

# **Sanctioning Arizona: The Hidden Impacts of Arizona's Employer Sanctions Law**

*A report on the results of AFSC's grassroots community survey*

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**American Friends  
Service Committee**

*Quaker values in action*

## Preface

The American Friends Service Committee (AFSC) is an international non-profit peace and justice organization founded in the Quaker belief in the inherent worth and dignity of all people. The American Friends Service Committee is a practical expression of the faith of the Religious Society of Friends (Quakers). Committed to the principles of nonviolence and justice, it seeks in its work to draw on the transforming power of love. AFSC was founded in 1917 by Quakers to provide conscientious objectors with an opportunity to aid civilian war victims. The Arizona office of AFSC was established in 1980 and focuses on criminal justice reform and immigrant rights.

Arizona AFSC's immigrant rights program, *Voces Inmigrantes en Arizona (VIA)*, was established in Tucson in 2005, with a focus on the labor rights of immigrant workers. In 2006, AFSC entered into a partnership with the Southwest Institute for Research on Women (SIROW) at the University of Arizona to create the Tucson Women Workers' Project (WWP). This project provides low-wage women workers with information, legal advice and counseling about their workplace rights; offers training and leadership development for immigrant women workers; and conducts organizing and advocacy to improve conditions in occupations in which low-wage immigrant women workers predominate.

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We would like to especially thank the volunteers and committee members of *Voces de Inmigrantes en Arizona (VIA)*. Their hard work made this report possible. They selflessly devoted their time and energy to attend meetings and trainings, and spent three months pounding the pavement of Tucson gathering survey data from strangers and neighbors alike. Their courage and service is a testament to the power of community. *¡Si se puede!*

## Executive Summary

Reports of a mass exodus of immigrants from Arizona in the wake of the Legal Arizona Workers Act, Arizona's controversial employer sanctions law, have filled newspaper headlines. Schools are missing students; banks report high numbers of closed accounts. Supporters of the law hail this as a victory, a deserved punishment for lawbreakers. But the reality is much more complicated.

The Legal Arizona Workers Act simply states that businesses should be penalized for knowingly hiring undocumented workers. To date, not a single business has been prosecuted under the employer sanctions law. But scores of immigrant workers have been arrested, prosecuted, and detained.

Well before the law went into effect, advocates heard disturbing reports from many workers of unjust firings, cuts in hours and pay, unpaid wages, harassment and threats. This grassroots community survey of almost 400 immigrant workers in Tucson, Arizona verifies these anecdotal reports and explores the multiple, layered negative impacts of the law.

### Key Findings

**Finding #1: *There is substantial and widespread confusion about the specific provisions in the law, leaving workers vulnerable to abuse and exploitation.***

- 46% of respondents were unclear as to whether current employees are subject to verification using the E-Verify federal database. This makes it very easy for employers to misuse the program.
- Nearly one quarter thought employers have to call the Border Patrol or ICE if they think someone working for them is undocumented, or thought this might be true.
- 47% of respondents did not understand that businesses cannot employ people who don't have papers to live and work in the US, arguably the most discussed aspect of the law.

**Finding #2: *The state of Arizona has failed to adequately educate the public about the new law.***

- The largest number of respondents (67%) said they learned about the law from watching TV. Given the level of misinformation reflected in the findings above, it is clear that the state government has failed in its responsibility to provide accurate information about the law.
- Many people are turning to friends and family for information about the law, leading to further misinformation and rumors. Nearly a third (32%) of respondents learned about the law from friends (the second largest category after television), and an additional 16% from family.

**Finding #3: *Employers have misapplied the law, both intentionally and unintentionally.***

- Almost 30% of respondents were asked by their *current* employer to provide documents, in some cases before the law even went into effect.
- Nearly 20% (1 in 5 workers) of respondents were asked to provide documents by *prospective* employers, before they were hired.
- 16% of respondents were denied back wages for hours they had already worked.
- More disturbing are the results that indicate deliberate misuse of the law:
  - 10% of respondents said they were threatened with firing.
  - 12% had their salaries cut

- 21% had their hours cut
- 6.6% said their employer had threatened to call ICE or Border Patrol

**Finding #4: *The law has produced fear and resentment in the immigrant community.***

- Over a quarter (27%) of respondents said they are afraid for themselves, their friends, and their families.
- The vast majority (64%) feel the law is unjust.

**Finding #5: *The law, or fear of it, has impacted many different aspects of the lives of immigrant workers, causing them to make radical changes to their lives.***

- Almost 40% of respondents report that they don't go out as much, out of fear of traffic stops or random police/Border Patrol/ICE questioning.
- More than 1 in 5 workers is unlikely to report rights violations and/or safety concerns at work.
- Over 20% report that they have considered or are considering leaving the state.
- The law is having disastrous impacts on children:
  - a. Almost 10% of respondents reported that they are caring for someone else's children due to the parents leaving the state, being detained, or deported.
  - b. 16% say they have pulled their children out of school.

## Recommendations

1. The disturbing findings of this community-based survey indicate that the **Legal Arizona Workers Act should be immediately suspended** pending further study on the impacts of the law.
2. If and when these negative impacts are fully revealed, the Legal Arizona Workers Act should be **permanently repealed**.
3. **Similar legislation should not be enacted in any other state or on the federal level.**
4. The United States should pursue **comprehensive immigration reform** policies that allow for an increase in the number of visas available to meet the true extent of the demand for unskilled labor.
5. The federal government and the State of Arizona should seek **to improve labor rights protections for all workers.**

## Introduction

In July of 2007, Arizona Governor Janet Napolitano signed the Legal Arizona Workers Act (HB 2779), the most far-reaching employer sanctions legislation in the country. The law subjects employers to civil penalties for knowingly and intentionally employing an “unauthorized alien.” Under the Legal Arizona Workers Act, which went into effect in January of 2008, employers who knowingly or intentionally employ unauthorized workers could have their business licenses suspended for up to 10 days and be put on probation. A second offense could lead to a revocation of their business license. The county attorney's offices across Arizona's 15 counties are charged with enforcing the law.<sup>1</sup>

The statute was amended in May 2008 to clarify certain ambiguous provisions. The Act only applies to employees hired after December 31, 2007. This means that **employers cannot be penalized under the statute for any employees hired before 2008**. If a person is an employee of business that is purchased, and remains an employee during and after the purchase, that person is not a new hire under the Legal Arizona Workers Act and is not required by that law to be run through E-Verify. The law prohibits hiring unauthorized aliens as employees in an employment relationship but does not apply to independent contractors. An independent contractor also includes an employee of one's contractor or subcontractor. The Legal Arizona Workers Act does not apply to persons who hire casual domestic help for cleaning, watching children at a person's home, or similar duties.

