

A Call for Clarity and Compromise: The Perspectives of State and Local Officials on the National Immigration Debate

IMMIGRATION, MARCH 2019

Author: Cristobal Ramón

Editor: Theresa Cardinal Brown

The Bipartisan Policy Center would like to thank the following individuals for their contributions to this report: Valerie Brankovic, Laura Hall, Hunter Hallman, Eryn Hurley, Jordan LaPier, Ann Morse, Tim O'Shea, Joshua Rodriguez, Hadi Sedigh, Michele Stockwell, and Katie Sullivan. They would also like to extend their gratitude to the participants and members of the National Association of Counties and National Conference of State Legislatures who participated in the roundtable conversations.

All conversations were conducted under Chatham House rules to allow for candid conversation, and quotes are used without direct reference to the individuals making them. The opinions, findings, and analysis expressed herein do not necessarily represent the views or opinions of the National Association of Counties, the National Conference of State Legislatures, or the Bipartisan Policy Center's founders or board of directors.

Executive Summary

Over the last 10 years, states and localities have taken an increasingly public role in the national immigration debate. Issues such as local law enforcement's cooperation with federal immigration authorities and increasing partisan pressures have pushed more of these legislators and officials to pick a side in the national immigration debate, sometimes at the expense of the traditional consensus and compromise that was more common in state and local governments in previous years. The national immigration debate's incursion into state and local politics also sometimes glosses over the actual immigration challenges these officials face daily, such as educating the children of immigrants and supporting the employers and industries that are sustaining their communities by hiring immigrants in addition to local workers. While many states and localities continue to find bipartisan ways to address these local challenges, state and local officials increasingly want Congress to reform the nation's immigration laws to bring clarity to the national debate and return state and local governments to their traditional role of serving their constituents—immigrants and native-born alike.

In 2017 and 2018, the Bipartisan Policy Center hosted four roundtables with members of the National Association of Counties (NACo) and the National Conference of State Legislatures (NCSL) to improve our understanding of these issues. The meetings, each of which had between 14 and 16 bipartisan attendees from across the country, sought to uncover areas of agreement and divergence about the immigration issues facing states and localities, including those especially relevant to both rural and urban communities. The roundtables also aimed to find messages and areas of bipartisanship at the state and local level that could resonate with federal legislators and inform the federal immigration debate.

Some of the key takeaways include:

The participants agreed that immigrants are important for their workforces, and Congress needs to reform the nation's laws:

- The participants said immigrants are essential to their local workforces, which cover industries ranging from agriculture and construction to health care, technology, and higher education.
- The participants also had a common set of political challenges, including:
 - Feeling pressure from their national parties or advocacy groups to take partisan stands on immigration issues, and expressing fears about facing primary challenges from the right or left flanks of their party due to their immigration views.
 - Struggling because many of their constituents form their opinions about immigration based on a lack of information, or on misinformation, about the issue in their communities.
 - Feeling frustration over Congress's failure to pass immigration reform and laws that protect Deferred Action on Childhood Arrivals (DACA) recipients, which has left states and localities with the task of addressing immigration issues locally with little clarity from Washington, D.C.

However, the participants had different experiences addressing immigrant populations in their areas and disagreed over the role that states and localities should play in immigration enforcement:

- Some legislators and county officials from communities with fewer resources, often rural jurisdictions, said they struggle to provide social services to immigrants and to maintain their county jails.
 - In contrast, officials from states and counties with institutions and state laws that integrate immigrants (generally more urban jurisdictions) said they have more success in serving these populations and generating economic growth from their integration.
 - However, for these areas, often the challenge is gaining the trust of immigrant communities, so they feel comfortable accessing available services and supports.
- The participants also disagreed over whether states and localities should cooperate with federal immigration authorities in enforcing the nation's immigration laws.
 - While some participants said they view upholding the rule of law as an essential part of their roles, others stated that immigration enforcement actions prompt immigrants in their communities to avoid both working with law enforcement and accessing public benefits.

