



# REPORT TO COUNCIL City of Sacramento

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25

Staff Report  
May 25, 2010

Honorable Mayor and  
Members of the City Council

**Title:** Report Back: Arizona Illegal Immigration Legislation SB 1070

**Location/Council District:** Citywide

**Recommendation:** Provide direction to staff on potential city position or action with regard to the Arizona illegal immigration legislation, SB 1070.

**Contact:** Patti Bisharat, Interim Assistant City Manager, (916) 808-8197  
Eileen Teichert, City Attorney, (916) 808-5346

**Presenters:** Patti Bisharat, Interim Assistant City Manager, (916) 808-8197

**Department:** Office of the City Manager

**Division:** n/a

**Organization No:** 09200

## Description/Analysis

**Issue:** At the May 4, 2010 Council meeting, Council Member Fong requested a report back providing information about positions and actions other cities are taking in response to Arizona Senate Bill 1070, the "Support Our Law Enforcement and Safe Neighborhoods Act." On April 23, 2010 Arizona Governor Jan Brewer signed into law Arizona Senate Bill 1070, known as the "*Support our Law Enforcement and Safe Neighborhoods Act*". (SB 1070) After receiving immediate national attention as the most sweeping and strictest anti-illegal alien law adopted by a state, on April 30, 2010 the Arizona legislature passed and the Governor signed into law Arizona House Bill 2162 (HB 2162). HB 2162 amended certain provisions of SB 1070 in an attempt to address criticisms that SB 1070 encouraged racial profiling. SB 1070 is scheduled to become effective July 28, 2010 90 days after the end of the legislative session. HB 2162 becomes effective concurrently with SB 1070. This report provides a summary of positions and actions taken by other California cities as well samples of resolutions adopted or proposed by other cities. A legal summary of SB 1070 as amended by HB 2162, provided by the City Attorney's Office, is included.

**Policy Considerations:** This report is for information and direction only, and does not consider the implications of prospective action by the City Council.

**Environmental Considerations:** California Environmental Quality Act (CEQA): Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

**Sustainability Considerations:** n/a

**Other:** n/a

**Commission/Committee Action:** None.

**Rationale for Recommendation:** n/a

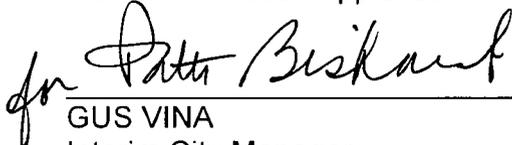
**Financial Considerations:** n/a

**Emerging Small Business Development (ESBD):** n/a

Respectfully Submitted by:   
Patti Bisharat, Interim Assistant City Manager

Respectfully Submitted by:   
Eileen Reichert, City Attorney

Recommendation Approved:

  
GUS VINA  
Interim City Manager

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**BACKGROUND**

This report highlights eight resolutions proposed or passed by neighboring cities in response to Arizona SB 1070. The full text of the resolutions is attached to this report. In summary, the resolutions tended to call for six actions by the cities passing them, which included financial sanctions:

<b>What do the resolutions do?</b>							
<i>City</i>	<i>Oppose the legislation and urge its repeal</i>	<i>Prohibit employee travel to Arizona (where practicable)</i>	<i>Boycott future contracts and the purchase of goods and services Arizona-based private vendors</i>	<i>Review and cancel current contracts with businesses headquartered in Arizona, where fiscally responsible</i>	<i>Continue to monitor Arizona legislation</i>	<i>Forward the signed resolution to key officials</i>	<i>Other</i>
San Jose	✓	✓	✓	✓			✓
Los Angeles	✓	✓	✓	✓	✓	✓	✓
San Francisco	✓	✓	✓	✓		✓	✓
San Diego	✓						
Oakland	✓	✓	✓	✓		✓	✓
West Hollywood	✓	✓	✓	✓	✓	✓	
Santa Ana	✓						
Carson City, NV	✓	✓	✓	✓	✓		

Other actions mentioned in the resolutions asked private citizens and local businesses and sports teams to initiate similar boycotts or included statements from other key city officials denouncing the Arizona bill and reassuring residents that the current municipal policies protecting them from racial profiling are still in place.

## **LEGAL SUMMARY**

### **SUMMARY OF ARIZONA SB 1070 AS AMENDED BY HB 2162**

On April 23, 2010 Arizona Governor Jan Brewer signed into law Arizona Senate Bill 1070, known as the “*Support our Law Enforcement and Safe Neighborhoods Act*”. (SB 1070) After receiving immediate national attention as the most sweeping and strictest anti-illegal alien law adopted by a state, on April 30, 2010 the Arizona legislature passed and the Governor signed into law Arizona House Bill 2162 (HB 2162). HB 2162 amended certain provisions of SB 1070 in an attempt to address criticisms that SB 1070 encouraged racial profiling. SB 1070 is scheduled to become effective July 28, 2010 90 days after the end of the legislative session. HB 2162 becomes effective concurrently with SB 1070.

The following summarizes key provisions of SB 1070 as amended by HB 2162.

#### **Legislative Intent**

- To make attrition through enforcement the public policy of all state and local government agencies in Arizona.
- To discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States.

#### **Cooperation and Assistance in Enforcing Immigration Laws**

- No official or agency of the state or a county, city, town or other political subdivision of the state limit or restrict enforcement of federal immigration laws to less than the full extent permitted by federal law. This make unlawful any policy by a police chief or other government official that discourages peace officers from making immigration status inquiries so that illegal immigrants may report crimes or cooperate with criminal investigations without fear.
- SB 1070 mandated that when a law enforcement official had a contact with a person who the official reasonably suspected was an alien unlawfully present in the US, that the official determine the person’s immigration status. HB 2162 limited this mandatory determination of immigration status to instances of a “stop, detention or arrest” by a law enforcement official “in the enforcement of any other law or ordinance of a County, City or Town or this State”.
- SB 1070 stated that law enforcement officials could not “solely” consider race, color or national origin as the basis for their reasonable suspicion of illegal immigration status. HB 2162 clarified that in discharging their duties triggering immigration status checks, law enforcement officials may not consider race, color or national origin, except to the extent permitted by the United States or Arizona Constitution.
- If the person suspected of being an illegal alien has been arrested, the person cannot be released until the federal government verifies the person’s immigration status.
- A person is presumed not to be an unlawful alien if the person presents to the law enforcement official: 1) a valid Arizona drivers license; 2) a valid Arizona non-

operating identification license; 3) a valid tribal enrollment card or other tribal identification; 4) any other federal or state governmental identification if proof of legal status in the US is required before issuance.

- SB 1070 creates a private cause of action may be brought by any Arizona resident against any state, local agency of official restricts or limits enforcement of federal immigration laws to the fullest extent permitted by law, and may receive attorneys fees and costs, and imposition of civil penalties of \$1,000 to \$5,000 per day. HB 2162 reduces minimum civil penalties to \$500.

### **Trespass**

- Existing federal law requires that "every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card", and aliens failing to comply shall be guilty of a federal misdemeanor. (8 U.S. Code Section 1304(e).)
- SB 1070 provides that any alien in the State who is not in personal possession of a federal alien registration card is also guilty of a state law criminal trespass.
- The trespass violation is enhanced from a misdemeanor to a felony trespass if the violator is a repeat offender or in possession of a deadly weapon, dangerous drug, precursor to manufacture of methamphetamine, or for purpose of committing a terrorist act.
- HB 2162 replaced SB 1070's criminal trespass language with a new crime of "willful failure to complete or carry an alien registration document". The felony enhancements were deleted, and fines and sentencing was reduced.

### **Smuggling**

- SB 1070 permits any lawful stop by a peace officer of any person operating a motor vehicle if the peace officer has reasonable suspicion the person operating the vehicle is in violation of a traffic law and "smuggling of human beings for profit or commercial purpose."
- Smuggling human beings is defined as "the transportation, procurement of transportation or use of property or real property by a person that knows or has reason to know that the person transported are not US citizens, and unlawfully in the United States.

### **Unlawful Stopping to Hire and Pick up Passengers for Work**

- SB 1070 criminalizes stopping a vehicle to pick up passengers for work at a different location if it blocks or impedes traffic.
- Criminalizes entry by a person of a vehicle on a street, road or highway to be hired by the vehicle occupant and to be transported to work at a different location if the vehicle blocks or impedes traffic.
- Make unlawful for an illegal alien to apply for work, solicit work in a public place or perform work as an employee or independent contractor in the state.
- Creates a misdemeanor offense to: transport an illegal alien via a "means of

transportation”; conceal harbor, or shield illegal alien; encourage or induce an alien to come to the state illegally.

- “Means of transportation” is subject to mandatory vehicle immobilization or impoundment.
- HB 2162 adds that a law enforcement official or agency “may not consider race, color or national origin in the enforcement of this provision, except to the extent permitted by the United States or Arizona Constitution.

### **Removal and Immobilization or Impoundment of Vehicle**

- Mandates peace officers removal and immobilization or impoundment of a vehicle if the peace officer determines the vehicle operator is in violation of a criminal offense and is transporting, moving, concealing, harboring or shielding an alien in Arizona in a vehicle if the vehicle operator knows or recklessly disregards the fact the alien is unauthorized.

### **Employment**

- Existing law prohibits an employer from knowingly or intentionally employing an unauthorized alien.
- SB 1070 sets out the elements for asserting an affirmative defense of entrapment.

### **Verification of Employment Eligibility**

- Existing law requires an employer to verify the employment eligibility of an employee through “e-verify” immigration database
- SB 1070 imposes a duty on the employer to keep a record of the verification for the greater of the duration of employment or three years.

## **LEGAL CHALLENGES**

To date, a number of suits have been filed against the state of Arizona over SB 1070, including the cities of Tucson and Flagstaff, a Latino religious organization, and an Arizona peace officer. The primary legal theory upon which these lawsuits are premised is preemption of state law (SB 1070) by federal immigration laws under the supremacy clause of the United States Constitution. The Mayor of the City of Phoenix, U.S. Attorney General Eric Holder, the Mexican American Defense and Educational Fund, and the American Civil Liberties Union have also indicated that their organizations are contemplating filing suits as well. It is anticipated that after SB 1070 and HB 2162 become effective and are implemented that additional lawsuits will result alleging civil rights violations.

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

## **SENATE BILL 1070**

AN ACT

AMENDING TITLE 11, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 13, CHAPTER 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1509; AMENDING SECTION 13-2319, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-2928 AND 13-2929; AMENDING SECTIONS 23-212, 23-212.01, 23-214 AND 28-3511, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1724; RELATING TO UNLAWFULLY PRESENT ALIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Intent

3 The legislature finds that there is a compelling interest in the  
4 cooperative enforcement of federal immigration laws throughout all of  
5 Arizona. The legislature declares that the intent of this act is to make  
6 attrition through enforcement the public policy of all state and local  
7 government agencies in Arizona. The provisions of this act are intended to  
8 work together to discourage and deter the unlawful entry and presence of  
9 aliens and economic activity by persons unlawfully present in the United  
10 States.

11 Sec. 2. Title 11, chapter 7, Arizona Revised Statutes, is amended by  
12 adding article 8, to read:

13 ARTICLE 8. ENFORCEMENT OF IMMIGRATION LAWS

14 11-1051. Cooperation and assistance in enforcement of  
15 immigration laws; indemnification

16 A. NO OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
17 OTHER POLITICAL SUBDIVISION OF THIS STATE MAY ADOPT A POLICY THAT LIMITS OR  
18 RESTRICTS THE ENFORCEMENT OF FEDERAL IMMIGRATION LAWS TO LESS THAN THE FULL  
19 EXTENT PERMITTED BY FEDERAL LAW.

20 B. FOR ANY LAWFUL CONTACT MADE BY A LAW ENFORCEMENT OFFICIAL OR AGENCY  
21 OF THIS STATE OR A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS  
22 STATE WHERE REASONABLE SUSPICION EXISTS THAT THE PERSON IS AN ALIEN WHO IS  
23 UNLAWFULLY PRESENT IN THE UNITED STATES, A REASONABLE ATTEMPT SHALL BE MADE,  
24 WHEN PRACTICABLE, TO DETERMINE THE IMMIGRATION STATUS OF THE PERSON. THE  
25 PERSON'S IMMIGRATION STATUS SHALL BE VERIFIED WITH THE FEDERAL GOVERNMENT  
26 PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

27 C. IF AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES IS  
28 CONVICTED OF A VIOLATION OF STATE OR LOCAL LAW, ON DISCHARGE FROM  
29 IMPRISONMENT OR ASSESSMENT OF ANY FINE THAT IS IMPOSED, THE ALIEN SHALL BE  
30 TRANSFERRED IMMEDIATELY TO THE CUSTODY OF THE UNITED STATES IMMIGRATION AND  
31 CUSTOMS ENFORCEMENT OR THE UNITED STATES CUSTOMS AND BORDER PROTECTION.

32 D. NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT AGENCY MAY  
33 SECURELY TRANSPORT AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES  
34 AND WHO IS IN THE AGENCY'S CUSTODY TO A FEDERAL FACILITY IN THIS STATE OR TO  
35 ANY OTHER POINT OF TRANSFER INTO FEDERAL CUSTODY THAT IS OUTSIDE THE  
36 JURISDICTION OF THE LAW ENFORCEMENT AGENCY.

37 E. A LAW ENFORCEMENT OFFICER, WITHOUT A WARRANT, MAY ARREST A PERSON  
38 IF THE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS COMMITTED  
39 ANY PUBLIC OFFENSE THAT MAKES THE PERSON REMOVABLE FROM THE UNITED STATES.

40 F. EXCEPT AS PROVIDED IN FEDERAL LAW, OFFICIALS OR AGENCIES OF THIS  
41 STATE AND COUNTIES, CITIES, TOWNS AND OTHER POLITICAL SUBDIVISIONS OF THIS  
42 STATE MAY NOT BE PROHIBITED OR IN ANY WAY BE RESTRICTED FROM SENDING,  
43 RECEIVING OR MAINTAINING INFORMATION RELATING TO THE IMMIGRATION STATUS OF  
44 ANY INDIVIDUAL OR EXCHANGING THAT INFORMATION WITH ANY OTHER FEDERAL, STATE  
45 OR LOCAL GOVERNMENTAL ENTITY FOR THE FOLLOWING OFFICIAL PURPOSES:



1           B. IN THE ENFORCEMENT OF THIS SECTION, THE FINAL DETERMINATION OF AN  
2 ALIEN'S IMMIGRATION STATUS SHALL BE DETERMINED BY EITHER:  
3           1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
4 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.  
5           2. A LAW ENFORCEMENT OFFICER OR AGENCY COMMUNICATING WITH THE UNITED  
6 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES BORDER  
7 PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).  
8           C. A PERSON WHO IS SENTENCED PURSUANT TO THIS SECTION IS NOT ELIGIBLE  
9 FOR SUSPENSION OR COMMUTATION OF SENTENCE OR RELEASE ON ANY BASIS UNTIL THE  
10 SENTENCE IMPOSED IS SERVED.  
11           D. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL  
12 ORDER THE PERSON TO PAY JAIL COSTS AND AN ADDITIONAL ASSESSMENT IN THE  
13 FOLLOWING AMOUNTS:  
14           1. AT LEAST FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION.  
15           2. TWICE THE AMOUNT SPECIFIED IN PARAGRAPH 1 OF THIS SUBSECTION IF THE  
16 PERSON WAS PREVIOUSLY SUBJECT TO AN ASSESSMENT PURSUANT TO THIS SUBSECTION.  
17           E. A COURT SHALL COLLECT THE ASSESSMENTS PRESCRIBED IN SUBSECTION D OF  
18 THIS SECTION AND REMIT THE ASSESSMENTS TO THE DEPARTMENT OF PUBLIC SAFETY,  
19 WHICH SHALL ESTABLISH A SPECIAL SUBACCOUNT FOR THE MONIES IN THE ACCOUNT  
20 ESTABLISHED FOR THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT  
21 MISSION APPROPRIATION. MONIES IN THE SPECIAL SUBACCOUNT ARE SUBJECT TO  
22 LEGISLATIVE APPROPRIATION FOR DISTRIBUTION FOR GANG AND IMMIGRATION  
23 ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL  
24 IMMIGRATION.  
25           F. THIS SECTION DOES NOT APPLY TO A PERSON WHO MAINTAINS AUTHORIZATION  
26 FROM THE FEDERAL GOVERNMENT TO REMAIN IN THE UNITED STATES.  
27           G. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT THAT A  
28 VIOLATION OF THIS SECTION IS:  
29           1. A CLASS 3 FELONY IF THE PERSON VIOLATES THIS SECTION WHILE IN  
30 POSSESSION OF ANY OF THE FOLLOWING:  
31           (a) A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.  
32           (b) PRECURSOR CHEMICALS THAT ARE USED IN THE MANUFACTURING OF  
33 METHAMPHETAMINE IN VIOLATION OF SECTION 13-3404.01.  
34           (c) A DEADLY WEAPON OR A DANGEROUS INSTRUMENT, AS DEFINED IN SECTION  
35 13-105.  
36           (d) PROPERTY THAT IS USED FOR THE PURPOSE OF COMMITTING AN ACT OF  
37 TERRORISM AS PRESCRIBED IN SECTION 13-2308.01.  
38           2. A CLASS 4 FELONY IF THE PERSON EITHER:  
39           (a) IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION.  
40           (b) WITHIN SIXTY MONTHS BEFORE THE VIOLATION, HAS BEEN REMOVED FROM  
41 THE UNITED STATES PURSUANT TO 8 UNITED STATES CODE SECTION 1229a OR HAS  
42 ACCEPTED A VOLUNTARY REMOVAL FROM THE UNITED STATES PURSUANT TO 8 UNITED  
43 STATES CODE SECTION 1229c.

