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The Economic Case against Arizona's Immigration Laws

by Alex Nowrasteh

Executive Summary

Arizona's immigration laws have hurt its economy. The 2007 Legal Arizona Workers Act (LAWA) attempts to force unauthorized immigrants out of the workplace with employee regulations and employer sanctions. The 2010 Support Our Law Enforcement and Safe Neighborhoods Act (SB 1070) complements LAWA by granting local police new legal tools to enforce Arizona's immigration laws outside of the workplace.

LAWA's mandate of E-Verify, a federal electronic employee verification system, and the "business death penalty," which revokes business licenses for businesses that repeatedly hire unauthorized workers, raise the costs of hiring all employees and create regulatory uncertainty for employers. As a result, employers scale back legal hiring, move out of Arizona, or turn to the informal economy to eliminate a paper trail. SB 1070's enforcement policies outside of the workplace drove many unauthorized immigrants from the state, lowered the state's population, hobbled the labor market, accelerated residential property price declines, and exacerbated the Great Recession in Arizona.

LAWA, E-Verify, and the business death penalty are constitutional and are unlikely to be overturned; however the Supreme Court recently found that some sections of SB 1070 were preempted by federal power. States now considering Arizona-style immigration laws should realize that the laws also cause significant economic harm. States bear much of the cost of unauthorized immigration, but in Arizona's rush to find a state solution, it damaged its own economy.

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LAWA and SB 1070 forced employers and local police to be on the front lines of immigration enforcement.

Introduction

Some legislators and policymakers view Arizona's immigration laws as a model for other states.[1] This paper analyzes the Arizona immigration laws and the effect they have had on the immigrant population, citizens of Arizona, and the state's economy. The laws have forced unauthorized immigrants out of the state, and the regulatory mechanisms have diminished economic growth, incentivized the creation of a larger informal economy, created uncertainty for businesses, and depressed property values. These effects serve as a warning to other states seeking to enact Arizona-style immigration laws.

Arizona-style laws are economically destructive and inimical to growth. Immigration reform should proceed on the federal level rather than the state level. The federal government should increase and deregulate work visas and legal immigration, setting up a timely legal avenue for most immigrants.

Historical Background

American immigration policy was once the model for a free society. Prior to 1882, only the ill, criminals, and people with a high probability of harming Americans were barred from immigrating. This relatively free immigration policy contributed to a persistently large foreign-born U.S. population. From the mid-19th century to 1920, both the share of foreign-born residents and the annual rate of immigrant inflow were proportionately higher than they are today.[2] Beginning with the Chinese Exclusion Act in 1882, Congress gradually passed more restrictive immigration laws, so that by 1930, virtually all immigration was illegal.[3]

These restrictive laws prompted a new phenomenon of unauthorized immigration.[4] In 1924 the U.S. government created the border patrol authority to enforce the nation's new immigration quotas.[5] The Bracero Program, a program granting temporary work visas, began letting in hundreds of thousands of low-skilled Mexican workers annually for farm work during World War II.[6] Work permits provided a legal way to work and lowered unauthorized immigration by about 90 percent, but the Bracero Program was eliminated in 1964, largely due to union opposition.[7]

The less efficient H-2 visa program[8] still allowed temporary workers, but it was limited, regulated, expensive, and bureaucratic, and H-2 visas are thus unusable for most employers.[9] The short supply of green cards and temporary work visas available to low-skill potential migrants left unauthorized immigration as the only realistic alternative.

Significant immigration reforms in 1952, 1965, 1986, 1990, and 1996 increased the number of legal immigrants and temporary workers. Those laws also created workplace regulations, employer sanctions, internal enforcement mechanisms, and augmented border security to discourage and deport unauthorized immigrants. By the 1990s, legal immigration was virtually impossible if a prospective immigrant was not highly skilled, able to find an American employer sponsor, closely related to an American citizen or legal permanent resident, a winner of the lucrative diversity lottery, or a refugee.

Today, of the estimated 11.5 million unauthorized immigrants nationally, 73 percent are concentrated in just 10 states.[10] Arizona is one of those 10 states and experienced a large increase in unauthorized immigrants from 330,000 in 2000 to 560,000 in 2008.[11] Arizona disproportionately bears the fiscal costs of unauthorized immigration.[12] The costs of the housing bust and the Great Recession provided the political excuse for Arizona's recent state-level immigration laws.

The result was the Legal Arizona Workers Act (LAWA), which was the first legislative action taken toward reducing unauthorized immigration on a state level. Passed in July 2007, LAWA mandated that all new hires be run through E-Verify, an electronic employment verification system designed to identify and exclude unauthorized immigrants from employment. Additionally, for a second offense

of knowingly or intentionally hiring an unauthorized immigrant, the state is allowed to permanently revoke employer licenses at the employment location in question—essentially shutting down the business. Former Arizona governor Janet Napolitano called it "the business death penalty."[13] Both provisions went into effect on January 1, 2008, whereas the rest of the law was effective immediately.[14]

On April 23, 2010, Arizona governor Jan Brewer signed the Support Our Law Enforcement and Safe Neighborhoods Act (SB 1070) to extend state immigration enforcement outside of the workplace and "make 'attrition through enforcement' the public policy of all state and local government agencies in Arizona."[15] LAWA and SB 1070 forced employers and local police to be on the front lines of immigration enforcement.

By January 2011, the number of unauthorized immigrants in Arizona decreased by 200,000, a large 35.7 percent decline, due largely to Arizona's immigration laws. Upon leaving Arizona, these immigrants took their labor, businesses, purchasing power, and housing demand with them. As a result, Arizona's economy suffered.

E-Verify

E-Verify is the biggest regulatory change created by LAWA.[16] E-Verify is an electronic employment eligibility verification system designed to identify and exclude unauthorized immigrants from employment.[17] To begin participation in E-Verify, employers are required to sign a Memorandum of Understanding (MOU) with Citizenship and Immigration Services (CIS) and have access to a computer, printer, and the Internet. Employers use E-Verify by transmitting new hires' identity information through a secure Internet connection to match against government data at the Social Security Administration (SSA) and the Department of Homeland Security (DHS).[18] Employers report that each E-Verify query costs $147.[19] Employers are also responsible for keeping the employee's information on a government document known as an I-9 form, so that the federal government can audit the employer's hiring practices.[20] If the information provided by the worker matches the database, the worker is confirmed for employment.[21]

If the information does not match, E-Verify issues a tentative nonconfirmation (TNC) finding. If the worker contests the TNC, he must notify the SSA and CIS within eight days.[22] If the worker does not contest in that time period, the errors are unresolved, or further investigation shows the original TNC was correct, a final nonconfirmation (FNC) is issued, and the employer is expected to terminate the worker promptly.[23]

