

## Extended Controversial Issue Discussion: Immigration

**Lesson Title:** Immigration

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**Appropriate for Grade Level(s):** High School – 11<sup>th</sup> Grade U.S. History or 12<sup>th</sup> Grade Government

**US History Standard(s)/Applicable CCSS(s):**

*H4.[9-12].7* Describe the United States' policy concerning strategic, political, and economic interests regarding Mexico and immigration.

CCSS Speaking and Listening Standards 11-12:

Initiate and participate effectively in a range of collaborative discussions with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

**Discussion Question (s):**

*Should states be allowed to draft their own immigration legislation?*

Throughout the course of this lesson students will participate in respectful civic discourse reflecting multiple perspectives on the controversial issue of immigration in the United States. Students will develop greater insight into the complexity of the issue and the multi-faceted nature of policy making. Immigration affects the politics, culture and economy of the United States. This issue is highly emotional and controversial and as such students often mimic unprocessed views and misinformation regarding current immigration issues. A key component of teaching students how to actively participate in a democracy is to equip them to stop and consider multiple perspectives, motivations behind various views and responses and the ramifications of various courses of action. In this lesson, students will pause to identify the constitutional issues including Federalism, the Supremacy Clause and states' rights that complicate the challenge of addressing immigration issues today.

**Engagement Strategy:** Structured Academic Controversy or (SAC). The SAC model pushes students to discuss rather than debate a controversial issue. The goal is to equip students to understand multiple perspectives and synthesize information to creatively propose solutions to the issue in question.

**Student Readings (list):**

Source 1: The Equal Protection Clause

Source 2: The Supremacy Clause and Federal Preemption

Source 3: Utah's Immigration Solution

Source 4: A Legal Analysis of the New Arizona Immigration Law

Source 5: Amicus Curiae Brief of Members of Congress and the Committee to Protect America's Border in Support of the Petitioner

Source 6: Department of Homeland Security Data – State of Residence of the Unauthorized Immigrant Population

Source 7: Burden on Border States Statistics

**Total Time Needed: 3 block class periods**

**Lesson Outline:**

Time Frame (e.g. 15 minutes)	What is the teacher doing?	What are students doing?
Day 1  30 minutes	Introduce the concept of Structured Academic Controversy to students and identify the desired learning goals of the experience. Review process terms essential to understanding how to set up an argument – Claim, Reason, Evidence, Counterclaim, Rebuttal, Active Listening	Learning the concept of Structured Academic Controversy  Reviewing terms: Claim Reason Evidence Counterclaim Rebuttal Active Listening
30 minutes	Student Readings – Sources 1-6 Model the process using Source #1 & 4: Ask students to read the document silently on their own Read the document aloud to the students Work through each question as a class generating thoughtful answers and citing lines in the document for each answer	Following teacher “think aloud” of the process and learning how to analyze the source.
30 minutes	Divide students into pairs and assign them the remaining sources. Ask students to process each document completely as modeled. Review all documents together as a whole group and allow students to clarify their responses.	Working collaboratively in groups to analyze all 6 sources related to the issue.

Day 2  30 minutes	<p>Assign each pair a position PRO/CON on the issue</p> <p>Task students with reviewing their sources and ask them to determine which sources support their assigned view of the issue</p> <p>Ask students to generate arguments in favor of their perspective and prioritize them, citing evidence by referencing source and line and record information on “<i>Preparing My Argument</i>” handout</p>	<p>Working with a partner to sort sources</p> <p>Generating arguments supporting their side of the issue</p> <p>Prioritizing arguments</p> <p>Recording claims, reasoning and evidence on notetaker</p>
20 minutes	Teach students “ <i>Ground Rules for Discussion</i> ” and “ <i>Essential Interaction Components</i> ”	Learning expectations of the discussion and preparing to participate
40 minutes	Place students in groups of four with two students representing each side of the issue. Begin discussion and allow discussion to proceed with students meeting the Meaningful Engagement Components and taking notes as they interact.	Presenting claims, reasoning and evidence in a small group
20 minutes	Pause discussion once both sides have shared their claims and reasons. Allow time for pairs to prepare rebuttals with counterclaims and supportive reasoning. Resume discussion.	Considering opposing viewpoints and preparing and delivering counterclaims
Day 3  20 minutes	<p>Regroup students into fours with PRO/CON pairs who have not yet worked together and distribute “<i>Issue Analysis – Ramifications</i>”</p> <p>Identify one issue in support of states drafting their own immigration.</p> <p>Model for students how to complete the chart for this issue.</p>	Learning how to consider the ramifications of their position through teacher modeling of the process
30 minutes	Task students with identifying 5 issues and analyzing the ramifications using the chart. Debrief the activity as an entire	Working collaboratively to consider the ramifications of their position

	class.	
Remainder of class time	<p>Handout "Student Reflection on Structured Academic Controversy: Immigration" Allow time for students to complete, then discuss as an entire class together.</p> <p>Restatement: Ask all students to outline the main issues on both sides of the argument to show that they recognize BOTH perspectives.</p>	Reflecting on their learning experience and receiving feedback from peers and teacher.

**Description of Lesson Assessment Tied to Objective/Standards:**

Rubric for Discussion is directly tied to state standard and common core standards cited in lesson plan. Teacher discussion participation checklist equips the teacher to gauge student engagement and use of interaction strategies.

**How will students reflect on their learning & understanding?**

Students will spend time reflecting on both the whole class and individual experience using the handout provided.

