

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008)**

Signed into Law

Bill Number: **HB 08-1325**

Short Title: **Seasonal Agricultural Worker Program**

Sponsors: *Rep. Looper
Sen. Tapia*

Status: Signed into Law

The bill establishes the Nonimmigrant Agricultural Seasonal Worker Pilot Program in the Department of Labor and Employment. The purpose of the program is to expedite the recruitment, application, and approval process of the H-2A labor certification process established in federal law. The Director of the Department of Labor and Employment and the Commissioner of Agriculture, in conjunction with the Governor's Office of Economic Development and International Trade, may seek to implement agreements between Colorado and foreign countries to assist in recruiting temporary agricultural workers. The program is limited to 1,000 employees in the first year with increases of 1,000 employees annually for 4 years.

State Appropriations:

The Department of Labor and Employment is permitted to charge participating employers a fee to cover the costs of administering the program. It is anticipated that the fee will be set at \$102 per employee in FY 2008-09 and \$54 per employee in FY 2009-10. The program will generate estimated cash funds revenue of \$102,000 for FY 2008-09 and \$108,000 for FY 2009-10 to the Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund .

The bill establishes the Nonimmigrant Agricultural Seasonal Worker Pilot Program Advisory Council. The council must make recommendations for the adoption of rules as necessary to implement the program and assist in the preparation of the report to the General Assembly regarding the progress of the program that is required by February 1, 2010. Additionally, the Advisory Council is required to consult with health insurance carriers in the state to determine the availability of health insurance plans for employees participating in the program. Any legislative recommendations deemed necessary to make health insurance available to seasonal agricultural workers must be included in the report to the General Assembly.

The Department of Labor and Employment will require \$82,047 and 1.0 FTE for FY 2008-09 and \$85,940 and 1.3 FTE for FY 2009-10 to administer the program. Costs will be paid from the Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund. Of required amount, \$4,322 in FY 2008-09 and \$2,161 in FY 2009-10 will be transferred to the Department of Law for legal services.

Employers may apply to the Department of Labor and Employment to participate in the program. For employees hired through the program, the employer is required to reimburse the employee for transportation and housing, provide wages in compliance with federal law, and provide worker's compensation insurance, tools, and meals. In addition, the employer must guarantee the employee work for 75 percent of the work days during the contract and comply with certain provisions regarding payment of the employee. Employers must notify the Department of Labor and Employment and law enforcement officials if an employee who has been hired through the program cannot be located and has not reported for work. Employees participating in the program must apply for a Colorado identification card within two weeks of arriving in Colorado.

Criminal and civil penalties may be assessed against persons who do not comply with the provisions of the bill. Any fees or fines collected under the program will be placed into the Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund. The money will be annually appropriated to the department for the administrative costs associated with the program. The Department of Labor and Employment and the Agriculture Commissioner must report the progress of the pilot to various committees of the General Assembly by February 1, 2010. The program will repeal January 1, 2014.