1           Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to read:  
2           13-2319. Smuggling; classification; definitions  
3           A. It is unlawful for a person to intentionally engage in the  
4 smuggling of human beings for profit or commercial purpose.  
5           B. A violation of this section is a class 4 felony.  
6           C. Notwithstanding subsection B of this section, a violation of this  
7 section:  
8           1. Is a class 2 felony if the human being who is smuggled is under  
9 eighteen years of age and is not accompanied by a family member over eighteen  
10 years of age or the offense involved the use of a deadly weapon or dangerous  
11 instrument.  
12           2. Is a class 3 felony if the offense involves the use or threatened  
13 use of deadly physical force and the person is not eligible for suspension of  
14 sentence, probation, pardon or release from confinement on any other basis  
15 except pursuant to section 31-233, subsection A or B until the sentence  
16 imposed by the court is served, the person is eligible for release pursuant  
17 to section 41-1604.07 or the sentence is commuted.  
18           D. Chapter 10 of this title does not apply to a violation of  
19 subsection C, paragraph 1 of this section.  
20           E. NOTWITHSTANDING ANY OTHER LAW, A PEACE OFFICER MAY LAWFULLY STOP  
21 ANY PERSON WHO IS OPERATING A MOTOR VEHICLE IF THE OFFICER HAS REASONABLE  
22 SUSPICION TO BELIEVE THE PERSON IS IN VIOLATION OF ANY CIVIL TRAFFIC LAW AND  
23 THIS SECTION.  
24           ~~E.~~ F. For the purposes of this section:  
25           1. "Family member" means the person's parent, grandparent, sibling or  
26 any other person who is related to the person by consanguinity or affinity to  
27 the second degree.  
28           2. "Procurement of transportation" means any participation in or  
29 facilitation of transportation and includes:  
30           (a) Providing services that facilitate transportation including travel  
31 arrangement services or money transmission services.  
32           (b) Providing property that facilitates transportation, including a  
33 weapon, a vehicle or other means of transportation or false identification,  
34 or selling, leasing, renting or otherwise making available a drop house as  
35 defined in section 13-2322.  
36           3. "Smuggling of human beings" means the transportation, procurement  
37 of transportation or use of property or real property by a person or an  
38 entity that knows or has reason to know that the person or persons  
39 transported or to be transported are not United States citizens, permanent  
40 resident aliens or persons otherwise lawfully in this state or have attempted  
41 to enter, entered or remained in the United States in violation of law.

1           Sec. 5. Title 13, chapter 29, Arizona Revised Statutes, is amended by  
2 adding sections 13-2928 and 13-2929, to read:

3           13-2928. Unlawful stopping to hire and pick up passengers for  
4                           work; unlawful application, solicitation or  
5                           employment; classification; definitions

6           A. IT IS UNLAWFUL FOR AN OCCUPANT OF A MOTOR VEHICLE THAT IS STOPPED  
7 ON A STREET, ROADWAY OR HIGHWAY TO ATTEMPT TO HIRE OR HIRE AND PICK UP  
8 PASSENGERS FOR WORK AT A DIFFERENT LOCATION IF THE MOTOR VEHICLE BLOCKS OR  
9 IMPEDES THE NORMAL MOVEMENT OF TRAFFIC.

10          B. IT IS UNLAWFUL FOR A PERSON TO ENTER A MOTOR VEHICLE THAT IS  
11 STOPPED ON A STREET, ROADWAY OR HIGHWAY IN ORDER TO BE HIRED BY AN OCCUPANT  
12 OF THE MOTOR VEHICLE AND TO BE TRANSPORTED TO WORK AT A DIFFERENT LOCATION IF  
13 THE MOTOR VEHICLE BLOCKS OR IMPEDES THE NORMAL MOVEMENT OF TRAFFIC.

14          C. IT IS UNLAWFUL FOR A PERSON WHO IS UNLAWFULLY PRESENT IN THE UNITED  
15 STATES AND WHO IS AN UNAUTHORIZED ALIEN TO KNOWINGLY APPLY FOR WORK, SOLICIT  
16 WORK IN A PUBLIC PLACE OR PERFORM WORK AS AN EMPLOYEE OR INDEPENDENT  
17 CONTRACTOR IN THIS STATE.

18          D. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

19          E. FOR THE PURPOSES OF THIS SECTION:

20           1. "SOLICIT" MEANS VERBAL OR NONVERBAL COMMUNICATION BY A GESTURE OR A  
21 NOD THAT WOULD INDICATE TO A REASONABLE PERSON THAT A PERSON IS WILLING TO BE  
22 EMPLOYED.

23           2. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL  
24 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS  
25 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

26           13-2929. Unlawful transporting, moving, concealing, harboring  
27                           or shielding of unlawful aliens; vehicle  
28                           impoundment; classification

29          A. IT IS UNLAWFUL FOR A PERSON WHO IS IN VIOLATION OF A CRIMINAL  
30 OFFENSE TO:

31           1. TRANSPORT OR MOVE OR ATTEMPT TO TRANSPORT OR MOVE AN ALIEN IN THIS  
32 STATE IN A MEANS OF TRANSPORTATION IF THE PERSON KNOWS OR RECKLESSLY  
33 DISREGARDS THE FACT THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE  
34 UNITED STATES IN VIOLATION OF LAW.

35           2. CONCEAL, HARBOR OR SHIELD OR ATTEMPT TO CONCEAL, HARBOR OR SHIELD  
36 AN ALIEN FROM DETECTION IN ANY PLACE IN THIS STATE, INCLUDING ANY BUILDING OR  
37 ANY MEANS OF TRANSPORTATION, IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE  
38 FACT THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE UNITED STATES  
39 IN VIOLATION OF LAW.

40           3. ENCOURAGE OR INDUCE AN ALIEN TO COME TO OR RESIDE IN THIS STATE IF  
41 THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT SUCH COMING TO,  
42 ENTERING OR RESIDING IN THIS STATE IS OR WILL BE IN VIOLATION OF LAW.

43          B. A MEANS OF TRANSPORTATION THAT IS USED IN THE COMMISSION OF A  
44 VIOLATION OF THIS SECTION IS SUBJECT TO MANDATORY VEHICLE IMMOBILIZATION OR  
45 IMPOUNDMENT PURSUANT TO SECTION 28-3511.

1 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1  
2 MISDEMEANOR AND IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND DOLLARS, EXCEPT  
3 THAT A VIOLATION OF THIS SECTION THAT INVOLVES TEN OR MORE ILLEGAL ALIENS IS  
4 A CLASS 6 FELONY AND THE PERSON IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND  
5 DOLLARS FOR EACH ALIEN WHO IS INVOLVED.

6 Sec. 6. Section 23-212, Arizona Revised Statutes, is amended to read:

7 23-212. Knowingly employing unauthorized aliens; prohibition;  
8 false and frivolous complaints; violation;  
9 classification; license suspension and revocation;  
10 affirmative defense

11 A. An employer shall not knowingly employ an unauthorized alien. If,  
12 in the case when an employer uses a contract, subcontract or other  
13 independent contractor agreement to obtain the labor of an alien in this  
14 state, the employer knowingly contracts with an unauthorized alien or with a  
15 person who employs or contracts with an unauthorized alien to perform the  
16 labor, the employer violates this subsection.

17 B. The attorney general shall prescribe a complaint form for a person  
18 to allege a violation of subsection A of this section. The complainant shall  
19 not be required to list the complainant's social security number on the  
20 complaint form or to have the complaint form notarized. On receipt of a  
21 complaint on a prescribed complaint form that an employer allegedly knowingly  
22 employs an unauthorized alien, the attorney general or county attorney shall  
23 investigate whether the employer has violated subsection A of this section.  
24 If a complaint is received but is not submitted on a prescribed complaint  
25 form, the attorney general or county attorney may investigate whether the  
26 employer has violated subsection A of this section. This subsection shall  
27 not be construed to prohibit the filing of anonymous complaints that are not  
28 submitted on a prescribed complaint form. The attorney general or county  
29 attorney shall not investigate complaints that are based solely on race,  
30 color or national origin. A complaint that is submitted to a county attorney  
31 shall be submitted to the county attorney in the county in which the alleged  
32 unauthorized alien is or was employed by the employer. The county sheriff or  
33 any other local law enforcement agency may assist in investigating a  
34 complaint. When investigating a complaint, the attorney general or county  
35 attorney shall verify the work authorization of the alleged unauthorized  
36 alien with the federal government pursuant to 8 United States Code section  
37 1373(c). A state, county or local official shall not attempt to  
38 independently make a final determination on whether an alien is authorized to  
39 work in the United States. An alien's immigration status or work  
40 authorization status shall be verified with the federal government pursuant  
41 to 8 United States Code section 1373(c). A person who knowingly files a  
42 false and frivolous complaint under this subsection is guilty of a class 3  
43 misdemeanor.

1 C. If, after an investigation, the attorney general or county attorney  
2 determines that the complaint is not false and frivolous:

3 1. The attorney general or county attorney shall notify the United  
4 States immigration and customs enforcement of the unauthorized alien.

5 2. The attorney general or county attorney shall notify the local law  
6 enforcement agency of the unauthorized alien.

7 3. The attorney general shall notify the appropriate county attorney  
8 to bring an action pursuant to subsection D of this section if the complaint  
9 was originally filed with the attorney general.

10 D. An action for a violation of subsection A of this section shall be  
11 brought against the employer by the county attorney in the county where the  
12 unauthorized alien employee is or was employed by the employer. The county  
13 attorney shall not bring an action against any employer for any violation of  
14 subsection A of this section that occurs before January 1, 2008. A second  
15 violation of this section shall be based only on an unauthorized alien who is  
16 or was employed by the employer after an action has been brought for a  
17 violation of subsection A of this section or section 23-212.01, subsection A.

18 E. For any action in superior court under this section, the court  
19 shall expedite the action, including assigning the hearing at the earliest  
20 practicable date.

21 F. On a finding of a violation of subsection A of this section:

22 1. For a first violation, as described in paragraph 3 of this  
23 subsection, the court:

24 (a) Shall order the employer to terminate the employment of all  
25 unauthorized aliens.

26 (b) Shall order the employer to be subject to a three year  
27 probationary period for the business location where the unauthorized alien  
28 performed work. During the probationary period the employer shall file  
29 quarterly reports in the form provided in section 23-722.01 with the county  
30 attorney of each new employee who is hired by the employer at the business  
31 location where the unauthorized alien performed work.

32 (c) Shall order the employer to file a signed sworn affidavit with the  
33 county attorney within three business days after the order is issued. The  
34 affidavit shall state that the employer has terminated the employment of all  
35 unauthorized aliens in this state and that the employer will not  
36 intentionally or knowingly employ an unauthorized alien in this state. The  
37 court shall order the appropriate agencies to suspend all licenses subject to  
38 this subdivision that are held by the employer if the employer fails to file  
39 a signed sworn affidavit with the county attorney within three business days  
40 after the order is issued. All licenses that are suspended under this  
41 subdivision shall remain suspended until the employer files a signed sworn  
42 affidavit with the county attorney. Notwithstanding any other law, on filing  
43 of the affidavit the suspended licenses shall be reinstated immediately by  
44 the appropriate agencies. For the purposes of this subdivision, the licenses  
45 that are subject to suspension under this subdivision are all licenses that

1 are held by the employer specific to the business location where the  
2 unauthorized alien performed work. If the employer does not hold a license  
3 specific to the business location where the unauthorized alien performed  
4 work, but a license is necessary to operate the employer's business in  
5 general, the licenses that are subject to suspension under this subdivision  
6 are all licenses that are held by the employer at the employer's primary  
7 place of business. On receipt of the court's order and notwithstanding any  
8 other law, the appropriate agencies shall suspend the licenses according to  
9 the court's order. The court shall send a copy of the court's order to the  
10 attorney general and the attorney general shall maintain the copy pursuant to  
11 subsection G of this section.

12 (d) May order the appropriate agencies to suspend all licenses  
13 described in subdivision (c) of this paragraph that are held by the employer  
14 for not to exceed ten business days. The court shall base its decision to  
15 suspend under this subdivision on any evidence or information submitted to it  
16 during the action for a violation of this subsection and shall consider the  
17 following factors, if relevant:

18 (i) The number of unauthorized aliens employed by the employer.

19 (ii) Any prior misconduct by the employer.

20 (iii) The degree of harm resulting from the violation.

21 (iv) Whether the employer made good faith efforts to comply with any  
22 applicable requirements.

23 (v) The duration of the violation.

24 (vi) The role of the directors, officers or principals of the employer  
25 in the violation.

26 (vii) Any other factors the court deems appropriate.

27 2. For a second violation, as described in paragraph 3 of this  
28 subsection, the court shall order the appropriate agencies to permanently  
29 revoke all licenses that are held by the employer specific to the business  
30 location where the unauthorized alien performed work. If the employer does  
31 not hold a license specific to the business location where the unauthorized  
32 alien performed work, but a license is necessary to operate the employer's  
33 business in general, the court shall order the appropriate agencies to  
34 permanently revoke all licenses that are held by the employer at the  
35 employer's primary place of business. On receipt of the order and  
36 notwithstanding any other law, the appropriate agencies shall immediately  
37 revoke the licenses.

38 3. The violation shall be considered:

39 (a) A first violation by an employer at a business location if the  
40 violation did not occur during a probationary period ordered by the court  
41 under this subsection or section 23-212.01, subsection F for that employer's  
42 business location.

43 (b) A second violation by an employer at a business location if the  
44 violation occurred during a probationary period ordered by the court under

1 this subsection or section 23-212.01, subsection F for that employer's  
2 business location.

3 G. The attorney general shall maintain copies of court orders that are  
4 received pursuant to subsection F of this section and shall maintain a  
5 database of the employers and business locations that have a first violation  
6 of subsection A of this section and make the court orders available on the  
7 attorney general's website.

8 H. On determining whether an employee is an unauthorized alien, the  
9 court shall consider only the federal government's determination pursuant to  
10 8 United States Code section 1373(c). The federal government's determination  
11 creates a rebuttable presumption of the employee's lawful status. The court  
12 may take judicial notice of the federal government's determination and may  
13 request the federal government to provide automated or testimonial  
14 verification pursuant to 8 United States Code section 1373(c).

15 I. For the purposes of this section, proof of verifying the employment  
16 authorization of an employee through the e-verify program creates a  
17 rebuttable presumption that an employer did not knowingly employ an  
18 unauthorized alien.

19 J. For the purposes of this section, an employer that establishes that  
20 it has complied in good faith with the requirements of 8 United States Code  
21 section 1324a(b) establishes an affirmative defense that the employer did not  
22 knowingly employ an unauthorized alien. An employer is considered to have  
23 complied with the requirements of 8 United States Code section 1324a(b),  
24 notwithstanding an isolated, sporadic or accidental technical or procedural  
25 failure to meet the requirements, if there is a good faith attempt to comply  
26 with the requirements.

27 K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS  
28 SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER  
29 MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL  
30 ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS  
31 THE BURDEN OF PROVING THE FOLLOWING BY CLEAR AND CONVINCING EVIDENCE:

32 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT  
33 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

34 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE  
35 EMPLOYER TO COMMIT THE VIOLATION.

36 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE  
37 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO  
38 COMMIT THE VIOLATION.

39 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS  
40 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT  
41 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO  
42 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR  
43 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT  
44 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING  
45 IF AN EMPLOYER HAS PROVEN ENTRAPMENT.