# Immigration

## Teaching Controversial Issues Project



Using your own background knowledge and the following documents, please evaluate the following statement:

***Should states be allowed to draft their own immigration legislation?***

Designed by Jennifer Chandler, Carson High School

## Should states be allowed to draft their own immigration legislation?

### SOURCE 1: The Equal Protection Clause

Vocabulary:

*Alienage classification*: laws which treat citizens and non-citizens differently.

*Test*: rationale/reasoning used by the Court to determine the verdict of a case

*Scrutiny*: the severity of legal interpretation

1 The Constitution affords protection to citizens in ways that it doesn't for non-citizens. The  
2 *Privileges and Immunities Clause* of section 1 of the Fourteenth Amendment, for example,  
3 provides: "No State shall make or enforce any law which shall abridge the privileges and  
4 immunities of CITIZENS of the United States." Citizenship is also a prerequisite for voting  
5 under the 15th and 19th Amendments as for election to Congress or the Presidency.

6  
7 Nonetheless, the *Equal Protection Clause* makes no distinction in its text between the  
8 protections it affords citizens and non-citizens. "No State shall deny to any PERSON...the  
9 equal protection of the laws." Government does, of course, sometimes draw distinctions  
10 between citizens and non-citizens, thus raising the issue of what sort of judicial scrutiny  
11 should be applied to these classifications. The answer the Supreme Court has given has  
12 changed over the years and has become complicated.

13  
14 In *Graham v Richardson* (1971) and *Application of Griffiths* (1973), the Court subjected state laws  
15 disadvantaging aliens to strict scrutiny. In *Graham*, the Court struck down a law that  
16 conditioned the payment of state welfare benefits on citizenship. Preserving limited state  
17 resources for citizens was not found to be a sufficiently compelling interest. In *Application of*  
18 *Griffiths*, the Court considered a state law that restricted bar membership to citizens. Again, a  
19 majority of the Court applied strict scrutiny to strike down the law, finding citizenship to not  
20 be closely related to one's ability to fulfill the responsibilities of a lawyer.

21 In the late 1970s, the Court carved out an exception to the rule of strictly scrutinizing alienage  
22 classifications. Specifically, the Court held in a series of cases beginning in 1978 that the  
23 rational basis test should apply when alienage classifications are "bound up with the operation  
24 of the State as a governmental entity." Using minimal scrutiny, the Court upheld state laws  
25 that excluded aliens from the police force (in 1978) and work as probation officers (in 1982). In  
26 the 1979 case of *Ambach v Norwick*, the Court upheld a law requiring that public school  
27 teachers, because of their part of a governmental function and their role in inculcating  
28 American values, be citizens. On the other hand, the Court in the 1984 case of *Bernal v Fainter*,  
29 struck down a state law prohibiting aliens from becoming notary publics.

30 Finally, there is the question of what standard of review applies to alienage classifications  
31 made by the federal government. That the standard is something less than strict scrutiny  
32 seems apparent from the Court's 1976 decision in the case of *Matthews v Diaz*. In *Matthews*, the  
33 Court upheld a federal law requiring that aliens (but not citizens) be in the United States for  
34 five continuous years before becoming eligible for federal medical insurance. The Court  
35 suggested that Congress should be given considerable deference in this sort of line-drawing.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 1: The Equal Protection Clause**

1. To whom does the *privilege and immunities clause* of the Constitution refer?
2. To whom does the *equal protection clause* refer?
3. Why do you think the wording of the Constitution is deliberately different between the two clauses?
4. How does the Supreme Court determine the verdict in cases tied to the *equal protection clause*?
5. What presents a challenge when trying to determine the rationale used by the Court when examining multiple cases tied to the *equal protection clause*?
6. According to this source, *should states be allowed to draft their own immigration legislation*?
7. Highlight one citation from the source that supports your answer.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 2: The Supremacy Clause and Federal Preemption**

Vocabulary:

*preemption* - the judicial principle asserting the supremacy of federal over state legislation on the same subject

*sedition* - incitement of discontent or rebellion against a government.

*illegal aliens* - people who have entered the United States without legal permission

1 The preemption doctrine derives from the *Supremacy Clause* of the Constitution which states  
2 that the "Constitution and the laws of the United States...shall be the supreme law of the  
3 land...anything in the constitutions or laws of any State to the contrary notwithstanding." This  
4 means of course, that *any* federal law--even a regulation of a federal agency--trumps *any*  
5 conflicting state law.

6 In April 2010, Arizona's governor signed legislation making it a crime to be in the state  
7 without having obtained lawful entry into the U.S. State police were authorized to demand  
8 proof of citizenship for persons they had "reasonable suspicion" to believe were illegal aliens.  
9

10 The *Pennsylvania v Nelson* case provides a possible basis for a preemption challenge to the  
11 Arizona law. Chief Justice Warren's opinion for the Court struck down a Pennsylvania law  
12 making it a *state* crime to advocate the violent overthrow of the United States government: "As  
13 was said by Mr. Justice Holmes in *Charleston & Western Carolina R. Co. v. Varnville Furniture Co*:  
14 "When Congress has taken the particular subject matter in hand, coincidence is as ineffective  
15 as opposition, and a state law is not to be declared a help because it attempts to go farther than  
16 Congress has seen fit to go."  
17