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Signed into Law (cont.)	
<p>Bill Number: HB 08-1348</p> <p>Sponsors: <i>Rep. Witwer</i> <i>Sen. Spence</i></p> <p>The bill authorizes officers of the federal protective service of the U.S. Department of Homeland Security Immigration and Customs Enforcement to act as peace officers in Colorado.</p>	<p>Short Title: Federal Agents as Peace Officers</p> <p>Status: Signed into Law</p> <p>State Appropriations:</p> <p>The bill does not have a fiscal impact. It is assumed that the additional authority granted by the bill will not significantly increase arrests or criminal convictions.</p>
<p>Bill Number: SB 08-079</p> <p>Sponsors: <i>Sen. Sandoval</i> <i>Rep. Massey</i></p> <p>The bill specifies that a U.S. citizen may be classified as an in-state student for tuition purposes if the student graduated from a high school and attended a high school in the state for the three years immediately preceding his or her enrollment in a state institution of higher education, or completed a general equivalency diploma and lived in the state for the three years prior to enrollment in a state institution of higher education.</p>	<p>Short Title: In-state Tuition for U.S. Citizens</p> <p>Status: Signed into Law</p> <p>State Appropriations:</p> <p>It is estimated that the bill will result in increased tuition revenue of \$53,544 for both FY 2008-09 and FY 2009-10. It is estimated that a minimum of 26 students will be affected by the bill and this increase in enrollment will require a General Fund appropriation of \$2,760 to the College Opportunity Fund for each of these students. The General Fund cost of the bill is estimated at \$71,760 for both fiscal years.</p>
<p>Bill Number: SB 08-134</p> <p>Sponsors: <i>Sen. Kopp</i> <i>Rep. McNulty</i></p> <p>The rerevised bill specifies that 50 percent of forfeited bond moneys and fees for a person who is in the United States illegally shall be deposited into the County Jail Assistance Fund. The other 50 percent is credited to the Corrections Expansion Reserve Fund. The bill also sets the minimum bond for a person arrested for distribution of a schedule I or schedule II controlled substance at \$50,000.</p>	<p>Short Title: Minimum Bail for Drug Distribution</p> <p>Status: Signed into Law</p> <p>State Appropriations:</p> <p>As a result of the bill, revenue to the Capital Construction Fund is expected to decrease by at least \$2,053 in FY 2008-09 and FY 2009-10, and revenue to the County Jail Assistance Fund will increase by a like amount in both fiscal years. Similarly, appropriations from the Capital Construction Fund to the Corrections Expansion Reserve Fund will decrease by at least \$2,053 in FY 2008-09 and FY 2009-10, and expenditures from the County Jail Assistance Fund will increase by a like amount in both fiscal years.</p>

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Signed into Law (cont.)

Bill Number: **SB 08-139**

Short Title: **Notify Employers E-Verify Program**

Sponsors: *Sen. Schultheis
Rep. Lundberg*

Status: Signed into Law

The rerevised bill requires the Department of Labor and Employment to include a statement in its quarterly electronic publication distributed to employers. This statement must notify employers of the federal prohibition against hiring or continuing to employ an illegal alien. The exact wording, font style, and placement of the notice are specified in the bill. The notice must include information about the optional Electronic Verification Program jointly administered by the U.S. Department of Homeland Security and the Social Security Administration. The notice must provide information about when, during the hiring process, an employer may lawfully use the Electronic Verification Program. The department and the Secretary of State will post the notification and information about the program on their web sites.

State Appropriations:

The bill is assessed as having no fiscal impact. The bill's requirements can be absorbed within existing resources of the Department of Labor and Employment.

Bill Number: **SB 08-193**

Short Title: **Public Contracts for Services**

Sponsors: *Sen. McElhany
Rep. Judd*

Status: Signed into Law

Under current law, state contractors are required to attempt to use a federal program, previously known as the Basic Pilot Program and now known as the E-Verify Program, to verify that their employees who will perform work under a public contract for services are legally authorized to work in the United States. The act requires that state contractors verify only newly hired employees and excludes certain types of service contracts, including those for financial and investment services, research activities of higher education, intergovernmental agreements, and agreements for information technology, from the verification requirements. The bill creates an additional program within the Colorado Department of Labor and Employment that contractors may use to verify the employment eligibility of newly hired employees. Under the state program, a contractor must notify the department, affirm that the legal status of each newly hired employee was examined, retain files, and not alter or falsify identification documents for new employees. Contractors must also consent to random audits by the department.

State Appropriations:

The Department of Labor and Employment will keep a list of contractors that notify the department that they are participating in the program, and conduct random audits of employers participating in the program. These activities can be accomplished within current funding, thus, the bill is assessed as having no fiscal impact.

