

HB 409 would have amended provisions related to in-state tuition to clarify that a resident for tuition purposes must also be a legal resident “who is lawfully in the United States.” The bill also specifically mandated that illegal aliens are not eligible for the in-state tuition rate or the resident community college tuition rate. HB 164 clarified that community colleges, in particular, cannot grant in-state tuition to individuals who are not lawfully present in the United States. According to the N.C. Fiscal Research Division, the North Carolina Community College system provides classes at “no charge” to all persons – both “documented or undocumented” – via the Basic Skills program. The UNC Policy Manual (700.1.4(G)) also explicitly acknowledges that “undocumented aliens are eligible to be considered for admission as undergraduates at UNC constituent institutions based on their individual qualifications.”

■ Taxation and Employment

Tax on Illegal Immigrant Wire Transfers: HB 598

Status: Referred to Judiciary II

Cost: Fiscal impact could not be determined, likely positive

This bill would have imposed an additional 5 percent excise tax on wire transfers by illegal aliens. The bill required retailers to attempt to confirm a person’s legal status. More problematic is that the bill would most likely have been found to be unconstitutional. A more practicable approach would be to extend the tax to all international transfers via state laws pertaining to banking regulations.

Security and Immigration Compliance: SB 1189/HB 55

Status: Referred to Judiciary I in Senate; Rules Committee in House

Cost: No fiscal note

This wide-ranging bill included several provisions aimed at reducing illegal immigration: 1) a requirement that all public employers (and not just state employees and school systems, per S.L. 2006-259) and contractors and subcontractors with a public employer use the Basic Pilot Program (now E-Verify) to verify the legal status of all employees; 2) a mandate that the Secretary of Crime Control and Public Safety negotiate a “memorandum of understanding . . . concerning the enforcement of federal immigration and customs laws” – in effect, this memorandum would have facilitated the statewide implementation of the 287(g) program; 3) a requirement that jail personnel “make a reasonable effort” to verify the legal status of an inmate and notify the Department of Homeland Security if the person is an illegal alien; 4) regulations regarding immigration assistance services, with additional penalties for making false claims in regard to such services; 5) the elimination of the state tax deduction for wages paid to an illegal alien; and 6) verification of legal status to receive public benefits. Cf. also Enforce Federal Immigration Laws (SB 807); State Contracts/Illegal Immigrants (HB 308); Verify Government Employee Legal Status (HB 309); and HB 1485, above

Restrict Contracts and Benefits: SB 573

Status: Referred to Finance Committee

Cost: No fiscal note

This legislation would have denied economic development incentives to companies that employ illegal aliens. The bill required businesses to certify that they do not employ illegal aliens, but did not require businesses to participate in the Basic Pilot/E-Verify Program. The bill, however, does require all state and local contractors to use the Basic Pilot Program to verify the legal status of each of their employees. In addition, the legislation would have required state agencies to use the federal SAVE (Systematic Alienation Verification Program for Entitlements) program to verify the legal status of all applicants for public assistance.

Illegal Immigrants Tax Collection Enforcement: SB 988

Status: Referred to the Appropriations Committee

Cost: No fiscal note, likely positive

This legislation would have required the state to develop a “work eligibility portal” linked to the federal Basic Pilot Employment Verification (now E-Verify) Program. The bill also would have made it a class I felony not to report and pay taxes arising from the employment of an illegal alien.



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Legislative Recap

IMMIGRATION LEGISLATION What Passed & What Didn't Pass 2007-2008 Session

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LEGISLATION THAT PASSED DURING THE 2008 SESSION

The Budget: (HB 2436/S.L. 2008-107)

Reversing the progress made in the FY2007-2008 budget (see below), the “short session” budget slashed funding for 287(g) to \$600,000. The House budget had proposed \$1 million in nonrecurring funds for the program while the Senate only allocated \$500,000. Both the House and Senate budgets also mandated an overview of this initiative. The 287(g) program trains local law enforcement officers to help enforce immigration law. The budget also increased funding for Learn & Earn, the Limited English Proficiency program, and family planning services for illegal aliens.

Limited Release from Prison for Deportation: SB 1955

Status: Presented to Governor on July 9, 2008

Cost: Expected to open up 250 prison beds per year

Sponsored by Senate Majority Leader Tony Rand (D-Cumberland), this law provides for the early release of illegal aliens convicted of a nonviolent crime, such as drunk driving. Illegal alien inmates eligible for early release will serve at least half of the required minimum sentence and then be released into the custody of the U.S. Immigration and Customs Enforcement (ICE) Agency for deportation.