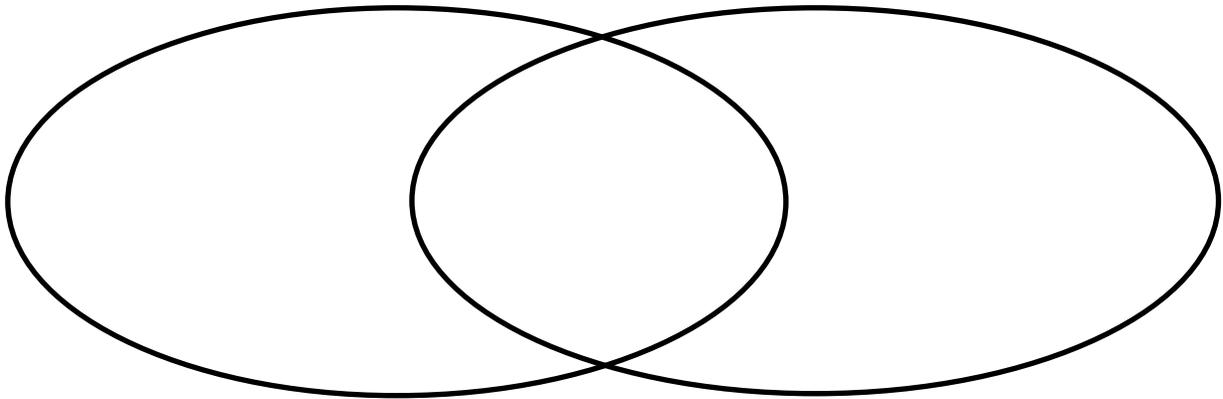
18 *Second*, the federal statutes "touch a field in which the federal interest is so dominant that the  
19 federal system [must] be assumed to preclude enforcement of state laws on the same subject."  
20 Congress has devised an all-embracing program for resistance to the various forms of  
21 totalitarian aggression. Our external defenses have been strengthened, and a plan to protect  
22 against internal subversion has been made by it. It accordingly proscribed sedition against all  
23 government in the nation -- national, state and local. Congress declared that these steps were  
24 taken "to provide for the common defense, to preserve the sovereignty of the United States as  
25 an independent nation, and to guarantee to each State a republican form of government. . . ."  
26 Congress having thus treated seditious conduct as a matter of vital national concern, it is in no  
27 sense a local enforcement problem. It is a crime against the *Nation*. As such, it should be  
28 prosecuted and punished in the Federal courts, where this defendant has, in fact, been  
29 prosecuted and convicted and is now under sentence. It is not only important, but vital, that  
30 such prosecutions should be exclusively within the control of the Federal Government. . . ."  
31

32 *Third*, enforcement of state sedition acts presents a serious danger of conflict with the  
33 administration of the federal program. Since 1939, in order to avoid a hampering of uniform  
34 enforcement of its program by sporadic local prosecutions, the Federal Government has urged  
35 local authorities not to intervene in such matters, but to turn over to the federal authorities  
36 immediately and unevaluated all information concerning subversive activities...."

*Should states be allowed to draft their own immigration legislation?*

**SOURCE #2: The Supremacy Clause and Federal Preemption**

1. Explain the *Supremacy Clause* of the Constitution in your own words:
2. What authority does new Arizona legislation give state police?
3. How does *Pennsylvania v. Nelson* relate to the new Arizona law in question?
4. Complete the Venn Diagram distinguishing the similarities and differences of the two cases:



5. How would Chief Justice Warren respond to states claiming their state immigration laws exist to provide needed support for federal immigration laws?
6. What is meant by the phrase “uniform enforcement of the program”?
7. What complications arise when “uniform enforcement” is not achieved?
8. According to this source, *should states be allowed to draft their own immigration legislation?*
9. Highlight one citation from the source that supports your answer.

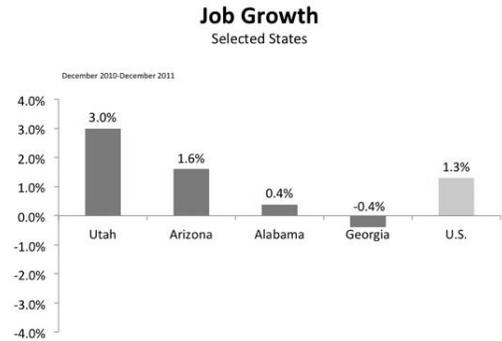
## *Should states be allowed to draft their own immigration legislation?*

### SOURCE 3: Utah's Immigration Solution

**Document Note:** This Chamber of Commerce article promotes Utah's immigration legislation proclaiming its benefit to the economy and influence on other states.

#### 1 Utah's immigration solution sets state apart in more ways than one

2 Utah's unique approach to the complex immigration  
3 issue is working. States that took a different  
4 approach – with an emphasis on enforcement – have  
5 seen the negative impact bad policy can have on a  
6 state economy.



Source: U.S. Dept. of Labor, Bureau of Labor Statistics

7 Take a look at the three states that have passed  
8 enforcement-only immigration laws and compare  
9 their economies to Utah. While our economy grows at  
10 nearly 2.5 times the rate of the rest of the nation (3.0  
11 percent compared to 1.3 percent), the three states that  
12 have taken the most hardline approach to immigration have much lower growth. Alabama's  
13 economy is growing at a rate of 0.4 percent; Arizona's rate is 1.5 percent; and Georgia has an  
14 economy that is contracting, with growth measured at -0.36 percent.

15 The Salt Lake Chamber has been a strong and vocal supporter of The Utah Compact, a  
16 document that lays out five principles to guide the immigration discussion. The Compact  
17 declares immigration to be a federal issue – a matter between the United States government  
18 and the governments of other countries, not between Utah and foreign countries.