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Postponed Indefinitely	
<p>Bill Number: HB 08-1039</p> <p>Sponsors: <i>Rep. Summers</i> <i>Sen. Renfroe</i></p> <p>Current statute specifies a number of documents that may be used by eligible electors as identification for election-related purposes. The bill would have eliminated documents that do not contain a photograph of the eligible elector from the list of allowable identification documents.</p>	<p>Short Title: Voter Photo Identification in Elections</p> <p>Status: Postponed Indefinitely</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 40px;">The bill would have required the Department of State to re-print voter registration and other forms at an estimated one-time cost of \$13,591 in FY 2008-09.</p>
<p>Bill Number: HB 08-1177</p> <p>Sponsors: <i>Rep. McNulty</i> <i>Sen. McElhany</i></p> <p>The introduced bill required all persons applying to register to vote on and after the effective date of the bill to submit proof of citizenship. Overseas military personnel and other overseas voters were exempt from the requirements. Proof of citizenship did not include proof of voter registration from another state, but did include:</p> <ul style="list-style-type: none"> • a valid U.S. passport, or a copy of the pages of the passport that identify the person and show the passport number; • a birth certificate or a photocopy of a birth certificate; • a naturalization document or a photocopy of the document; and • any document or method of proving citizenship established by federal law. <p>Persons who were registered electors as of July 1, 2008, were deemed to have met the requirements of the law and were not required to submit proof of citizenship. Registered electors were not required to submit proof of citizenship when they moved within the county; changed their name; or declared, changed, or withdrew a political affiliation.</p>	<p>Short Title: Identification Document Voting Citizenship</p> <p>Status: Postponed Indefinitely</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 40px;">The bill would have increased costs for county clerks and recorders. The bill's cost was not estimated across all counties, but the cost for a mid-size county was estimated to be at least \$50,000 per year.</p>

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Postponed Indefinitely (cont.)

Bill Number: **HB 08-1184**

Short Title: **Unlicensed Driver Arrest and Impound**

Sponsors: *Rep. Lambert
Sen. Schultheis*

Status: Postponed Indefinitely

The introduced bill required peace officers to arrest a person suspected of having a forged driver's license. In addition, the bill prohibited a person from driving in the state unless he or she was legally present in the country and had a valid driver's license issued by the state Department of Revenue. A peace officer was required to arrest someone when probable cause existed to believe a person was illegally in the United States and was driving without a valid license. A violation of this provision of the bill was a misdemeanor, with a penalty of a term of imprisonment of at least 5 days but no more than 6 months, and a fine of not less than \$50 and not more than \$500. In addition, the peace officer was required to impound the vehicle until it was registered and insured and a licensed driver retrieved it. Violations of the bill were required to be reported to U.S. Immigration and Customs Enforcement, and the bill allowed law enforcement officers that enforce traffic laws to enter into an agreement with the U.S. Attorney General to enforce immigration law.

State Appropriations:

The bill would have resulted in an increase in state revenue estimated at less than \$30,000 from fines imposed by the bill.

The Department of Public Safety would have incurred expenses of approximately \$917,179 and 7.0 FTE in FY 2008-09 and \$569,696 and 7.0 FTE in FY 2009-10. Costs were related to an increase in the need for state troopers to arrest, transport, and process an estimated 3,510 offenders and vehicles.

Bill Number: **HB 08-1272**

Short Title: **Improve Immigration Law Enforcement**

Sponsors: *Rep. King
Sen. Penry*

Status: Postponed Indefinitely

The introduced bill required, within 60 days of the bill's effective date, the governor, or the governor's designee, to negotiate with the U.S. Department of Homeland Security to amend existing memoranda of understanding regarding state and federal enforcement of immigration laws. The negotiations were to focus the following items:

State Appropriations:

The Governor's Office would have required a General Fund appropriation of \$19,853 and 0.2 FTE in FY 2008-09. Costs were related to the hiring of legal counsel to negotiate changes to the memoranda.

- provisions that condition the use of a state or local detention facility for a suspected violator of immigration laws on the adoption of restrictions limiting the use of force policies in such facilities; and
- any prohibition on the state reporting the final disposition of a person detained for suspicion of violation of immigration law.

The governor, or his designee, was to report the results of the negotiation to the House and Senate State, Veterans, and Military Affairs Committees by December 1, 2008.

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Postponed Indefinitely (cont.)