Correcting erroneous TNCs is difficult for workers. To discover inaccurate identity information, the worker must file a Privacy Act request, which can take an average of 104 days to process.[24] SSA field offices can extend the time to resolve a TNC up to 120 days, allowing a brief window of time to process the Privacy Act requests. [25] However, bureaucratic errors often prevent the extensions from being recorded, and the SSA automatically issues an FNC after 8 days.[26]

E-Verify's inaccuracy rate has been measured at 4.1 percent for all workers processed.[27] Of that number, 3.3 percent is from unauthorized workers erroneously found to be work authorized and 0.8 percent represents legal workers who were wrongly identified as unauthorized.[28] E-Verify fails to identify 54 percent of unauthorized workers, due primarily to employment-based identity fraud.[29] Errors in the government database particularly affect people with inconsistent name entries, people with hyphens in their names, and foreign-born workers, who are more than 20 times as likely as native workers to be issued a TNC.[30] Resolving these errors is often expensive, requires lawyers, and is time consuming.[31]

E-Verify is a regulatory obstacle for businesses and employees. The experience of Ken Nagel, co-owner of the popular Phoenix restaurants Aunt Chilada's and Rustler's Rooste, shows how E-Verify caused a regulatory headache. In 2008 he attempted to hire one of his American-born daughters,

E-Verify is a regulatory obstacle for businesses and employees.

E-Verify is one major reason that the construction employment decline in Arizona was greater than neighboring states that did not mandate E-Verify.

but E-Verify issued a TNC.[32] Mike Castillo, owner of PostalMax in Scottsdale, Arizona, tried to hire a part-time worker in 2010, but an E-Verify glitch made the process time-consuming. Castillo's human-resources contractor eventually figured out the glitch, which ended up being a formatting error, after a few days.[33] Another U.S. citizen, whose name was kept anonymous for security reasons, who had other high-security clearances with the U.S. Navy, was given a TNC and had to hire an attorney and spend two months resolving the discrepancy.[34]

The economic harms associated with E-Verify are greater in industries more likely to employ unauthorized immigrants. According to its proponents, E-Verify should force unauthorized immigrants out of the labor market so natives can take their jobs.[35] This, however, is an instance of the "lump of labor fallacy," the notion that there is a fixed amount of work to be done regardless of other factors.[36] Forcing some workers out of a job will not automatically make it available for others; in a hard-hit industry, that job may simply disappear. Changing economic factors, not some kind of exogenous need, determine the number and types of jobs available.

In Arizona about 78 percent of noncitizen immigrants are unauthorized,[37] and many work in construction. Nationwide, about 17 percent of all construction workers are unauthorized immigrants.[38] Fewer natives, legal immigrants, and unauthorized immigrants were employed in construction in 2010 than in 2006 because of housing price declines and E-Verify (see Table 1).[39]

Arizona's employment of construction workers declined 14 percentage points more than in the neighboring states of California and New Mexico between LAWA's passage in July 2007 and September 2011 (see Table 2).[40] As mentioned above, E-Verify went into effect on January 1, 2008, but employers and entrepreneurs began to factor the increased costs of E-Verify into their hiring decisions when LAWA was passed (see Table 2).

After E-Verify went into effect, the foreign-born population bore the brunt of the employment decline in the construction industry, but native employment in construction did *not* increase to fill the gap, contrary to the claims of E-Verify supporters (see Figure 1). From the time E-Verify went into effect in January 2008 until January 2009 (see Figure 1), construction employment decline accelerated. Employment for new construction declined more in Arizona after LAWA was passed than in the neighboring states of New Mexico and California (see Figure 2 and Table 3). E-Verify is not to blame for the entire decline in construction jobs in Arizona, but by raising the costs of hiring, it is one major reason that the construction employment decline in Arizona was greater than neighboring states that did not mandate E-Verify.

Today, between 25 percent and 90 percent of all farm workers nationwide are unauthorized immigrants.[41] Because of the reliance on immigrant labor, the E-Verify mandate in LAWA has had a particularly devastating effect on agricultural employ-

Table 1
Percentage of Arizona Population Employed in Construction

	Total	Native	Immigrant	Immigrant Citizen	Immigrant Noncitizen
2006	11.20	8.70	22.20	8.80	27.90
2010	8.90	7.40	15.90	7.30	20.40

Sources: American Community Survey, 2006 and 2010, S0501.

Table 2
Change in Construction Employment, July 2007–September 2011 (percentage)

State	Change
Arizona	–50.25
California and New Mexico	–36.89

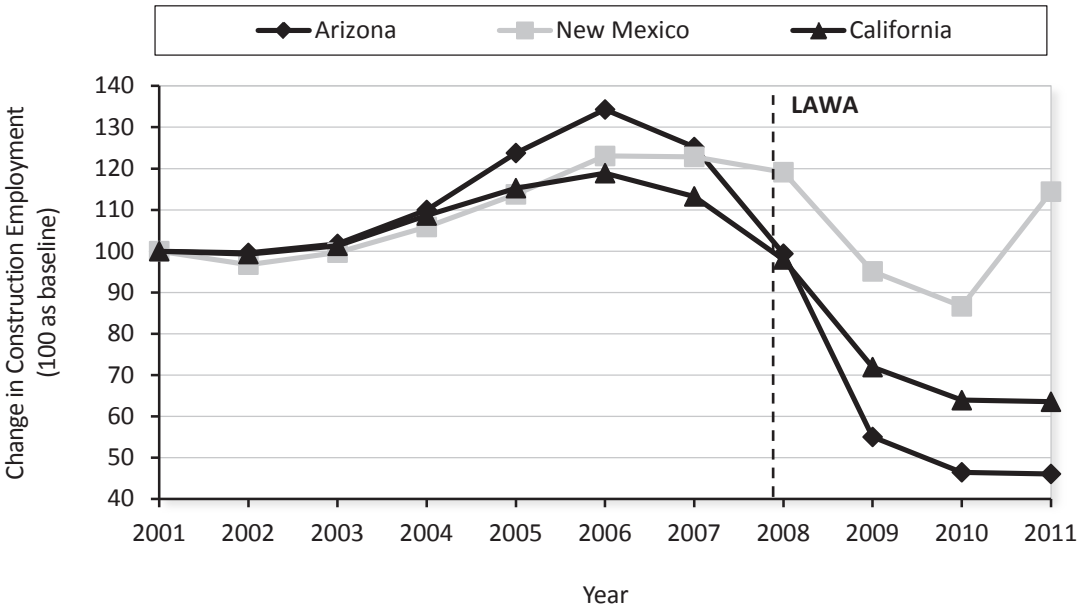
Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

ment in Arizona. Since crops have to be planted and then harvested months later, farmers adjust their plantings partly on the basis of the wage and amount of labor they anticipate will be available at harvest time. Since E-Verify affected the amount of labor farmers thought would be available after January 1, 2008, farmers began employing fewer laborers to plant crops in 2007. Therefore the following agriculture and crop production tables and figures examine the decline in agricultural employment beginning with the passage of LAWA rather than with the E-Verify provision going into effect.