1           Sec. 7. Section 23-212.01, Arizona Revised Statutes, is amended to  
2 read:

3           23-212.01. Intentionally employing unauthorized aliens;  
4                           prohibition; false and frivolous complaints;  
5                           violation; classification; license suspension and  
6                           revocation; affirmative defense

7           A. An employer shall not intentionally employ an unauthorized alien.  
8 If, in the case when an employer uses a contract, subcontract or other  
9 independent contractor agreement to obtain the labor of an alien in this  
10 state, the employer intentionally contracts with an unauthorized alien or  
11 with a person who employs or contracts with an unauthorized alien to perform  
12 the labor, the employer violates this subsection.

13           B. The attorney general shall prescribe a complaint form for a person  
14 to allege a violation of subsection A of this section. The complainant shall  
15 not be required to list the complainant's social security number on the  
16 complaint form or to have the complaint form notarized. On receipt of a  
17 complaint on a prescribed complaint form that an employer allegedly  
18 intentionally employs an unauthorized alien, the attorney general or county  
19 attorney shall investigate whether the employer has violated subsection A of  
20 this section. If a complaint is received but is not submitted on a  
21 prescribed complaint form, the attorney general or county attorney may  
22 investigate whether the employer has violated subsection A of this section.  
23 This subsection shall not be construed to prohibit the filing of anonymous  
24 complaints that are not submitted on a prescribed complaint form. The  
25 attorney general or county attorney shall not investigate complaints that are  
26 based solely on race, color or national origin. A complaint that is  
27 submitted to a county attorney shall be submitted to the county attorney in  
28 the county in which the alleged unauthorized alien is or was employed by the  
29 employer. The county sheriff or any other local law enforcement agency may  
30 assist in investigating a complaint. When investigating a complaint, the  
31 attorney general or county attorney shall verify the work authorization of  
32 the alleged unauthorized alien with the federal government pursuant to  
33 8 United States Code section 1373(c). A state, county or local official  
34 shall not attempt to independently make a final determination on whether an  
35 alien is authorized to work in the United States. An alien's immigration  
36 status or work authorization status shall be verified with the federal  
37 government pursuant to 8 United States Code section 1373(c). A person who  
38 knowingly files a false and frivolous complaint under this subsection is  
39 guilty of a class 3 misdemeanor.

40           C. If, after an investigation, the attorney general or county attorney  
41 determines that the complaint is not false and frivolous:

42           1. The attorney general or county attorney shall notify the United  
43 States immigration and customs enforcement of the unauthorized alien.

44           2. The attorney general or county attorney shall notify the local law  
45 enforcement agency of the unauthorized alien.

1           3. The attorney general shall notify the appropriate county attorney  
2 to bring an action pursuant to subsection D of this section if the complaint  
3 was originally filed with the attorney general.

4           D. An action for a violation of subsection A of this section shall be  
5 brought against the employer by the county attorney in the county where the  
6 unauthorized alien employee is or was employed by the employer. The county  
7 attorney shall not bring an action against any employer for any violation of  
8 subsection A of this section that occurs before January 1, 2008. A second  
9 violation of this section shall be based only on an unauthorized alien who is  
10 or was employed by the employer after an action has been brought for a  
11 violation of subsection A of this section or section 23-212, subsection A.

12           E. For any action in superior court under this section, the court  
13 shall expedite the action, including assigning the hearing at the earliest  
14 practicable date.

15           F. On a finding of a violation of subsection A of this section:

16           1. For a first violation, as described in paragraph 3 of this  
17 subsection, the court shall:

18           (a) Order the employer to terminate the employment of all unauthorized  
19 aliens.

20           (b) Order the employer to be subject to a five year probationary  
21 period for the business location where the unauthorized alien performed work.  
22 During the probationary period the employer shall file quarterly reports in  
23 the form provided in section 23-722.01 with the county attorney of each new  
24 employee who is hired by the employer at the business location where the  
25 unauthorized alien performed work.

26           (c) Order the appropriate agencies to suspend all licenses described  
27 in subdivision (d) of this paragraph that are held by the employer for a  
28 minimum of ten days. The court shall base its decision on the length of the  
29 suspension under this subdivision on any evidence or information submitted to  
30 it during the action for a violation of this subsection and shall consider  
31 the following factors, if relevant:

32           (i) The number of unauthorized aliens employed by the employer.

33           (ii) Any prior misconduct by the employer.

34           (iii) The degree of harm resulting from the violation.

35           (iv) Whether the employer made good faith efforts to comply with any  
36 applicable requirements.

37           (v) The duration of the violation.

38           (vi) The role of the directors, officers or principals of the employer  
39 in the violation.

40           (vii) Any other factors the court deems appropriate.

41           (d) Order the employer to file a signed sworn affidavit with the  
42 county attorney. The affidavit shall state that the employer has terminated  
43 the employment of all unauthorized aliens in this state and that the employer  
44 will not intentionally or knowingly employ an unauthorized alien in this  
45 state. The court shall order the appropriate agencies to suspend all

1 licenses subject to this subdivision that are held by the employer if the  
2 employer fails to file a signed sworn affidavit with the county attorney  
3 within three business days after the order is issued. All licenses that are  
4 suspended under this subdivision for failing to file a signed sworn affidavit  
5 shall remain suspended until the employer files a signed sworn affidavit with  
6 the county attorney. For the purposes of this subdivision, the licenses that  
7 are subject to suspension under this subdivision are all licenses that are  
8 held by the employer specific to the business location where the unauthorized  
9 alien performed work. If the employer does not hold a license specific to  
10 the business location where the unauthorized alien performed work, but a  
11 license is necessary to operate the employer's business in general, the  
12 licenses that are subject to suspension under this subdivision are all  
13 licenses that are held by the employer at the employer's primary place of  
14 business. On receipt of the court's order and notwithstanding any other law,  
15 the appropriate agencies shall suspend the licenses according to the court's  
16 order. The court shall send a copy of the court's order to the attorney  
17 general and the attorney general shall maintain the copy pursuant to  
18 subsection G of this section.

19 2. For a second violation, as described in paragraph 3 of this  
20 subsection, the court shall order the appropriate agencies to permanently  
21 revoke all licenses that are held by the employer specific to the business  
22 location where the unauthorized alien performed work. If the employer does  
23 not hold a license specific to the business location where the unauthorized  
24 alien performed work, but a license is necessary to operate the employer's  
25 business in general, the court shall order the appropriate agencies to  
26 permanently revoke all licenses that are held by the employer at the  
27 employer's primary place of business. On receipt of the order and  
28 notwithstanding any other law, the appropriate agencies shall immediately  
29 revoke the licenses.

30 3. The violation shall be considered:

31 (a) A first violation by an employer at a business location if the  
32 violation did not occur during a probationary period ordered by the court  
33 under this subsection or section 23-212, subsection F for that employer's  
34 business location.

35 (b) A second violation by an employer at a business location if the  
36 violation occurred during a probationary period ordered by the court under  
37 this subsection or section 23-212, subsection F for that employer's business  
38 location.

39 G. The attorney general shall maintain copies of court orders that are  
40 received pursuant to subsection F of this section and shall maintain a  
41 database of the employers and business locations that have a first violation  
42 of subsection A of this section and make the court orders available on the  
43 attorney general's website.

44 H. On determining whether an employee is an unauthorized alien, the  
45 court shall consider only the federal government's determination pursuant to

1 8 United States Code section 1373(c). The federal government's determination  
2 creates a rebuttable presumption of the employee's lawful status. The court  
3 may take judicial notice of the federal government's determination and may  
4 request the federal government to provide automated or testimonial  
5 verification pursuant to 8 United States Code section 1373(c).

6 I. For the purposes of this section, proof of verifying the employment  
7 authorization of an employee through the e-verify program creates a  
8 rebuttable presumption that an employer did not intentionally employ an  
9 unauthorized alien.

10 J. For the purposes of this section, an employer that establishes that  
11 it has complied in good faith with the requirements of 8 United States Code  
12 section 1324a(b) establishes an affirmative defense that the employer did not  
13 intentionally employ an unauthorized alien. An employer is considered to  
14 have complied with the requirements of 8 United States Code section 1324a(b),  
15 notwithstanding an isolated, sporadic or accidental technical or procedural  
16 failure to meet the requirements, if there is a good faith attempt to comply  
17 with the requirements.

18 K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS  
19 SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER  
20 MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL  
21 ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS  
22 THE BURDEN OF PROVING THE FOLLOWING BY CLEAR AND CONVINCING EVIDENCE:

23 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT  
24 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

25 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE  
26 EMPLOYER TO COMMIT THE VIOLATION.

27 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE  
28 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO  
29 COMMIT THE VIOLATION.

30 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS  
31 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT  
32 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO  
33 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR  
34 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT  
35 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING  
36 IF AN EMPLOYER HAS PROVEN ENTRAPMENT.

37 Sec. 8. Section 23-214, Arizona Revised Statutes, is amended to read:

38 23-214. Verification of employment eligibility; e-verify  
39 program; economic development incentives; list of  
40 registered employers

41 A. After December 31, 2007, every employer, after hiring an employee,  
42 shall verify the employment eligibility of the employee through the e-verify  
43 program AND SHALL KEEP A RECORD OF THE VERIFICATION FOR THE DURATION OF THE  
44 EMPLOYEE'S EMPLOYMENT OR AT LEAST THREE YEARS, WHICHEVER IS LONGER.

1           B. In addition to any other requirement for an employer to receive an  
2 economic development incentive from a government entity, the employer shall  
3 register with and participate in the e-verify program. Before receiving the  
4 economic development incentive, the employer shall provide proof to the  
5 government entity that the employer is registered with and is participating  
6 in the e-verify program. If the government entity determines that the  
7 employer is not complying with this subsection, the government entity shall  
8 notify the employer by certified mail of the government entity's  
9 determination of noncompliance and the employer's right to appeal the  
10 determination. On a final determination of noncompliance, the employer shall  
11 repay all monies received as an economic development incentive to the  
12 government entity within thirty days of the final determination. For the  
13 purposes of this subsection:

14           1. "Economic development incentive" means any grant, loan or  
15 performance-based incentive from any government entity that is awarded after  
16 September 30, 2008. Economic development incentive does not include any tax  
17 provision under title 42 or 43.

18           2. "Government entity" means this state and any political subdivision  
19 of this state that receives and uses tax revenues.

20           C. Every three months the attorney general shall request from the  
21 United States department of homeland security a list of employers from this  
22 state that are registered with the e-verify program. On receipt of the list  
23 of employers, the attorney general shall make the list available on the  
24 attorney general's website.

25           Sec. 9. Section 28-3511, Arizona Revised Statutes, is amended to read:  
26 28-3511. Removal and immobilization or impoundment of vehicle

27           A. A peace officer shall cause the removal and either immobilization  
28 or impoundment of a vehicle if the peace officer determines that a person is  
29 driving the vehicle while any of the following applies:

30           1. The person's driving privilege is suspended or revoked for any  
31 reason.

32           2. The person has not ever been issued a valid driver license or  
33 permit by this state and the person does not produce evidence of ever having  
34 a valid driver license or permit issued by another jurisdiction. This  
35 paragraph does not apply to the operation of an implement of husbandry.

36           3. The person is subject to an ignition interlock device requirement  
37 pursuant to chapter 4 of this title and the person is operating a vehicle  
38 without a functioning certified ignition interlock device. This paragraph  
39 does not apply to a person operating an employer's vehicle or the operation  
40 of a vehicle due to a substantial emergency as defined in section 28-1464.

41           4. THE PERSON IS IN VIOLATION OF A CRIMINAL OFFENSE AND IS  
42 TRANSPORTING, MOVING, CONCEALING, HARBORING OR SHIELDING OR ATTEMPTING TO  
43 TRANSPORT, MOVE, CONCEAL, HARBOR OR SHIELD AN ALIEN IN THIS STATE IN A  
44 VEHICLE IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT THE ALIEN  
45 HAS COME TO, HAS ENTERED OR REMAINS IN THE UNITED STATES IN VIOLATION OF LAW.

1 B. A peace officer shall cause the removal and impoundment of a  
2 vehicle if the peace officer determines that a person is driving the vehicle  
3 and if all of the following apply:

4 1. The person's driving privilege is canceled, suspended or revoked  
5 for any reason or the person has not ever been issued a driver license or  
6 permit by this state and the person does not produce evidence of ever having  
7 a driver license or permit issued by another jurisdiction.

8 2. The person is not in compliance with the financial responsibility  
9 requirements of chapter 9, article 4 of this title.

10 3. The person is driving a vehicle that is involved in an accident  
11 that results in either property damage or injury to or death of another  
12 person.

13 C. Except as provided in subsection D of this section, while a peace  
14 officer has control of the vehicle the peace officer shall cause the removal  
15 and either immobilization or impoundment of the vehicle if the peace officer  
16 has probable cause to arrest the driver of the vehicle for a violation of  
17 section 4-244, paragraph 34 or section 28-1382 or 28-1383.

18 D. A peace officer shall not cause the removal and either the  
19 immobilization or impoundment of a vehicle pursuant to subsection C of this  
20 section if all of the following apply:

21 1. The peace officer determines that the vehicle is currently  
22 registered and that the driver or the vehicle is in compliance with the  
23 financial responsibility requirements of chapter 9, article 4 of this title.

24 2. The spouse of the driver is with the driver at the time of the  
25 arrest.

26 3. The peace officer has reasonable grounds to believe that the spouse  
27 of the driver:

28 (a) Has a valid driver license.

29 (b) Is not impaired by intoxicating liquor, any drug, a vapor  
30 releasing substance containing a toxic substance or any combination of  
31 liquor, drugs or vapor releasing substances.

32 (c) Does not have any spirituous liquor in the spouse's body if the  
33 spouse is under twenty-one years of age.

34 4. The spouse notifies the peace officer that the spouse will drive  
35 the vehicle from the place of arrest to the driver's home or other place of  
36 safety.

37 5. The spouse drives the vehicle as prescribed by paragraph 4 of this  
38 subsection.

39 E. Except as otherwise provided in this article, a vehicle that is  
40 removed and either immobilized or impounded pursuant to subsection A, B or C  
41 of this section shall be immobilized or impounded for thirty days. An  
42 insurance company does not have a duty to pay any benefits for charges or  
43 fees for immobilization or impoundment.

44 F. The owner of a vehicle that is removed and either immobilized or  
45 impounded pursuant to subsection A, B or C of this section, the spouse of the

1 owner and each person identified on the department's record with an interest  
2 in the vehicle shall be provided with an opportunity for an immobilization or  
3 poststorage hearing pursuant to section 28-3514.

4 Sec. 10. Title 41, chapter 12, article 2, Arizona Revised Statutes, is  
5 amended by adding section 41-1724, to read:

6 41-1724. Gang and immigration intelligence team enforcement  
7 mission fund

8 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND IS  
9 ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 11-1051 AND  
10 MONIES APPROPRIATED BY THE LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE  
11 FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL  
12 BE USED FOR GANG AND IMMIGRATION ENFORCEMENT AND FOR COUNTY JAIL  
13 REIMBURSEMENT COSTS RELATING TO ILLEGAL IMMIGRATION.

14 Sec. 11. Severability, implementation and construction

15 A. If a provision of this act or its application to any person or  
16 circumstance is held invalid, the invalidity does not affect other provisions  
17 or applications of the act that can be given effect without the invalid  
18 provision or application, and to this end the provisions of this act are  
19 severable.

20 B. The terms of this act regarding immigration shall be construed to  
21 have the meanings given to them under federal immigration law.

22 C. This act shall be implemented in a manner consistent with federal  
23 laws regulating immigration, protecting the civil rights of all persons and  
24 respecting the privileges and immunities of United States citizens.

25 Sec. 12. Short title

26 This act may be cited as the "Support Our Law Enforcement and Safe  
27 Neighborhoods Act".

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

## HOUSE BILL 2162

AN ACT

AMENDING SECTIONS 1-501 AND 1-502, ARIZONA REVISED STATUTES; AMENDING SECTION 11-1051, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 2, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-1509, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 3, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2928, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2929, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO IMMIGRATION AND BORDER SECURITY; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 1-501, Arizona Revised Statutes, is amended to  
3 read:

4 1-501. Eligibility for federal public benefits; documentation;  
5 violation; classification; citizen suits; attorney  
6 fees; definition

7 A. Notwithstanding any other state law and to the extent permitted by  
8 federal law, any NATURAL person who applies for a federal public benefit that  
9 is administered by this state or a political subdivision of this state and  
10 that requires participants to be citizens of the United States, legal  
11 residents of the United States or otherwise lawfully present in the United  
12 States shall submit at least one of the following documents to the entity  
13 that administers the federal public benefit demonstrating lawful presence in  
14 the United States:

- 15 1. An Arizona driver license issued after 1996 or an Arizona  
16 nonoperating identification license.
- 17 2. A birth certificate or delayed birth certificate issued in any  
18 state, territory or possession of the United States.
- 19 3. A United States certificate of birth abroad.
- 20 4. A United States passport.
- 21 5. A foreign passport with a United States visa.
- 22 6. An I-94 form with a photograph.
- 23 7. A United States citizenship and immigration services employment  
24 authorization document or refugee travel document.
- 25 8. A United States certificate of naturalization.
- 26 9. A United States certificate of citizenship.
- 27 10. A tribal certificate of Indian blood.
- 28 11. A tribal or bureau of Indian affairs affidavit of birth.

