

Utah's Immigration Solution Not a National Model

Legislation Fails To Live Up To State's Best Intentions

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Washington D.C. - Late Friday night, the Utah Legislature passed three immigration-related bills that await Governor Herbert's signature or veto. Utah's policy discussions were guided by the principles of a much-lauded Utah Compact, which brought together leaders from political parties, business, labor, and faith-based organizations for a thoughtful dialogue about immigration policy. The Compact was a welcome relief from the angry vitriol that has often dominated the debate and was well-regarded as a rational, solution-based conversation about the complexity of effective immigration reform. It recognizes that the current unauthorized immigrant population is made up of workers, taxpayers, and consumers, and that enforcement strategies must be coupled with reform of our legal system of immigration in order to meet legitimate labor force needs. Unfortunately, the Utah state legislature was not able to realize the Compact's aspirations.

The three bills represent one state's attempt to provide solutions that go beyond the enforcement-only approach of Arizona's SB1070 and similar copycats being considered in other states. It is noteworthy that Utah's legislature acknowledged that immigration is a complex issue, and that a realistic solution involves more than asking people for their papers and deporting those who lack legal status. However, what these well-intentioned Utah legislators have created is an aggressive Arizona-style enforcement program with no counter-balance. The provisions intended to create legal work status and visas are clearly at odds with the Constitution and cannot be implemented by state action alone.

The first measure (HB 497) is an SB1070-inspired immigration-enforcement bill that is scheduled to go into effect in early May, but will almost assuredly be challenged in court. The second bill (HB 466) authorizes the Governor of Utah to enter into a pilot program with the Mexican state of Nuevo Leon to facilitate applications for migrant workers to come to Utah through the normal federal process. The third bill (HB 116) would create Utah's own "guest worker program," to take effect on July 1, 2013, or six months after the federal government grants Utah an unprecedented "waiver" allowing the state to create its own guestworker program. However, the creation and issuance of visas are clearly the sole purview of the federal government, and no "waiver" for states currently exists.

In light of the heavy handed approach to enforcement and the fact that a state-administered guest worker program is clearly outside the authority of the state, what was passed by the Utah legislature is not a model for future state legislation. While states are reasonably frustrated with the lack of federal leadership on immigration, a 50-state patchwork of varying immigration laws is not a solution to the nation's immigration problems. Despite a laudable effort by a conservative state to engage in a more sensible debate, this latest chapter of state-based initiatives once again demonstrates that Congress and the Administration must heed the call for workable, fair immigration reform, or face continued turmoil and misplaced legislation at the state level.

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