- However, no matter their perspectives on law enforcement cooperation, most jurisdictions said they do not support the federal government’s efforts to tie federal funding to such cooperation or to threaten jurisdictions instead of collaborating with them.

Nevertheless, the participants expressed a unanimous call for Congress to address their daily challenges by taking action on immigration:

- Participants expressed an urgent need for immigration reform that would create clarity on the way states and localities should follow the nation’s immigration laws.
- The roundtables also showed that state and local officials and legislators offer unique perspectives that can help federal lawmakers break through partisan gridlock to pass these reforms.



Areas of Consensus Among State and Local Officials

Although the roundtables included both Republican and Democratic elected officials and some local nonpartisan appointed officials from regions across the United States, these sessions revealed significant levels of consensus around various aspects of the immigration debate. The participants consistently noted that immigrant workers, including undocumented ones, are critical to their local economies, especially in agriculture, construction, food processing, and science and technology. The sessions also revealed that common political challenges unite state and local elected officials, including dealing with the pressures from outside groups to pass certain immigration legislation or policies and a mutual frustration with inaction from federal lawmakers in passing immigration reform.

The Need for Immigrants in State and Local Workforces

The legislators from urban, suburban, and rural states and localities all stated that immigration is critical to the growth of key economic sectors in their states and regions, from agriculture to health care, and from science and technology fields to higher education. In the case of agriculture, dairy, and food processing, the participants said that employers in these industries from their regions rely on both legal and unauthorized immigrants. As a commissioner from a mid-Atlantic rural county observed:

“Agriculture is a big part of our economy, ... and the farmers could not milk cows and get their work done if they didn’t have immigrants to do the work. I could bring farmers to the table, and they’ll tell you they’re the best workers they’ve ever had.”

A commissioner from a Midwestern county noted that while her state has a high demand for workers with undergraduate and graduate degrees, many of whom are immigrants, its employers also need individuals to work in agriculture. “We need people who maybe don’t have those degrees but are willing to do the manual labor in the food-processing plants, on the farms,” she stated. “Our state economist is very worried about the fact that we need this workforce.”

However, the roundtables revealed that the loss of immigrant workforces due to immigration enforcement actions and the lack of mechanisms to work legally in the United States have negative impacts on agriculture employers. A county commissioner who also grows fruits and vegetables lost \$100,000 over the last two years due to a shortage of workers to harvest his crops. “Fear, the country’s immigration requirements, and the inability of having guest-worker programs have destroyed agriculture,” he said. Another commissioner from a Mountain state county recounted a similar incident, saying a third-generation farmer who is “one of the best corn growers in the world” went out of business

because he could not contract enough foreign workers to harvest his crops. A commissioner from central California also recalled a meeting in which representatives from agriculture commissions told him that they were moving their farms to Mexico to find workers. “Jobs are being exported because we can’t find enough workers in our own backyard,” he stated.

Participants from states or regions with significant tourism industries and large numbers of elder-care facilities expressed similar views about immigrant workers. A county commissioner from a Midwestern state with a lot of elder-care employers said, “As we look to the future of health care with our aging population, being able to have workers who are able to do bedside care—not just the highest-trained health care workers—is important.” Another county commissioner from a Southwestern state with a large tourist industry had similar observations: “It’s my personal belief that [our] economy would crumble if we didn’t have immigrants working in the tourism industry.” A New England state representative backed this claim, noting that the struggle of his state’s tourist industry to hire enough individuals with work visas “caused a number of businesses to close down early since they didn’t have enough people to work for us.”

Finding enough immigrants to work in key state and regional industries is also an issue in sectors that require advanced degrees. For instance, the participants said they struggle to retain foreign science, technology, engineering, and mathematics students who earned their degrees from local universities but who cannot then stay on to work for local employers in these fields. As a commissioner from a Midwestern county with important medical research institutions explained during a NACo roundtable:

“Our higher-education institutions, especially in graduate school, have a lot of foreign-born students. So, we are having an immediate problem right now, because many of those students cannot get the visas to come in. So, it’s affecting the higher-education budgets as we speak. And, as we look to the future of workforce, ... my community would be one of the first to say, ‘Oh my gosh, we need those people who have come here from abroad, gotten their education, decided to stay, and we invested in them.’”