LEGISLATION OF NOTE THAT DID NOT PASS

Employers Must Use Federal E-Verify Program: SB 2002/HB 2610

Status: Referred to Committee on Homeland Security, Military and Veterans Affairs in the Senate; Appropriations/Base Budget in the House

Cost: No fiscal note

This bill would have required all public and private employers in North Carolina to use the federal E-Verify program, a federal online database used to validate work authorization information for new employees. The bill also stipulated that employers that hire illegal aliens will lose their business license. Both versions of the bill enjoyed bipartisan support. In June 2008, President George W. Bush issued an executive order requiring all federal contractors to use E-Verify.

No Postsecondary Education/Illegal Aliens: HJR 2237

Status: Referred to Committee on Rules, Calendar and Operations

Cost: No fiscal note, fiscal impact likely positive

This bill would have permitted the General Assembly to consider legislation prohibiting illegal aliens from attending all public universities and community colleges in North Carolina. Owing to rules regarding the consideration of bills during the short session, a joint resolution was ostensibly needed to permit this legislation to come to the floor. South Carolina passed such a ban in June 2008.

Representative Debbie Clary (R-Cleveland) also sponsored an amendment to the House budget bill (HB 2436) that would have required all community college students enrolled in both curriculum and continuing education (e.g., Basic Skills) courses to be in the United States legally. The amendment was ruled out of order by the House leadership and did not come up for a vote.

Access to Higher Education: HB 2717

Status: Referred to Committee on Education

Cost: No fiscal note, fiscal impact likely negative

This bill would have prohibited all public universities and community colleges from inquiring about the immigration status of any student, thus permitting illegal alien students to attend any public higher educational institution.

CIVITAS INSTITUTE PUBLICATION

Oppose Real ID Act of 2005: SB 1786/HB 2136

Status: Passed House; referred to Committee on Commerce, Small Business and Entrepreneurship

Cost: Positive fiscal impact of \$200-\$300 million

Characterizing Real ID as an “unfunded federal mandate,” this legislation would have halted state compliance with the Real ID Act. The North Carolina Department of Motor Vehicles plans to be “materially compliant” with Real ID by December 1, 2008.

Authorizing/Voting in English: SJR 2029

Status: Referred to Committee on Rules and Operations

Cost: No fiscal note

This resolution would have permitted the General Assembly to consider legislation requiring voter registration forms be printed in English, except where prohibited by federal law.

LEGISLATION INTRODUCED DURING THE 2007 SESSION

During the 2007 “long” session, the General Assembly managed to pass only one bill directly related to illegal immigration. The budget also included \$750,000 to fund an expansion of the 287(g) program. In spite of strong popular support for illegal immigration reform, numerous attempts at reform died in committee. In the Senate, Robert Pittenger (R-Mecklenburg) was a chief sponsor of many of these measures while George Cleveland (R-Onslow) led the way in the House. It is worth noting that some of the bills below, such as HB 1485, not only seek to reduce illegal immigration, but also provide protections for legal immigrants.

LEGISLATION THAT PASSED

Residency Status of Jailed Persons (SB 229/ S.L. 2007-494)

Status: Signed by Governor Easley on August 30, 2007

Cost: Minimal fiscal impact

This law requires jail personnel to verify the immigration status of persons convicted of a felony or a DWI. The state is to annually report the results of this verification process – not to the Department of Homeland Security – but to the Governor’s Crime Commission. According to the legislation, the mere fact that the state makes an inquiry through U.S. Customs regarding a prisoner’s legal status provides sufficient notice to federal authorities. By contrast, similar measures in Georgia (SB 529) and Colorado (SB 90) require jail personnel to formally alert federal immigration authorities regarding the legal status of jailed persons.

Migrant Housing Health/Safety (SB 1466/ S.L. 2007-548)

Status: Signed by Governor Easley on August 31, 2007

Cost: No fiscal note

This law pertains to various matters related to the state regulation of migrant housing. The bill, for instance, requires that each migrant be furnished with a “bed that shall include a mattress in good repair with a clean cover.” The bill also permits employers to self-inspect migrant housing if the housing unit has received a 100 percent compliance rating for two consecutive years. If crafted in the correct manner, legislation not unlike this bill – that regulates the living and working conditions of certain kinds of laborers – could be used to discourage employers from hiring illegals. Senator Phil Berger (R-Rockingham) offered an amendment to the bill requiring state inspectors to verify the legal status of migrant workers, but the amendment was not allowed to be voted on by Senate Majority Leader Tony Rand.