29 B. For the purposes of administering the Arizona health care cost  
30 containment system, documentation of citizenship and legal residence shall  
31 conform with the requirements of title XIX of the social security act.

32 C. To the extent permitted by federal law, an agency of this state or  
33 political subdivision of this state may allow tribal members, the elderly and  
34 persons with disabilities or incapacity of the mind or body to provide  
35 documentation as specified in section 6036 of the federal deficit reduction  
36 act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu  
37 of the documentation required by this section.

38 D. Any person who applies for federal public benefits shall sign a  
39 sworn affidavit stating that the documents presented pursuant to subsection A  
40 OF THIS SECTION are true under penalty of perjury.

41 E. Failure to report discovered violations of federal immigration law  
42 by an employee of an agency of this state or a political subdivision of this  
43 state that administers any federal public benefit is a class 2 misdemeanor.  
44 If that employee's supervisor knew of the failure to report and failed to

1 direct the employee to make the report, the supervisor is guilty of a class 2  
2 misdemeanor.

3 F. This section shall be enforced without regard to race, color,  
4 religion, sex, age, disability or national origin.

5 G. Any person who is a resident of this state has standing in any  
6 court of record to bring suit against any agent or agency of this state or  
7 its political subdivisions to remedy any violation of any provision of this  
8 section, including an action for mandamus. Courts shall give preference to  
9 actions brought under this section over other civil actions or proceedings  
10 pending in the court.

11 H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY  
12 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
13 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON  
14 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

15 ~~H.~~ I. For the purposes of this section, "federal public benefit" has  
16 the same meaning prescribed in 8 United States Code section 1611.

17 Sec. 2. Section 1-502, Arizona Revised Statutes, is amended to read:

18 1-502. Eligibility for state or local public benefits;  
19 documentation; violation; classification; citizen  
20 suits; attorney fees; definition

21 A. Notwithstanding any other state law and to the extent permitted by  
22 federal law, any agency of this state or a political subdivision of this  
23 state that administers any state or local public benefit shall require each  
24 NATURAL person who applies for the state or local public benefit to submit at  
25 least one of the following documents to the entity that administers the state  
26 or local public benefit demonstrating lawful presence in the United States:

27 1. An Arizona driver license issued after 1996 or an Arizona  
28 nonoperating identification license.

29 2. A birth certificate or delayed birth certificate issued in any  
30 state, territory or possession of the United States.

31 3. A United States certificate of birth abroad.

32 4. A United States passport.

33 5. A foreign passport with a United States visa.

34 6. An I-94 form with a photograph.

35 7. A United States citizenship and immigration services employment  
36 authorization document or refugee travel document.

37 8. A United States certificate of naturalization.

38 9. A United States certificate of citizenship.

39 10. A tribal certificate of Indian blood.

40 11. A tribal or bureau of Indian affairs affidavit of birth.

41 B. For the purposes of administering the Arizona health care cost  
42 containment system, documentation of citizenship and legal residence shall  
43 conform with the requirements of title XIX of the social security act.

1 C. To the extent permitted by federal law, an agency of this state or  
2 political subdivision of this state may allow tribal members, the elderly and  
3 persons with disabilities or incapacity of the mind or body to provide  
4 documentation as specified in section 6036 of the federal deficit reduction  
5 act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu  
6 of the documentation required by this section.

7 D. Any person who applies for state or local public benefits shall  
8 sign a sworn affidavit stating that the documents presented pursuant to  
9 subsection A OF THIS SECTION are true under penalty of perjury.

10 E. Failure to report discovered violations of federal immigration law  
11 by an employee of an agency of this state or a political subdivision of this  
12 state that administers any state or local public benefit is a class 2  
13 misdemeanor. If that employee's supervisor knew of the failure to report and  
14 failed to direct the employee to make the report, the supervisor is guilty of  
15 a class 2 misdemeanor.

16 F. This section shall be enforced without regard to race, color,  
17 religion, sex, age, disability or national origin.

18 G. Any person who is a resident of this state has standing in any  
19 court of record to bring suit against any agent or agency of this state or  
20 its political subdivisions to remedy any violation of any provision of this  
21 section, including an action for mandamus. Courts shall give preference to  
22 actions brought under this section over other civil actions or proceedings  
23 pending in the court.

24 H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY  
25 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR  
26 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON  
27 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

28 ~~H-~~ I. For the purposes of this section, "state or local public  
29 benefit" has the same meaning prescribed in 8 United States Code section  
30 1621, except that it does not include commercial or professional licenses, ~~or~~  
31 benefits provided by the public retirement systems and plans of this state OR  
32 SERVICES WIDELY AVAILABLE TO THE GENERAL POPULATION AS A WHOLE.

33 Sec. 3. Section 11-1051, Arizona Revised Statutes, as added by Senate  
34 Bill 1070, section 2, forty-ninth legislature, second regular session, as  
35 transmitted to the governor, is amended to read:

36 11-1051. Cooperation and assistance in enforcement of  
37 immigration laws; indemnification

38 A. No official or agency of this state or a county, city, town or  
39 other political subdivision of this state may limit or restrict the  
40 enforcement of federal immigration laws to less than the full extent  
41 permitted by federal law.

42 B. For any lawful ~~contact~~ STOP, DETENTION OR ARREST made by a law  
43 enforcement official or a law enforcement agency of this state or a law  
44 enforcement official or a law enforcement agency of a county, city, town or  
45 other political subdivision of this state IN THE ENFORCEMENT OF ANY OTHER LAW

1 OR ORDINANCE OF A COUNTY, CITY OR TOWN OR THIS STATE where reasonable  
2 suspicion exists that the person is an alien ~~who~~ AND is unlawfully present in  
3 the United States, a reasonable attempt shall be made, when practicable, to  
4 determine the immigration status of the person, except if the determination  
5 may hinder or obstruct an investigation. Any person who is arrested shall  
6 have the person's immigration status determined before the person is  
7 released. The person's immigration status shall be verified with the federal  
8 government pursuant to 8 United States code section 1373(c). A law  
9 enforcement official or agency of this state or a county, city, town or other  
10 political subdivision of this state may not ~~solely~~ consider race, color or  
11 national origin in implementing the requirements of this subsection except to  
12 the extent permitted by the United States or Arizona Constitution. A person  
13 is presumed to not be an alien who is unlawfully present in the United States  
14 if the person provides to the law enforcement officer or agency any of the  
15 following:

- 16 1. A valid Arizona driver license.
- 17 2. A valid Arizona nonoperating identification license.
- 18 3. A valid tribal enrollment card or other form of tribal  
19 identification.

20 4. If the entity requires proof of legal presence in the United States  
21 before issuance, any valid United States federal, state or local government  
22 issued identification.

23 C. If an alien who is unlawfully present in the United States is  
24 convicted of a violation of state or local law, on discharge from  
25 imprisonment or on the assessment of any monetary obligation that is imposed,  
26 the United States immigration and customs enforcement or the United States  
27 customs and border protection shall be immediately notified.

28 D. Notwithstanding any other law, a law enforcement agency may  
29 securely transport an alien who the agency has received verification is  
30 unlawfully present in the united states and who is in the agency's custody to  
31 a federal facility in this state or to any other point of transfer into  
32 federal custody that is outside the jurisdiction of the law enforcement  
33 agency. A law enforcement agency shall obtain judicial authorization before  
34 securely transporting an alien who is unlawfully present in the United States  
35 to a point of transfer that is outside of this state.

36 E. IN THE IMPLEMENTATION OF THIS SECTION, AN ALIEN'S IMMIGRATION  
37 STATUS MAY BE DETERMINED BY:

38 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
39 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

40 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
41 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
42 1373(c).

43 ~~E~~ F. Except as provided in federal law, officials or agencies of  
44 this state and counties, cities, towns and other political subdivisions of  
45 this state may not be prohibited or in any way be restricted from sending,

1 receiving or maintaining information relating to the immigration status,  
2 lawful or unlawful, of any individual or exchanging that information with any  
3 other federal, state or local governmental entity for the following official  
4 purposes:

5 1. Determining eligibility for any public benefit, service or license  
6 provided by any federal, state, local or other political subdivision of this  
7 state.

8 2. Verifying any claim of residence or domicile if determination of  
9 residence or domicile is required under the laws of this state or a judicial  
10 order issued pursuant to a civil or criminal proceeding in this state.

11 3. If the person is an alien, determining whether the person is in  
12 compliance with the federal registration laws prescribed by title II, chapter  
13 7 of the federal immigration and Nationality act.

14 4. Pursuant to 8 United States Code section 1373 and 8 United States  
15 Code section 1644.

16 ~~F.~~ G. This section does not implement, authorize or establish and  
17 shall not be construed to implement, authorize or establish the REAL ID act  
18 of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of a  
19 radio frequency identification chip.

20 ~~G.~~ H. A person who is a legal resident of this state may bring an  
21 action in superior court to challenge any official or agency of this state or  
22 a county, city, town or other political subdivision of this state that adopts  
23 or implements a policy ~~or practice~~ that limits or restricts the enforcement  
24 of federal immigration laws, INCLUDING 8 UNITED STATES CODE SECTIONS 1373 AND  
25 1644, to less than the full extent permitted by federal law. If there is a  
26 judicial finding that an entity has violated this section, the court shall  
27 order that the entity pay a civil penalty of not less than ~~one thousand~~ FIVE  
28 HUNDRED dollars and not more than five thousand dollars for each day that the  
29 policy has remained in effect after the filing of an action pursuant to this  
30 subsection.

31 ~~H.~~ I. A court shall collect the civil penalty prescribed in  
32 subsection ~~G~~ H of this section and remit the civil penalty to the state  
33 treasurer for deposit in the gang and immigration intelligence team  
34 enforcement mission fund established by section 41-1724.

35 ~~I.~~ J. The court may award court costs and reasonable attorney fees to  
36 any person or any official or agency of this state or a county, city, town or  
37 other political subdivision of this state that prevails by an adjudication on  
38 the merits in a proceeding brought pursuant to this section.

39 ~~J.~~ K. Except in relation to matters in which the officer is adjudged  
40 to have acted in bad faith, a law enforcement officer is indemnified by the  
41 law enforcement officer's agency against reasonable costs and expenses,  
42 including attorney fees, incurred by the officer in connection with any  
43 action, suit or proceeding brought pursuant to this section in which the  
44 officer may be a defendant by reason of the officer being or having been a  
45 member of the law enforcement agency.

1           ~~K~~ L. This section shall be implemented in a manner consistent with  
2 federal laws regulating immigration, protecting the civil rights of all  
3 persons and respecting the privileges and immunities of United States  
4 citizens.

5           Sec. 4. Section 13-1509, Arizona Revised Statutes, as added by Senate  
6 Bill 1070, section 3, forty-ninth legislature, second regular session, as  
7 transmitted to the governor, is amended to read:

8           13-1509. Willful failure to complete or carry an alien  
9                                   registration document; assessment; exception;  
10                                   authenticated records; classification

11           A. In addition to any violation of federal law, a person is guilty of  
12 willful failure to complete or carry an alien registration document if the  
13 person is in violation of 8 United States Code section 1304(e) or 1306(a).

14           B. In the enforcement of this section, an alien's immigration status  
15 may be determined by:

16           1. A law enforcement officer who is authorized by the federal  
17 government to verify or ascertain an alien's immigration status.

18           2. The United States immigration and customs enforcement or the United  
19 States customs and border protection pursuant to 8 United States Code section  
20 1373(c).

21           C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
22 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER  
23 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO  
24 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

25           ~~E~~ D. A person who is sentenced pursuant to this section is not  
26 eligible for suspension of sentence, probation, pardon, commutation of  
27 sentence, or release from confinement on any basis except as authorized by  
28 section 31-233, subsection A or B until the sentence imposed by the court has  
29 been served or the person is eligible for release pursuant to section 41-  
30 1604.07.

31           ~~E~~ E. In addition to any other penalty prescribed by law, the court  
32 shall order the person to pay jail costs. ~~and an additional assessment in~~  
33 ~~the following amounts:~~

34           1. ~~At least five hundred dollars for a first violation.~~

35           2. ~~Twice the amount specified in paragraph 1 of this subsection if the~~  
36 ~~person was previously subject to an assessment pursuant to this subsection.~~

37           ~~E. A court shall collect the assessments prescribed in subsection D of~~  
38 ~~this section and remit the assessments to the department of public safety,~~  
39 ~~which shall establish a special subaccount for the monies in the account~~  
40 ~~established for the gang and immigration intelligence team enforcement~~  
41 ~~mission appropriation. Monies in the special subaccount are subject to~~  
42 ~~legislative appropriation for distribution for gang and immigration~~  
43 ~~enforcement and for county jail reimbursement costs relating to illegal~~  
44 ~~immigration.~~

1 F. This section does not apply to a person who maintains authorization  
2 from the federal government to remain in the United States.

3 G. Any record that relates to the immigration status of a person is  
4 admissible in any court without further foundation or testimony from a  
5 custodian of records if the record is certified as authentic by the  
6 government agency that is responsible for maintaining the record.

7 H. A violation of this section is a class 1 misdemeanor, except that  
8 THE MAXIMUM FINE IS ONE HUNDRED DOLLARS AND FOR a FIRST violation of this  
9 section ~~is~~ THE COURT SHALL NOT SENTENCE THE PERSON TO MORE THAN TWENTY DAYS  
10 IN JAIL AND FOR A SECOND OR SUBSEQUENT VIOLATION THE COURT SHALL NOT SENTENCE  
11 THE PERSON TO MORE THAN THIRTY DAYS IN JAIL.

12 ~~1. A class 3 felony if the person violates this section while in~~  
13 ~~possession of any of the following:~~

14 ~~(a) A dangerous drug as defined in section 13-3401.~~

15 ~~(b) Precursor chemicals that are used in the manufacturing of~~  
16 ~~methamphetamine in violation of section 13-3404.01.~~

17 ~~(c) A deadly weapon or a dangerous instrument, as defined in section~~  
18 ~~13-105.~~

19 ~~(d) Property that is used for the purpose of committing an act of~~  
20 ~~terrorism as prescribed in section 13-2308.01.~~

21 ~~2. A class 4 felony if the person either:~~

22 ~~(a) Is convicted of a second or subsequent violation of this section.~~

23 ~~(b) Within sixty months before the violation, has been removed from~~  
24 ~~the United States pursuant to 8 United States Code section 1229a or has~~  
25 ~~accepted a voluntary removal from the United States pursuant to 8 United~~  
26 ~~States Code section 1229c.~~

27 Sec. 5. Section 13-2928, Arizona Revised Statutes, as added by Senate  
28 Bill 1070, section 5, forty-ninth legislature, second regular session, as  
29 transmitted to the governor, is amended to read:

30 13-2928. Unlawful stopping to hire and pick up passengers for  
31 work; unlawful application, solicitation or  
32 employment; classification; definitions

33 A. It is unlawful for an occupant of a motor vehicle that is stopped  
34 on a street, roadway or highway to attempt to hire or hire and pick up  
35 passengers for work at a different location if the motor vehicle blocks or  
36 impedes the normal movement of traffic.

37 B. It is unlawful for a person to enter a motor vehicle that is  
38 stopped on a street, roadway or highway in order to be hired by an occupant  
39 of the motor vehicle and to be transported to work at a different location if  
40 the motor vehicle blocks or impedes the normal movement of traffic.

41 C. It is unlawful for a person who is unlawfully present in the United  
42 States and who is an unauthorized alien to knowingly apply for work, solicit  
43 work in a public place or perform work as an employee or independent  
44 contractor in this state.

1 D. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER  
3 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO  
4 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

5 E. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS  
6 MAY BE DETERMINED BY:

7 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
8 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

9 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
10 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
11 1373(c).

12 ~~D~~ F. A violation of this section is a class 1 misdemeanor.

13 ~~E~~ G. For the purposes of this section:

14 1. "Solicit" means verbal or nonverbal communication by a gesture or a  
15 nod that would indicate to a reasonable person that a person is willing to be  
16 employed.