A mid-Atlantic state representative echoed these sentiments: “We have a number of students who are finishing their Ph.D. and their graduate school, and we can’t get the assembly to help to ensure that those individuals can stay in this country to work, especially those specializing in areas such as research—some of them [as] educators and some of them in the field of science.”

Finally, the participants explained that immigration is also critical for population replacement in areas with aging workforces and labor-market shortages. “We’re not replacing our population,” said a Midwestern state legislator.

“So some of those workforce issues are a big deal in [my state], like many other states, which is critically short of workers. We’re below 3 percent unemployment, so we recognize we need [this] workforce and that tends to bridge some of those [partisan] gaps.” The demand for workers to replace aging populations has led some officials to reframe their discussions about immigration in their regions. As a state legislator from New England pointed out, “It’s trying to shift the conversation issues from social justice to one of almost economic necessity in states like New Hampshire and Maine [that] have very aging populations.”

The Common Challenges Facing State and Local Government Officials Dealing With Pressure From External Advocacy Groups and Partisan Primary Challenges

One of the principal themes that emerged during the roundtable discussions was the manner in which external activist groups and partisan primary challengers are expanding their influence over the immigration debate at the state and local level. Although there has long been bipartisan policy-making at the state and local level around specific immigration issues—like the need for migrant workers and the need for immigration reform—the participants noted that increased polarization makes it difficult for elected officials to maintain compromises, especially with state-level pushes for specific immigration policies, including both “pro-immigrant” and “anti-immigrant” legislation. As one state legislator from a Southern state said:

“You have a lot of outsiders pushing for more extremism when there’s not collegiality. Legislators get together and be collegial—that’s what legislators do. That’s what they’re supposed [to do]: make laws. But there’s outside forces and fever pitch trying to do these little scorecards where all the Ds [Democrats] get zero and Rs [Republicans] get 100, or vice versa, and push everybody into a cubby hole. I think that’s a problem that we got; it’s an elephant in the room.”



Legislators expressed concerns about facing primary challenges from the flanks of their party because of their immigration stances—something that could drive out moderates and replace them with candidates with more extreme positions. “I got 70 percent of the vote last time, and I’m deathly afraid of [the] primary because most of those people who voted for [me] were very conservative Republicans,” said one state representative. “I think all of us in the Republican Party [who] tend to be more moderate on these issues, live in [the same] fear that I have been. I don’t doubt if the right person ran, I have no doubt they would win.”

Some of the roundtable participants noted that this issue persisted during the 2018 midterm campaign season in their states, albeit with limited success. A staffer from a Midwestern state legislature noted that congressional candidates from her state who received support from outside advocates favoring stronger enforcement lost many of their races. “These external groups were hammering the state with ads for the last three weeks of the campaign but didn’t have the effect they wanted to,” she said.

The participants also struggled to counter the lack of information or misinformation about immigration among their constituents, who are receiving more news from more polarized national sources, rather than local sources, a trend that shapes and skews their views about the local impacts of immigration. “Fewer [than] 25 percent of my constituents take in the daily paper,” explained a Midwestern state senator. “So where are they getting news? TV, blogs, and the internet. It’s so very sad because it’s [the local paper] the only good source of information.” Another mid-Atlantic state senator echoed this observation, noting that while most print media is “worthless because they give you the news that you already read on your cell phone,” municipal newspapers are vital since they provide information on local issues, including the impact of immigration on their communities. A West Coast state senator agreed, noting that while he has learned a lot about the contribution of immigrants to his state’s economy and budget through his work with the NCSL taskforce, “you just would not know that from the media.”