The law requires that all employers in Arizona check the employment eligibility of those hired after January 1, 2008 through E-Verify. Formerly called the Basic Pilot Program, E-Verify is an online federal database through which employers can check whether an individual is authorized to work in the United States. As of the end of September, 2008 about 22,000 of the approximately 150,000 employers in Arizona had signed up for E-Verify.<sup>2</sup>

The most recent independent evaluation of the program commissioned by the Department of Homeland Security found that “the database used for verification is still not sufficiently up to date to meet the requirements for accurate verification.”<sup>3</sup> The report also found that employers are not complying with the rules of the program, making the results unreliable. Finally, the evaluation reports that some employers that use the program engage in unlawful and prohibited practices, including pre-employment screening, adverse employment action based on TNC notices, failure to inform workers of their rights under the program, and re-verifying the employment eligibility of existing employees without a legitimate or lawful reason.<sup>4</sup>

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<sup>1</sup> Arizona Revised Statute, 23-212, “[Knowingly employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense](http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/23/00212.htm&Title=23&DocType=ARS)”.

<sup>2</sup> “Illegal workers manage to skirt Ariz. Employer-sanctions law,” *The Arizona Republic*, November 30, 2008

<sup>3</sup> *Findings of the Web Basic Pilot Evaluation* (report submitted to DHS by Westat, Sept. 2007, [www.nilc.org/immsemplymnt/ircaempverif/WebBasicPilotRprtSept2007.pdf](http://www.nilc.org/immsemplymnt/ircaempverif/WebBasicPilotRprtSept2007.pdf))

<sup>4</sup> *Findings of the Web Basic Pilot Evaluation* (report submitted to DHS by Westat, Sept. 2007)

## Confusion and Panic

The new employer sanctions law was just the latest in a long line of state and federal policies and practices dealing with some aspect of immigration. Often it was hard to keep track of whether a given policy was formal law which had been enacted, a bill that was being debated, or simply an idea being proposed. Federal bills like the Real ID Act, the CLEAR Act, McCain-Kennedy, and HR 4437 (known as the “Sensenbrenner” bill) were confused with the multitude of bills introduced on the state level, including bills that sought to deny in-state tuition and state welfare benefits to those without documents or to make being undocumented into a state criminal offense (trespassing).

To further complicate matters, these laws were hard to distinguish from changes in the *administrative* policies or procedures of various enforcement agencies on the ground, such as the increased raids on businesses conducted by both the Federal Department of Immigration and Customs Enforcement (ICE) and the Maricopa County (Phoenix) Sheriff’s Department.

The Legal Arizona Workers Act simply states that businesses should be penalized for hiring undocumented workers. The Act says nothing about raiding workplaces, arresting workers, prosecuting, detaining, or deporting them.<sup>5</sup> Yet Maricopa County Sheriff Joe Arpaio has repeatedly cited the new law as the motivation for a stepped-up campaign of raids on businesses.<sup>6</sup> To date, not a single business has been prosecuted under the employer sanctions law. But scores of immigrant workers have been arrested, prosecuted, and detained.

Adding to the confusion, the expansion of the Department of Homeland Security’s (DHS) “Operation Streamline” to the Tucson area coincidentally occurred around the same time as the enactment of the employer sanctions law. This effort seeks to prosecute every adult caught crossing the border illegally, not just those who had been apprehended previously or those with criminal histories. Also around the same time, the Department of Homeland Security decided that receipt of a “No Match” letter from the Social Security Administration stating that the social security information submitted to an employer did not match SSA records, can be used as evidence that an employer had “constructive knowledge” that a worker was not authorized to work in the United States.

The convergence of these multiple factors left immigrants feeling besieged, confused, and extremely vulnerable. Out of this atmosphere of uncertainty and panic, stories began emerging of massive firings of workers and of some unscrupulous employers taking advantage of workers’ confusion to cut pay, hours, and perpetrate other labor abuses. Attorneys, social workers, and immigrant rights groups were deluged with questions and reports of questionable and at times outright abusive practices on the part of employers. At the AFSC labor rights clinics and in our outreach work, we heard story after story of employers misapplying the law (for example, checking documents before the law went into effect). AFSC heard from small business owners who cater to the immigrant community of their frustration with the law and their confusion about how to properly apply it. Stories circulated of families torn apart after a workplace raid, the parents

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<sup>5</sup> Arizona Revised Statute, 23-212, “[Knowingly employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense](#)”, <http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/23/00212.htm&Title=23&DocType=ARS>

<sup>6</sup> “Deputies raid candlemaker in Chandler; 65 are arrested,” *The Arizona Republic*, 9/11/08

detained by immigration and the children left alone. We heard of the panic and desperation in the community, people afraid to leave their homes or send their children to school.

Even before the law went into effect, anecdotal reports and news stories began emerging that painted a picture of panic and despair in the immigrant community. A *CNN* headline in December of 2007 declared, "Illegal immigrants packing up and leaving Arizona." The article cites stories of individuals who intended to move back to their home countries rather than contend with the "oppressive environment" in the state.<sup>7</sup> State and national media filed stories detailing the multiple signs of an exodus. The *New York Times* reported, "in the fourth quarter of 2007 the apartment-vacancy rate in metropolitan Phoenix rose to 11.2 percent from 9 percent in the same quarter of 2006, with much higher rates of 15 percent or more in heavily Latino neighborhoods."<sup>8</sup>

The *Arizona Republic* reported that "the Mexican consulate in Phoenix has seen a dramatic increase in applications for Mexican birth certificates, passports and other documents that immigrants living in Arizona will need to return home. In November alone, the consulate processed 240 applications for Mexican birth certificates, three times as many as the same month last year."<sup>9</sup>

Entire neighborhoods were said to disappear as families moved out, leaving houses and apartments vacant and businesses that catered to the Latino community seeing steep declines in revenues. One small business owner in the Phoenix area remarked, "If every undocumented resident was removed in Mesa, it would take about 50 percent of my business."<sup>10</sup> Many school districts reported drastically lower enrollments, another sign that families were leaving. Mesa public schools reported a drop in enrollment of 2,125 students between 2007 and 2008, a decrease that cost the district \$7 million in lost state dollars.<sup>11</sup>

One Phoenix-area parish reported a decline in Sunday church attendance of 30%. The priest of the parish placed the blame for this decrease on the new law. "Sheriff Arpaio's sweeps are being moments of peak terror for the community . . . (but) that is not the biggest issue," [Father] Goraieb said. "It's the employer-sanctions law that's decimating the community. If people can't find work, they have to leave."<sup>12</sup>

The news was hailed as a victory by backers of the law, most vocally the bill's sponsor, State Representative Russell Pearce, who was clear that his intention was to drive undocumented migrants from the state. "I'm hoping they will self-deport...They broke the law. They're criminals."<sup>13</sup>

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<sup>7</sup> "Illegal immigrants packing up and leaving Arizona," CNN.com, December 22, 2007.

