Utah Can Model Federal Immigration Reform

By Utah Senator Luz Robles

The U.S. is a country founded on immigration with a core value in welcoming and integrating those who arrive seeking a better life for themselves, their children, and future generations; yet historically, fear of the unknown has led citizens to treat immigrants with resentment, blame, and xenophobia.

Immigration has been a controversial issue at the national level for many years; however, in the last two decades, the conversation, debate, and policy decisions around immigration have moved to the state level, which has resulted in confusion and a lack of uniformity in our nation. The United States’ Constitution clearly outlines the federal government’s role in immigration policy and border security, but, in reality, Congress has failed to address immigration in a comprehensive way; their Band-Aid solutions have only brought despair to the U.S. and the 11 million undocumented immigrants living here.

The U.S. is a country founded on immigration with a core value in welcoming and integrating those who arrive seeking a better life for themselves, their children, and future generations; yet historically, fear of the unknown has led citizens to treat immigrants with resentment, blame, and xenophobia.

Immigration reform is complicated, but not impossible, and includes the following as basic components of the conversation:
1. Secure the borders.
2. Share accountability between employers and employees—create a system that actually works to verify employees and creates an accurate response to the continued labor demand.
3. Settle the status of the more than 11 million undocumented immigrants that currently reside in our nation.

Utah has not been shy to explore state solutions to the broken federal immigration system. In 1999, the Utah Legislature began addressing the flaws in existing laws that did not consider businesses’ needs as labor demands increased or the needs of the children of undocumented immigrants. These children were brought to the U.S. at a young age, grew up in Utah, and graduated from Utah high schools, yet until 2002, the high cost of non-resident tuition rates prohibited them from attending state higher education institutions due to their immigration status. After 2000, Utah had contradictory proposals like driving privilege cards and in-state tuition for undocumented students. The Utah Legislature has also produced more punitive proposals, such as SB 81 in 2008 that cross deputized local law enforcement and put measures in place to profile undocumented immigrants and limit access to basic aid. SB 81 intended to make the lives of undocumented immigrants so miserable that they would choose to self deport. However, in 2011, as many states were facing anti-immigrant legislation, Utah changed the discussion using innovative solutions.

For the last 13 years, I have been involved with the immigration conversation in different capacities including as an advocate, state employee, and state legislator. During this time, I have seen both fiscally irresponsible punitive solutions and progressive compassionate solutions to immigration reform. The year 2010 was a turning point for the U.S. because states began seeking more comprehensive solutions to immigration.

In April 2010, the state of Arizona passed the stringent anti-immigrant legislation SB 1070, which made it a misdemeanor crime for an immigrant to be in Arizona without proper documentation and required state police to check the immigration status of people that they had “reasonable suspicion” to be undocumented immigrants. As soon as SB 1070 was signed into law, a Utah state representative announced his interest in creating a similar bill for Utah. This was unacceptable to many in the pro-immigrant community.

That timing was perfect, and as a policymaker the question was simple—was Utah going to follow in Arizona’s path of fiscally irresponsible and unconstitutional legislation, or could Utah become a catalyst for positive change?

In hopes that Utah could alter the immigration conversation to create a viable and proactive solution to immigration, I partnered with a coalition of diverse individuals who wanted the same outcome. The unique and informal coalition included Dimitri Moumoulidis, the former executive director of the Utah Democratic Lawyers Council, and the conservative Utah think tank The Sutherland Institute’s President Paul Mero and Director of Public Affairs Stan Rasmussen. We had to think outside the box to create solutions that made sense financially, respected the integrity of immigrants and their families, and provided a tool to increase public safety.

We wanted our bill to stop the reactionary approach to immigration policy that had been the status quo for years. The coalition’s work resulted in a counter response to Arizona’s legislation, SB 60, which led to the creation of bill HB 116. This law, which allows workers to obtain work permits and state residence, passed in the 2011 legislative session and was later signed by the Governor.