Issues with the Failure of National Lawmakers to Pass Immigration Reform

State and county officials overwhelmingly expressed a great deal of frustration with the failure of federal lawmakers to reform the immigration system in a way that provides clear guidance on the roles and responsibilities of states and counties in this system. Although immigration is a federal responsibility, inaction by Congress and shifting federal administrative policies have created confusion and uncertainty for state and local government officials, who must provide for the well-being and safety of all of their residents, including immigrant populations. As a county mayor from a Southern state observed:

“It’s the lack of clarity that creates all these problems we have: the police not understanding what their role is, ... different states handling it [in] different ways, and different counties approaching it in different ways. It’s the lack of clarity that number one confuses the issue more and makes it even more complicated to govern.”

“My deeply held belief is that immigration is a national issue and that when, as is happening now, it gets shoved down to the states and to the counties to manage, it becomes totally divisive,” said a Texas county commissioner. “It causes chaos in our local communities—in my mind, unnecessarily. [It’s] an issue that we should not be having to manage.”

County and state officials are also in a unique position: They are the administrators of numerous federal benefits programs and are frontline providers of health and safety. Changes in federal policy impact these responsibilities and can have fiscal costs as well. A county commissioner from a Southern state agreed, noting that federal lawmakers must change the immigration system because “it’s a national problem that’s costing us at the local level to solve.”

Several participants specifically called for Congress to pass legislation that protects DACA recipients, because these individuals are important parts of their communities. “It’s lunacy if we can’t come up with a DACA solution,” said a county official from a mid-Atlantic state. “You’re kicking out the parents of kids who have been here for 20 years, but the children can stay—that doesn’t make any sense.” Another county official from a West Coast state echoed these sentiments: “We want this nightmare to end. Let’s get the DACA problem solved followed by [comprehensive immigration reform].” The participants noted that passing DACA-related legislation would protect their workforces by allowing them to stay in the United States. “We’re educating these kids and spending money and not being able to use them in our workforce,” said a Mountain state legislator.

Given the challenges facing states and localities, the participants lambasted the continued federal polarization over immigration, saying it is preventing Congress from reforming the nation’s immigration laws to resolve these problems. A county attorney from a mid-Atlantic state noted:

“If you look at the two edges, all the politicians are playing to the bases. That’s why they can’t get anything done. Whereas the majority want to secure the borders [and] give a pathway to citizenship—the people who are here stay and make them legal—so in the future, we have more control over the system. But everybody is playing to their base; that’s why we can’t get anything done.”

A county commissioner from a Southern state echoed this point, concluding that he and his colleagues are “just tired of the gridlock and want there to be a final solution in Congress that once and for all, no matter who the president is, that it becomes the law of the land.”

Issues Related to the Outcomes of the 2018 Midterm Elections

State legislators noted three potential governance challenges that may surface now that the Democrats have made gains in state legislatures and governorships around the country. First, the legislators noted that many of the moderate Republicans who worked with Democrats prior to the 2018 midterm elections had lost their races, a development that could increase polarization at the state level. As a legislator from the Pacific Northwest noted, “Now the Republican caucus is more conservative writ large and the Democratic caucus is more progressive, which is true for the country as a whole at the federal and state level.”

Finally, the legislators—especially Democratic lawmakers—said they felt significant pressure from their constituents to adopt policies that help immigrant communities after their parties gained seats in the elections. “I represent a district with a lot of immigrants, including the largest concentration of Hispanic communities, and the stories about these individuals getting deported is putting a lot of pressure on us to figure something out,” said a legislator from a Western state. A legislator from a mid-Atlantic state agreed, noting that the resistance to President Donald Trump’s immigration stance and immigration enforcement actions in his state has placed “high expectations” on Democrats to pass state laws that protect immigrant communities—expectations they are not sure they can meet.

Areas of Divergence Among State and Local Officials

Although state and county officials held many similar views about immigration and immigration policy, the roundtables found that the experience of providing state and county services to immigrant populations divided participants into two groups: one group that struggles to serve immigrants in their regions, generating conflict with nonimmigrant residents, and another group in which states and localities have institutions, laws, or policies that make it easier to integrate immigrants. The roundtables also revealed divides over the roles that states and localities should play in the enforcement of federal immigration laws. While some county officials said that local governments should not interfere with federal immigration enforcement efforts, others opposed cooperation because these actions generated negative impacts in their communities.