19 The Utah Compact was the basis for the package of four bills passed last year, most notably  
20 the Utah Guest Worker Program, signed into law by Gov. Herbert. Utah law provides a way  
21 for existing residents who pass a criminal background check and meet basic health and  
22 insurance requirements to work legally in our state. This package of laws strengthens Utah's  
23 economy. The Chamber strongly opposes any legislation that detracts from the Utah solution..  
24 Both the guest worker program and The Utah Compact have been applauded and emulated by  
25 several other states. Utah is a leader.

26 Utah charted its own path on the immigration issue and we have avoided the negative impacts  
27 bad policy and our economy is much further down the road of recovery.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 3: Utah's Immigration Solution**

1. List the individual states who have passed their own state immigration laws:
2. What information on the graph favors Utah's approach?
3. What does the Utah Compact declare about the federal issue of immigration? What does this mean?
4. What is the Utah Guest Worker Program?
5. Whose economy does the article claim benefits from the state immigration law? By contrast what other economy is not mentioned?
6. How might the final sentence of the article be viewed as a threat?
7. According to this source, *should states be allowed to draft their own immigration legislation?*
8. Highlight one citation from the source that supports your answer.

## *Should states be allowed to draft their own immigration legislation?*

### **SOURCE 4: A Legal Analysis of the New Arizona Immigration Law**

Vocabulary:

*Alien* - a resident born in or belonging to another country who has not acquired citizenship by naturalization

*Trespassing* - a wrongful entry upon the lands of another.

1 **Document Note:** This document was written as a legal analysis of Arizona SB 1070 and posted on the Cato Institute's blog by a law student. It provides a summary of the content of the law.

2 Here are the key things it does:

- 3 1. Creates the new state crime of "trespassing by illegal aliens," which essentially consists  
4 of being in the state in violation of federal immigration laws as determined by an officer  
5 or agency authorized by the federal government to verify immigration status;
- 6 2. Sets out that no official or agency of the state or its political subdivisions (county, city,  
7 etc.) "may adopt a policy that limits the enforcement of federal laws to less than the full  
8 extent permitted by federal law;"
- 9 3. State (and local) law enforcement officials shall make a "reasonable attempt . . . when  
10 practicable, to determine the immigration status" of any person with whom they have  
11 made "lawful contact . . . where reasonable suspicion exists that the [detained] person is  
12 an alien who is unlawfully present in the United States;"
- 13 4. If an alien who is unlawfully in the United States is convicted of violating any state or  
14 local law [including the new "trespassing by illegal aliens"], the alien "shall be  
15 transferred immediately [on discharge from imprisonment or assessment of fine for the  
16 offense] to the custody of the [federal immigration authorities];"
- 17 5. A police officer "may lawfully stop any person who is operating a motor vehicle if the  
18 officer has reasonable suspicion to believe the person is in violation of any civil traffic  
19 law and [the pre-existing law against human smuggling];"
- 20 6. Makes it illegal to stop to hire or pick up passengers for work if the vehicle "blocks or  
21 impedes the normal movement of traffic;"
- 22 7. Makes it illegal for an illegal alien to knowingly apply for work, solicit work in a public  
23 place, or perform work as an employee or independent contractor;
- 24 8. Makes it illegal for anyone violating the law (including the new illegal hiring law, as  
25 well as pre-existing prohibitions on hiring illegal aliens) to transport, move, conceal, or  
26 harbor persons who the alleged violator knows to be illegally in the United States, as  
27 well as to encourage or induce aliens to come to Arizona illegally;
- 28 9. Provides an entrapment defense to the pre-existing crime of employing illegal aliens  
29 (whether knowingly or intentionally); and
- 30 10. Authorizes the immobilization or impoundment of vehicles used to commit various  
31 vehicle-related offenses relating to illegal aliens.

32 None of these provisions, on their face, appear to be unconstitutional, in the sense of Arizona  
33 intruding on federal authority over immigration policy.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 4: A Legal Analysis of the New Arizona Immigration Law**

1. Based upon information contained within this source, does the new Arizona immigration law support federal immigration law?
2. According to Item #4 on the list, what will be done with illegal aliens violating state or local law?
3. What is a “reasonable attempt”?
4. What is “reasonable suspicion”?
5. Which items specifically mention “state” law or the state of Arizona?
6. What type of person may stop others in violation of civil traffic law? What level of government does this represent? Is this within the scope of their normal job responsibilities?
7. Explain the new law as it relates to the workforce/workplace:
8. Do these provisions protect citizens of the state of Arizona? Justify your answer.
9. According to this source, *should states be allowed to draft their own immigration legislation?*
10. Highlight one citation from the source that supports your answer.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 5: Amicus Curiae Brief of Members of Congress and the Committee to Protect America’s Border in Support of Petitioner**

Vocabulary:

*certiorari* - a request from a superior court for the record of inferior court for review.

*concurrently* - acting in conjunction; cooperating

*sanctuary policies* - city policies offering refuge to illegal aliens within the United States

*deputizing* - granting official authority

*preempted* - to act first, take precedence, override

**Document Note:** This document is an excerpt from an amicus curiae brief in the case of the State of Arizona and Janice K. Brewer, Governor of the State of Arizona, In Her Official Capacity, Petitioners, v. United States of America, Respondent.