From the passing of LAWA in July 2007 to September 2011, the number of agricultural workers in Arizona declined absolutely and relatively to New Mexico and California (see Figure 3 and Table 4). The drop in crop production employment in Arizona was even sharper (see Figure 4). From the passage of LAWA in 2007 to September 2011, the number of agricultural workers in Arizona plunged 15.6 percent, while both Cali-

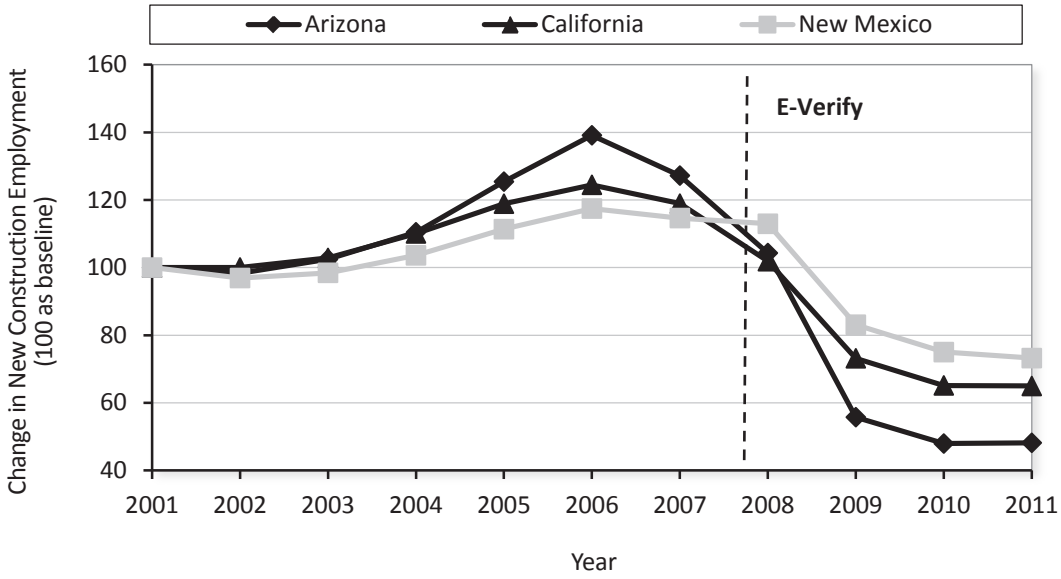
Artificially making labor scarcer through government fiat makes Arizona poorer.

Figure 1
Change in Construction Employment (LAWA)



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Figure 2
Change in New Construction Employment (E-Verify)



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Employers and employees are widely ignoring the E-Verify mandate.

fornia and New Mexico experienced modest gains (see Table 5).

There is substantial anecdotal evidence of farmers adjusting their harvests and sowings because of the increased labor scarcity caused by E-Verify.[42] Melon, fruit, and vegetable production require large labor inputs that E-Verify is making scarcer, which is shifting some agricultural production elsewhere.[43] Legal workers are unable to fill the gap because the H-2A visa program is too bureaucratic and too expensive, and the wages that most legal workers demand are too high to make crop production profitable.[44] Unauthorized workers make possible the agricultural jobs that employ them.

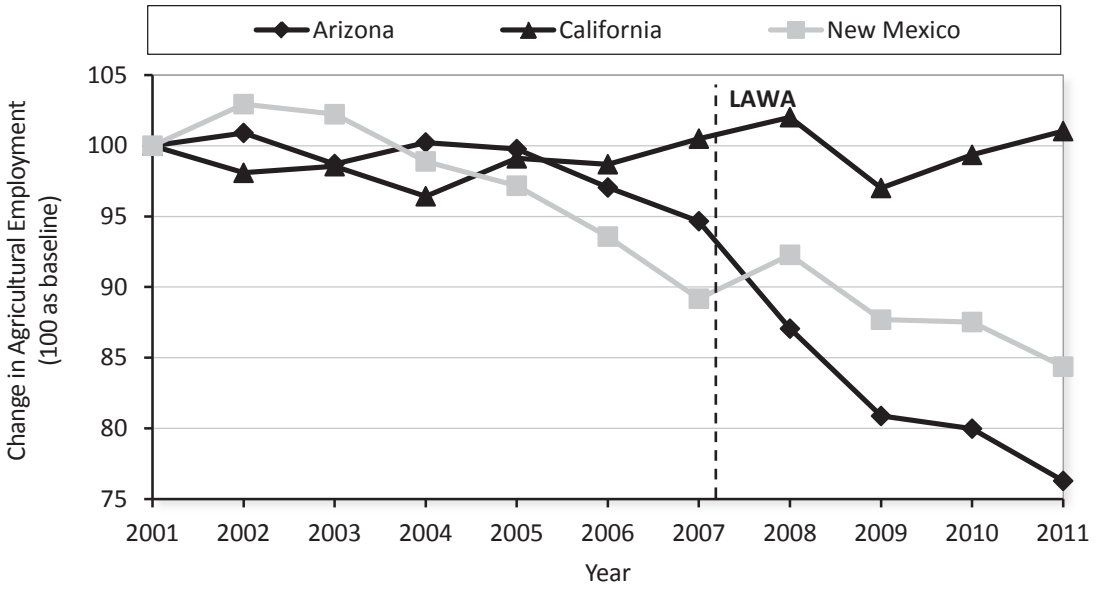
Even if native-born Americans started working in agricultural jobs vacated by un-

Table 3
Change in New Construction Employment, July 2007–September 2011 (percentage)

State	Change
Arizona	–48.71
California	–37.58
New Mexico	–33.00

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Figure 3
Change in All Agricultural Employment



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

authorized immigration, economic growth would likely decline. Natives have a comparative advantage in jobs that require communication, while low-skilled immigrants have a comparative advantage in brawn. Unauthorized immigrants typically lack advanced English proficiency; hence, they specialize in work that does not require much spoken English, such as construction and agriculture. Natives respond by moving into more skilled positions, such as foreman or manager.

