



Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs, but Overall Costs and Benefits Are Unknown

Research Report No. 359

Prepared by

Rick Graycarek, Colleen Kennedy, and Jon Roenker

Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs, but Overall Costs and Benefits Are Unknown

Program Review and Investigations Committee

Sen. John Schickel, Co-chair
Rep. Reginald Meeks, Co-chair

Sen. Charlie Borders	Rep. Dwight D. Butler
Sen. Vernie McGaha	Rep. Leslie Combs
Sen. R.J. Palmer	Rep. Rick Nelson
Sen. Joey Pendleton	Rep. Ruth Ann Palumbo
Sen. Dan Seum	Rep. Rick Rand
Sen. Brandon Smith	Rep. Arnold Simpson
Sen. Katie Kratz Stine	Rep. Ken Upchurch

Greg Hager, Ph.D.
Committee Staff Administrator

Project Staff

Rick Graycarek
Colleen Kennedy
Jon Roenker

Research Report No. 359

Legislative Research Commission

Frankfort, Kentucky
lrc.ky.gov

Adopted May 14, 2009

Reports Adopted by the Program Review and Investigations Committee, 1999 to 2009

Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs but Overall Costs and Benefits Are Unknown, Report 359, 2009

A Review of the Kentucky Agency for Substance Abuse Policy and the Office of Drug Control Policy, 2008

Reentry Programs for Felons Should Be Improved and Outcome Measures Should Be Developed, Report 357, 2008

The Costs of College and High School Textbooks in Kentucky, Report 356, 2008

Investment Rates of Return, Governance, and Policies of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System, Report 352, 2008

Medicaid Prescription Drug Benefit Fraud, Abuse, and Cost Management, 2007

Kentucky Housing Corporation, 2007

Siting of Electric Transmission Lines, Report 348, 2007

School Insurance, Report 347, 2007

Drug Courts, Report 346, 2007

Pollution Cap and Trade Programs in Kentucky, Report 343, 2007

Kentucky's Foster Care Program Is Improving, but Challenges Remain, Report 342, 2006

Planning for School Facilities Can Be Improved To Better Serve the Needs of All Students, Report 341, 2006

Kentucky's Community Mental Health System Is Expanding and Would Benefit From Better Planning and Reporting, Report 340, 2006

Highly Skilled Educator Program, Report 339, 2006

School Size and Student Outcomes in Kentucky's Public Schools, Report 334, 2006

Information Systems Can Help Prevent, but Not Eliminate, Health Care Fraud and Abuse, Report 333, 2006

Implications of the U.S. Supreme Court's *Kelo* Decision for the Use of Eminent Domain in Kentucky, Report 330, 2005

Planning for Water Projects in Kentucky: Implementation of Senate Bill 409, Report 329, 2005

Kentucky Can Improve the Coordination of Protective Services for Elderly and Other Vulnerable Adults, Report 327, 2005

Improved Coordination and Information Could Reduce the Backlog of Unserved Warrants, Report 326, 2005.

Offshore Outsourcing of Kentucky State Government Services: Direct Contracting Is Limited but the Amount of Subcontracting Is Unknown, Report 325, 2005

Appropriate Management and Technology Can Reduce Costs and Risks of Computer Use by State Employees, Report 324, 2004

Uncollected Revenues and Improper Payments Cost Kentucky Millions of Dollars a Year, Report 322, 2004

Improving Fiscal Accountability and Effectiveness of Services in the Kentucky Transitional Assistance Program, Report 321, 2004

Human Service Transportation Delivery, Report 319, 2004

The Commonwealth Accountability Testing System, Report 312, 2003

Postsecondary Education in Kentucky: Systemwide Improvement but Accountability Is Insufficient, Report 311, 2003

The SEEK Formula for Funding Kentucky's School Districts: An Evaluation of Data, Procedures, and Budgeting, Report 310, 2002

East and West Kentucky Corporations, Report 308, 2002

An Analysis of Kentucky's Prevailing Wage Laws and Procedures, Report 304, 2001

Executive Branch Contracting for Services: Inconsistent Procedures Limit Accountability and Efficiency, Report 303, 2001

Performance-based Budgeting: Concepts and Examples, Report 302, 2001

Impact Plus, Report 300, 2001

Kentucky Housing Corporation Allocation of Federal Homeless Grant Money, Report 291, 2000