1 . . . this Court should grant *certiorari* because the Ninth Circuit’s decision conflicts with this  
2 Court’s decision in *Chamber of Commerce v. Whiting*, that a state immigration enforcement law  
3 which, like S. B. 1070, incorporated federal standards, did not impede federal objectives, and  
4 therefore was not preempted.  
5  
6 Congress has passed numerous laws demonstrating its intent that states exercise their inherent  
7 authority to concurrently enforce federal immigration laws. Congress has manifested its intent  
8 not to preempt state cooperation by (1) expressly reserving with the states their inherent  
9 authority in immigration law enforcement, (2) banning sanctuary policies that interfere with  
10 exercising that authority, (3) requiring federal officials to respond to state inquiries, (4)  
11 prohibiting Federal, State, and local government agencies and officials from restricting state  
12 and local officers in making those inquiries, (5) simplifying the process for making such  
13 inquiries, (6) deputizing state and local officers as immigration states that assist.  
14 To ensure cooperation by federal officials, Congress required immigration authorities to  
15 respond to state and local inquiries seeking to “verify or ascertain the citizenship or  
16 immigration status of any individual.” This court recognized in *Plyler v Doe* that “unchecked  
17 unlawful migration might impair the State’s economy generally, or the State’s ability to  
18 provide some important service.” Thus, the states are not “without any power to deter the  
19 influx of persons entering the United States against federal law, and whose numbers might  
20 have a discernible impact on the realm of illegal immigration control, preempting state laws  
21 that mirror federal standards but provide slightly different enforcement mechanisms  
22 eviscerates the states’ ability to “Make choices that are responsive to their residents’ desires, to  
23 experiment, and to advance liberty and freedom within their boundaries.”  
24 The Ninth Circuit’s decision treads upon federalism by stripping the states of all sovereignty  
25 over problems that Congress and our federalist system have committed to the states. Senate  
26 Bill 1070 mirrors federal immigration provisions and in no way interferes with any  
27 Congressionally ordained federal objective. Senate Bill 1070 should not be preempted.

“Amicus Curiae Brief of Members of Congress and the Committee to Protect America’s Border in Support of Petitioner.” State of Arizona and Janice K. Brewer, Governor of the State of Arizona, In Her Official Capacity, Petitioners, v. United States of America, Respondent. On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit, No. 11-182.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 5: Amicus Curiae Brief of Members of Congress and the Committee to Protect America's Border in Support of Petitioner**

1. What is an inherent power?
2. What is meant by concurrent power?
3. What argument does this source make regarding preemption?
4. List three examples from within this source that support this perspective of preemption:
5. What powers do the states have in dealing with immigration issues?
6. According to this source, *should states be allowed to draft their own immigration legislation?*
7. Highlight one citation from the source that supports your answer.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 6: Department of Homeland Security Data**

Vocabulary:

*Unauthorized* – without legal permission

**Document Note:** This table has been extracted from a larger multi-page report and multi-year data table produced by the Department of Homeland Security.

**Table 4.**

**State of Residence of the Unauthorized Immigrant Population**

1

State of Residence	Estimated Population in January	
	2009	2010
California	2,600,000	2,570,000
Texas	1,680,000	1,770,000
Florida	720,000	760,000
Illinois	540,000	490,000
Arizona	460,000	470,000
Georgia	480,000	460,000
New York	550,000	460,000
North Carolina	370,000	390,000
New Jersey	360,000	370,000
Nevada	260,000	260,000
Other states	2,730,000	2,790,000

Detail may not sum to totals because of rounding.

\*Revised as noted in the 1/1/2007 unauthorized estimates report published in September 2008.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 6: Department of Homeland Security Data**

1. How many states are listed by name within the data? Why have they been specifically named?
  
2. Highlight the states where illegal immigration has increased between 2009 and 2010.
  
3. Name the states experiencing the highest decrease in illegal immigration:
  
4. The populations of illegal immigrants vary greatly across the nation. Brainstorm 5 legitimate reasons for this variation:
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  
5. If states were to write their own immigration legislation, how and why might they differ? Explain your reasoning:
  
  
6. According to this source, *should states be allowed to draft their own immigration legislation?*
  
  
7. Highlight one citation from the source that supports your answer.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 7: BURDEN ON BORDER STATES STATISTICS**

Vocabulary:

*fiscal* – financial, monetary

*non-quantifiable* – unable to be specifically numbered

**Document Note:** This information has been collected from a variety of credible sources including the Federal for American Immigration Reform: The Fiscal Burden of Illegal Immigration, The Costs of Illegal Immigration to Arizonans: Executive Summary I and information from a selection of court cases related to illegal immigration.

1

2 Overall, the four border states (California, Arizona, New Mexico, and Texas) spend \$33.8  
3 billion annually in government benefits for illegal aliens, while only receiving tax revenues of  
4 approximately \$1.8 billion from these aliens. This results in a net fiscal loss to the border states  
5 of over \$31.9 billion annually due to illegal immigration. Illegal immigrant households receive  
6 approximately \$18 in government benefits for every dollar in taxes paid.

7 In a 2004 study, the Federation for American Immigration Reform estimated that Arizona’s  
8 illegal immigrant population was costing the state’s taxpayers approximately \$1.3 billion per  
9 year in education, medical care, and incarceration alone, or approximately \$700 annually per  
10 Arizona taxpaying household.

11 More recent figures by FAIR in 2010 suggest that the annual cost of illegal immigration in  
12 Arizona has risen to over \$2.4 billion annually. This cost includes \$1.6 billion for education  
13 costs and \$320.3 million in health care services for illegal alien children. It also includes \$340  
14 million in law enforcement and court costs.