Divergence Over the Impact That Immigrants Have on Public Services

One group of officials from rural states and counties with few fiscal resources noted that they often struggle to provide services to newcomers in their areas, especially undocumented individuals and their children. As a county executive from a Southern state observed, rural counties with high levels of Latino workers “are least able to provide the services that they need to provide to anybody, much less a minority population, because they don’t have a fiscal capacity, a tax base.” Participants from these regions explained that educating the children of immigrants places the most strain on these limited resources. As a state representative from a mid-Atlantic state explained:

“We have a significant number of [ESL] students, ... and the funding for those students in the curriculum is very limited. The previous governor has put some money into the system for teacher aides and expanding the number of units. However, because of [reduced] income that the state has been suffering in the last few years, especially this past year when we didn’t have a budget until almost July 4, those units have been reduced, and the number of aides has been cut, and funding in general has been reduced. The number of students continue to grow, the needs continue to grow, but the services are decreasing.”

This group also noted that immigrants can place burdens on already resource-strapped local jails, which struggle to process the high number of individuals who go through their facilities. “A lot of these counties, [the immigrants have] gotten in jail, they don’t have professional staff, and you can’t classify the inmates properly,” said a county executive from a Southern state, adding that other regional issues compound these problems for rural jails in his state.

In contrast, other states and localities do not struggle with this issue since they have existing institutions and resources for expanding services like bilingual education to immigrant children. As a state legislator from New Mexico noted, the state’s “constitution states that Spanish and English are equal, so every teacher constitutionally has to be bilingual and have a Spanish endorsement in the state of New Mexico.” A California county supervisor also explained that his state’s efforts to pass laws that promote immigrant integration yield positive results for the state as the children of immigrants remain engaged in the agriculture industry:

“These children and their families are no longer only farm workers; now they are coming back and being their own farmers, they are doing marketing in agriculture, becoming agricultural technology engineers. They’re now being the leaders of agriculture.”

Finally, some officials from urban counties viewed their diverse populations as an asset that improves their communities. “We consider our diversity part of our strength and recogniz[e] it as an opportunity that comes with having a diverse population,” said a commissioner from a Midwestern urban county with large communities of immigrants and refugees from Africa and Asia.

However, even these county leaders expressed concern that the current immigration enforcement climate not only deters immigrant residents from accessing available services; it may result in additional downstream costs to the county. One Midwestern commissioner said: “There’s a lot of fear. People are simply unable to support themselves. And our [immigrant] communities are going to move forward and say, “We need help for [legal] defense.” [County leaders are] not going to [be able to] provide them defense in immigration cases, but we’re considering [other] proposals to help because we are destabilizing families, destabilizing communities.”

Divergences Over the Role States and Localities Should Play in Immigration Enforcement

The role that states and counties should play in immigration enforcement also divided the participants. In some instances, the participants firmly believed that state and local governments should not interfere with federal immigration enforcement efforts. “We are the most compassionate and caring country on Earth,” said a county councilman from a mid-Atlantic state, “but at the same time, what makes us that way is that we’re a country of laws. So, we need to change the laws—doesn’t mean we should ignore the laws.” Other participants reiterated their support for removing individuals who committed crimes in the United States, especially undocumented individuals who violate the law. “If someone is illegal and they’re doing criminal activities, I think most would agree they do need to go,” stated a commissioner from a mid-Atlantic state.

However, other participants opposed cooperation among state, local, and immigration authorities because these collaborations can lead noncitizens in their areas to stop contacting law enforcement and to consider leaving their



areas. As a county attorney from a mid-Atlantic state observed, it is difficult to protect these communities, “because they’re so distrustful of authorities, so as a result they tend to become targeted victims because, of those who would target them, they know they won’t cooperate [with local law enforcement].” Other participants said that holding noncitizens past their release dates in order to fulfill Immigration and Customs Enforcement (ICE) detainer requests is unlawful. “Holding them more than their release date is a Fourth Amendment violation,” said a county commissioner from a Southwestern state, adding that a county in his state was sued on these grounds.