<p>Bill Number: HB 08-1326</p> <p>Sponsors: <i>Rep. Lambert</i> <i>Sen. Schultheis</i></p> <p>The introduced bill required state agencies and political subdivisions that provide public benefits, regardless of the source of funding for the benefits, to verify the lawful presence in the country of persons 18 years of age or older who apply for such benefits. The bill also required state agencies and political subdivisions that transferred or appropriated money to individuals to provide public benefits to ensure that such individuals were verifying the lawful presence of applicants for public benefits, regardless of the source of funding of the benefits. State moneys were not to be transferred or appropriated to individuals who could not demonstrate compliance with the requirement to verify lawful presence.</p>	<p>Short Title: Verify Lawful Presence Public Benefits</p> <p>Status: Postponed Indefinitely</p> <p>State Appropriations:</p> <p>The fiscal note assumed that the requirements that state agencies and political subdivisions comply with verification requirements, regardless of the source of money used to provide benefits, is already implicit within current statutory restrictions. The fiscal note assumed that the bill did not require additional work for state or local governments, and therefore did not affect state or local revenues or expenditures. The bill was assessed as having no fiscal impact.</p>
<p>Bill Number: HCR 08-1013</p> <p>Sponsors: <i>Rep. B. Gardner</i> <i>Sen. Mitchell</i></p> <p>The concurrent resolution would have submitted to the voters the question of whether the constitution should be amended to deny bail to a person entered and remained in the United States illegally if he or she was charged with a serious felony offense or an offense involving driving under the influence of alcohol or drugs.</p>	<p>Short Title: No Bail Serious Crimes Illegal Alien</p> <p>Status: Postponed Indefinitely</p> <p>State Appropriations:</p> <p>If the resolution was approved by voters at the 2008 General Election, it would have increased the workload for the courts. Specifically, court time would have increased related to the time needed to determine defendant's immigration status, increased time for preliminary hearings, and an increase in the number of cases that must be processed in a short time frame.</p>
<p>Bill Number: SB 08-074</p> <p>Sponsors: <i>Sen. Cadman</i> <i>Rep. Judd</i></p> <p>The introduced bill created the crime of trespassing by an illegal alien. A person committed the crime of trespassing by an illegal alien if the person was in the state while in violation of federal immigration law. Trespassing by an illegal alien was an unclassified misdemeanor punishable by a fine of \$500 for a first offense, a class 1 misdemeanor for a second offense, and a class 4 felony for a third and subsequent offense.</p>	<p>Short Title: Illegal Alien Trespass Crime</p> <p>Status: Postponed Indefinitely</p> <p>State Appropriations:</p> <p>The bill would have increased state revenue to the extent that persons were assessed fines for violating the provisions of the bill. The Department of Corrections would have required an appropriation of \$625,825 to house five new individuals convicted of a felony offense pursuant to the bill.</p>

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Postponed Indefinitely (cont.)

Bill Number: SB 08-083	Short Title: Fair and Legal Employment Act
Sponsors: <i>Sen. Schultheis</i> <i>Rep. Lundberg</i>	Status: Postponed Indefinitely

The introduced bill would have repealed the current requirements for employers to examine and retain records concerning the legal work status of new employees and would have created the Fair and Legal Employment Act. All non-governmental employers in the state would have been required to participate in the federal Department of Homeland Security/Social Security Administration's E-Verify Program for purposes of verifying work eligibility status of all new employees.

The bill would have required the Attorney General or the county or city attorney to investigate complaints of employer non-compliance, and would have created two new civil causes of action and one new crime. Employers would have been subject to financial penalties up to \$10,000 for failure to participate in the E-Verify Program. An employer who hired an unauthorized alien would have been subject to penalties including a probationary period, suspension, and revocation of business licenses. The bill established that it would have been a discriminatory or unfair employment practice for an employer to discharge an employee who was legally in the country while retaining an employee who was not legally in the country. Any person who knowingly filed a false or frivolous complaint would have been guilty of a class 3 misdemeanor.

The bill would have created the E-Verify Program Cash Fund for fines collected for non-participation. These moneys would have been for the Department of Law to administer and enforce the bill and to reimburse county or city attorneys for their costs.

State Appropriations:

State cash funds revenue to the E-Verify Program Cash Fund would have increased by \$5,000 in FY 2008-09 and \$10,000 in FY 2009-10. The bill would have had a net expenditure impact of approximately \$111,200 and (0.8) FTE for FY 2008-09 and (\$35,000) and (1.5) FTE for FY 2009-10 due to the creation of a new program and elimination of a current program. Expenditures and savings were expected in several departments.

Bill Number: SB 08-087	Short Title: Immigration Enforcement Unit Expansion
Sponsors: <i>Sen. Harvey</i> <i>Rep. King</i>	Status: Postponed Indefinitely

The bill doubled the number of officers in the immigration enforcement unit of the Colorado State Patrol from 24 to 48.