The Budget: (HB 1473/S.L. 2007-323)

The FY2007-2008 budget included only one line item directly related to illegal immigration:

- **Illegal Immigration Project:** The budget allocated \$750,000 in nonrecurring funds to the North Carolina Sheriff’s Association for “technical assistance and training associated with immigration enforcement.” Essentially, the money is to be used to help fund the expansion of the popular 287(g) program throughout the state.

The budget also contained several other initiatives that expanded educational and healthcare programs that will benefit illegal aliens and/or their children. These include:

- **Disadvantaged Student Supplemental Fund (DSSF):** The budget increased DSSF funding by \$35 million over two years. Among other things, such funding is to be used to identify and provide services to “students with limited proficiency in the English language.”
- **Learn & Earn:** The two-year budget allocated \$6.4 million for Learn & Earn expansion and \$21.6 million for Learn & Earn Online. Nothing in the budget prohibits illegal aliens from taking advantage of this program to obtain a free college education.

- **NC Kids Care:** This \$7.4 million program expands taxpayer subsidized insurance to families that earn between 200 percent and 300 percent of federal poverty level. The final budget dropped language (cf. HB 1476) in an early draft of such legislation that would have explicitly required participants to “meet applicable federal citizenship and immigration requirements.” While both NC Kids Care and NC Health Choice are subject to “federal requirements,” the change in language is noteworthy.

- **Family Planning Services:** The budget provides \$400,000 over two years in recurring funds for “family planning services to uninsured women who are not eligible for Medicaid.” Such services include voluntary sterilization, pregnancy testing, and most forms of birth control (including those that act as abortifacients).

LEGISLATION OF NOTE THAT DID NOT PASS

■ Law Enforcement and Fraud

NC Illegal Immigration Prevention Act: HB 1485

Status: Referred to the Committee on Homeland Security, Military and Veterans Affairs

Cost: \$5.7 million to \$6.1 million

This comprehensive immigration reform bill aimed to: 1) require all public and private employers to use a federal work authorization program (E-Verify) to verify the legal status of all employees; 2) mandate that the Secretary of Crime Control and Public Safety negotiate a “memorandum of understanding ... concerning the enforcement of federal immigration and customs laws” – in effect, this memorandum would have facilitated the statewide implementation of the 287(g) program; 3) require jail personnel to “make a reasonable effort” to verify the legal status of an inmate and notify the Department of Homeland Security if the person is an illegal alien; 4) regulate immigration assistance services and create additional penalties for making false claims in regard to such services; 5) eliminate the state tax deduction for wages paid to an illegal alien; and 6) require verification of legal status (i.e., the SAVE program) to receive public benefits.

Reduce Illegal Aliens in Jails: SB 405

Status: Referred to Judiciary I

Cost: No fiscal note

Although similar to SB 229, this bill required jail personnel to actually notify the U.S. Immigration and Customs Enforcement Division and request that the detainee be taken into federal custody.

Arrest Authority Over Illegal Immigrants: HB 1620

Status: Referred to the Committee on Homeland Security, Military and Veterans Affairs

Cost: No fiscal note

This legislation clarified that law enforcement officers may arrest an individual identified by the National Criminal Information Center as having an outstanding charge, warrant or detainer from either Immigration and Customs Enforcement or the Department of Homeland Security.

Sheriffs Immigration Enforcement Funds: HB 1950

Status: Referred to the Appropriations Committee

Cost: \$1.75 million

This bill would have appropriated from the General Fund \$1.75 million to encourage county sheriffs to apply for the federal 287(g) program. The 287(g) program trains and empowers local law enforcement officers to enforce federal immigration laws. The program has been used to great effect in Mecklenburg County to verify the immigration status of inmates and more quickly process them for transfer to a federal detention center and eventual deportation. (As indicated above, the FY2007-2008 budget included \$750,000 in nonrecurring funds for “technical assistance and training associated with immigration enforcement.”)

Ensure Integrity of N.C. Drivers Licenses: HB 1399

Status: Referred to Committee on Homeland Security, Military and Veterans Affairs

Cost: No fiscal note

This bill would have prohibited the use of foreign documents, such as a matricula consular, to obtain or renew a driver’s license. Instead, a valid passport, along with “valid documentation demonstrating legal presence in the United States,” would be necessary to obtain a North Carolina driver’s license. The bill also would have made it a Class A1 misdemeanor to obtain a driver’s license or identification card using false information. See also Require Passport for Drivers License (SB 298)

■ Education

No In-State Tuition if Unlawfully in U.S.: HB 409 and HB 164

Status: Referred to the Education Committee

Cost: No fiscal note, likely positive