Despite these differences over the role of states and counties in federal immigration enforcement, several participants from the county roundtables with and without so-called “sanctuary” policies that limit cooperation with federal immigration authorities noted they had received letters from the Department of Justice (DOJ) threatening to withhold DOJ grants if the counties do not hold noncitizens in jails for more than 72 hours to allow ICE to take custody. A chief deputy county attorney from a Southern state raised this issue at a roundtable, saying:

“We basically signed a letter saying we would comply with all state and federal laws, that there is no probable cause to hold them beyond the time that the court sets. ... We were told we would probably lose our funding; that hasn’t happened. In fact, we received a letter yesterday indicating that they haven’t decided if they were going to renew the grants, so we could potentially lose money due to this issue.”

The official added that she is waiting for the resolution of litigation to assess whether her county would lose funding over this issue. A county supervisor from a Southwestern state said she has similar concerns, noting that the prospect of losing federal funding is preventing her from adopting the sanctuary policies requested by her community. “What would the city/county lose if we became a sanctuary community?” she asked the roundtable. “As a policymaker, I need clarity as to know how to begin countering the possible losing of funding.”

County officials also feared that the administration or outside groups would sue them for the policies they set for their communities. As one county official from a Mountain state noted, her county’s sheriff eliminated its 287(g) agreement with ICE and launched community-outreach groups with the local police and sheriffs. However, the county decided to continue honoring ICE detainers, which led the American Civil Liberties Union (ACLU) to sue the county. “I can’t do even basic rule of law in our county without the fear of the ACLU doing something,” she said.

Another issue raised was the oversight of immigration detention facilities in local communities. At least one state legislator expressed concern about

facilities for children and families and whether or how state or local authorities were responsible for their oversight or licensure. “There seems to be a lot of concern about ICE detention centers” in the state’s legislature, said the representative, who noted that these worries led a colleague to add an amendment to a bill that prohibits private companies from operating detention centers in his state.

A Call to Action From State and Local Officials

Despite the geographic and political differences among states and counties, the NACo and NCSL roundtables presented a clear call to action for national immigration reform. Rather than leaving states and localities with the task of interpreting and applying federal immigration law, the participants said they want national lawmakers to adopt reforms to make it easier for them to follow these laws. To this end, state and local lawmakers articulated a desire for a simple immigration system that is fair to individuals waiting “in line” to enter the United States and that allows their employers access to a secure and authorized workforce. These officials also want federal lawmakers to pass fair immigration enforcement legislation that does not necessitate a wave of localized sanctuary policies to protect immigrant populations. Finally, these officials want federal lawmakers to protect their immigrant workforces and make it easier to hire the foreign workers who play a vital role in their local economies. While federal lawmakers would need to develop these ideas into legislation, establishing a firm direction for the nation’s immigration system through these measures would alleviate many immigration challenges facing states and counties.

In addition to advocating for federal immigration reform, the roundtables clearly demonstrated that national lawmakers need to listen to state and local government voices in the national immigration debate. In contrast to the political polarization at the federal level that has characterized this debate, state and local officials offer experience in using consensus to pass laws, create pilot programs, and identify best immigration integration practices—all of which can help national lawmakers see new avenues for changing the nation’s immigration laws. As noted in a previous study, [*An Immigration Patchwork in the States*](#), Democratic- and Republican-led state legislatures have passed similar immigration workforce development laws to meet the needs of employers in their states, showing how addressing common immigration challenges can unite both parties. NACo and NCSL also operate Immigration Task Forces that use deliberative processes to develop bipartisan principles and policy proposals for national immigration reform. These examples demonstrate policies and processes that can help national lawmakers break the partisan gridlock that has undermined immigration reform efforts and develop an immigration system responsive to the needs of states and localities across the country.

Notes

Notes



BIPARTISAN POLICY CENTER

Learn more about Bipartisan Policy Center's
Immigration Project at
bipartisanpolicy.org/immigration.