Progress Report on Coordinated Human Service Transportation System, Report 298, 1999

Personnel Pilot Projects: Design Weakness Limits Effectiveness, Report 295, 1999

Kentucky Early Intervention System - First Steps, Report 293, 1999

Health Insurance Market for Employees and Retirees of Kentucky State Government, Report 286, 1999

State Agency Service Contract Administration, Report 285, 1999

Review of the Kentucky Children's Health Insurance Program, Report 283, 1999

Motor Vehicle Registration Abuse, Report 282, 1999

Kentucky Medicaid Drug File and Prior Authorization System, Report 281, 1999

Foreword

In completing this report, numerous individuals provided valuable assistance.

Within the education community, Program Review staff thank the many officials and staff of the Kentucky Department of Education who provided information for the study, and Yvette Perry of the Office of Education Accountability.

Within the public health community, Program Review staff thank William D. Hacker, M.D., and Rosie Miklavcic of the Kentucky Department for Public Health; Annie Fluegge of the Kentucky Department for Medicaid Services; and officials with the local health departments and associations throughout Kentucky.

Within the corrections and law enforcement community, Program Review staff thank Tammy Morgan, Craig Thatcher, Penny Poole, and Brigid Adams of the Kentucky Department of Corrections, as well as corrections officers, jailers, and police officials throughout Kentucky.

Program Review staff also thank the following officials of United States Immigration and Customs Enforcement: Dave Palmatier of the Law Enforcement Support Center and Monty Price of the Division of Investigations.

Others the Program Review thank include Michael Price of the State Data Center, University of Louisville; Dirk Hegen of the National Conference of State Legislatures; and Mike Mullins of the Legislative Research Commission Budget staff.

Robert Sherman
Director

Legislative Research Commission
Frankfort, Kentucky
May 14, 2009

Contents

Summary.....	vii
Chapter 1: Overview and Background.....	1
Definition of Unauthorized Alien.....	1
Description of This Study	2
Recommendations	2
How This Study Was Conducted.....	3
Organization of the Report	3
Major Conclusions	5
Analyzing Fiscal Impact.....	6
Previous Studies	6
Relevant Laws, Regulations, and Case Law	7
Federal	7
Criminal Violations.....	7
Primary and Secondary Education	8
Emergency Medical Assistance Under Medicaid.....	8
Public Health Services	8
Corrections	8
States	9
Kentucky	10
Chapter 2: Unauthorized Alien Populations in the United States and Kentucky	11
Estimates of the Unauthorized Alien Population	11
Citizenship Status by Area Development District	13
Family Characteristics	14
Region of Origin	15
Criticisms of the Residual Estimating Method	17
Chapter 3: Primary and Secondary Public Education.....	19
Relevant Laws, Regulations, and Case Law	19
Federal	19
Kentucky.....	20
Enrollment.....	21
<i>Recommendation 3.1</i>	21
Data and Estimated Costs.....	22
Analysis	22
Limitations of the Cost Estimates	25
Chapter 4: Emergency Medical Assistance Under Medicaid.....	27
Relevant Laws and Regulations	27
Accessing Emergency Medical Assistance	28
Data and Cost Estimates	28
Analysis	28
Claims	30

Categories of Spending	30
Emergency Room Visits	30
Limitations	31
Chapter 5: Public Health	33
Public Health Departments.....	33
Governance	33
Funding	34
Legal Requirements	35
Accessing Clinical Public Health Services	36
Chapter 6: Correctional Facilities	37
Legal Authority	37
Incarceration.....	38
Booking	38
Checking Immigration Status	38
Detaining Unauthorized Aliens	39
ICE Does Not Detain Every Unauthorized Alien.....	40
Data and Estimated Costs and Revenues	40
State Criminal Alien Assistance Program	40
Analysis	41
Facilities Receiving SCAAP Funds.....	42
Louisville	43
Other Facilities Not Applying for SCAAP Funds.....	44
SCAAP Participation	45
State Summary	45
<i>Recommendation 6.1</i>	46
Works Cited.....	47
Appendix A: Response From the Kentucky Department of Education	49
Appendix B: Response From the Kentucky Department of Corrections	51
Appendix C: Selected State Laws Related to Immigration Enacted in 2007 and 2008	53
Appendix D: Research Methods for Estimating the Unauthorized Alien Population.....	57
Appendix E: Estimated Numbers of Public School Students Who May Be Unauthorized Aliens Per Kentucky Public School District, 2008	59
Appendix F: Expenditures for Emergency Medical Assistance Under Medicaid for Nonqualified Aliens by Category of Service, Fiscal Year 2007.....	61
Appendix G: Kentucky Recipients of the State Criminal Alien Assistance Program.....	63
Appendix H: Analysis and Comparison of Kentucky Department of Corrections Unauthorized Alien Inmate Population	65

