 10, 2008, that the 287(g) program is working well in Alabama.

(5) The Citizens for Immigration Law Enforcement Recommendations.¹

¹ Exhibit 1

(6) A memorandum from Carl Little, Director of Government Relations/Legal Counsel for the Federation for American Immigration Reform, concerning the cost of illegal immigration to Indiana taxpayers.²

(7) A memorandum from Mark Krikorian, Executive Director of the Center for Immigration Studies, concerning immigration control and national security.³

(8) An excerpt from a report from the Center for Immigration Studies entitled "Remaking the Political Landscape The Impact of Illegal and Legal Immigration on Congressional Apportionment."⁴

(9) An email from the Indiana Federation for Immigration Reform and Enforcement concerning costs associated with illegal immigration.⁵

(10) News articles concerning illegal immigration from various news sources.⁶

Senator Delph, Representative Tincher, Representative Walorski, and Representative Koch reviewed and approved this minority report.

² Exhibit 2

³ Exhibit 3

⁴ Exhibit 4

⁵ Exhibit 5

⁶ Exhibit 6