15 In addition to these and other quantifiable costs, Arizona also incurs a number of non-  
16 quantifiable costs that include: preventing and enforcing crimes committed by illegal aliens;  
17 providing an array of services in Spanish interpretation and translation, especially in the  
18 health care, law enforcement, and judicial systems; tuitions subsidies to illegal immigrants  
19 who enroll in Arizona’s higher education institutions; increased insurance rates associated  
20 with illegal immigration-related crimes; and lost earnings by U.S. citizens or legal residents.

21 State sovereignty is most undermined when the states are left to “the mercy of the Federal  
22 Government,” and are deprived of “their opportunities to experiment and serve as  
23 ‘laboratories.’”

“Amicus Curiae Brief of Members of Congress and the Committee to Protect America’s Border in Support of Petitioner.” State of Arizona and Janice K. Brewer, Governor of the State of Arizona, In Her Official Capacity, Petitioners, v. United States of America, Respondent. On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit, No. 11-182.

*Should states be allowed to draft their own immigration legislation?*

**SOURCE 7: State Financial Burdens**

1. List the types of government services states are required by law to provide to illegal aliens within their borders:
2. Calculate the difference of tax revenue received from illegals with the expenditures states spend providing benefits for those aliens by the four border states of California, Arizona, New Mexico and Texas. Is this a significant amount? Why or Why not?
3. What types of specific tax payer burdens exist? Who pays the taxes that are used?
4. Explain the difference between quantifiable costs and non-quantifiable costs and give an example of each:
5. According to line 21 – how is state sovereignty undermined?
6. According to this source, *should states be allowed to draft their own immigration legislation?*
7. Highlight one citation from the source that supports your answer.

# Structured Academic Controversy

## Deliberation Guide

Deliberation (meaningful discussion) is the focused exchange of ideas and the analysis of arguments with the aim of making a decision.

### Why are We Deliberating?

Citizens must be able and willing to express and exchange ideas among themselves, with community leaders, and with their representatives in government. Citizens and public officials in a democracy need skills and opportunities to engage in civil public discussion of controversial issues in order to make informed policy decisions. Deliberation requires keeping an open mind, as this skill enables citizens to reconsider a decision based on new information or changing circumstances.

### Preparation

- All students must read all IMMIGRATION READINGS in the packet provided
- Focus on the question “*Should states be allowed to draft their own immigration legislation?*”

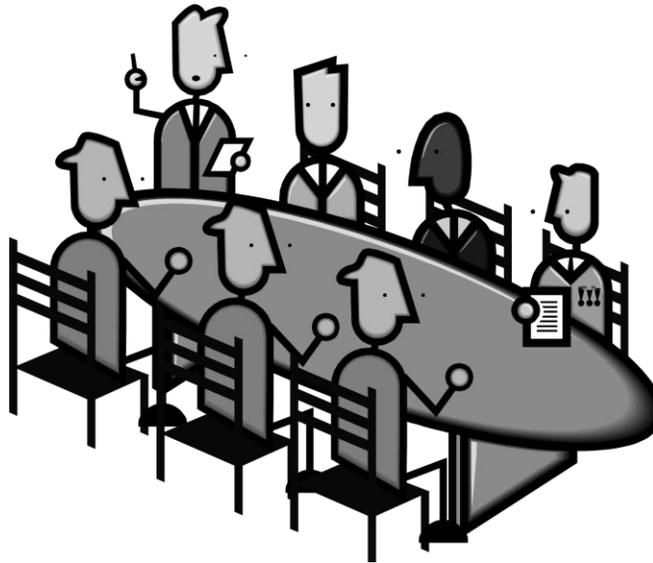
### Ground Rules

- Listen carefully to what each member of your discussion group is saying and thoughtfully consider their opinion
- Ask questions when needed to clarify your understanding of what is being said
- Analyze what others say before formulating your words
- Speak in turn and encourage all group members to contribute to the discussion
- Refer to the reading to support your ideas
- Use relevant background knowledge, including life experiences, in a logical way
- All ideas must be supported with specific evidence from the Immigration Reading Packet
- Remain engaged (stay involved) in the conversation when controversy arises
- Be respectful and control your emotions throughout the discussion
- Focus on ideas, not personalities



### Objective

- To understand how the Constitution addresses the issue of immigration
- To grasp how differing interpretations of the Constitution shape historical and current viewpoints
- To recognize multiple perspectives, reasoning and evidence related to immigration
- To participate in meaningful civil discourse with classmates on a relevant political issue



## Essential Interaction Components

As you enter into the discussion, you will need to plan to participate in each of the following ways:

- **Make a claim** – State your position in a clear statement “I believe \_\_\_\_\_ because \_\_\_\_\_”, “From my perspective . . . .”
- **Support a claim** – Add support/evidence by citing your source and line number – “I would like to add that . . . . .” “ In source # \_\_\_, line 25 clearly states . . . . .”
- **Connect claims, reasoning or evidence** – “Both claims have the same effect . . . .” “Back when \_\_\_ said \_\_\_\_\_, I agree, but I also see that \_\_\_\_\_ is a similar concern . . . :
- **Oppose a claim**– “I disagree. I believe . \_\_\_\_\_ because \_\_\_\_\_”, “I see things differently, from my viewpoint . . . .”
- **Clarify**– “What I mean is . . . . .” “ \_\_\_\_\_ is defined as . . . . .”, “But this case specifically refers to the idea of . . . .”
- **Question reasoning** – “How are the two points you made related?” What do you mean by . . . .? , “Can you please explain what you mean when you state . . . .?”