<http://www.cnn.com/2007/US/12/22/immigrants.leave.ap/index.html>

<sup>8</sup> "Arizona seeing signs of flight," *New York Times*, February 12, 2008.

<sup>9</sup> Crackdown has illegal immigrants leaving Arizona, *The Arizona Republic*, 12/19/07.

<sup>10</sup> Latino neighborhood slowly disappearing in central Mesa," *The Arizona Republic*, July 29, 2008.

<sup>11</sup> "Mesa schools report 2,125 fewer students," *The Arizona Republic*, August 26, 2008.

<sup>12</sup> Latino neighborhood slowly disappearing in central Mesa," *The Arizona Republic*, July 29, 2008.

<sup>13</sup> "Illegal immigrants packing up and leaving Arizona," CNN.com, December 22, 2007.

<http://www.cnn.com/2007/US/12/22/immigrants.leave.ap/index.html>

## The *Encuesta* (Survey) Project

Under the best of circumstances, it is often challenging for the average person to understand the ins and outs of a piece of legislation, particularly one dealing with legal matters on both the federal and state levels. But for new arrivals to the United States, who may have limited language skills or education, it is especially difficult. Many of the stories we heard from workers indicated that the law was being applied in ways that were not intended in the legislation itself or, more concerning, in ways that appeared to be in violation of this and other statutes.

Very often “the devil is in the details” of such policies. For example, the Legal Arizona Workers Act can only be applied to people who are hired *after* January 1, 2008. It has no legal application to existing employees of a given business. Furthermore, there are federal statutes governing the use of the E-Verify system required under the law. One of these stipulates that Employers may use E-Verify *only within the first three days* after an employee is hired. In other words, employers cannot use E-Verify to prescreen applicants or to re-verify the work authorization of current employees who have been employed for more than three days. In addition, employers using E-Verify must use it for all new hires, not just those they suspect of being undocumented.

Finally, If E-Verify finds a mismatch in the information the employee submitted, the employer must provide written information to the employee about how to challenge the mismatch, including a written notice generated by E-Verify. The employee must then receive 8 days to contest the mismatch, during which time he/she cannot be terminated, suspended, or have any other adverse action taken.

Well before the law went into effect, the AFSC Tucson office received disturbing reports from many workers. It appeared that many business owners were simply unsure of the provisions of the law or how to apply it properly. As a result, many were simply laying off workers who they suspected might not have proper documentation, in many cases even before the law was enacted. Of greater concern was the tendency for some employers to use the fear and confusion around the law to pay workers less or cut their hours. Some workers were fired, and then offered their job back at a significantly lower pay rate.

Yet these multiple impacts have rarely entered into the mainstream discussion of the law. As a program specifically focusing on immigrant labor rights, AFSC’s *Voces de Inmigrantes en Arizona (VIA)* program was in a unique position to document these stories and conduct an assessment of the hidden, secondary impacts of this new legislation.

The group decided to conduct a grassroots community survey of the various implications of the employer sanctions law, based on the feedback and anecdotes that were emerging from our constituents. Specifically, we wanted to test the following impressions:

1. Neither workers nor small business owners fully understood the exact provisions in the law.
2. Workers tended to conflate all the various efforts targeting undocumented migration into one monolithic whole.
3. Employers were inaccurately applying the new law, sometimes simply because they did not understand it.
4. Some unscrupulous employers were using the law as an excuse to abuse labor rights.

5. The level of fear in the immigrant community is causing some families to take drastic action, such as not leaving the house, closing their bank accounts, or leaving the state entirely.

The group met to brainstorm ideas for a short, simple survey to conduct with immigrant workers in order to capture the stories and find out the nature and extent of the various “ripple effects” of the Legal Arizona Workers Act. The result was a five-question survey in Spanish designed to assess the impressions and experiences of immigrant workers of the multiple impacts of the Legal Arizona Workers Act. To complete the picture, we interviewed a handful of social service providers who serve the immigrant community to gather their impressions of the impact of the new law on their client populations.

We conducted trainings for a group of about 15 members of VIA and two student interns on basic interviewing techniques, the questions on the survey instrument itself, and the specific provisions of the Legal Arizona Workers Act. We provided each survey-collector with copies of the survey, an ID badge, and fact sheets on the law to provide to respondents who wanted more detailed information. VIA members met with staff to brainstorm ideas of locations to collect surveys and set a timeline for gathering the data. VIA members collected surveys in grocery store parking lots and public parks, at community centers and ESL classes, at churches, and with small groups of neighbors and friends.

Obviously, the American Friends Service Committee is not a professional or academic research organization. We recognize that the survey data is self-reported and there is no way to independently verify its accuracy. Given that there is no mechanism under the law for workers to file complaints about violations of their rights, there is no way to officially measure the number of unjust firings, wage cuts, or harassment resulting from the misapplication of the law.

Given the obvious confusion about the law itself, it is impossible to say whether the negative experiences the respondents reported (firing, denial of back wages, etc.) were a direct result of this particular law. Clearly, immigrant workers’ labor rights have been violated in this country for decades, well before this particular legislation was even conceived. Added to this is the immense difficulty of separating the impacts of the overall economic downturn from those of this particular legislation.

Our intention was to reach out to immigrant workers, foster a dialogue, and document the experiences of those who are being most directly impacted by this law, yet whose input has been largely ignored in the debate. Our position as a community organization ensures that the data presented in this report is not only relevant, but that it is in many ways more reliable because of the trust that the community has in us. It is likely that they answered our questions more honestly than they would a random survey from a research firm. We believe that the results reflected in this report point to an immediate need for a more open discussion of the real and lasting impacts of such legislation on the whole of our community.

## The Results

A total of 376 completed surveys were collected by our volunteers. This section presents a brief description of each of the five questions and an analysis of the responses. Several of the questions allowed for multiple answers in order for respondents to describe each of the various impacts of the law in their lives.