17 2. "Unauthorized alien" means an alien who does not have the legal  
18 right or authorization under federal law to work in the United States as  
19 described in 8 United States Code section 1324a(h)(3).

20 Sec. 6. Section 13-2929, Arizona Revised Statutes, as added by Senate  
21 Bill 1070, section 5, forty-ninth legislature, second regular session, as  
22 transmitted to the governor, is amended to read:

23 13-2929. Unlawful transporting, moving, concealing, harboring  
24 or shielding of unlawful aliens; vehicle  
25 impoundment; exception; classification

26 A. It is unlawful for a person who is in violation of a criminal  
27 offense to:

28 1. Transport or move or attempt to transport or move an alien in this  
29 state, in furtherance of the illegal presence of the alien in the United  
30 States, in a means of transportation if the person knows or recklessly  
31 disregards the fact that the alien has come to, has entered or remains in the  
32 United States in violation of law.

33 2. Conceal, harbor or shield or attempt to conceal, harbor or shield  
34 an alien from detection in any place in this state, including any building or  
35 any means of transportation, if the person knows or recklessly disregards the  
36 fact that the alien has come to, has entered or remains in the United States  
37 in violation of law.

38 3. Encourage or induce an alien to come to or reside in this state if  
39 the person knows or recklessly disregards the fact that such coming to,  
40 entering or residing in this state is or will be in violation of law.

41 B. A means of transportation that is used in the commission of a  
42 violation of this section is subject to mandatory vehicle immobilization or  
43 impoundment pursuant to section 28-3511.

1 C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,  
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER  
3 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO  
4 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

5 D. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS  
6 MAY BE DETERMINED BY:

7 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL  
8 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

9 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED  
10 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION  
11 1373(c).

12 ~~E.~~ E. This section does not apply to a child protective services  
13 worker acting in the worker's official capacity or a person who is acting in  
14 the capacity of a first responder, an ambulance attendant or an emergency  
15 medical technician and who is transporting or moving an alien in this state  
16 pursuant to title 36, chapter 21.1.

17 ~~F.~~ F. A person who violates this section is guilty of a class 1  
18 misdemeanor and is subject to a fine of at least one thousand dollars, except  
19 that a violation of this section that involves ten or more illegal aliens is  
20 a class 6 felony and the person is subject to a fine of at least one thousand  
21 dollars for each alien who is involved.

22 Sec. 7. Joint border security advisory committee; membership;  
23 duties; report; delayed repeal

24 A. The joint border security advisory committee is established  
25 consisting of the following members:

26 1. The president of the senate or the president's designee.

27 2. The speaker of the house of representatives or the speaker's  
28 designee.

29 3. Two members of the house of representatives who are appointed by  
30 the speaker of the house of representatives.

31 4. Two members of the senate who are appointed by the president of the  
32 senate.

33 5. Six members who are appointed by the governor.

34 B. Committee members are not eligible to receive compensation for  
35 committee activities but may be eligible for reimbursement of expenses  
36 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

37 C. The president and the speaker of the house of representatives shall  
38 each appoint a cochairperson of the committee.

39 D. The commission shall meet on the call of the two cochairpersons,  
40 but no more frequently than monthly.

41 E. The committee may:

42 1. Take testimony and other evidence regarding the international  
43 border with Mexico.

44 2. Analyze border crossing statistics.

45 3. Analyze related crime statistics.

- 1           4. Make recommendations designed to increase border security.  
2           5. Make other recommendations deemed essential by the committee.  
3           F. The committee may use the services of legislative staff as  
4 required.  
5           G. Beginning November 30, 2010 and each month thereafter, the  
6 commission shall submit a written report of its findings and recommendations  
7 to the speaker of the house of representatives, the president of the senate  
8 and the governor. The commission shall provide a copy of the report to the  
9 secretary of state.  
10          H. Notwithstanding any law to the contrary, the committee may vote to  
11 go into executive session to take testimony or evidence it considers  
12 sensitive or confidential in nature, which if released could compromise the  
13 security or safety of law enforcement or military personnel or a law  
14 enforcement or national guard law enforcement support operation.  
15          I. This section is repealed from and after December 31, 2014.  
16          Sec. 8. Immigration legislation challenges  
17          A. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and  
18 any other law, through December 31, 2010, the attorney general shall act at  
19 the direction of the governor in any challenge in a state or federal court to  
20 Laws 2010, chapter 113 and any amendments to that law.  
21          B. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and  
22 any other law, through December 31, 2010, the governor may direct counsel  
23 other than the attorney general to appear on behalf of this state to defend  
24 any challenge to Laws 2010, chapter 113 and any amendments to that law.  
25          Sec. 9. Conditional enactment  
26          Sections 11-1051, 13-1509, 13-2928 and 13-2929, Arizona Revised  
27 Statutes, as amended by this act, do not become effective unless Senate Bill  
28 1070, forty-ninth legislature, second regular session, relating to unlawfully  
29 present aliens, becomes law.



# Memorandum

**TO:** RULES AND OPEN GOVERNMENT  
COMMITTEE

**FROM:** Councilmember Madison Nguyen  
Councilmember Sam Liccardo  
Councilmember Rose Herrera  
Councilmember Ash Kalra

**SUBJECT:** ARIZONA BOYCOTT

**DATE:** May 5, 2010

Approved

Date

*Madison Nguyen* — *5/5/10* *Ash Kalra*  
*Sam Liccardo*  
RECOMMENDATION *RH* *Rose Herrera JM*

1. Direct the City Manager to:
  - a. Bring forward a resolution that denounces Arizona’s immigration legislation (Arizona SB 1070).
  - b. Draft a measure for consideration by the City Council prohibiting the use of City funds in travel to the State of Arizona, for attendance of conventions, meetings, or other events there.
  - c. Draft a measure for consideration by the City Council to the extent practicable, and in instances where there is no conflict with law, to refrain from entering into any new or amended City contracts to purchase goods or services from any company that is headquartered in Arizona.
  - d. Release to the media a statement, in multiple languages, emphasizing that residents in the City of San José will not be detained by the San José Police Department for suspicion of having unlawful status in this country, and that the City will serve all residents without reporting any otherwise law-abiding residents to the federal immigration and Customs Enforcement.
  
2. Direct the City Attorney to explore opportunities to file an *amicus curia* to accompany any court challenge of the Arizona measure, or to join an *amicus* filed by another organization, such as the California League of Cities.

Such measures would remain in effect until a legislative or judicial change to SB 1070 results in the elimination of the following provisions of the law: 1) making the failure to carry immigration documents a crime, and 2) giving the police broad power to detain anyone suspected of being in the country illegally.

**BACKGROUND**

For more than 200 years, immigrants from all over the world have come to the United States to make it their home. Since 2006, the United States has accepted more legal immigrants as

permanent residents than every other country in the world combined. Our immigration policy is not just rooted in the virtues of inclusive borders, but also in the recognition that America's strength comes from a wave of immigrants who bring with them an intrepid work ethic, an industrious spirit, and innovative minds. It is in this spirit of diversity that we have helped pave the way for tolerance in our country. Since our inception, the immigrant community has been a rich part of our nation's history and one of which we are proud.

Our country is bound by the common notion that we are all immigrants. We cannot afford, as a nation or as individual states, to pass legislation that negatively impacts this connection. We must apply the truth articulated by Dr. Martin Luther King, Jr. that an "injustice anywhere is a threat to justice everywhere."

In that light, the State of Arizona's immigration reform bill "Support Our Law Enforcement and Safe Neighborhoods Act," or "SB 1070," is a tragically misguided attempt at reform that will create a disconnect between law enforcement and the communities they serve, undermine fundamental civil rights protections, usurp federal authority, and create a legislative precedent that would create a patchwork of inconsistent immigration policy across the country.

As the third largest city in the state, 10<sup>th</sup> in the country, and the Capital of Silicon Valley, people consider San José a shining example of what an ethnically diverse community can achieve. With a richly diverse population, San José has political, intellectual, and economic power that is recognized worldwide. Therefore, it is important that we make our position clear that we respect the federal government's exclusive jurisdiction over comprehensive immigration law and oppose the legislation passed by the State of Arizona.

As a border state, we understand the immigration challenges Arizona faces. In the absence of comprehensive immigration reform and under the perception of federal political gridlock, Arizona has created its own "solution." It is imperative that Washington show leadership and take swift action to curb the tide of patchwork immigration reform. We urge the federal government to make comprehensive immigration reform a top priority in this legislative session.

In March of 2007, this Council formally re-emphasized its longstanding policy that our city employees would not engage themselves in reporting otherwise law-abiding residents to federal immigration authorities. We are not the only ones, New York City, Los Angeles, San Francisco, and a handful of other large cities have all adopted ordinances that ban law enforcement officials from asking residents about their respective immigration status. These ordinances recognize the fundamental value of preserving the trust between law enforcement officials and the communities they serve. Arizona SB 1070 undercuts this value by transforming the role of police officials—in the eyes of immigrants—from lawful "protector" to immigration "predator." We know that a failure to do this would create fear among many residents—even citizens—that an emergency call to report a fire, a heart attack, a rape, or a domestic violence incident could risk the deportation of the reporting party or a loved one in the same household. Chief Rob Davis has echoed this view saying that building trust in many communities with law enforcement requires that immigrants feel comfortable interacting with our police department.

Arizona's SB 1070 promotes a "shoot first, aim later" approach towards immigration reform as evidenced by their legislature's need to amend the bill shortly after passage. Immigration reform is an issue chalk full of legislative complexity and it requires thoughtful solutions, not haphazard policy written for poll-watching politicians to score political points.

We cannot pretend to be unconscientious of the United State's role of historically "permitting" or at least "turning a blind eye" towards illegal immigration. Our motives are economically tied, United States workers benefit just as much as illegal immigrants who come to our country to find more gainful employment. With over twelve-million undocumented immigrants estimated to be living in the United States, the large majority work low-wage and labor-intensive jobs that do not siphon off the quantity of jobs available for legal citizens. On the contrary, these workers act as the labor core that fuels so many American companies that gives them the financial prosperity necessary to employ the number of legal workers that they do. Throughout the ensuing immigration debate that is set to take center stage in our nation's legislature, it would be wrong to allow demonizing characterizations of undocumented immigrants.

Breaking economic ties is effective. We witnessed this in the early 1990s, when people last boycotted Arizona for the state's refusal to observe Martin Luther King, Jr. Day. Travelers canceled their vacations to Scottsdale and the Grand Canyon; conventions were moved from Phoenix to Los Angeles, and the NFL moved Super Bowl XXVII from Tempe to Pasadena.

Together, we will peacefully yet strongly demonstrate our disapproval of the immigration policies taking root in Arizona, and serve a reminder that our great country is, and always has been, a proud country of immigrants.

cc: Lee Price  
City Clerk



**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: May 11, 2010  
TO: Honorable Members Information Technology & Government Affairs Committee  
FROM: Gerry F. Miller   
Chief Legislative Analyst  
Council File No: 10-0002-S36  
Assignment No: 10-04-0432  
SUBJECT: Resolution (Reyes-Hahn-Garcetti, et. al.) opposing Arizona SB 1070

CLA RECOMMENDATION: That the City Council, with the concurrence of the Mayor, Adopt the attached Revised Resolution which provides that the City include in its 2009-10 Federal Legislative Program OPPOSITION to federal funds that support the implementation of Arizona SB 1070 and HB 2162, which promote racial profiling, discrimination and harassment; and

That the City Council:

- 1) Suspend all City travel to the State of Arizona to conduct City business unless special circumstances can be demonstrated to the Council that the failure to authorize such travel would seriously harm City interests, with this ban lifted upon the repeal of SB 1070 and HB 2162 in the State of Arizona;
- 2) Direct all City Departments, to the extent practicable, and in instances where there is no significant additional cost to the City nor conflict with the law, to refrain from entering into any new or amended contracts to purchase goods or services from any company that is headquartered in Arizona;
- 3) Instruct the City Administrative Officer to review the terms of all contracts with Arizona-based companies and report to Council in two weeks on which of those contracts can be legally terminated immediately;
- 4) Request the City Attorney to prepare and present an ordinance to accomplish the following purpose:  

The City of Los Angeles in exercising its power to make economic decisions as a participant in the market shall restrict, to the extent permissible and consistent with the City's interests, its contracting relative to goods and services to persons or entities which are not based in the State of Arizona, subject to review by the City Attorney and City Administrative Officer; and
- 5) Instruct the CLA to continue to monitor the status of SB 1070 and HB 2162 any court actions and report to Council in 60 days.

SUMMARY

Resolution (Reyes-Hahn-Garcetti-Cardenas-Huizar-Perry-Alarcón), introduced on April 27, 2010, states that the City of Los Angeles has historically supported policies that prohibit discrimination based on race, ethnicity, national origin, religion, sexual orientation, and disability. It notes that in 1992, Colorado voters passed a statewide initiative known as Amendment 2 to repeal local ordinances that prohibited discrimination based on sexual orientation, thereby allowing overt discrimination against the LGBT community. Similarly, on April 23, 2010, Arizona Governor Jan Brewer signed Senate Bill 1070 (Support Our Law Enforcement and Safe Neighborhoods Act), requiring all local law enforcement to investigate a person's immigration status when there is a reasonable suspicion that the person is in the Country unlawfully, regardless of whether the person is suspected of a crime. The Resolution states that SB 1070 permits the arrest of a person, without a warrant, if there is suspicion that the person has committed a public offense and does not prohibit law enforcement officers from relying on race, ethnicity, national origin or language, to determine who to investigate. The Resolution further states that SB 1070 encourages racial profiling and violates Fourteenth Amendment guarantees of due process and equal protection for U.S. citizens,

legal residents and visitors who are detained for suspicion of being in the Country unlawfully. The Resolution proposes that federal funds not be used to support immigration programs that promote racial profiling and discrimination based on race, ethnicity, national origin or any other form of discrimination. The Resolution therefore recommends that the City: 1) Refrain from conducting business with the state of Arizona including participating in any conventions or other business that requires City resources, unless SB 1070 is repealed; and 2) Include in its 2009-10 Federal Legislative Program, opposition to any budgetary action or legislation, including immigration policy, that promotes racial profiling or discrimination based on race, ethnicity or national origin.

**BACKGROUND**

On April 23, 2010, Arizona Governor Jan Brewer signed Senate Bill 1070 (Support Our Law Enforcement and Safe Neighborhoods Act) which is intended to “discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States.” Among other provisions, SB 1070:

- 1) Requires local law enforcement to investigate the immigration status of persons who are suspected of being in the U.S. without proper documentation;
- 2) Permits the arrest of persons suspected of committing any offense that makes the person removable from the United States, without a warrant;
- 3) Provides individuals the ability to sue a law enforcement agency that fails to enforce immigration laws;
- 4) Prohibits stopping a motor vehicle to pick up passengers for work, soliciting work or entering a motor vehicle to be hired by undocumented immigrants; and,
- 5) Allows local law enforcement officers to consider race, color or national origin as a factor in determining whether a person is undocumented.

Subsequent to the passage of SB 1070, on April 30, 2010, Arizona enacted HB 2162 which eliminated the consideration of race, color or national origin as determinants of undocumented status (See No. 5 above). For further bill analysis see attached Legislative Analysis Section I.

Arizona law provides a 90-day period for opponents to contest a newly signed law. Arizona local municipalities, as well as civil rights organizations, have announced a legal challenge against SB 1070 on the basis that it preempts federal law and violates civil and human rights of workers, youth, women and children, by promoting racial profiling since the bill relies on suspicion, as opposed to facts, as the method of determining a person’s immigration status. SB 1070 would not be in effect until July 23, 2010.

**Contracting Options**

Resolution (Reyes-Hahn-Garcetti, et. al.) recommends that the City refrain from conducting business with the state of Arizona, including participating in any conventions or other business that requires City resources, unless SB 1070 is repealed. This recommendation was extracted from the original Resolution and incorporated into this report as actions for immediate implementation.

According to data provided by the City Controller, the City has at least 15 current contracts with Arizona-based companies totaling approximately \$7.7 million, not including proprietary departments (See table below).

<b>Current City Contracts with Arizona-Based Companies</b>		
<b>Reporting Agency</b>	<b>Amount</b>	<b>No. of Companies (Contracts)</b>
Controller (All City Non-Proprietary Departments)	\$ 7.70 M	14 (35)
Harbor Department	\$25.60 M	4 (4)
Community Redevelopment Agency/LA	\$ .02 M	2 (2)
Department of Water and Power*		
Los Angeles World Airport (LAWA)	.08 M	3 (3)
LAWA (Airlines)	\$22.88 M	2 (4)
<b>TOTAL</b>	<b>\$ 56.28 M</b>	<b>25 (48)</b>

\*Data from DWP was not available at the time this report was written.