SB 60, the Utah Pilot Accountability Permit Program, is a proactive state-based solution to immigration policy. This legislation brings individual and business accountability, integration, and public safety together. The legislation did not address legalizing the undocumented immigrants in the state of Utah, but it recognizes the reality that more than 110,000 undocumented immigrants reside here and creates a mechanism to account for their contribution to our tax system. The bill requires these individuals...
to enroll in English and civic classes, therefore bringing an integration component to the state of Utah. The bill created an accountability card with three major components:

1. Public safety—We need to know who lives in our communities.
2. Labor force demand—Immigration is driven by labor demand; there is a need for labor in agriculture, especially on dairy farms, and in the hotel, lodging, and restaurant industries.
3. Integration—Undocumented individuals are active members of our communities that need to be welcomed and integrated. The bill specifically includes a required level of proficiency in the English language and civics.

LEGISLATIVE INTENT

Now, in 2013, more action is needed. Since the federal government has failed to secure our national borders and support our economy through comprehensive immigration reform, it is the intent of the Utah Legislature:

1. To send a strong message to the federal government for a comprehensive immigration reform that will secure our national borders and increase the number of employment-based visas in response to the labor demand of United States businesses and create pathways to legalization for the 11 million undocumented residents in the United States.
2. To enact policies that normalize the worker status of undocumented individuals and their families employed in Utah while we wait for the federal government to act.

UTAH PILOT ACCOUNTABILITY PERMIT PROGRAM

1. The Department of Public Safety shall develop an accountability permit program to allow undocumented individuals employed in Utah to continue to work here.
2. Create a database and registry where permit holders and Utah businesses will register to match the information and create shared responsibility.

WORKFORCE NEEDS

1. The Department of Public Safety shall develop the Pilot Accountability Permit Program to allow undocumented individuals to work in Utah subject to the need for workers in any particular labor sector in accordance with guidelines promulgated by the Department.
2. The Department of Public Safety shall develop and post the worker needs within each labor sector in the state to provide employers the information necessary to meet their workforce needs.
3. In developing the Utah Pilot Accountability Permit Program and the guidelines for allocating workers in particular labor sectors, the Department shall require that jobs within each labor sector shall first be allocated to U.S. citizens. After a reasonable period of time, jobs within each labor sector may then be allocated for the employment of undocumented individuals subject to the conditions provided in this chapter and by the Department.
4. Any other employer-based work program that meets the needs of Utah employers by using workers outside of the state and who are not U.S. citizens may be used by Utah employers if such a program is already in existence under the auspices of a foreign government in cooperation with the United States government.

ELIGIBILITY

Any individual that is not legally present in this country and has resided in the state of Utah before January 1, 2011, is eligible and must pass a criminal background check, pay an application fee, attend a class to meet requirements and test English and civics proficiency, and renew every two years.

FEDERAL WAIVERS – SUPPORT – REPORTING

1. In order to develop and implement the accountability permit program, the Department of Public Safety shall seek the appropriate waivers from federal law to allow the state to implement and enforce the accountability permit program. None of the provisions may be implemented until the appropriate waivers have been granted.
2. The Governor shall ask each member of Congress representing Utah to help obtain the appropriate federal waivers contemplated under this section and ask the Utah Congressional delegation provide a regular report to the Governor on the progress and status of these efforts. The Governor shall provide such regular reports to the Legislative Management Committee.
3. The Governor shall seek support for the accountability permit program from the Western Governors Association and the National Governors Association. The Governor shall provide a regular report to the Legislative Management Committee on the progress and status of these efforts.
4. The Governor shall direct that a portion of lobbying services used by the state and a portion of the budget used for the state’s Washington, DC, office be used to seek federal waivers.

CONCLUSION

SB 60 became the framework of HB 116 that after a very heated and extensive debate passed and became law in the state of Utah in 2011. This bill passed because the members of the Utah Legislature from both political parties were able to put aside political differences and focus on creating good public policy. With the passage of HB 116 the state of Utah sent a clear message to the federal government and nation: even Utah—an ultra-conservative state—was able to reach across the aisle and create an immigration policy that was fair, integrated, and considered accountability and public safety. The Utah Legislature understood that the federal government controlled immigration status but that allowing states to define residency could be successful. I believe the examples and methods used in Utah can frame the federal immigration reform that will be addressed by Congress and the President later this year.