### Question 1: Provisions of the Law

This question was designed to determine the depth of the respondents' understanding of the specific provisions in the Legal Arizona Workers Act. It is impossible for a worker to challenge an abuse if they do not know that a particular action is illegal. We were hearing many stories from workers about losing jobs they had held for years or having their wages or hours cut, and believing (or being told) it was because of the law.

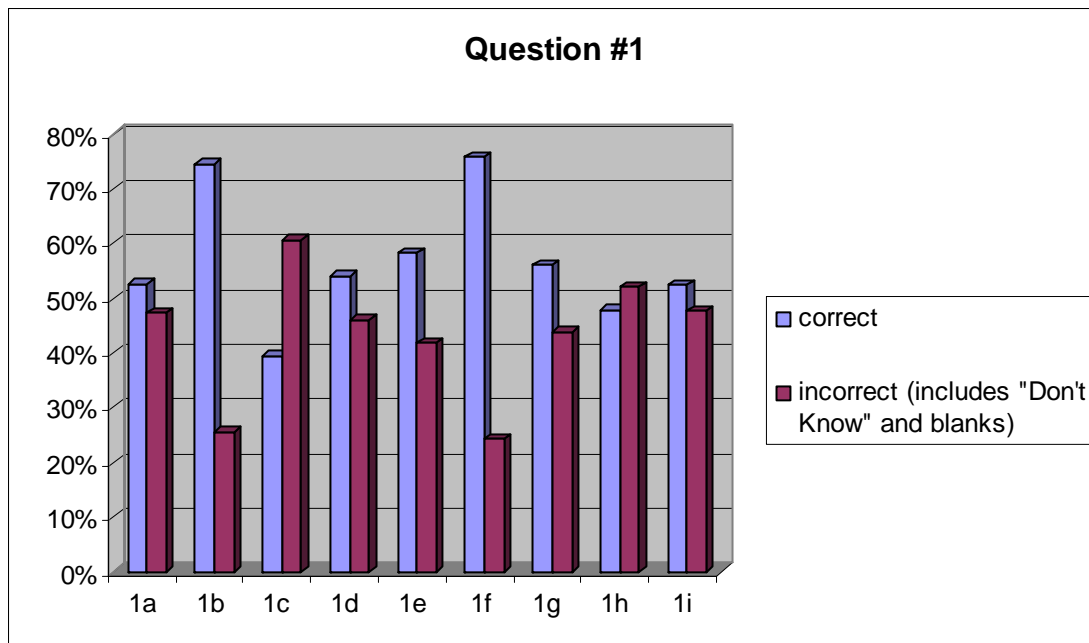
We also noticed that many workers tended to see a range of various anti-immigrant activities as all being part of the same monolithic law or policy. Immigration or police raids, deportations, and firings all happening at the same time appeared to spring from the same source. This belief was further exacerbated by Sheriff Joe Arpaio's public declarations that he was raiding businesses and arresting and detaining workers in the Phoenix area as part of "investigations" under the employer sanctions law.<sup>14</sup>

Question 1 asks respondents to read a list of provisions and judge whether each one is part of the Legal Arizona Workers Act:

- a. Businesses cannot hire people who do not have documents to live and work in the US. (Correct answer: Yes)
- b. Businesses must fire all employees who do not have documents to live and work in the US. (Correct answer: No)
- c. Businesses must use the E-Verify database system to check all new employees for proper documents. (Correct answer: Yes, after January 1, 2008)
- d. Businesses must use the E-Verify database system to check all current employees for proper documents. (Correct answer: No)
- e. Businesses can lose their license if they are discovered to have undocumented people working for them. (Correct answer: Yes, if hired after January 1, 2008)
- f. Employers have to call the police/ICE/Border Patrol if they think someone working for them is undocumented. (Correct answer: No)
- g. Businesses have to fire any employee who receives a "No-Match" letter from Social Security. (Correct answer: No)
- h. ICE, police, and/or Border Patrol will raid businesses that are employing undocumented immigrants or raid the homes of employees who are undocumented. (Correct answer: No)
- i. Groups like the Minutemen are helping to enforce the employer sanctions law. (Correct answer: No).

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<sup>14</sup> "Business owner warns of Arpaio raids' effects," The Arizona Republic, 9/28/08



**Finding:** *There is substantial and widespread confusion about the specific provisions in the law, leaving workers vulnerable to abuse and exploitation.*

In most cases (6 out of 9 sub questions) there was a relatively small margin between the percentage that answered correctly, and the combined percentage of those who answered wrong, said they did not know, or left the question blank. This indicates that almost half of the people surveyed really did not know the answers to these questions.

Most surprising was the fact that **47% did not understand that businesses cannot employ people who don't have papers to live and work in the US** (sub question 1a), compared to the 53% who answered correctly. This is arguably the most discussed aspect of the law.

Also perplexing was the response to the questions regarding whether and when employees are subject to an E-Verify data search. In order to discover whether workers understand that the law only applies to new hires, two almost identical sub questions were presented back to back. The first asks whether E-Verify checks are required for new employees (sub question 1c), and the second asks if they are required for existing employees (sub question 1d). Only 39% of respondents answered the first question correctly. 48% said that E-Verify checks were not required for new employees, 11% said they didn't know, and 1% left the question blank. That's a total of 60% of respondents who we can presume were not aware of this requirement.

*In November 18, 2008 more than 10 workers at a fast food restaurant were called in for a meeting with the manager. The manager told them if they want keep working for the company they have to bring their documents. He acknowledged that the workers were doing very good job but the company has to comply with the law.*

*None of these workers came back to work. Most of them had been working there from 2 to 3 years. They were forced to fire themselves, because they were afraid of what would happen if the manager found out they didn't have papers.*

Strangely, the majority (54%) also answered "no" to the next question, asking if employers are required to use the database to check *existing* employees, which in this case is the correct answer. But when we combine the incorrect answers with the "don't know" and blank responses, we get an almost equal percentage (46%).

The fact that **46% of people don't understand whether E-verify can be used to check current employees** is concerning. This makes it very easy for employers to misuse the program. Unfortunately, this is consistent with anecdotal reports that many workers who have been employed with a business for years are being asked for documentation and are given the impression that this is required by the law.

There were only two questions on which the majority gave the correct answer. Respondents were most confident in their knowledge of:

- Sub question 1b (Employers must fire undocumented workers): 74% answered correctly, only 25% answered wrong, didn't know or left it blank. This question also had the smallest number of "don't know" responses for any question.
- Sub question 1f (businesses have to call ICE if they think someone is undocumented): 76% answered correctly, 25% answered wrong, didn't know, or left it blank. This had the lowest percentage of wrong answers of any question.