The Los Angeles World Airports (LAWA) and the Harbor Department have both expressed concerns over the potential termination of any current contract. LAWA indicates that interstate commerce is generally regulated under federal statute and the potential termination of such contracts requires further review. Three of the contracts in the Harbor Department with Arizona-based companies are part of the Clean Truck Program (CTP). The Harbor does not recommend rescinding this incentive program due to adverse effects this action would have on the environment and public health. Attachment 3 includes specific contract information by City department with Arizona-based companies, as submitted by departments.

While many government entities, sports organizations, local businesses, business organizations and civil rights organizations oppose SB 1070, not all favor a boycott. Preliminary research shows that some organizations are concerned with the economic impact to the working people of Arizona. The Arizona Hispanic Chamber of Commerce has expressed concern with the boycott but realizes the potential impact of SB 1070. Although the Washington D.C. City Council opposes SB 1070, some councilmembers are still considering their next course of action. The cities of San Francisco and Oakland have both adopted resolutions denouncing SB 1070 and requesting city departments to refrain from entering into any new or amended contracts with Arizona-based companies.

The City has previously supported legal efforts and economic sanctions against governments and measures that promote inequitable treatment, or discrimination based on race, ethnicity, sexual orientation or any other form of discrimination such as the 1986 boycott against apartheid in South Africa, the 1992 boycott against Colorado Amendment 2 which promoted discrimination against the Lesbian Gay Bisexual and Transgender (LGBT) community, and California Proposition 187 which denied public education, non-emergency health care and public services to undocumented immigrants (See Attachment A Section III).

Federal Action

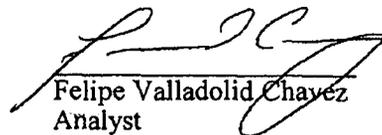
The Resolution further recommends that the City include in its 2009-10 Federal Legislative Program OPPOSITION to any budgetary action or legislation, including immigration policy, that promotes racial profiling or discrimination based on race, ethnicity or national origin. We recommend that this paragraph be amended to reflect the City's opposition to federal funds that support the implementation of SB 1070 and HB 2162, which promote racial profiling, discrimination and harassment.

Based on the City's position to support comprehensive immigration reform and the City's prior actions in similar circumstances where the City has exerted its power as participant of the market place, we recommend that the City: 1) Oppose federal funds that support the implementation of SB 1070; 2) Suspend all travel at City expense to Arizona, unless SB 1070 is repealed; 3) direct all City departments to refrain from entering into any new contracts with companies based in Arizona; and 4) instruct the CAO to review all contracts with companies based in Arizona; 5) request the City Attorney, with the assistance of the CAO, to prepare an ordinance, restricting the City's contracting to companies that are not based in Arizona; and 6) instruct the CLA to continue to monitor the status of SB 1070 and HB 2162 and any court action and report to Council in 60 days.

DEPARTMENTS NOTIFIED

City Controller  
Los Angeles Police Department  
Los Angeles World Airports  
Los Angeles Harbor Department

City Attorney  
Los Angeles Department of Water and Power  
Community Redevelopment Agency/LA

  
Felipe Valladolid Chavez  
Analyst

GFM:SMT:KEK:IS:fvc

- Attachments: 1) Legislative Analysis, Legal Challenges & Previous City Actions;  
2) Amended Resolution; and  
3) Contract Lists by City Departments (Attachment 3)

I. LEGISLATIVE ANALYSIS

SB 1070

With the enactment of SB 1070, enforcement of immigration laws was added to Title 11, Chapter 7 of Arizona Revised Statutes. See full list of provisions:

- 1) Requires law enforcement to investigate a persons immigration status based on suspicion that the person is in the U.S. unlawfully.

*SB 1070 provides no guidelines as to the impact to families, youth and children. The provisions could potentially impact k-12 students, university students, youth in parks and other recreational venues, and women and children exiting or entering medical facilities.*

- 2) Requires law enforcement to arrest persons who are suspected of having committed a crime without a warrant.

*Prior to SB 1070, Arizona law allowed law enforcement to arrest, without a warrant, if there was probable cause that the individual committed a felony or misdemeanor. SB1070 now provides specific authority to law enforcement officers to arrest, without a warrant, persons who are believed to be undocumented.*

- 3) Provides individuals the ability to sue a law enforcement agency that fails to enforce immigration laws.

*This provision could lead to abuse by extremist groups. In 2006, the City Council passed a Resolution (Garcetti-Weiss) in response to the Anti-Defamation League report "Armed Vigilantes in Arizona," which recognized the potential for abuse and called for legislation to monitor and respond to groups who advocate vigilantism (C.F. 06-0002S82).*

- 4) Prohibits persons who are driving from stopping to hire, attempt to hire, or pick up other persons for work if the vehicle blocks or impedes the normal movement of traffic. Prohibits persons from entering a motor vehicle to be hired if the vehicle blocks or impedes the normal movement of traffic. Prohibits persons who are undocumented from applying for, soliciting or performing work in a public place. Soliciting is defined as verbal or nonverbal gesture or nod that would indicate that the persons is willing to be employed.

- 5) Prohibits the transport, conceal, harbor or shield of an undocumented immigrant in any place in the state.

*Any person in a vehicle or a home who is suspected of being undocumented could be subject to arrest based on this provision and other provisions of SB 1070.*

- 6) SB 1070 does not provide guidelines or training for making such determinations.

*However, Governor Jan Brewer issued an Executive Order directing the Arizona Peace Officer Standards and Training Board (AZPOST) to develop training to implement SB 1070.*

HB 2162

HB 2162, signed April 30, 2010, modified the provisions in SB 1070 by stating that law enforcement officers would not use race, color or national origin as a factor to determine immigration status. While the law now prohibits the use of race as a factor in determining immigration status, it does not preclude local law enforcement officers from relying on language, appearance, or other cultural traits as forms of identifying undocumented immigrants. The Bill also states that a police officer may only investigate immigration status upon a "lawful stop, detention, or arrest," lowers the original fine of \$500 to a maximum of \$100 and changes incarceration limits from 6 months to 20 days for first time offenders.

II. LEGAL CHALLENGE

The Cities of Tucson and Flagstaff Arizona have both filed lawsuits challenging the legality of SB 1070. The American Civil Liberties Union (ACLU), the National Immigration Law Center and Mexican American Legal Defense and Education Fund (MALDEF), in partnership have announced a legal challenge against SB 1070.

III. PREVIOUS CITY ACTION

The City has supported economic sanctions against other countries and states that promote inequitable treatment, or discrimination based on race, ethnicity, sexual orientation or any other form of discrimination such as the 1986 boycott against apartheid in South Africa and the 1992 boycott against Amendment 2 in Colorado.

Apartheid

In the case of apartheid in South Africa, in 1986, the City approved an Ordinance (No. 161466) to restrict its contracting relative to goods and services to persons or entities which do not do business in or with South Africa, thereby supporting the international economic sanctions against that country. Also, the City's retirement systems divested themselves wherever possible of stocks connected to South Africa. In 1993, the ban was lifted when the South African parliament voted for open and free elections to create a new multiracial government in that country (C.F. 93-1947).

Colorado Amendment 2

In 1992, Colorado voters approved Amendment 2 which prohibited municipalities in the state from banning discrimination based on sexual orientation. In response, the City Council (C.F. 92-2343) banned City-financed travel to Colorado and directed the City Attorney to prepare an ordinance which would impose restrictions on City contracting with persons or entities based in Colorado. In 1993, a Denver District Court Judge found Amendment 2 to be unconstitutional and issued a permanent injunction prohibiting its enforcement. Inasmuch as the State of Colorado appealed the District Court decision, the Council suspended the City boycott with the provision that it would automatically be reinstated in the event that Amendment 2 was once again allowed to become law. In 1996, the U.S. Supreme Court ruled Amendment 2 unconstitutional, and the Council thus, rescinded the ban.

Proposition 187

In 1994, the City was a named plaintiff in the LULAC v. Pete Wilson case challenging California Proposition 187 which denied public education, non-emergency health care and public services to undocumented immigrants, and required public employees, such as teachers to identify and report children and their parents who were suspected of being undocumented. Prop 187 was declared unconstitutional by the U.S. Supreme Court due to preemption of federal law.

City Position on Immigration Reform

The City's position on immigration includes support of federal legislation or administrative action that reforms our immigration system and includes the following:

- 1) Improving the economic situation of all workers in the United States;
- 2) Finding a path to citizenship for undocumented immigrants working and living in the United States;
- 3) Reforming visa programs to keep families together, protecting worker's rights, and ensuring that future immigration is regulated and controlled;
- 4) Implementing smart, effective enforcement measures targeted at the worst violators of immigration and labor laws;
- 5) Integrating immigrants into our communities and country;
- 6) Respecting the due process rights of all in the United States.

The Los Angeles Police Department has indicated that "...in the City of Los Angeles, immigration status, in itself, is not a matter for police action."

IV. Martin Luther King, Jr. Holiday

In the early 1990's, Arizona was faced with a boycott when the state refused to recognize the national Martin Luther King Jr. holiday. As a result of the boycott, Arizona lost \$350 million in revenues and the 1993 Super Bowl XXIV was moved to California.

## RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies to or pending before a local, state or federal government body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City of Los Angeles has historically supported policies that prohibit discrimination based on race, ethnicity, national origin, religion, sexual orientation, and disability; and

WHEREAS, in 1992, Colorado voters passed a statewide initiative known as Amend 2 to repeal local ordinances that prohibited discrimination based on sexual orientation, thereby allowing overt discrimination against the LGBT community; and

WHEREAS, in that instance, the Los Angeles City Council resolved that City funds would not be used, actively or passively, to condone Amend 2 in Colorado; and

WHEREAS, similarly, on April 23, 2010, Arizona Governor Jan Brewer signed Senate Bill 1070 (Support Our Law Enforcement and Safe Neighborhoods Act), requiring all local law enforcement to investigate a person's immigration status when there is a reasonable suspicion that the person is in the Country unlawfully, regardless of whether that person is suspected of a crime; and

WHEREAS, SB 1070 permits the arrest of a person, without a warrant, if there is suspicion that the person has committed a public offense; and

WHEREAS, SB 1070 does not prohibit law enforcement officers from relying on race, ethnicity, national origin or language to determine who to investigate; and

WHEREAS, SB 1070 encourages racial profiling and violates Fourteenth Amendment guarantees of due process and equal protection for U.S. citizens, legal residents and visitors who are detained for suspicion of being in the Country unlawfully; and

WHEREAS, SB 1070 seriously undermines the U.S. Constitution which grants Congress the exclusive power over immigration matters; and

WHEREAS, federal funds should not be used to support immigration programs that promote racial profiling and discrimination based on race, ethnicity or national origin or any other form of discrimination, and therefore, an economic boycott, will strongly convey that the City disagrees with the provisions of SB 1070; and

WHEREAS, the City is contemplating suspending all City travel to Arizona and terminating all current and future contracts with Arizona-based companies, unless SB 1070 is repealed;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles City include in its 2009-10 Federal Legislative Program, OPPOSITION to any legislation of administrative action which will provide federal funds that support the implementation of Arizona SB 1070 and HB 2162, which promote racial profiling, discrimination and harassment.

Harbor Department  
Agreements With Arizona-based Companies

Department Name: Harbor

Contact Person: Glenn Robison, Chief Management Analyst (310) 732-0414

Company Name	Address	Services Provided (Purpose)	Contract Term	Total Contract Amount	Comments
Knight Transportation Inc	5601 W. Buckeye Rd Phoenix, AZ 85043	Clean Truck Incentive Program	10/01/08 - 9/30/13	\$5,730,000.00	The Harbor Department does not recommend rescinding this incentive program due to the adverse effects this action would have on the environment and public health. See Footnote 1 below.
Duncan & Son Lines, Inc	23860 West US Highway 85 Buckeye, AZ 85326	Clean Truck Incentive Program	1/28/09 - 1/28/14	\$1,860,000.00	The Harbor Department does not recommend rescinding this incentive program due to the adverse effects this action would have on the environment and public health. See Footnote 1 below.
Swift Transportation Corp	2200 S 75th Ave Phoenix, AZ 85043	Clean Truck Incentive Program	12/29/08 - 12/29/10	\$18,000,000.00	The Harbor Department does not recommend rescinding this incentive program due to the adverse effects this action would have on the environment and public health. See Footnote 1 below.
West Coast Equipment, Inc.	5022 N 54th Ave Suite 10 Glendale, AZ 85301	Gutter broom cores for street sweepers and rewinding of street sweeper broom	10/1/09 - 9/30/10	\$5,000.00	Of this total contract amount, only \$173.80 has been paid to the vendor. If the Council adopts an Ordinance prohibiting the City to do business with companies located in Arizona, the Department could cancel this contract and rebid for the services provided. Fiscal Impact: Under \$500 per year

\$25,595,000.00

Footnote 1: The Clean Truck Program (CTP) is a key element of the Clean Air Action Plan. Truck-related air pollution is projected to be reduced by 80 percent by 2012, as a result of the implementation of the CTP. In order to facilitate the replacement of the Port's trucking fleet, the Harbor Department provides certain grants and financial incentives to assist participants with the cost of replacing the aging drayage trucks serving the San Pedro Bay Ports with newer diesel and alternative fuel trucks meeting 2007 U.S. Environmental Protection Agency Standards (USEPA). Under the CTP Incentive Program, the following incentives are offered to participants: (1) program participants are awarded \$20,000 for each privately financed USEPA 2007-compliant truck used at the Port; and (2) program participants are provided a yearly cash incentive payment of \$10 per dray with their USEPA 2007-compliant truck if they reached a target of 300 qualified drays per year into and out of the Port of Los Angeles.

Attachment 3

**LAWA Contracts with Arizona-based Firms (not including airlines)**

**PRELIMINARY**

<b>Vendor Name</b>	<b>Contract Description</b>	<b>Date</b>	<b>Material Grp Name</b>	<b>Target Value</b>
DIVERSIFIED INSPECTIONS OF	Aerial parts, service & Regulatory	9/15/2009	Mechanical Materials	20,000.00
TASER INTERNATIONAL	Taser gun repair	3/30/2010	Professional Service	7,000.00
WEST COAST EQUIPMENT & PARTS	Reconditioned street sweeper brooms	2/18/2010	Custodial Supplies	50,000.00
			Total	77,000.00

**Community Redevelopment Agency/LA**

**Report on Contracts and Purchase Orders Awarded to Firms in the State of Arizona**

From 7/1/09 through 5/3/10

Contract#	Vendor Name	Address1	Address2	City	State	Zip	Pool	Eth	Start Date	End Date	Description	CC	Total
10-0519 0	A Bridge Between Nations	7741 E. Gray Road, Ste 9		Scottsdale	AZ	85260		MN	11/25/09	03/31/10	Williams Sound 16 Channel portable transmitter	770	\$4,888.21
10-0576 0	Seliger & Associates	6890 E. Sunset Drive	Suite 120-332	Tucson	AZ	85750	GC10	MN	03/15/10	12/31/10	EDA Grant Consulting Services	CI	\$14,400.00

**Controller's Office  
All Non-Proprietary City Departments**

Company		Amount		
CAROLLO ENGINEERS P.C.			435.05	
CAROLLO ENGINEERS P.C.			15,000.00	
			15,435.05	
JUSTICETRAX INC			204,432.00	
JUSTICETRAX INC			5,840.00	
JUSTICETRAX INC			72,480.00	
			282,752.00	
R & R PRODUCTS	TUCSON AZ 85714		30,115.64	30,115.64
R & R PRODUCTS Total			30,115.64	30,115.64
DIVERSIFIED INSPECTIONS	PHOENIX AZ 85069		32,320.00	32,320.00
DIVERSIFIED INSPECTIONS Total			32,320.00	32,320.00
AMERICAN INDUSTRIAL SUPPLY INC	PHOENIX AZ 85038-9680		58,181.75	58,181.75
AMERICAN INDUSTRIAL SUPPLY INC Total			58,181.75	58,181.75
FLIGHT TRAILS HELICOPTERS INC	MESA AZ 85215		89,013.81	89,013.81
FLIGHT TRAILS HELICOPTERS INC Total			89,013.81	89,013.81
DURHAM COMMUNICATIONS	MESA AZ 85215-9107		68,477.52	68,477.52
DURHAM COMMUNICATIONS Total			68,477.52	68,477.52
TASER INTERNATIONAL INC	PHOENIX AZ 85038		1,214,135.57	1,214,135.57
TASER INTERNATIONAL INC Total			1,214,135.57	1,214,135.57
DETECTION INSTRUMENTS CORP	# 103	PHOENIX A	25,752.91	
DETECTION INSTRUMENTS CORP Total			25,752.91	
PROFORCE MARKETING INC	3009 N HIGHWAY 89	PRESCOTT	501,325.67	
PROFORCE MARKETING INC Total			501,325.67	
WASTE MANAGEMENT	PO BOX 78251	PHOENIX A	4,310.86	
WASTE MANAGEMENT	PO BOX 78251	PHOENIX A	6,033.28	
WASTE MANAGEMENT	BOX 78251	PHOENIX A	2,220.84	
WASTE MANAGEMENT	LONG BEACH CA 90810		608,486.27	
WASTE MANAGEMENT Total			621,051.25	
A THRU Z CONSULTING &	PO BOX 30820	TUCSON A	34,906.31	
A THRU Z CONSULTING &	8620 E OLD VAIL RD SUITE 100	TUCSON A	913,680.35	
A THRU Z CONSULTING & Total			948,586.66	
KNOWLEDGE COMPUTING CORP	TUCSON AZ 85710		2,719,820.70	
KNOWLEDGE COMPUTING CORP Total			2,719,820.70	
JUSTICETRAX INC	MESA AZ 85201-7307		294,152.00	
JUSTICETRAX INC Total			294,152.00	
DETECTION LOGIC INC	GLENDALE AZ 85307		808,923.43	
DETECTION LOGIC INC Total			808,923.43	
		<b>Total</b>	<b>7,710,043.96</b>	

FILE NO.