State Appropriations:

The Department of Public Safety required a General Fund appropriation of \$3,955,680 in FY 2008-09 to implement the bill.

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Postponed Indefinitely (cont.)

<p>Bill Number: SCR 08-004</p> <p>Sponsors: <i>Sen. Harvey</i> <i>Rep. Lundberg</i></p> <p>The concurrent resolution would have submitted to the voters the question of whether courts should be prohibited from accepting a plea of guilty from a defendant who was present in the United States in violation of federal immigration laws if the guilty plea was made as a result of a plea offer and would result in the defendant avoiding removal from the country by the United States Immigration and Customs Enforcement Agency.</p>	<p>Short Title: No Plea Bargain to Avoid Deportation</p> <p>Status: Postponed Indefinitely</p> <p>State Appropriations:</p> <p> It was assumed that any need for additional resources within the Judicial Branch would be requested through the annual budget process once actual caseloads were realized.</p>
<p>Bill Number: SCR 08-006</p> <p>Sponsors: <i>Sen. Schultheis</i> <i>Rep. Lundberg</i></p> <p>The concurrent resolution would have submitted to the voters the question of whether the constitution should be amended to require that any document or publication issued by the state or a political subdivision to be written only in the English language. The state or political subdivision may have issued a document or publication in a language other than English for specific reasons, including to comply with federal law, to address immediate health and safety threats, for foreign language instruction, and to protect the rights of criminal defendants or victims of crime. The resolution prohibited discrimination against employees of the state or political subdivisions for using or attempting to use the English language, and the state or a political subdivision could not require competency in a language other than English as a condition of employment, except for specific reasons. State and political subdivisions were immune from liability for claims related to the failure of the state or political subdivision to provide information in a language other than English. Any person who believed that the state or a political subdivision violated the provisions of the resolution was permitted to file an action for an order to enjoin or restrain the state or political subdivision from continuing the violations. A civil penalty of up to \$1,000 per day could have been awarded against the state or political subdivision that had been found to have violated the provisions of the resolution.</p>	<p>Short Title: English Official Language in Public Entities</p> <p>Status: Postponed Indefinitely</p> <p>State Appropriations:</p> <p> If approved by the voters at the 2008 general election, the resolution could have resulted in minimum one-time expenditures of \$91,850 in FY 2008-09. Costs were related to programming costs in the Colorado Benefits Management System. Cost savings could have been experienced in future years as departments may have eliminated printing certain documents in languages in other than English.</p>

**Summary of Bills Related to Immigration, 2008 Session
(As of July 3, 2008) (cont.)**

Postponed Indefinitely (cont.)

Bill Number: **SCR 08-009**

Sponsors: *Sen. Schultheis
Rep. Lundberg*

The concurrent resolution would have submitted to the voters the question of whether the constitution should be amended to prohibit officials, agencies, and employees of the state or any political subdivision from adopting a policy that limits the enforcement of federal immigration laws. The resolution also required state or political subdivision agencies and employees to make a reasonable attempt to determine the immigration status of a person with whom they had legitimate contact, where reasonable suspicion existed regarding the immigration status of the person. The person was to be referred to U.S. Immigration and Customs Enforcement if the person was in the country illegally and a state or local law governmental entity elected not to prosecute the person. Officials, agencies, or employees of the state could not be prohibited from receiving or sending information related to the immigration status of any individual. Individuals could have brought actions in district court to challenge any official, agency, or employee of the state or a political subdivision of the state that adopted or implemented a policy that limited the enforcement of federal immigration law. Upon a finding that an entity implemented such a policy, all state funding could have been withheld from the entity, or the entity could have been required to pay a civil penalty of up to \$5,000 for each day the policy remained in effect.

Short Title: **Enforcement of Immigration Laws**

Status: Postponed Indefinitely

State Appropriations:

If the resolution had been approved by the voters at the 2008 general election, the Department of Public Safety, Colorado State Patrol, would have incurred costs of an additional \$4.9 million and 10.1 FTE in FY 2008-09 and \$7.8 million and 40.1 FTE in FY 2009-10 to comply with the resolution. These costs were associated with detaining individuals, determining immigration status, and maintaining custody of detained individuals above the holding capacity of ICE.