List of Tables

1.1	Immigration-related Laws Enacted by States Per Issue Area, 2005 to 2008.....	10
2.1	Noncitizens as Percentage of Total Population for U.S., Kentucky, and Area Development Districts, 2007.....	13
2.2	Unauthorized Alien Population in the United States by Region of Origin, 2006	15
2.3	Selected Social and Economic Characteristics of Native-born and Unauthorized Alien Populations in the U.S., 2005	16
3.1	Estimated Numbers of Students Per School District Who May Be Unauthorized Aliens, 2007-2008	23
3.2	Estimated Expenditures Per School District for Students Who May Be Unauthorized Aliens, 2007-2008	24
3.3	Five School Districts With the Highest Percentages of Students Who May Be Unauthorized Aliens, 2007-2008	25
4.1	Federal and State Emergency Medical Care Expenditures and Claims for Nonqualified Aliens in Kentucky by Category of Service, Fiscal Year 2001 to Fiscal Year 2007	30
4.2	Emergency Room Visits by Nonqualified Aliens, Fiscal Year 2001 to Fiscal Year 2007	31
5.1	Revenue by Funding Source for Kentucky Local Health Departments, Fiscal Year 2008.....	34
6.1	Kentucky Correctional Facilities Receiving SCAAP Funds, Fiscal Year 2008	42
6.2	Estimated Costs and SCAAP Revenues for Unauthorized Alien Inmates in Kentucky Correctional Facilities, Fiscal Year 2008.....	45

List of Figures

1.A	Number of Immigration-related Laws Enacted by States, 2005 to 2008	9
2.A	Estimated Number of Unauthorized Aliens in the United States, 2000 to 2008.....	12
2.B	Estimated Number of Unauthorized Aliens in Kentucky and Selected States, 2005.....	12
2.C	Estimated Composition of Unauthorized Alien Families in the United States, 2005	14
4.A	Total Federal and State Expenditures and Number of Enrollees for Nonqualified Aliens Receiving Emergency Medical Assistance in Kentucky, Fiscal Year 2001 to Fiscal Year 2007	29

Summary

At its October 2007 meeting, the Program Review and Investigations Committee directed staff to study the costs to Kentucky of unauthorized aliens. Unauthorized aliens are persons who entered the United States without authorization, stayed longer than allowed by their visas, or were admitted on the basis of fraudulent documents. An estimated 11.4 million to 12.4 million unauthorized aliens lived in the United States in 2008. It is estimated that 30,000 to 60,000 unauthorized aliens lived in Kentucky as of 2005.

Unauthorized aliens consume public services and pay taxes and fees to governments. However, unauthorized aliens' net fiscal impact on state and local governments cannot be determined with reasonable accuracy. Unauthorized aliens generally do not want to be identified; and many public programs and services cannot or do not require, request, or validate a person's immigration or citizenship status.

Although net fiscal impact cannot be determined, this report examines unauthorized aliens' access to and use of four public programs and, when feasible, the direct, short-term costs incurred by state and local governments in providing those services. The four programs are primary and secondary public education, emergency medical assistance under Medicaid, public health, and correctional facilities. These programs were selected because federal provisions require, to some extent, that these services be provided to unauthorized aliens. They were also selected because examining a limited number of public programs enabled a detailed examination of the legal background and processes by which unauthorized aliens access services.

This report has two recommendations.

Federal and State Laws

Federal laws determine who can enter the United States, the legal rights of immigrants, and the process by which immigrants can become U.S. citizens. Only federal agents have the authority and ability to determine if a person is in the U.S. illegally. Only federal agencies can decide to criminally prosecute unauthorized aliens for entering the country without authorization or to use a civil process to deport such persons.

Since 2005, states have enacted more than 400 immigration-related laws, some specific to unauthorized aliens. Kentucky enacted three such laws during this period.