RESOLUTION NO.

1 [Resolution calling for a boycott of the State of Arizona and Arizona-based businesses until  
2 Arizona repeals SB 1070.]

3  
4 **Resolution denouncing SB 1070, a law that seeks to implement Arizona's own scheme**  
5 **of immigration regulation and will inevitably lead to racial profiling of people of color**  
6 **and limited English proficient persons, calling for a boycott of the State of Arizona and**  
7 **Arizona-based businesses, and endorsing the City Attorney's offer to cooperate in a**  
8 **lawsuit challenging SB 1070.**

9  
10  
11 WHEREAS, The Arizona legislature passed SB1070, which the Arizona Governor, Jan  
12 Brewer, signed into law on April 23, 2010, and with a stroke of a pen set the clock back on a  
13 generation of civil rights gains; and,

14 WHEREAS, SB 1070 requires the police "when practicable" to detain people they  
15 "reasonably suspect" are in the country without authorization; allows the police to charge  
16 immigrants with a state crime for not carrying immigration documents; creates a private right  
17 of action to sue cities upon belief that the government has a policy or practice that restricts  
18 immigration law enforcement; and makes it a crime to stop on a public street to attempt to hire  
19 a temporary worker; and.

20 WHEREAS, SB 1070 will inevitably lead to racial profiling, jeopardizes public safety,  
21 and creates a wedge between law enforcement and ethnic communities; and,

22 WHEREAS, The mayor of Phoenix, Arizona, Phil Gordon, stated that the Arizona  
23 legislature is a "far-right legislature that is increasingly out of step with an increasingly  
24 moderate population, they're also out of step with the rules of basic civility;" and,

25

1           WHEREAS, President Barack Obama has stated that SB 1070 threatens "to undermine  
2 basic notions of fairness that we cherish as Americans, as well as the trust between police  
3 and their communities that is so crucial to keeping us safe"; and,

4           WHEREAS, The people targeted by SB 1070 are not strangers - our American lives  
5 are inextricably bound to theirs. SB 1070 will not only terrorize our nannies and our gardeners,  
6 but also our nurses and our home care workers. And it will not stop there. It will intimidate  
7 our college students, teachers, doctors, lawyers, and engineers. Everyone who looks Latino -  
8 - citizens, legal permanent residents, temporary visa holders, or undocumented -- will be a  
9 primary target under this law; and,

10           WHEREAS, Civil rights leaders, constitutional rights scholars, elected officials, and  
11 police chiefs across the country are repudiating SB 1070, including San Francisco City  
12 Attorney Dennis Herrera and San Francisco Police Chief George Gascon; and,

13           WHEREAS, With the passage of AB 1070, Arizona has once again chosen to isolate  
14 itself from the rest of the nation as it did two decades ago when it refused to observe Martin  
15 Luther King Jr. Day; now, therefore, be it

16           RESOLVED, That unless and until Arizona rescinds SB 1070, the San Francisco Board  
17 of Supervisors urges City Departments (1) to the extent practicable, and in instances where  
18 there is no significant additional cost to the City nor conflict with law, to refrain from entering  
19 into any new or amended contracts to purchase goods or services from any company that is  
20 headquartered in Arizona, (2) to avoid sending City officials or employees to conferences in  
21 Arizona, and (3) to review existing contracts for the purchase of goods and services with  
22 companies headquartered in Arizona and explore opportunities to discontinue those contracts  
23 consistent with the terms of those contracts and principles of fiscal responsibility, and,

24           FURTHER RESOLVED, That unless and until Arizona rescinds SB 1070 the Board of  
25 Supervisors encourages private San Francisco based businesses to refrain from doing

1 business with the State of Arizona or holding or participating in any conventions or  
2 conferences in Arizona, and also urges San Francisco private citizens to avoid engaging in  
3 tourism in the State of Arizona; and,

4 FURTHER RESOLVED, That the Board of Supervisors encourages professional and  
5 collegiate sports organizations (such as the National Football League (NFL), Major League  
6 Baseball, National Basketball Association (NBA), PGA Tour, and NCAA), to follow the lead of  
7 the National Football League when it moved Super Bowl XXVII from Sun Devil Stadium in  
8 Tempe, Arizona, to the Rose Bowl in Pasadena, California, after the State of Arizona refused  
9 to observe Martin Luther King, Jr. Day, and to refrain from holding any All-Star games, bowl  
10 games, championship games, tournaments or other events in the State of Arizona where such  
11 associations have discretion in deciding where those events will take place; and,

12 FURTHER RESOLVED, That the Board of Supervisors endorses the City Attorney's  
13 offer to lend resources of his office to cooperate in a legal challenge to SB 1070; and,

14 FURTHER RESOLVED, That the San Francisco Board of Supervisors hereby directs  
15 the Clerk of the Board to send a copy of this resolution to Arizona Governor, Jan Brewer, the  
16 Commissioner of the NFL, Roger Goodell, the Commissioner of Major League Baseball, Allan  
17 H. Selig, the Commissioner of the NBA, David Stern, the Commissioner of the PGA, Tim  
18 Finchem, and the President of the NCAA, Myles Brand.

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**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 04/29/2010

ORIGINATING DEPARTMENT: City Council District 8

SUBJECT: Oppose Arizona Senate Bill 1070--Support Our Law Enforcement and Safe Neighborhoods Act

COUNCIL DISTRICT(S): All

CONTACT/PHONE NUMBER: Raquel Maden/619-236-6688, MS10A

**REQUESTED ACTION:**

Oppose Arizona's Senate Bill 1070 "Support Our Law Enforcement and Safe Neighborhoods Act.

**STAFF RECOMMENDATION:**

Adopt the Resolution

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:** On April 23, 2010, Arizona Governor Jan Brewer signed Senate Bill 1070--Support Our Law Enforcement and Safe Neighborhoods Act. This law will require all local law enforcement to investigate a person's immigration status whenever there is a reasonable suspicion that the person is in the Country unlawfully, regardless of whether the person is suspected of a crime. The law goes further and allows for the arrest of a person, without a warrant, if there is probable cause that the person has committed a public offense.

SB 1070 encourages racial profiling and violates the Fourteenth Amendment guaranteeing due process and equal protection for U.S. Citizens, legal residents and visitors. The City of San Diego has historically supported policies that prohibit discrimination based on race, ethnicity, national origin, religion, sexual orientation, and disability. By adopting the proposed Resolution the City of San Diego would urge the State of Arizona to repeal SB 1070. Furthermore, it would include opposition to any budgetary action or legislation that promotes racial profiling or discrimination based on race, ethnicity or national origin in the Council's Federal Legislative Program.

**FISCAL CONSIDERATIONS:** None

**EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):** N/A

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** N/A

Molina-Rodriguez, Ana  
Originating Department

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO URGING REPEAL OF ARIZONA SENATE  
BILL 1070, "SUPPORT OUR LAW ENFORCEMENT  
AND SAFE NEIGHBORHOODS ACT."

WHEREAS, the City of San Diego has historically supported policies that prohibit discrimination based on race, ethnicity, sex, age, national origin, religion, sexual orientation, and disability; and

WHEREAS, on April 23, 2010, Arizona Governor Jan Brewer signed Senate Bill 1070 (Support Our Law Enforcement and Safe Neighborhoods Act), requiring all local law enforcement to investigate a person's immigration status when there is a reasonable suspicion that the person is in the Country unlawfully, regardless of whether that person is suspected of a crime; and

WHEREAS, SB 1070 permits the arrest of a person, without a warrant, if there is probable cause to believe that the person has committed a public offense; and

WHEREAS, SB 1070 does not prohibit law enforcement officers from relying on race, ethnicity, national origin or language to determine whom to investigate; and

WHEREAS, SB 1070 encourages racial profiling and violates Fourteenth Amendment guarantees of due process and equal protection for U.S. citizens, legal residents and visitors who are detained for suspicion of being in the Country unlawfully; and

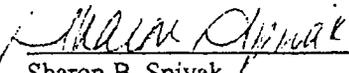
WHEREAS, federal funds should not be used to support immigration programs that promote racial profiling and discrimination based on race, ethnicity or national origin or any other form of discrimination; and

WHEREAS, SB 1070 seriously undermines the U.S. Constitution, which grants Congress exclusive power over immigration legislation; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and Council of the City of San Diego, for and on behalf of the people of San Diego, that this Council urges the State of Arizona to repeal SB 1070, the "Support Our Law Enforcement and Safe Neighborhoods Act," and directs the City Clerk to send a copy of this resolution to Arizona Governor Jan Brewer.

BE IT FURTHER RESOLVED, that by adoption of this Resolution, the City of San Diego hereby includes in its Federal Legislative Program opposition to any budgetary action or legislation, including immigration policy, that promotes racial profiling or discrimination based, on race, ethnicity or national origin.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Sharon B. Spivak  
Deputy City Attorney

SBS:jdf  
04/28/10  
Or.Dept:Council President Hueso

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2010 APR 29 PM 12:34

OAKLAND CITY COUNCIL

~~DRAFT~~  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

RESOLUTION DENOUNCING SB 1070, A LAW THAT SEEKS TO IMPLEMENT ARIZONA'S OWN SCHEME OF IMMIGRATION REGULATION THAT WILL INEVITABLY LEAD TO RACIAL PROFILING OF PEOPLE OF COLOR AND LIMITED ENGLISH PROFICIENT PERSONS, AND CALLING FOR A BOYCOTT OF THE STATE OF ARIZONA AND ARIZONA-BASED BUSINESSES

WHEREAS, the City of San Francisco has introduced a resolution denouncing SB 1070, calling for a boycott of the State of Arizona and Arizona-based businesses, and the City of Oakland would like to pass a similar resolution; and

WHEREAS, Arizona's legislature passed SB 1070, which Arizona Governor Jan Brewer signed into law on April 23, 2010, and set the clock back on a generation of civil rights gains; and

WHEREAS, SB 1070 requires the police "when practicable" to detain people they "reasonably suspect" are in the country without authorization; allows the police to charge immigrants with a state crime for not carrying immigration documents; creates a private right of action to sue cities upon belief that the government has a policy or practice that restricts immigration law enforcement; and makes it a crime to stop on a public street to attempt to hire a temporary worker; and

WHEREAS, SB 1070 will inevitably lead to racial profiling, jeopardize public safety, and create a wedge between law enforcement and ethnic communities; and

WHEREAS, President Barack Obama has stated that SB 1070 threatens to "undermine basic notions of fairness that we cherish as Americans, as well as the trust between police and their communities that is so crucial to keeping us safe;" and

WHEREAS, the people targeted by SB 1070 are not strangers – our American lives are inextricably bound to theirs. SB 1070 will not only intimidate our nannies and our gardeners, but also our nurses and our home care workers. And it will not stop there. It will intimidate our college students, teachers, doctors, lawyers, and engineers. Everyone who looks Latino – citizens, legal permanent residents, temporary visa holders, and the undocumented – will be a primary targets under this law; now therefore be it

RESOLVED: That unless and until Arizona rescinds SB 1070, the City of Oakland urges City departments (1) to the extent practicable, and in instances where there is no significant additional cost to the City or conflict with law, to refrain from entering into any new or amended contracts to purchase goods or services from any company that is headquartered in Arizona, (2) to not send City officials or employees to conferences in Arizona, and (3) to review existing contracts for the purchase of goods and services with companies headquartered in Arizona and explore opportunities to discontinue those contracts consistent with the terms of those contracts and principles of fiscal responsibility, and

**FURTHER RESOLVED:** That the Oakland City Council encourages citizens, businesses, churches, schools, organizations, associations, and others in the City, to boycott the State of Arizona and Arizona-based businesses until Arizona repeals SB 1070, and

**FURTHER RESOLVED:** That the City of Oakland calls on cities throughout the country to pass a similar resolution denouncing SB 1070 and calling for a boycott of the State of Arizona, and Arizona-based businesses until it repeals SB 1070, and

**FURTHER RESOLVED:** That the Oakland City Council hereby directs the City Clerk to send a copy of this resolution to Arizona Governor Jan Brewer.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE , KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

RESOLUTION NO. 10-XXXX

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DENOUNCING ARIZONA'S ANTI-IMMIGRATION LAW WHICH CALLS UPON THE CITY MANAGER TO IMMEDIATELY SUSPEND OFFICIAL TRAVEL TO THE STATE OF ARIZONA AND DEVELOP ADDITIONAL FINANCIAL SANCTIONS UNTIL SUCH TIME AS THE NEW LAW IS REVOKED.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, On April 23, 2010, Arizona Governor Jan Brewer signed into law Senate Bill 1070 (Pearce) which is the broadest and strictest immigration measure in decades, and

WHEREAS, "Support Our Law Enforcement and Safe Neighborhoods Act," requires police officers at the state, county or city level to question a person about their immigration status if there is "reasonable suspicion" they are in the country illegally, and

WHEREAS, This new law makes being in Arizona without proper documentation a crime under State law and also targets those who hire and knowingly transport immigrant day laborers, and

WHEREAS, This new law aims to identify, prosecute and deport immigrants who will also face fines of up to \$2,500 and up to six months in jail, and

WHEREAS, It is believed by many civil libertarians, immigrant-rights groups and opponents that this law will spur racial profiling and harassment, and

WHEREAS, The National Gay and Lesbian Task Force, a longtime advocate for comprehensive immigration reform, calls this new law "draconian and inhumane," and

WHEREAS, President Obama, Latino leaders, MALDEF and the ACLU, among others, have criticized this law, and

WHEREAS, Throughout 25 years of cityhood, West Hollywood has demonstrated a commitment to human rights, and

WHEREAS, West Hollywood has been a destination for immigrant families seeking refuge, and

**WHEREAS, With an official ban by the City of West Hollywood on travel to the State of Arizona, and a review of all current and likely future contracts with Arizona-based businesses to examine the feasibility of ascertaining such products and services elsewhere until the law is revoked, we endeavor to stand in solidarity with all those who seek rational and common sense immigration reform in Arizona and the United States.**

**NOW, THEREFORE BE IT RESOLVED that the City Council of the City of West Hollywood hereby denounces Arizona's anti-immigration law and calls upon the City Manager to immediately suspend official travel to the State of Arizona and develop additional financial sanctions until such time as the new law is revoked.**

# Memo

**To:** West Hollywood City Council Members

**From:** Tom West, City Clerk 

**CC:**

**Date:** May 3, 2010

**Re:** Communication from the public

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The attached correspondence has been received pertinent to the following item on this evening's City Council agenda:

**2.S. A RESOLUTION DENOUNCING ARIZONA'S ANTI-IMMIGRATION LAW AND CALLING UPON THE CITY MANAGER TO IMMEDIATELY SUSPEND OFFICIAL TRAVEL TO THE STATE OF ARIZONA AND DEVELOP ADDITIONAL FINANCIAL SANCTIONS UNTIL SUCH TIME AS THE NEW LAW IS REVOKED**

**Guy Vespoint**

---

**Subject:** FW LA County & West Hollywood Asking us to send money to Arizona

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**From:** Al Lewis [mailto:awlewis@attglobal.net]  
**Sent:** Friday, April 30, 2010 3:09 PM  
**To:** '008, Station'; Jeffrey Prang; Abbe Land; John Heilman; John Duran; Lindsey Horvath; zev@bos.lacounty.gov  
**Cc:** City Council Web Email Address; molina@bos.lacounty.gov; seconddistrict@bos.lacounty.gov; dsommers@lacbos.org; fifthdistrict@lacbos.org; Info@lacofd.org  
**Subject:** LA County & West Hollywood Asking us to send money to Arizona

I am the President of a Condo HOA in City of West Hollywood.