As a result, both natives and immigrants make higher incomes because of the task specialization that large numbers of unauthorized immigrants make possible. Removing unauthorized immigrants from the market decreases the gains from task specialization and diminishes the efficient allocation of labor.[45] Newer low-skilled immi-

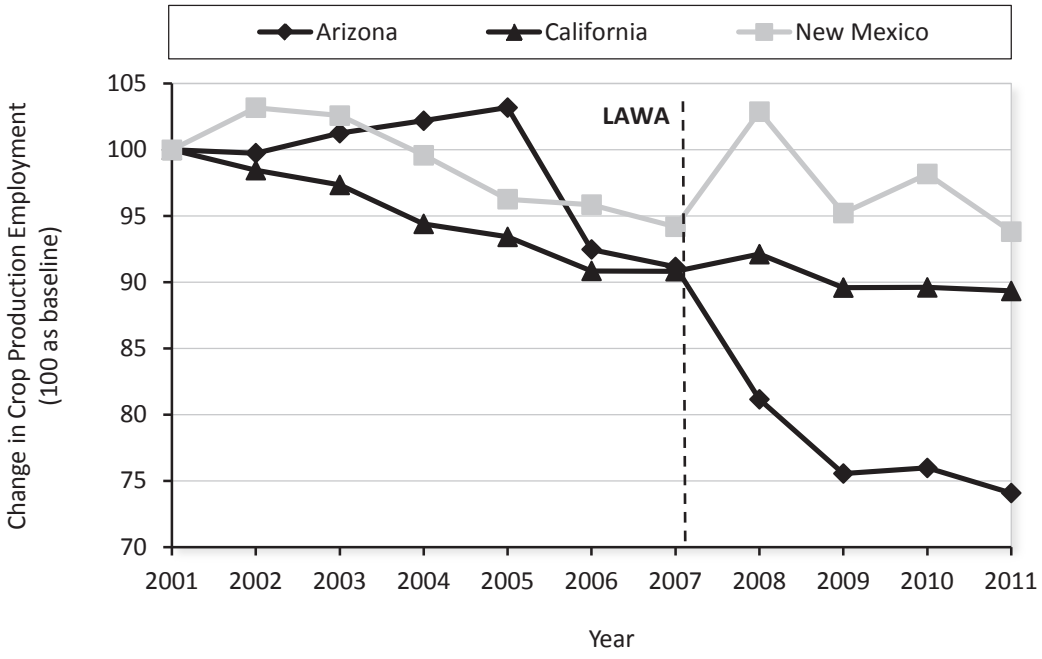
Business violators are "put to death" through the permanent revocation of licenses.

Table 4
Change in All Agricultural Employment, July 2007–September 2011 (percentage)

State	Change
Arizona	–8.68
California	2.13
New Mexico	6.19

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Figure 4
Change in Crop Production Employment



Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

LAWA provides unscrupulous unauthorized immigrants with an incentive to extort their employers.

grants have a negative impact on the wages of previous immigrants, because their skill sets are so similar, but native wage earners continue to see improvements.[46]

Raising the price of labor will incentivize farmers to shift production to less profitable crops that can be harvested by machines, shift production across the border, or scale back farming altogether.[47] Labor-intensive agriculture survives in the United States because there are migrants willing to work for low wages. Artificially making labor scarcer through government fiat makes Arizona poorer.

Table 5
Change in Crop Production Employment, July 2007–September 2011 (percentage)

State	Change
Arizona	–15.61
California	1.58
New Mexico	1.96

Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages.

Ignoring E-Verify

Employers and employees[48] are widely ignoring the E-Verify mandate.[49] Only 72 percent of new hires—962,140[50] out of 1,331,079[51]—were checked through E-Verify in FY2010. The number of new hires for the third quarter of 2011 is unavailable, but for the first three-fourths of FY2011 there were 1,083,757 new hires.[52] Note that the number of E-Verify queries for the entire fiscal year was 982,593.[53] Assuming that third quarter 2011 hires were the same as the preceding quarter, the E-Verify compliance rate was only 67 percent in 2011.

There are two big loopholes in the E-Verify mandate. The first is that independent contractors do not have to be run through E-Verify, so many workers who would be employees under normal circumstances instead go unnoticed when they become independent contractors and are issued the 1099 tax form instead of the W-2 for employees.[54]

The second loophole is self-employment. Self-employed people and entrepreneurs do not have to run themselves through E-Verify, so many unauthorized immigrants follow that route to employment. The E-Verify loophole and the slow pace of economic growth account for part of the 73 percent increase in self-employment and entrepreneurial activity in Arizona from 2006 to 2011.[55] During this time about 25,000 Arizona Hispanic noncitizens dropped out of the formal wage economy and became self-employed.[56]

These loopholes allow many unauthorized workers to move deeper into the informal economy, where they are paid cash, do not receive a W-2, and do not have taxes taken out of their paychecks.[57] A larger informal economy makes contract enforcement more difficult, increases information asymmetries, and generally produces a less efficient market.

E-Verify is just the worst and most recent government attempt to identify and exclude unauthorized immigrants from employment. It is an extension of worker eligibility verification through the I-9 form that was federally mandated in 1986 by the Immigration Reform and Control Act (IRCA). IRCA incentivized unauthorized immigrants to acquire fake documents and commit identity fraud to comply with I-9, both of which were rare before IRCA became law.[58] Employment-based identity theft increased post-IRCA but it remained relatively small and was concentrated in states with unauthorized immigrants. Thanks to the I-9, unauthorized immigrants in Arizona can already draw upon a large informal market of identity information for employment purposes to trick E-Verify.

Employment-related identity theft is higher in Arizona than in most other states because of the large population of unauthorized immigrants seeking work. ID theft was declining before the passage of LAWA because of the worsening economy but dropped even faster with the decrease in the unauthorized population (see Figures 5 and 6). Fewer jobs, fewer unauthorized immigrants, and deeper movements into the informal economy are responsible for the decline in identity theft. To the extent that LAWA and SB 1070 contributed to those factors, they are responsible for the identity theft decline.