Primary and Secondary Education

In 1982, the U.S. Supreme Court ruled that children are eligible to attend public primary and secondary schools regardless of their immigration status or that of their parents. As generally understood, this has meant that schools cannot ask for documentation about a student's immigration status. Schools may request, but cannot require, a Social Security number.

Under Kentucky law, to enroll in a public school, every student must provide 1) a copy of a birth certificate or other reliable proof of the student's identity and age; 2) an immunization certificate; 3) a medical examination form; and 4) for certain ages, an eye examination form. Kentucky does not have a state-mandated enrollment form, so school districts develop their own. Some school districts appear to require information that the federal government prohibits, such as a Social Security number.

Recommendation 3.1

The Kentucky Department of Education should identify the information public schools may legally require or request of first-time enrollees. The department should facilitate and monitor compliance by all Kentucky school districts.

Because school districts cannot request information about a student's immigration status, Legislative Research Commission staff estimated the number of students attending public schools who may have been unauthorized aliens. Students born in another country, who did not have a complete Social Security number, and who were not U.S. citizens were identified. Using this data, staff estimated that 2,534 students, 0.4 percent of all students, might have been unauthorized aliens in the 2007-2008 school year. State and local education costs attributable to those students were approximately \$25 million.

Emergency Medical Assistance Under Medicaid

Under federal law, unauthorized aliens can receive Medicaid benefits only for certain emergency medical conditions. If eligible, Medicaid will pay for treatment of the emergency medical condition for as long as 2 months.

Although the number of unauthorized aliens accessing emergency medical assistance under Medicaid is not known, the Kentucky Department for Medicaid Services reported that in fiscal year 2007, 14,400 claims totaling \$7.8 million were made by persons who were not able to document their citizenship or immigration status. Since Medicaid costs are shared with the federal government, Kentucky's share of the total cost was approximately \$2.3 million.

Public Health Services

Public health departments provide many services to local communities, but the number of unauthorized aliens accessing these services is not known. For public health programs funded by the federal government, local public health departments must comply with federal requirements. Generally, federal law prohibits asking patients about their immigration status whenever they seek immunizations, testing, or treatment of communicable diseases. For programs funded by the state, officials with the Department for Public Health stated that their general policy is not to ask patients about their immigration status unless federal requirements indicate otherwise. It is possible for health programs funded entirely by local or nongovernmental revenues to ask patients about their citizenship or immigration status.

The costs of providing public health services to unauthorized aliens could not be determined. The Department for Public Health provided available demographic and personal information for

recipients at local public health departments, but the data were insufficient to estimate the number of unauthorized alien recipients.

Corrections

Correctional facilities in Kentucky house approximately 37,000 inmates on any given day. An inmate's immigration or citizenship status, however, is not a primary concern for correctional facilities according to officials contacted by staff. Officials described their primary function as following judicial orders to incarcerate individuals. Correctional facilities, which include local jails and state prisons, may check an inmate's status, but criteria and methods used to identify suspected unauthorized alien inmates vary by facility.

Using information provided by the federal government and other sources, staff estimated the number of unauthorized alien inmates and the costs of their incarceration. Staff also estimated the amount of money Kentucky correctional facilities could receive from a federal program that reimburses facilities for a portion of their salary costs attributable to housing unauthorized alien inmates. For fiscal year 2008, an estimated 985 to 1,545 unauthorized aliens were incarcerated in Kentucky's correctional facilities, at a total cost of \$1.7 million to \$2.8 million. These facilities were eligible for an estimated \$310,000 to \$547,000 in federal revenues.

Recommendation 6.1

The Kentucky Department of Corrections should support local correctional facilities that want to apply for funding from the federal State Criminal Alien Assistance Program.

Chapter 1

Overview and Background

An estimated 11.4 million to 12.4 million unauthorized aliens lived in the U.S. in 2008. An estimated 30,000 to 60,000 lived in Kentucky as of 2005.

Unauthorized aliens are persons who entered the United States without authorization, stayed longer than allowed by their visas, or were admitted on the basis of fraudulent documents. An estimated 11.4 million to 12.4 million unauthorized aliens lived in the United States in 2008, down slightly from the previous year. An estimated 30,000 to 60,000 lived in Kentucky as of 2005.