The most "don't know" responses were to sub questions dealing with enforcement:

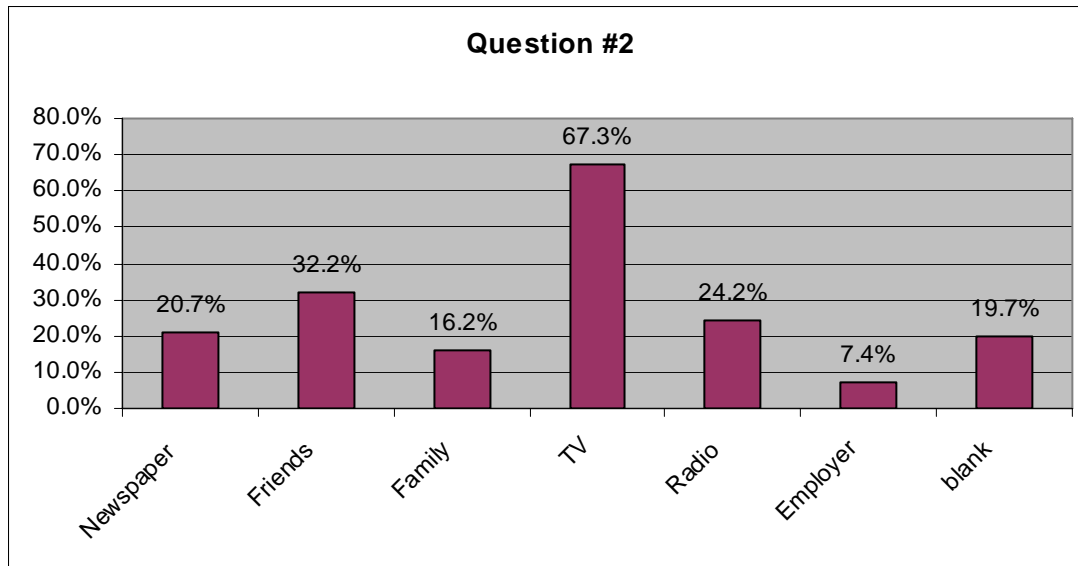
- **Nearly one quarter of people think employers have to call the Border Patrol or ICE if they think someone working for them is undocumented**, or think this might be true. Half of respondents think business/homes of undocumented workers will or might be raided.
- Sub question 1h asks whether ICE, police, and border patrol will raid businesses or homes of employees without documentation. On this question, 20% said they didn't know and 2% left the question blank. Combined with the 30% who answered wrong, it's a total of 52%--greater than the percentage who answered correctly (48%).
- Perhaps most alarming is the finding that **almost half of respondents thought Minutemen were or might be assisting with enforcement of the law**. On Sub question 1i (Minutemen are helping to enforce the law), 22% answered that they didn't know and 3% left the question blank. Combined with the 22% who answered wrong, it's a total of 47% of all responses.

The Minutemen are a catch-all category for various groups of individuals who have no legal authority to enforce any law, but who have banded together as "volunteers" to patrol the borders, monitor day labor sites, discover undocumented individuals attempting to cast ballots on election day, etc. In some cases, these groups have made public statements that they are supporting or assisting government entities in enforcing immigration or other laws. Individual members of these groups frequently dress in camouflage or wear t-shirts or caps with law enforcement emblems, adding to the confusion about their role.

The responses to these three sub questions would appear to support our perception that **many immigrant workers perceive a range of anti-immigrant policies and activities as somehow being associated with the employer sanctions law**.

Question 2: Where did you learn about the law?

***Finding: The state of Arizona has failed to adequately educate the public about the new law.***



The largest number of respondents (67%) said they learned about the law from watching TV. An additional 20.7% said they learned from the newspaper and 24% from the radio. Given the level of misinformation reflected in the answers to question 1, it is clear that the State of Arizona did a poor job of disseminating accurate, timely, and accessible information about the specifics of the law and its proper implementation. The state also failed to inform workers and employers of their rights under the program or how and where to address complaints. Had the state invested in an aggressive education program for both employers and workers, it might have avoided some of the misapplication of the law resulting in firings and other violations of workers' rights.

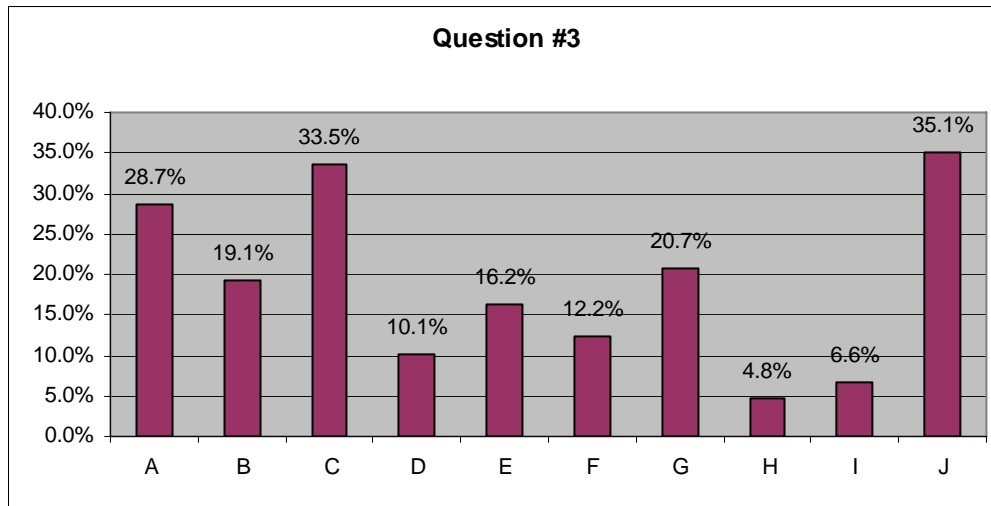
Nearly a third (32%) learned about the law from friends (the second largest category after television), and an additional 16% from family. This suggests a big capacity for circulation of rumors and imprecise information in the absence of credible and widely available information from official sources.