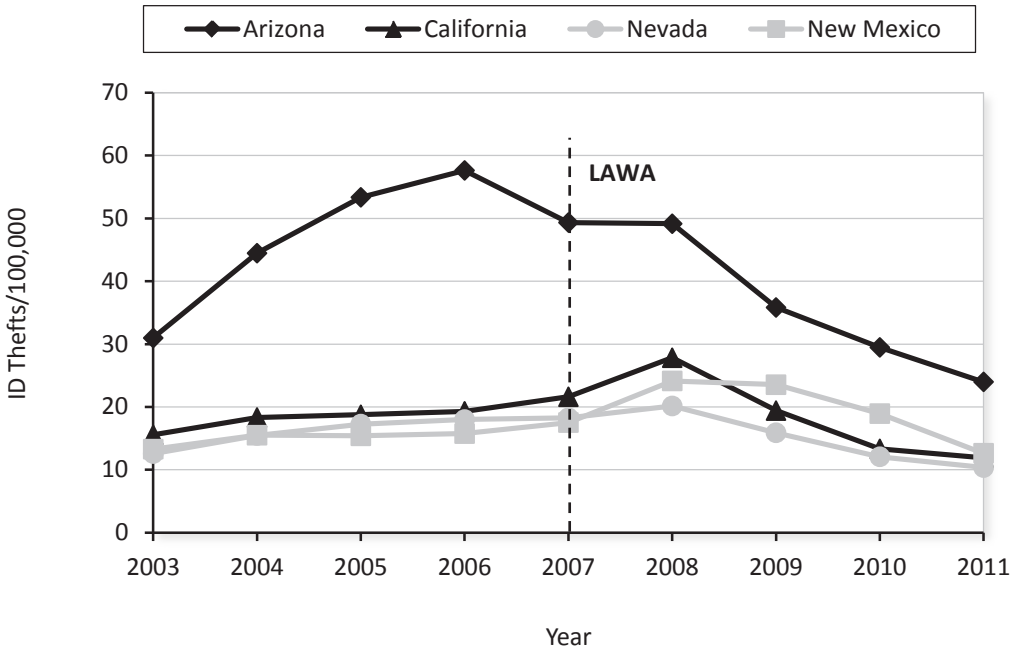
E-Verify also increases regime uncertainty for businesses and investors. E-Verify does not provide protection from prosecution for knowingly hiring unauthorized immigrants. Using E-Verify merely allows an affirmative defense, as a defendant may then affirm that he hired an unauthorized immigrant, but since he used E-Verify he should not have his business licenses revoked by the business death penalty. E-Verify's inaccuracies also lead to erroneous confirmation of unauthorized workers' statuses, which are sometimes corrected months later with an order to terminate the worker. The sunk costs of training the employee in the meantime cannot be recouped by the business

Business Death Penalty and Workplace Raids

The business death penalty is the punishment for a second violation of knowingly or intentionally hiring an unauthorized immigrant.[59] Business violators are "put to death"

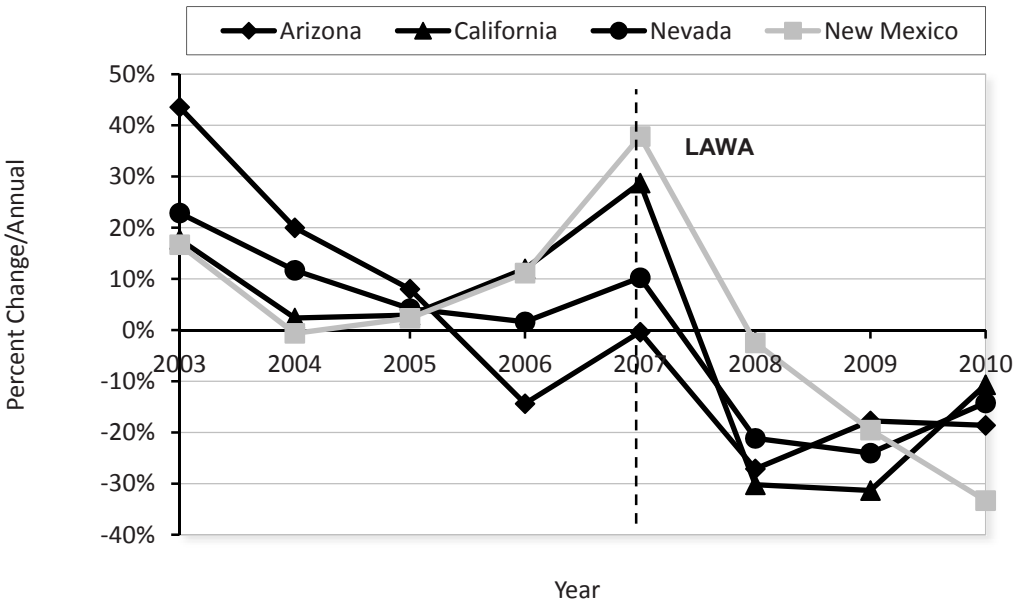
The business death penalty is a harsh punishment for what is often a minor administrative oversight or the actions of a subordinate.

Figure 5
Employment-Related ID Theft per 100,000



Source: Federal Trade Commission, U.S. Census Bureau.

Figure 6
Annual Change in ID Theft



Source: Federal Trade Commission, U.S. Census Bureau.

through the permanent revocation of all licenses held by the employer for the location where the unauthorized immigrant worked.[60] The business death penalty has only been enforced three times so far in Arizona,[61] but those three times have been enough to scare employers into additional screening of their new hires.[62]

The business death penalty is problematic because it creates regulatory and legal uncertainty that retards business investment and expansion. What happens when business licenses are suspended? Would LAWA permit suspension of the articles of incorporation? And if so, what happens to the property owned by the corporation? How does one suspend a corporate charter? The problems multiply for every type of business organization.

The business death penalty is a harsh punishment for what is often a minor administrative oversight or the actions of a subordinate. Because of the severity of the business death penalty, the law does not need to be enforced very often to incentivize a costly reaction from Arizona employers. The probability of a business being caught for this type of violation is small but the punishment is so large that it is worth spending resources to avoid.

For example, Arizona native Jason LeVecke owns 70[63] restaurants and employs over 1,200 people in Arizona.[64] He recently started expanding his business in Texas to avoid the regulatory burdens imposed by LAWA.[65] A new firm trying to compete with LeVecke would have to spend around $176,400 to run 1,200 employees through E-Verify, but that does not include the cost of firing unauthorized workers and hiring replacements. [66] Established firms and larger ones can more easily afford to comply with LAWA's regulations than new firms, smaller businesses, or ones expanding into Arizona. Even after using E-Verify, LeVecke and his competitors would still be exposed to the business death penalty because the high rate of employee turnover in restaurants makes it virtually impossible to avoid hiring unauthorized immigrants. As LeVecke explained:

> Think of a young entrepreneur, me included. You've signed personal guarantees on these loans for 15 years. In 15 years, just at my existing 56 Carl's Jr. restaurants, I'll have had 100,000 employees come through my doors. They'll have come because we're entry-level, then move on to other things. But with no limit on the number of investigations consecutively or simultaneously, I could be investigated 500 times in multiple counties at once. The odds are stacked against me.[67]

LeVecke is also worried that a local manager at one of his fast food restaurants could hire an unauthorized worker and subject that business location to the business death penalty, imposing a very high cost on LeVecke. The cost to LeVecke of monitoring managers to prevent that action is very high and ongoing through his newly created Office of Legal Hiring Compliance that centralizes hiring among his restaurants.[68] Regardless of LeVecke's extra expenses, if one of his managers knows or should have known that an employee is unauthorized to work, that location is subject to the business death penalty.