We have been asked by Los Angeles County Fire Department to install a lockbox. Our association would normally comply without complaint. But the only approved vendor is in Phoenix, Arizona. We object to being asked by LA County and by City of West Hollywood to send money to Phoenix, Arizona until the recently passed state law forcing state and local law enforcement to stop and examine papers of anyone who might be illegally in the United States is repealed.

I grew up in the American South in the 1960's. Racism is ugly and the arguments used to justify the current Arizona law soundly strangely familiar to me from what I heard so long ago in the Southeast.

We should not be asked to do business with Arizona companies until this matter is behind us and Arizona' elected officials decide to join the rest of civilized mankind in the 21<sup>st</sup> Century.

I OBJECT AT THIS TIME TO BEING TOLD BY LA COUNTY AND CITY OF WEST HOLLYWOOD THAT I MUST SEND MONEY TO A VENDOR IN PHOENIX, ARIZONA.

Thank you,

Al Lewis

---

Al Lewis  
awlewis@attglobal.net

Tel. (323) 654-3534  
Fax. (323) 656-8993  
Cell. (213) 716-7377

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**From:** 008, Station [mailto:008@fire.lacounty.gov]  
**Sent:** Thursday, April 29, 2010 5:54 PM  
**To:** awlewis@attglobal.net  
**Subject:** knoxbox info

Attached is the knoxbox info requested  
Captain Eric Kuck  
Engine 8  
West Hollywood

# LACYD

Los Angeles County Young Democrats

RECEIVED  
CITY OF WEST HOLLYWOOD

10 MAY -3 PM 1:50

OFFICE OF THE CITY CLERK

## EXECUTIVE BOARD

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President

CAROLINE CARR  
Vice President of  
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DAVID GRAHAM-CASO  
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Vice President of  
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Outreach Director

\*\*\*\*\*

[www.LACYD.org](http://www.LACYD.org)

\*\*\*\*\*

P O Box 53110  
Los Angeles, CA 90053

May 3, 2010

Honorable Lindsey Horvath  
West Hollywood City Hall  
West Hollywood, CA 90069

Dear Councilmember Horvath:

I write on behalf of the Los Angeles County Young Democrats (LACYD) to express our organization's support for item #2.S on the West Hollywood City Council's agenda to be considered at tonight's City Council meeting.

Founded more than 30 years ago by Congressman Henry Waxman, Congressman Howard Berman, Supervisor Zev Yaroslavsky, and others, LACYD is the largest organization in Southern California focused on giving young people a voice and a vehicle for activism in local, state, and federal political issues. LACYD is committed to the values of equality and non-discrimination, and we are very concerned that Arizona's recently approved immigration law, SB1070, will lead to harassment of minorities, unreasonable searches without probable cause, and racial profiling.

The resolution being considered today by the City of West Hollywood will condemn SB1070, ban official city travel to Arizona, and consider further economic sanctions against the state. This resolution takes a strong stand against the racism and discrimination inherent in SB1070 and is an important part of a growing movement that seeks to hold Arizona's state representatives accountable for their shameful decisions by boycotting the state of Arizona. As you know, boycotts have previously proven effective in ending similar policies not just in Arizona, but elsewhere in the country and the world. It is important to take a stand against institutions that pursue discriminatory practices, as the state of Arizona did by approving SB1070, and the Los Angeles County Young Democrats are proud to stand with you in this effort.

We commend your leadership in authoring this resolution and are eager to help you as the City of West Hollywood moves forward with the approval and implementation of item #2.S.

Sincerely,



Katherine Hennigan  
President  
Los Angeles County Young Democrats

RESOLUTION NO. 10-3995

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DENOUNCING ARIZONA'S ANTI-IMMIGRATION LAW WHICH CALLS UPON THE CITY MANAGER TO IMMEDIATELY SUSPEND OFFICIAL TRAVEL TO THE STATE OF ARIZONA AND DEVELOP ADDITIONAL FINANCIAL SANCTIONS UNTIL SUCH TIME AS THE NEW LAW IS REVOKED.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, On April 23, 2010, Arizona Governor Jan Brewer signed into law Senate Bill 1070 (Pearce) which is the broadest and strictest immigration measure in decades; and

WHEREAS, "Support Our Law Enforcement and Safe Neighborhoods Act," requires police officers at the state, county or city level to question a person about their immigration status if there is "reasonable suspicion" they are in the country illegally; and

WHEREAS, This new law makes being in Arizona without proper documentation a crime under State law and also targets those who hire and knowingly transport immigrant day laborers; and

WHEREAS, This new law aims to identify, prosecute and deport immigrants who will also face fines of up to \$2,500 and up to six months in jail; and

WHEREAS, It is believed by many civil libertarians, immigrant-rights groups and opponents that this law will spur racial profiling and harassment; and

WHEREAS, The National Gay and Lesbian Task Force, a longtime advocate for comprehensive immigration reform, calls this new law "draconian and inhumane", and

WHEREAS, President Obama, Latino leaders, MALDEF and the ACLU, among others, have criticized this law; and

WHEREAS, Throughout 25 years of cityhood, West Hollywood has demonstrated a commitment to human rights; and

WHEREAS, West Hollywood has been a destination for immigrant families seeking refuge; and

WHEREAS, With an official ban by the City of West Hollywood on travel to the State of Arizona, and a review of all current and likely future contracts with Arizona-based businesses to examine the feasibility of ascertaining such products and services elsewhere until the law is revoked, we endeavor to stand in solidarity with all those who seek rational and common sense immigration reform in Arizona and the United States.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of West Hollywood hereby denounces Arizona's anti-immigration law and calls upon the City Manager to immediately suspend official travel to the State of Arizona and develop additional financial sanctions until such time as the new law is revoked.

PASSED, APPROVED AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 3<sup>rd</sup> day of May, 2010 by the following vote:

AYES:	Councilmember:	Horvath, Land, Prang, Mayor Pro Tempore Duran, and Mayor Heilman.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None

  
\_\_\_\_\_  
JOHN HEILMAN, MAYOR

ATTEST:

  
\_\_\_\_\_  
Folk THOMAS R. WEST, CITY CLERK

RESOLUTION NO. 2010-019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA OPPOSING STATE OF ARIZONA SB 1070 AND URGING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO WORK ON COMPREHENSIVE IMMIGRATION REFORM.

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. On April 23, 2010, the Arizona Governor signed Arizona Senate Bill 1070 (Support Our Law Enforcement and Safe Neighborhoods Act), requiring all local law enforcement to investigate a person's immigration status when there is a reasonable suspicion that the person is in the Country unlawfully, regardless of whether that person is suspected of a crime; and,
- B. Arizona's law permits the arrest of a person by local law enforcement, without a warrant, if there is suspicion that the person is not in the United States legally; and,
- C. This law does not prohibit law enforcement officers from solely relying on factors such as race, ethnicity, national origin or language to determine who to investigate; and,
- D. This law encourages racial profiling and violates Fourteenth Amendment guarantees of due process and equal protection for U.S. citizens, legal residents and visitors who are detained for suspicion of being in the Country unlawfully; and,
- E. This law will have a chilling effect on victims and witnesses, regardless of legal status, choosing to forego reporting crime or testifying to a crime to prevent immigration-related interrogation, discriminatory treatment and arrest. Accordingly, this law will severely undermine law enforcement's ability to effectively maintain public safety resulting in increased crime; and,
- F. The City of Santa Ana considers the safety of its residents an unconditional priority, and strives to protect the community from all criminals, irrespective of legal status. The practice, which will remain unchanged, when the arrest and booking of an undocumented person suspected of having committed an offense occurs, is to place a temporary hold on the accused, and thereafter notify federal immigration officials to determine deportation enforcement upon conviction; and

- G. The stated purpose of this law attempts to usurp functions specifically and solely traditionally reserved for federal authorities. As a result, many legal scholars, including UCI Law School dean Erwin Chemerinsky, have questioned the constitutionality of the law in that it violates the U.S. Constitution, and undermines the exclusive power over immigration matters granted to Congress.
- H. The current immigration system is broken. It separates families, reduces the effectiveness of national and local security programs, contributes to labor abuses, and creates long backlogs for families seeking naturalization; and
- I. Undocumented immigrants, due to their immigration status, are often a more vulnerable segment of our community victimized by violent criminals, employers and slumlords, finding themselves without recourse due to the threat of deportation; and,
- J. United States Citizens, legal residents, visitors and undocumented persons alike are now being recklessly subject to racial profiling, harassment and discrimination in states such as Arizona and those that pass similar legislation while legal challenges are pending, comprehensive immigration reform is critical and should promptly be addressed by the U.S. President and Congress; and,
- K. The current immigration system neglects the hard work, talent, success and financial contributions immigrants make to our country. In Orange County, immigrants contribute 33 percent of the region's economic activity, as reported on California Assembly Joint Resolution "AJR" 37; and,
- L. The City of Santa Ana has one of the biggest populations of immigrants, including naturalized citizens, legal residents and undocumented persons; and it is estimated that about 11 million undocumented immigrants are in the United States.

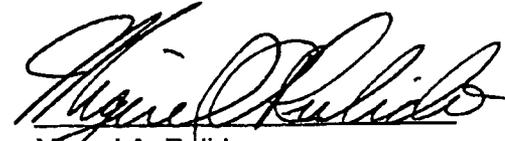
**Section 2.** That the City Council of the City of Santa Ana opposes SB 1070 and calls upon the Arizona Legislature to repeal SB 1070.

**Section 3.** That the City Council of the City of Santa Ana urges the President and the Congress of the United States to work on comprehensive immigration reform to fix our nation's broken immigration system.

**Section 4.** That the Clerk of the Council is directed to transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and to the Governor of the State of Arizona.

Section 5. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this 3<sup>rd</sup> day of May, 2010.

  
Miguel A. Pulido  
Mayor

APPROVED AS TO FORM:

  
Joseph W. Fletcher  
City Attorney

AYES: Councilmembers Alvarez, Benavides, Martinez, Pulido, Sarmiento,  
Tinajero (6)

NOES: Councilmembers Bustamante (1)\*

ABSTAIN: Councilmembers None (0)

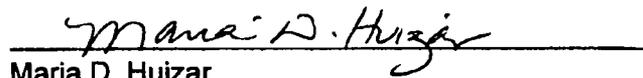
NOT PRESENT: Councilmembers None (0)

\*Councilmember Bustamante recorded a "No" vote on Section 1 of the Resolution.

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2010-019 to be the original resolution adopted by the City Council of the City of Santa Ana on May 3, 2010.

Date: 5/6/2010

  
Maria D. Huizar  
Clerk of the Council  
City of Santa Ana

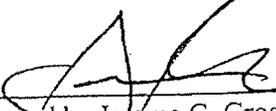


# City of Carson Report to Mayor and City Council

May 4, 2010  
New Business Discussion

**SUBJECT: CONSIDERATION OF RESOLUTION 10-048 OPPOSING ARIZONA STATE LAW  
"SUPPORT OUR LAW ENFORCEMENT AND SAFE NEIGHBORHOODS ACT"**

Submitted by Jerome G. Groomes  
City Manager

  
Approved by Jerome G. Groomes  
City Manager

## **I. SUMMARY**

This item is on the agenda at the request of Councilmember Gipson and City Treasurer Avilla.

The City Council is requested to consider passing Resolution No. 10-048 in opposition to the Arizona state Senate Bill 1070 that recently passed also called, "Support our Law Enforcement and Safe Neighborhoods Act" (Exhibit Nos. 1 and 2).

## **II. RECOMMENDATION**

DISCUSS and PROVIDE direction.

## **III. ALTERNATIVES**

TAKE the following actions:

1. WAIVE further reading and ADOPT Resolution No. 10-048, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, OPPOSING ARIZONA STATE LAW "SUPPORT OUR LAW ENFORCEMENT AND SAFE NEIGHBORHOODS ACT"
2. INSTRUCT staff to transmit a copy of the executed resolution to the Presidents of the California Legislative Black Caucus, California Legislative Hispanic Caucus, California Congressional Hispanic Congress, the National League of Cities Hispanic Elected Local Officials, League of California Cities, California Contract Cities, National Association of Latino Elected and Appointed Officials, Governor Schwarzenegger, California Senate President *pro Tem* Steinberg, California State Senator Oropeza, Speaker of the Assembly Perez, Assemblyman Furutani, Los Angeles County Supervisor Ridley-Thomas and state of Arizona Governor Brewer.

IV. BACKGROUND

Arizona passed a controversial immigration bill authorizing police officers to stop suspected illegal immigrants and demand proof of citizenship. The law has sparked a national uproar, with politicians and citizens weighing in. "Support our Law Enforcement and Safe Neighborhoods Act" permits the arrest of a person, without a warrant, if there is suspicion that the person has committed a public offense. This law encourages racial profiling and violates the Fourteenth Amendment guarantees of due process and equal protection for U.S. citizens, legal residents and visitors who are detained for suspicion of being in the country unlawfully. Federal funds should not be used to support immigration programs that promote racial profiling and discrimination based on race, ethnicity or national origin or any other form of discrimination. Moreover, local resources should not be used to support immigration programs that are under the exclusive power of the federal government.

By adopting Resolution No. 10-048, the city of Carson expresses its opposition to the state of Arizona's "Support our Law Enforcement and Safe Neighborhoods Act" and shall refrain from conducting business with the state of Arizona including participating in any conventions or other business that requires city resources, unless this law is repealed.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Resolution No. 10-048. (pgs. 4-5)
2. S.B. 1070 also known as "Support our Law Enforcement and Safe Neighborhoods Act". (pgs. 5-22)

Prepared by: Lisa Berglund, Senior Administrative Analyst

sf:Rev061902

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Development Services

AMENDED MAY 4, 2010

(Amendments are printed on page two in red.)

RESOLUTION NO. 10-048

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CARSON, CALIFORNIA, OPPOSING ARIZONA STATE LAW SB  
1070 "SUPPORT OUR LAW ENFORCEMENT AND SAFE  
NEIGHBORHOODS ACT"

WHEREAS, on April 23, 2010, Arizona Governor Jan Brewer signed Senate Bill 1070 (Support Our Law Enforcement and Safe Neighborhoods Act), requiring all local law enforcement to investigate a person's immigration status when there is reasonable suspicion that the person is in the country unlawfully, regardless of whether that person is suspected of a crime; and

WHEREAS, SB 1070 permits the arrest of a person, without a warrant, if there is suspicion that the person has committed a public offense; and

WHEREAS, SB 1070 encourages racial profiling and violates the Fourteenth Amendment guarantees of due process and equal protection for U.S. citizens, legal residents and visitors who are detained for suspicion of being in the country unlawfully; and

WHEREAS, federal funds should not be used to support immigration programs that promote racial profiling and discrimination based on race, ethnicity or national origin or any other form of discrimination; and

WHEREAS, SB 1070 seriously undermines the U.S. Constitution which grants Congress the exclusive power over immigration matters; and

WHEREAS, local resources should not be used to support immigration programs that are under the exclusive power of the federal government;

NOW, THEREFORE, BE IT RESOLVED, that by adoption of this resolution, the city of Carson expresses its opposition to SB 1070 and shall refrain from conducting business with the state of Arizona including participating in any conventions or other business that requires city resources, unless SB 1070 (Support Our Law Enforcement and Safe Neighborhood Act) is repealed.

BE IT FURTHER RESOLVED, that the city of Carson encourages all of its member organizations, the county of Los Angeles and the state of California to refrain from conducting business with the state of Arizona including participating in any conventions or other business

that requires city resources, unless SB 1070 (Support Our Law Enforcement and Safe Neighborhood Act) is repealed.

BE IT FURTHER RESOLVED, that upon adoption of this resolution the City Manager will immediately suspend official travel to the state of Arizona and review all current and likely future contracts with Arizona based businesses in order to examine the feasibility of ascertaining such products and services elsewhere;

BE IT FURTHER RESOLVED, that the city of Carson will continue to monitor anti-immigration efforts in Arizona with updates on status and impact of city efforts.

**PASSED, APPROVED and ADOPTED** this 4<sup>th</sup> day of May, 2010.

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Mayor Jim Dear

ATTEST:

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City Clerk Helen S. Kawagoe

APPROVED AS TO FORM:

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City Attorney