### Question 3: Personal experience with the law

***Finding: Employers have misapplied the law, both intentionally and unintentionally.***

Question 3 asks respondents to tell whether they or someone they know well has experienced any of the following as a result of the Legal Arizona Workers Act:

- a. Been asked to provide different identity documents or work authorization papers by your current employer
- b. Been asked to provide documents or work authorization papers by a prospective employer
- c. Fired
- d. Threatened with firing
- e. Denied back wages
- f. Had your wages cut (or threatened with)
- g. Had your hours cut (or threatened with)
- h. Experienced harassment on the job (give examples?)
- i. Employer threatened to call the Border Patrol/ICE/police
- j. Trouble getting a new job



**Almost 30% were asked by their current employer to provide documents**, well after the 3-day window stipulated in the law. Anecdotal evidence indicates this was happening in some cases before the law even went into effect. This suggests that either employers do not understand the specific provisions of the law or that they are deliberately misapplying the law.

*“I was working for a construction company for almost 3 years. But then in October of 2007, the bosses started talking about this new law that was going to be going into effect. They sounded really scared. They started laying people off—5 workers one week, 5 workers the next week. I got fired, and when I went to ask why, they said they were worried about this new law, and afraid they might lose their license. Then, in February of 2008, they called me up and offered me my old job back at less than half the pay.”*

**Nearly 20% (1 in 5 workers) were asked to provide documents by prospective employers.** This is a clear violation of federal law regarding the use of E-Verify, which stipulates that the document check be run only *after* the person has been hired, in the first three days of employment. Again, this would appear to indicate that the employer did not understand the specific provisions of the law. In several cases, survey respondents indicated that the employer was fearful of the law’s impacts and told them they needed to see the worker’s papers because, in the words of one respondent, “they didn’t want any trouble from the new law.”

Also of concern was the finding that **16% of respondents were denied back wages for hours they had already worked.** In some cases, the workers were fired and not given their last paycheck or only paid for a fraction of the hours they actually worked. Some day laborers reported that they were taken to a house where they did a day of yard work, and then were told to leave without being paid and threatened with law enforcement action if they complained. In all cases, *there is absolutely no legal justification for denial of pay for labor already completed.*

**A startling number of respondents said that they had been fired (126, or 33.5%).** As detailed earlier in this document, if there is a mismatch in the information the employee submitted to the E-Verify system, the employer must provide written information to the employee about how to challenge the mismatch, including a written notice generated by E-Verify. The employee must then receive 8 days to contest the mismatch, during which time he/she cannot be terminated,

suspended, or have any other adverse action taken. In no case did it appear that this protocol was being followed.

Unfortunately, because Arizona is an “employment at will” state, an employer can discharge a worker at any time for any reason, and is not required to offer any justification for the action. However, the respondents are clearly under the impression that they were fired as a result of the Legal Arizona Workers Act. In some cases, they reported having been told this by their employer, indicating a blatant misuse of the law. In either case, it is safe to conclude that workers are very confused about the provisions of the law, which makes them more vulnerable to exploitation.

*“The day after [Arizona’s Employer Sanctions bill] became law, five women called our office seeking help because they were fired without knowing why. The following week another twenty-one workers were dismissed from a cleaning company. Apparently, the manager asked everyone to bring their documents the next day. Since no one did, the manager forced them to sign a letter of resignation. No one really understood what the letter was about until they realized they had lost their jobs.”*  
–Sebastian Quinac, AFSC staff

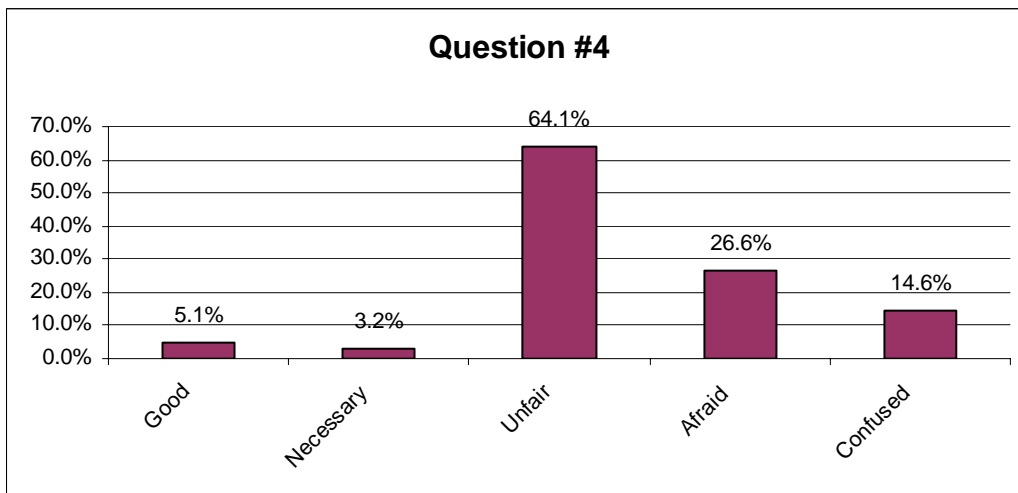
More disturbing are the results that indicate **deliberate misuse of the law:**

- 10% of respondents said they were threatened with firing.
- 12% had their salaries cut
- 21% had their hours cut
- 5% reported harassment on the job
- 6.6% said their employer had threatened to call ICE or Border Patrol

The single largest category is those who had trouble finding new employment (132, or 35%). This is unsurprising, given the overall economic downturn and the requirement that all new hires be screened through E-Verify.

Question 4: What do you think of the law?

**Finding:** *The law has produced fear and resentment in the immigrant community.*



- **Over a quarter (27%) said they are afraid** for themselves, their friends, and their families. The concrete effects of this fear are detailed in the responses to Question 5, below.

- **The vast majority (64%) feel the law is unjust.**

As described elsewhere in this report, the law is seen as just one facet in an overwhelming wave of anti-immigrant rhetoric, policy, and enforcement decisions that have left the community feeling besieged and vulnerable. Many individuals expressed a kind of exasperated confusion at this, wondering why Americans would direct such hateful abuse toward honest people whose only intention is to make a better life for themselves and their families.

- Only 15% reported that they are confused and don't really understand the law.