Structured Academic Controversy

**Should states be allowed to draft their own immigration?**

**Preparing My Argument**

**My Claims & Reasons**

**My Evidence & Examples**

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<b>The Other Side of the Issue</b>	
<b>Opposing Claims &amp; Reasons</b>	<b>Opposing Evidence &amp; Examples</b>
<b>My Rebuttal</b>	
<b>Their Argument</b>	<b>My Counter Claim and Reasoning</b>

<b>Common Ground &amp; Further Questions</b>	
<b>We can agree that . . .</b>	<b>We need further clarification on. .</b>



**Immigration : Issue Analysis & Ramifications**

	Outcomes		Scope		Urgency
	Winners	Losers	Who is Affected?	Why?	Answer & Rationale
<b>Federal Control of all Immigration Legislation</b>					
<b>State Ability to Draft Own Immigration Legislation</b>					
<b>Status Quo</b>					

# Student Reflection on Structured Academic Controversy (SAC): Immigration

## Large Group Discussion: What We Learned

What were the most compelling reasons for each side?

Federal Control Only

In Favor of State Immigration Laws

What were some areas of agreement?

What questions do you still have?

Where can you get more information?

What are some reasons why deliberating this issue is important in a democracy?

What might you and/or your class do to address this problem?

## Individual Reflection: What I Learned

Which number best describes your understanding of the focus issue? [circle one]

1

2

3

4

5

NO DEEPER  
UNDERSTANDING

MUCH DEEPER  
UNDERSTANDING

What new insights did you gain?

What did you do well in the deliberation?

What do you need to work on to improve your personal deliberation skills?

What did someone else in your group do or say that was particularly helpful?

Is there anything the group should work on to improve the group deliberation?

Name: \_\_\_\_\_ Class: \_\_\_\_\_ Topic: **Immigration**

**Extended Discussion Student Assessment Rubric**  
*Should States Be Allowed To Draft Their Own Immigration Legislation?*

<b>CATEGORY</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>Feedback</b>
<b>Content Mastery</b>	Student demonstrated in-depth understanding of all current immigration issues and the Constitution associated with the discussion	Student demonstrated understanding of most current immigration issues and the Constitution associated with the discussion	Student seemed to understand the main topic of some current immigration issues and the Constitution associated with the discussion	Student did not show an adequate understanding of current immigration issues and the Constitution associated with the discussion	
<b>Use of Primary and Secondary Source Evidence</b>	Every major point was well supported with multiple relevant facts, statistics, arguments and/or examples from all sources provided	Every major point was adequately supported with relevant facts, statistics, arguments and/or examples from all sources provided	Every major point was supported with facts, statistics and/or examples but some information was not relevant	Every major point was not supported with evidence OR no evidence was used OR evidence was irrelevant	
<b>Demonstration of Civil Discourse</b>	All statements, questions, body language, and responses were respectful and in appropriate language, emotions controlled	Statements and responses were respectful and used appropriate language, but one or twice body language was not	Most statements and responses were respectful and appropriate, but student struggled to control voice & emotions	Statements, responses, and/or body language were consistently disrespectful, outbursts, unable to maintain control of voice and emotions	
<b>Meaningful Interaction</b>	All engagement strategies were met, student participated in discussion in a balanced manner	Most engagement strategies were met, student participated in discussion in a balanced manner	Some engagement strategies were met, student struggled with balancing participation - dominated or silent	Few or none of the engagement strategies were met, student dominated or remained silent throughout	
<b>Awareness of Multiple Perspectives</b>	Student accurately interacted demonstrating awareness of the perspectives of the federal government, a variety of states, immigrants and citizens	Student accurately interacted demonstrating awareness of the perspectives of three or more perspectives of the situation	Student interacted demonstrating awareness of the perspectives of only two sides of the situation, some inaccuracies	Student did not demonstrate awareness of multiple perspectives, one sided viewpoint throughout, many inaccuracies	
<b>Evidence of Learning</b>	Student reflected & demonstrated superior evidence of learning about the issue and the process of civil discourse	Student reflected & demonstrated evidence of detailed learning about the issue and the process of civil discourse	Student attempted to reflect / showed basic evidence of learning about the issue and the process of civil discourse	Student did not reflect or demonstrate learning	

## Background Essay for Teacher Reference

### Immigration Legislation: Should States Be Allowed to Draft Their Own?

*Jennifer Chandler*

Recently different states such as Alabama and Arizona have enacted their own immigration legislation. Other states such as Utah, Georgia and Texas have crafted various initiatives and plans involving pathways to citizenship and immigration enforcement. These actions have sparked controversy throughout the nation as immigration has traditionally been linked to the issue of foreign policy, a clear responsibility of the federal government. States argue that the federal government has failed miserably in meeting its responsibility. The federal government counters that it must consider the needs of the nation as a whole and garner the needed support before implementing any changes. What then should be done? Should states be allowed to draft their own immigration legislation?

America is a country of immigrants. Immigrants from all around the world make the United States a rich, diverse nation: from the first British colonists who settled the original thirteen colonies along the east coast, to the Chinese immigrants who arrived in California and now a huge array of Latinos that enter along our southern border joined by legals and illegals from around the world. But what should America do when they arrive faster than anticipated or enter illegally? Throughout our history, immigration has been a flashpoint of controversy with tensions flaring between newcomers, latecomers, legal and illegal entrants. In general, when America is experiencing stability, peace and economic prosperity, immigrants are welcomed and viewed benevolently. Legislation relaxes and reflects acceptance. In contrast, when American is unstable politically, economically and socially, blame for problems

targets immigrants and legislation surfaces reflecting national tensions, becoming restrictive and self-preserving.