LeVecke is also concerned that LAWA provides unscrupulous unauthorized immigrants with an incentive to extort their employers. If an unauthorized worker is knowingly hired, he can then demand money from the business or he will report them to the police.[69]

LeVecke is not the only restaurateur to be hurt by LAWA. Richard Melman, the so-called "Steven Spielberg of the restaurant industry,"[70] halted plans to open an Asian-themed restaurant in Scottsdale after he became aware of the business death penalty. Melman said, "You put in $3 million or $4 million, and you can be shut down for a mistake. Why take a chance? I want to see how it plays out." He never opened his Asian-themed restaurant in Scottsdale, sticking with his well-known Don and Charlie's instead.[71] Those are two examples of businesses avoiding Arizona because of the state's immigration laws.[72]

The raids and the business death penalty have stirred business uncertainty and inefficient transfers of firm resources from seeking profits to complying with LAWA and SB 1070.

When LAWA and SB 1070 succeeded in driving unauthorized immigrants from Arizona, they also succeeded in driving out economic growth.

Workplace raids became a public centerpiece of immigration enforcement after LAWA went into effect. Sheriff Joe Arpaio of the Maricopa County Sheriff's Office (MCSO) is the biggest user and proponent of these raids and uses press releases and the media to multiply their deterrent effect. MCSO uses raids more often than any other county in Arizona, often conducting raids on the basis of anonymous tips, while other counties require tippers to leave their names.[73] People can even call a MCSO hotline and report businesses that are supposedly hiring unauthorized workers.[74]

MCSO does not publish available records detailing its raids. According to press releases that accompanied 32 of the 60 raids conducted between November 2007 and May 2012, 224 of the 232 arrests made were for using false identification to gain employment.[75]

Using E-Verify does not prevent the disruption and closure of the "guilty" business locations.[76] For example, the March 4, 2011, raid on the Pei Wei chain restaurant locations in Tempe, Phoenix, Fountain Hills, and the corporate headquarters in North Scottsdale eventually shut down eight different Pei Wei restaurants in Arizona. The economic loss was an estimated $1.3 million in business revenue for the chain. Pei Wei used E-Verify to confirm the work status of its employees, but the system's inaccuracies and loopholes allowed the chain to hire unauthorized workers. Twenty-seven people were arrested in the raid,[77] and according to an MCSO investigation, 121 of Pei Wei's 800 employees in Arizona were unauthorized immigrants.[78] Other raids on Golfland Sunsplash in Mesa and Waterworld Safari in Phoenix on June 10, 2008, netted 9 arrests.[79] The raids took place despite the fact that the water parks checked their employees' identifications through E-Verify.

A raid on Scottsdale Art Factory on January 28, 2009, was in response to a tip that the business owner was knowingly hiring unauthorized immigrants.[80] This raid netted 12 arrests for violations of the state's immigration law and one arrest for drug possession. After the raid, the prosecutors began seeking the business death penalty for Scottsdale Art Factory. The other two businesses that had been put to death under LAWA were bankrupt when executed so they offered no resistance.[81] Scottsdale Art Factory, started in 1913, was very much alive and resisted the efforts to be shut down.[82] The case is still working its way through the courts.[83]

Businesses raided by MCSO tend to be small and rely on manual labor. Restaurants, construction, manufacturing, furniture, water parks, and demolition make up the majority of all businesses raided. Raids on Pei Wei and the Old Spaghetti Factory appear to be the only ones targeting chains, but information on 28 raids is not available online, and inquiries to the Arizona attorney general's office went unanswered.

The raids and the business death penalty have stirred business uncertainty and inefficient transfers of firm resources from seeking profits to complying with LAWA and SB 1070.[84] The biggest impact on business formation happened in the year after LAWA's passage when entrepreneurs assumed that the business death penalty would be strictly enforced. In the third quarter of 2007, after LAWA was passed but before it went into effect, the business birth rate declined more than 14 percent, compared to increases of 3.15 percent in California and 2.4 percent in New Mexico (see Table 6).[85] That sharp decline, which reversed in 2008, was probably an immediate reaction to bad regulatory news.

Population Decline and Real Estate[86]

Unauthorized immigrants contribute to economic growth wherever they go. As entrepreneurs, innovators, workers, and consumers, they increase the supply of goods and services and the demand for them, and they complement American workers.[87] To summarize the ideas of the late economist Julian Simon, people are the ultimate resource and the source of economic growth.[88] When LAWA and SB 1070 succeeded in driving unauthorized immigrants from Arizo-

Table 6
Business Formation Rates

Time Frame	Arizona	California	New Mexico
2007, 2nd Quarter	2.13%	0.01%	–4.08%
2007, 3rd Quarter	–14.32%	3.15%	2.40%

Source: Business Employment Dynamics, Bureau of Labor Statistics.

na, almost immediately after their passage, they also succeeded in driving out economic growth.[89]

LAWA drove approximately 100,000 unauthorized immigrants out of Arizona between 2008 and 2009.[90] In 2008 Arizona's unauthorized immigrant population peaked at an estimated 560,000, but after LAWA and the Great Recession it fell to around 470,000 in 2010, a 16 percent decline.[91] After SB 1070 was signed, the population then plummeted by an estimated additional 110,000 by the beginning of 2011, a further 23 percent decline.[92] The total decline in the unauthorized population over the period was about 36 percent.

The unauthorized immigrant population of California and New Mexico declined by a mere 5.2 percent from 2008 to 2010.[93] Per state estimates of unauthorized immigrants are not available for 2011 for Arizona and New Mexico, but for California it was estimated that the unauthorized immigrant population increased by 11 percent in 2011.[94] LAWA and SB 1070 are responsible for a large proportion of the unauthorized immigrants who left Arizona.