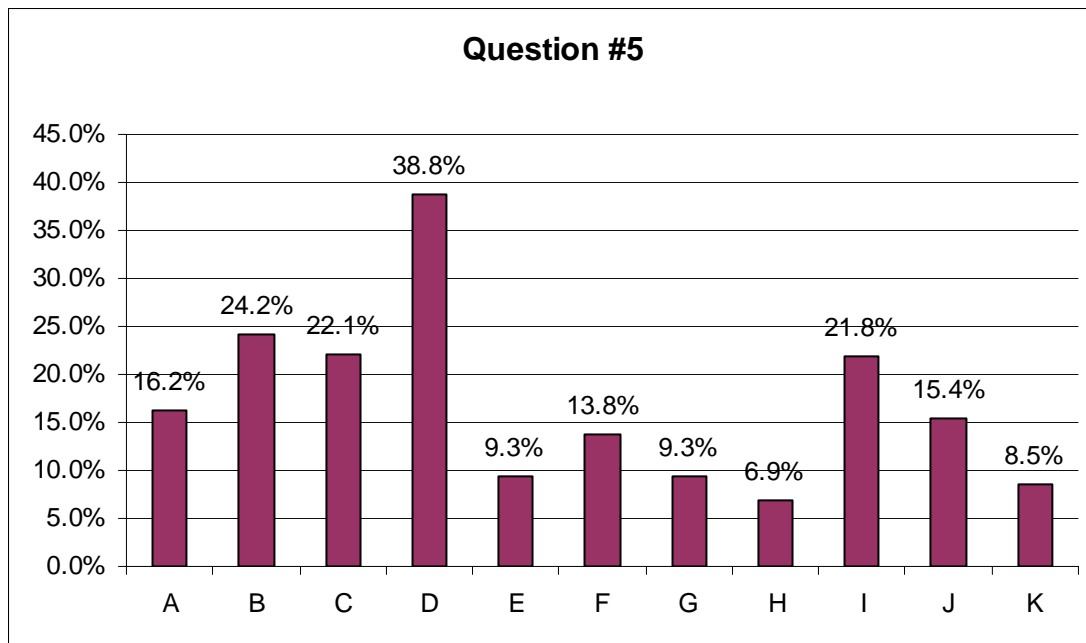
Yet this contrasts starkly with the percentage of wrong answers, "don't know" and blank responses to the sub questions about the specific provisions of the law. This indicates a disconnect between people's confidence in their understanding of the law and their actual level of knowledge. This disconnect is particularly dangerous in light of the pattern of abuses we have seen. Workers are less likely to realize that their rights have been violated or report this activity.

#### Question 5: Impacts

***Finding: The law, or fear of it, has impacted many different aspects of the lives of immigrant workers, causing them to make radical changes to their lives.***

Question 5 asks: "Have you or someone you know done any of the following because of the law?"

- a. Pulled kids out of school.
- b. Stopped going to work.
- c. Afraid to complain or speak up at work.
- d. Don't go out as much.
- e. Avoid certain areas of town.
- f. Changed living/housing situation [moved, etc.].
- g. Caring for someone else's children because the parents have been detained or deported.
- h. Closed bank account.
- i. Leaving the state.
- j. Gotten new identity documents.
- k. Gone into a different line of work (if so, what?).



Most striking among the responses to this question was the finding that **almost 40% report that they don't go out as much**. Many reported being fearful of traffic stops or random police/Border Patrol/ICE questioning. This response is further demonstration of the level of confusion and misunderstanding of the law's specific requirements—clearly nowhere in the language of the policy itself does it provide for random checks of identification, detention or deportation.

Fear is also evident in the finding that **over 1 in 5 workers is unlikely to report rights violations and/or safety concerns at work**. This is particularly relevant given the blatant labor rights abuses that were reported elsewhere in the survey. Not only are some employers using the law as an excuse to cut hours and wages, they also rely on worker's fear and confusion to keep them from reporting these abuses. This finding is directly related to some of the responses to Question 3, where we learned that 10% have been threatened with firing and almost 7% were threatened with law enforcement action.

In what appears to be a confirmation of much of the media speculation of the impacts of the law, **over 20% report that they have considered or are considering leaving the state**. As detailed earlier in this report, there has been a flood of reporting on the flight from immigrant neighborhoods, particularly in the Phoenix area. A recent article in the Arizona Republic cited the Legal Arizona Workers Act among possible causes for an anticipated drop in Phoenix's population numbers in the next census.<sup>15</sup>

In addition to these dramatic factors, the survey responses indicated other impacts on the lives of immigrant workers that are profound and will have lasting consequences for the future. For example, 14% have had to change their living situation in some way (moving to a smaller space, etc.). Certainly as jobs and income are lost, families must try to downsize wherever possible.

<sup>15</sup> "Phoenix may be losing people," The Arizona Republic, January 12, 2009. <http://www.azcentral.com/news/articles/2009/01/12/20090112phxpopulation0107.html>

But perhaps the most tragic impacts are those on children. These are the most vulnerable members of our community and also represent our collective future. Yet their voices and the ways in which these policies impact their lives are entirely absent from the debate. The result is sobering. **Sadly, almost 10% of respondents reported that they are caring for someone else's children due to the parents leaving the state, being detained, or deported.** There is virtually no safety net in our state for these children, and certainly no assistance to the family members left caring for them.

Also remarkable is the finding that **16% say they have pulled their children out of school.** This particular reaction may be partly a result of a well-publicized incident in Tucson in November of 2008. A ninth-grade student at Catalina High Magnet School was caught with a small amount of marijuana in his backpack. Upon discovering the marijuana, school officials called police and police in turn called the student's parents to come to the school. Once there, the parents, unable to produce U.S. drivers' licenses, admitted that they and their children were undocumented, and the U.S. Border Patrol was summoned. The Border Patrol took the ninth-grader and his parents into custody and then picked up a 12-year-old sibling at Doolen Middle School. The entire family was then deported.<sup>16</sup>

Finally, it is worth noting that 15% said they had obtained or were attempting to obtain different identity documents. While proponents of the law will see this as further evidence of willful law-breaking, the response should surprise no one. As our departing Governor Napolitano has often said, "show me a 20-foot border fence and I'll show you a 21-foot ladder." All the employer sanctions laws Arizona or any other state may pass will not make it any easier for people to make a living in Mexico, Guatemala, or El Salvador. Faced with a range of difficult choices, people do what they must to survive.

*"The construction company that I worked at for more than three years fired me last month without paying me my last two weeks. The supervisor treated me like I am nothing. He has called me all kind of names. Since then, I have applied for new jobs at many places but I have been rejected because I do not have documents. The worse of all is that I have been using false documents under different name. I don't know what to do. I have three children and my wife cannot work because she is disabled. My youngest child asked me to buy her a hamburger after church, which we used to do as a family when we could pay our bills. Now I have to tell my child no because I have no work. I have never been through this and I don't know what to do."*

The responses to this question demonstrate the combined effects of the other four: The confusion over the actual requirements of the statute is leading employers to misapply the law. In some cases, certain unscrupulous businesses are intentionally manipulating workers' ignorance to exploit them. Workers are seeing the overall picture of restrictive policy making, divisive rhetoric, and increased enforcement as part and parcel of one monolithic "law." Confused and fearful, they may not realize that their rights have been violated, but even if they do, they are afraid to report such abuses. In response to the overall climate emerging in their communities, they are taking drastic actions to provide for their families.