When immigration grows out of control, issues of federalism arise and legislative conflict ensues. In a large country with a growing population, the federal government needs the authority to make large, overarching decisions about key issues. Federal laws create unity and maintain stability. On the other hand, regional and state needs can get swallowed up in “one size fits all” answers. State laws reflect more immediate concerns and regional issues that do not concern the nation as a whole. Striking an acceptable balance is at the heart of the major constitutional principle of federalism as power is effectively shared between federal, state and local levels.

With federalism in mind, one answer to the question is no, states should not be allowed to draft their own immigration legislation. First, proponents of federal control of immigration cite the Supremacy Clause in the Constitution. Anticipating situations such as this one in such a large, diverse nation, our founding fathers included the Supremacy Clause in the Constitution. Article IV reads, “The Constitution and the law of the United States shall be made under the authority of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made under the Authority of the United States, shall be the Supreme Law of the Land.” This means that if federal and state laws contradict each other, federal law supercedes state law. The federal law stands and the state law is nullified. “Relatively early in U.S. History, the Supreme Court established the federal government’s broad and exclusive power over immigration law. In 1875 in *Chy Lung v. Freeman*, the Supreme Court held that control over immigration was an implicit

federal power and is inseparably connected with foreign affairs.”<sup>1</sup> Another concern at the federal level relates to the Equal Protection Clause of the Constitution. The Equal Protection Clause is found in the 14<sup>th</sup> Amendment and reads “nor deny to any person within its jurisdiction the equal protection of the laws.” Those supporting federal power over immigration argue that the government must uphold the Constitutional directive to treat all people equally and it cannot do so if states contrive their own individual laws. Supporters of federal control also point out that state drafting of immigration legislation takes liberties in interpreting the intent of the original federal law, “First, the Supreme Court has already held that state law can be preempted even when the state’s purpose echoes the goals of a federal policy. Further, laws like SB 1070 do not mirror the mechanism and consequences of federal law.”<sup>2</sup>

Those in favor of states drafting their own immigration legislation share a different viewpoint. First, when serious immigration issues surface, they tend to first be identified within a community, city, or small section within our vast country. What is a critical situation in one state may seem insignificant to another region or the nation as a whole. States suffer the immediate consequences of national immigration policies and therefore must continue to be empowered to respond in the interests of their citizens. ““This court recognized in *Plyler v. Doe* that “unchecked unlawful migration might impair the State’s economy generally, or the State’s ability to provide some important service.””<sup>3</sup> States argue that immigration is a concurrent issue and therefore can be addressed at both the national and state level, also citing the Constitution in the 10<sup>th</sup> Amendment, “The powers not delegated to the United States

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<sup>1</sup> Rymer, Justin. “State v. Federal Immigration Policies.” American History. ABC-CLIO, 2011. Web. 12 Dec 2011.

<sup>2</sup> Defendants Response to Plaintiff’s Motion for Preliminary Injunction, *United States v. Arizona*, 703 F. Supp. 2d 980 (D. Ariz. 2010) (No. CV 10-1413-PHX-SRB).

<sup>3</sup> “Amicus Curiae Brief of Members of Congress and the Committee to Protect America’s Border in Support of Petitioner.” *State of Arizona and Janice K. Brewer, Governor of the State of Arizona, In Her Official Capacity, Petitioners v. United States of America, Respondent. On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit*, No. 11-182.

by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Proponents of state immigration legislation argue that the Constitution does not deprive states of the ability to act upon problematic legislation created by the federal level of government, “The Ninth Circuit’s decision treads upon federalism by stripping the states of all sovereignty over problems that Congress and our federalist system have committed to the states.” Another point made in favor of state immigration legislation is that states frequently draft their own legislation empowering them to enforce existing federal immigration law. Their actions uphold, support and carry out federal policies. “States like Arizona, that have enacted SB 1070-type ordinances essentially advance two major arguments in defense of their laws to overcome preemption claims: (1) state immigration laws mirror federal law and are therefore not preempted; and (2) federal immigration law provides for state involvement in immigration enforcement, and therefore state immigration enforcement schemes are not preempted.”<sup>4</sup>

Further details complicate the issue and challenge students to grasp the multifaceted nature of federalism. Arizona’s law permitting law enforcement to ask for proof of citizenship may violate equal protection and privacy laws yet at the same time not doing so may violate the states’ duty to protect citizens within state borders. Federal response to immigration numbers that rise significantly from year to year is slow and in the meantime states bear a disproportionate burden. Federal policy enforcement impacts a significant portion of state budgets and states are currently strapped for cash. If the federal government fails to address immigration issues, has it forfeited that authority to the state level? States currently have no recourse to address immigration situations in the face of a seemingly out-of-touch federal

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<sup>4</sup> Crosby v. Nat’l Foreign Trade Council, 530 U.S. 363 (2000) (“The conflicts are not rendered irrelevant by the State’s argument that there is no real conflict between the statutes because they share the same goals.... The fact of a common end hardly neutralizes conflicting means....”) (citing Gade v. Nat’l Solid Wastes Mgmt. Assn., 505 U.S. 88 (1992)).

immigration policy long due for overhaul. A divided Congress has yet to provide plausible solutions. This indecision leaves the question, "Should states be allowed to draft their own immigration legislation?"