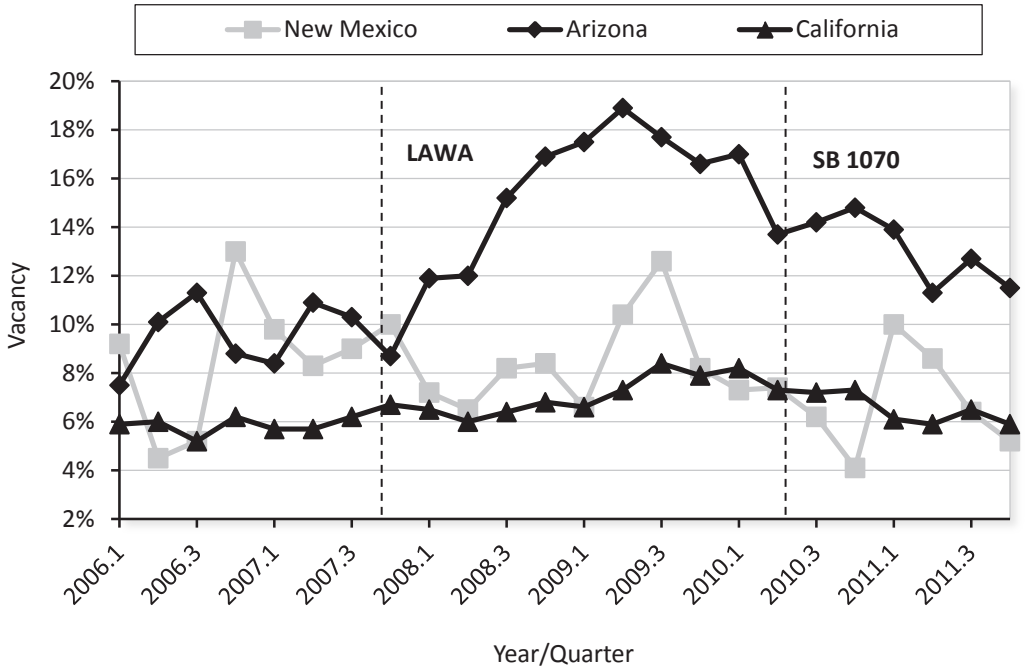
The decline of unauthorized immigrants negatively impacted Arizona's struggling real estate market. The nationwide housing price decline began in 2006 and affected varying regions and cities differently. The Case-Shiller Home Price Index Composite recorded a price decline of 32.91 percent from April 30, 2006, to April 30, 2012, across 20 metropolitan statistical areas. Phoenix experienced a 51.29 percent price decline, the second greatest decline in home prices of any metropolitan area in the whole index.[95] The only metropolitan area that experienced a worse decline in housing prices was Las Vegas, Nevada.

Rental vacancy rates in Arizona were consistently higher than vacancy rates in California and New Mexico after the passage of LAWA, putting downward price pressure on the rental market that eventually affected housing prices (see Figure 7). Prior to the passage of LAWA, rental vacancy rates in Arizona fluctuated between those of California and New Mexico. After LAWA passed, unauthorized immigrants responded by leaving the state and the rental vacancy rate in Arizona shot up and remained consistently above those of New Mexico and California (see Figure 7). The rental vacancy rate in Arizona post LAWA was mostly between two and three times greater than those of California and New Mexico. Immigrant households are more likely to rent than buy, but their exodus still diminished the quantity demanded for rents and drove down the price of houses.[96]

Rental vacancy rates in Tucson and Phoenix moved in the same direction prior to the passage of LAWA but immediately after LAWA they diverged, with Tucson's rates falling while Phoenix's rose (see Figure 8). This could be because many unauthorized immigrants and as well as authorized Hispanics left the harsher enforcement of the Phoenix area MCSO and moved to Tucson, which is known for its more lax enforcement of Arizona's immigration laws.[97]

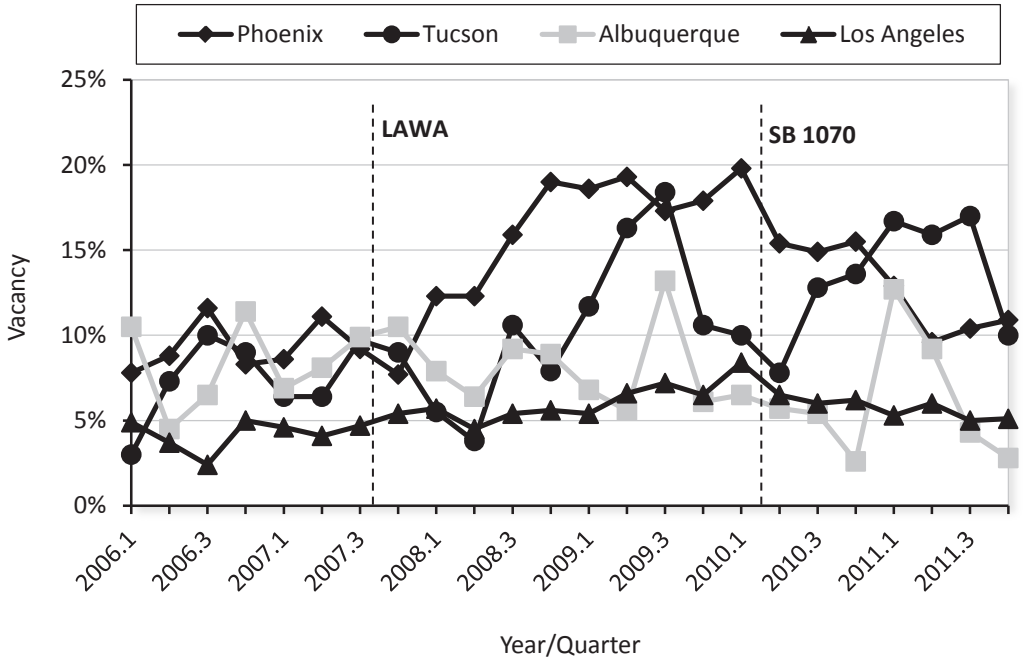
Phoenix experienced a 51.29 percent price decline, the second greatest decline in home prices of any metropolitan area in the whole index.