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<sup>16</sup> "Family deported after boy's arrest at school," Arizona Daily Star, 11/6/07. <http://www.azstarnet.com/sn/related/210146>

## Conclusions

Overall, the survey project provided concrete documentation that confirmed many of our observations and the anecdotal information we were gathering from our work with immigrant laborers. While the multiple, layered impacts of the law were fairly well known to us, they have received little, if any coverage in the state or local media. One reason for this is because the brunt of the negative fallout from the law, at least in the short-term, has been borne by a community of people already marginalized and disenfranchised. The label “illegal immigrant” portrays these individuals as not being worthy of the same rights and protections as others, and further implies that whatever abuses they suffer are their own fault—righteous punishment for their criminal transgressions.

Some of the impacts are only beginning to be seen, particularly the consequences for the overall economic health of our state. The first month of the fiscal year saw tax collections drop \$90 million below projections - the biggest monthly decline of the state's current economic crisis.<sup>17</sup> Immigrant rights advocates have long warned against the unintended consequences of laws and policies designed to drive immigrants out of Arizona. The sad reality is that our economy has long been balanced on the backs of low-wage workers. News reports of crops rotting in the fields due to a shortage of immigrant agricultural workers surfaced in the wake of stepped-up federal immigration enforcement efforts, and we can only assume that the Legal Arizona Workers Act will only add to the problem. Businesses are invested in “illegal immigration” to the extent that it provides a pool of unskilled workers who will accept less than minimum wage and are fearful of asserting their rights.

In December of 2008, Arizona's unemployment rate rose to 6.3 percent from 6.1 percent in October. Metropolitan Phoenix's rate rose to 5.7 percent from 5.5 percent. The Arizona Department of Commerce reported that the state lost 83,100 jobs, a 3.1 percent decrease, between November 2007 and November 2008.<sup>18</sup> Unsurprisingly, there has been a corresponding increase in the number of Arizonans seeking social services. The Associated Press reported in September of 2008 that in the past year, there has been a 25 percent increase in the number of people asking for emergency food from the state's food banks. St. Vincent de Paul officials say they are seeing a similar increase in people asking for a box of staples to get them to the next paycheck.<sup>19</sup>

*“The employer sanctions law has affected the ministry here in a big way. Many people that used to work...now are forced to come here to survive, especially families. Many families also come here to try to get help so they are not evicted or have their utilities cut off. They tell me they have lost their jobs because of this law.”*  
—Brian Flagg, Casa Maria soup kitchen

The true economic impacts of the Legal Arizona Workers Act are difficult to assess in the midst of the overall economic downturn the state is currently experiencing, as noted by University of Arizona researcher Judith Gans in her recent report on the impacts of the employer sanctions law. The report notes, “if Arizona's economy had been expanding at rates similar to the early 2000s, many small businesses, especially in construction and agriculture, would be experiencing labor

<sup>17</sup> “Arizona's tax collections down in July,” The Arizona Republic, 9/7/08

<sup>18</sup> “198,000 Arizonans now without jobs,” The Arizona Republic, 12/19/08

<sup>19</sup> “More Ariz. families asking for food boxes,” Associated Press, 9/29/08

shortages.” Gans concludes that once the economy recovers, it is likely that more businesses will report negative impacts from the Legal Arizona Worker’s Act.<sup>20</sup>

It is clear that the law is having extensive and profoundly negative effects on immigrant workers and their families that continue to be overlooked by the mainstream media and by decision-makers. We ignore these impacts at our peril. Not only do they affect the overall health of our economy, but they also reinforce the notion that some categories of workers—some categories of people—are expendable. This is a slippery slope that only serves to make all workers more vulnerable, undermining our most basic rights.

Punishing vulnerable children and families is no way to solve a complicated and controversial policy problem like immigration. In their frustration with US Congress’ inaction on the issue, Arizona Legislators and Governor Napolitano succeeded in appearing to be “doing something” about immigration, but the true impacts of what they’ve actually done is only beginning to come to light.

## Recommendations

1. The disturbing findings of this community-based survey indicate that **the Legal Arizona Workers Act should be immediately suspended** pending further study on its full impacts. Specifically, we recommend deeper investigation into the following:
  - a. Labor, civil, and human rights abuses that are occurring in association with the new law.
  - b. Impacts on the well being of vulnerable and overlooked populations, including children and elderly adults who are particularly affected by family separation due to detention, deportation or the need to seek employment outside the state.
  - c. Impacts on small, family-run businesses that are located in and/or serve the immigrant community.
  - d. Impacts on citizens and naturalized immigrants.
2. If and when these negative impacts are fully revealed, the Legal Arizona Workers Act should be **permanently repealed**.
3. **Similar legislation should not be enacted in any other state or on the federal level.** Several other states have indicated that they are considering bills similar to Arizona’s, as is the US Congress. This survey indicates that there are serious, hidden negative impacts to communities and businesses resulting from the law that have yet to fully come to light. States should study the issue carefully to determine what policies will most effectively address the multiple issues related to migration and economic justice.
4. The United States should pursue **comprehensive immigration reform** policies that allow for an increase in the number of visas available to meet the true extent of the demand for unskilled labor, among other reforms. Providing a means for workers to obtain the proper documents and permissions to work in the United States would immediately reduce the level of undocumented migration. The American Friends Service Committee has taken positions on a

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<sup>20</sup> Gans, Judith, “Arizona’s Economy and the Legal Arizona Workers Act.” December 11, 2008. Udall Center for Studies in Public Policy, University of Arizona.

variety of immigration related policies. For more information on AFSC's stances on immigration-related legislation, go to: <http://www.afsc.org/ImmigrantsRights/>

5. The federal government and the State of Arizona should seek to **improve labor rights protections for all workers**. We particularly recommend strong enforcement of the protections for workers contained in the Fair Labor Standards Act, the Occupational Safety and Health Act, and the National Labor Relations Act. Requirements for a living wage and safe working conditions, along with the right to organize collectively to improve them, will be far more effective in reducing the incentives for employers to hire and exploit undocumented workers than are direct penalties for employing such workers.