Figure 7
State Rental Vacancy Rates



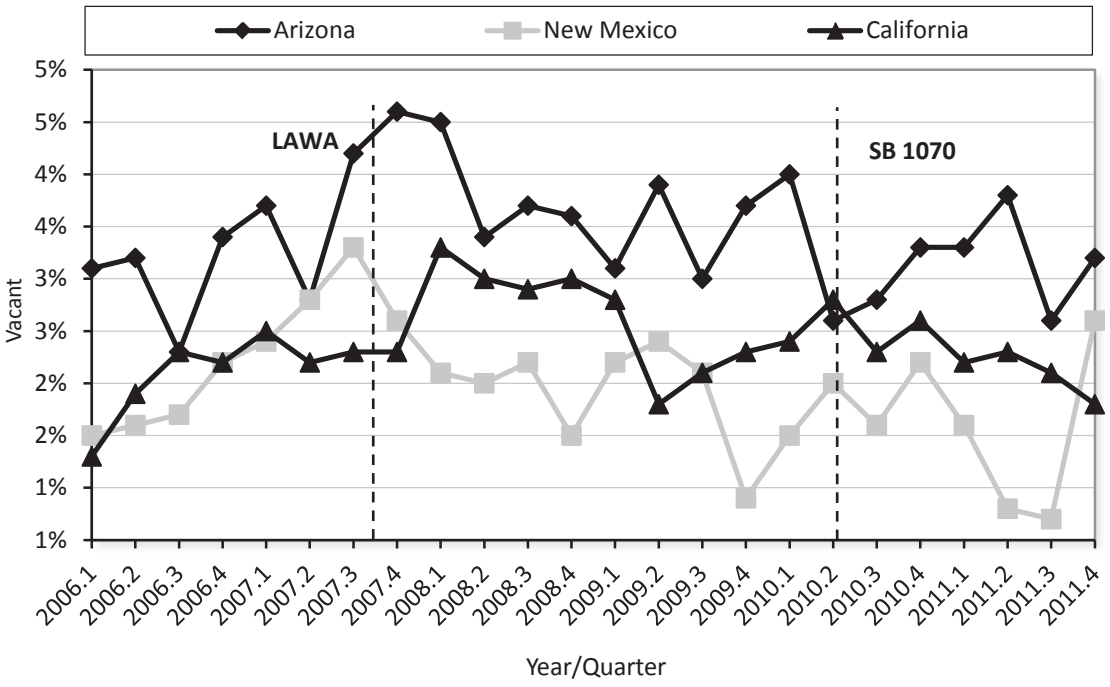
Source: U.S. Census, Quarterly Vacancy and Homeownership Rates by State and Metropolitan Statistical Area.

Figure 8
Rental Vacancy Rates by Metropolitan Area



Source: U.S. Census, Quarterly Vacancy and Homeownership Rates by State and Metropolitan Statistical Area.

Figure 9
Homeowner Vacancy Rates



Source: U.S. Census, Quarterly Vacancy and Homeownership Rates by State and Metropolitan Statistical Area.

Spikes in homeowner vacancy rates in Arizona are closely aligned with the passage of LAWA and SB 1070, which is surprising, given that most unauthorized immigrants are renters (see Figure 9).[98] After the passage of LAWA, the vacancy rate increased to above 4.5 percent as unauthorized immigrants decided to leave the state. A second spike in homeowner vacancy rates also began in mid-2010 after the passage and implementation of SB 1070, with vacancy rates jumping to just shy of 4 percent before coming back down.

Across American metropolitan areas, an immigrant inflow equal to 1 percent of a city's population causes a citywide increase in rents and housing prices by about 1 percent.[99] When the increase in immigration is unanticipated by locals, an increase in immigrant inflows equal to 1 percent of the city's population typically increases rents by 3.75 percent.[100] Likewise, a decline in immigration has a serious deflationary effect on housing prices.

Arizona Solutions

Arizona's immigration laws seriously hampered its economic growth and recovery from the Great Recession. E-Verify and the business death penalty are policies driven by despair and hypocrisy; despair over the virtual impossibility of uniformly enforcing immigration regulations in a free society, and the hypocrisy of enjoying the economic benefits of immigration while railing against it. Fundamentally, employers and employees should not have to get permission from any level of government to engage in labor market agreements.

Even if immigration enforcement and milder business sanctions remain on the books, the business death penalty is a far too extreme punishment for knowingly hiring unauthorized immigrants a second time. Only its capricious enforcement slightly dulls its negative impact. E-Verify, the business death penalty, and workplace raids for nonviolent immigration offenders should cease.

The rental vacancy rate in Arizona post LAWA was mostly between two and three times greater than those of California and New Mexico.

A decline in immigration has a serious deflationary effect on housing prices.

Federal Immigration Reform

State level reforms can diminish the negative consequences of federal immigration policy, but they are not a substitute for federal immigration reform. National immigration reform, which legalizes the otherwise law-abiding unauthorized immigrants already here and increases legal immigration and guest worker visas, would help reverse the population decline in Arizona. Ultimately, responsibility for reforming immigration rests with the federal government despite state immigration enforcement laws.[101]

If the federal government cancelled the workplace employee eligibility verification requirements it would also release much of the regulatory burden on employment growth in Arizona. More fundamentally, it would eliminate the federal middleman between workers and employers and legalize a sizable portion of the informal labor economy. No one should have to ask the government for permission to work. Immigration reform would reduce or eliminate the incentive for employment-based identity fraud too.[102] The business death penalty would be untouched by any federal immigration reform, but if unauthorized immigration were eliminated by a sufficient liberalization of immigration then it would become moot.

Unauthorized immigration is an unintended consequence of federal immigration restrictions. Just as the problem started at the federal level, the best solution is at the federal level.

Conclusion

LAWA, E-Verify, and the business death penalty are constitutional and unlikely to be overturned.[103] Additional challenges of SB 1070 based on other legal theories are working their way through the courts.[104] Regardless of the constitutionality of Arizona's immigration laws, they have imposed unnecessary and costly regulatory burdens on Arizona's economy.

E-Verify placed another bureaucratic layer between employers and employees, incentivized workers to work in the informal economy, and forced others to leave the state. E-Verify opened up holes in the labor market that have yet to be filled, especially in agriculture, where wages are not very flexible upwards. Arizona's agriculture and construction industries have both seen employment declines far greater than in New Mexico or California. The threat of the business death penalty and the uncertainty of business raids further hurt the economic climate in Arizona.

The unauthorized immigrants who left the state took their businesses, money, and spending power with them, which reduced demand for the goods and services that unauthorized immigrants purchased in the state. The residential real-estate market was most affected. Home and rental vacancy rates in Arizona were far in excess of those in neighboring states. The Phoenix metropolitan area, home to 4.2 million of Arizona's roughly 6.5 million residents, experienced the second greatest decline in home values of any metropolitan area in the nation. Arizona's immigration laws drove thousands of renters and homeowners from the state, putting downward pressure on residential real-estate prices in the midst of a housing price collapse.

Ultimately, any long-term solution to unauthorized immigration will come from the federal government and involve more work visas and green cards with fewer restrictions and regulations. States like Arizona face costs in dealing with unauthorized immigration today mostly because of federal policy that severely restricts legal immigration, but LAWA and SB 1070 have clearly exacerbated the harm.

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