Unauthorized aliens use public services such as when they access emergency medical or public health services, when their children attend public schools, or when they are incarcerated in correctional facilities. These services may be funded wholly or partly by state and local governments and school districts.

Unauthorized aliens impose some costs and contribute some amount of benefits to state and local governments. In general, unauthorized aliens' net fiscal impact cannot be determined with reasonable accuracy.

Unauthorized aliens, either directly or indirectly, pay income, property, sales, and other taxes and fees to governments. Determining the net costs of unauthorized aliens requires balancing these payments against the costs of services consumed.

In general, unauthorized aliens' net fiscal impact in Kentucky, or the sum of all costs less the sum of all benefits, cannot be determined with reasonable accuracy. Unauthorized aliens generally do not want to be identified, so collecting reliable information may not be possible. Also, providers of government programs generally do not ask about a program recipient's immigration status, often because they are prohibited by law from doing so.

Definition of Unauthorized Alien

The term "unauthorized aliens" is used in this study for persons residing in the U.S. without proper authorization. This includes persons who entered the country without authorization, overstayed their visas, or were admitted on the basis of false documents.

This study follows some federal statutes and Congressional Research Service reports in using the term "unauthorized alien." Examples of other terms that have been used to describe the population of people residing in the United States without legal authorization are "illegal immigrant," "illegal alien," and "undocumented immigrant."

Description of This Study

Two objectives were to describe the constitutional and legal framework and to review literature related to unauthorized aliens. Data were unavailable to complete the third objective: estimate unauthorized aliens' fiscal impact on state and local governments in Kentucky.

This study focuses on unauthorized aliens' access to and, when feasible, direct, short-term costs of primary and secondary education, emergency medical assistance, public health, and corrections. These programs were selected because other studies considered similar programs, the federal government generally requires these programs to be provided without exclusions, and these programs allowed staff to examine in detail the legal background and processes for each.

At its October 2007 meeting, the Program Review and Investigations Committee directed staff to study the costs of unauthorized aliens to Kentucky. The first two objectives of this study were to describe the constitutional and legal framework related to unauthorized aliens and to review the literature related to unauthorized aliens. Data were unavailable to complete the third objective: estimate with reasonable accuracy unauthorized aliens' net fiscal impact on state and local governments in Kentucky.

This report focuses on unauthorized aliens' access to and use of four public programs and, when feasible, the direct, short-term costs incurred by state and local governments in providing those services. The four programs are primary and secondary public education, emergency medical assistance, public health, and correctional facilities. These programs were selected because other studies considered similar sets of programs and because federal provisions require, to some extent, that these services be provided to unauthorized aliens. These programs were also selected because examining a limited number of public programs enabled a detailed examination of the legal background and processes by which services are accessed by unauthorized aliens.

Recommendations

This report does not make specific policy recommendations that would significantly affect whether and how services are provided to unauthorized aliens or whether and how information could be collected to better document the costs of providing services. Such decisions are policy judgments for the General Assembly. As discussed in the report, though, federal and case law prohibit some programs from asking recipients about their immigration status.

In the course of conducting the study, staff did learn of situations that warranted two recommendations. First, the handling of students' initial enrollment process varies among local school districts. Additionally, some school districts' enrollment processes may be inconsistent with federal or state provisions related to the types of student and guardian information that may be gathered. A recommendation is made in Chapter 3 that the Kentucky Department of Education provide guidance and monitoring.

Second, most local correctional facilities in Kentucky do not apply for funding from the federal State Criminal Alien Assistance Program, which reimburses state and local correctional facilities

for a portion of their salary costs attributable to housing unauthorized alien inmates. A recommendation is made in Chapter 6 that the Kentucky Department of Corrections support local correctional facilities that want to apply for funding from the program. Statewide, hundreds of thousands of dollars in federal money is potentially available.

How This Study Was Conducted

To complete this study, staff interviewed federal, state, and local government officials and staff; analyzed data describing the unauthorized alien population in the U.S. and Kentucky; analyzed data related to the provision of certain services to unauthorized aliens; and conducted a literature review.

Staff interviewed representatives of the U.S. Immigration and Customs Enforcement agency, the U.S. Department of Justice's Bureau of Justice Statistics, and the U.S. Department of Health and Human Services. Staff also conducted interviews with personnel from the Kentucky Departments of Education, Medicaid Services, Public Health, and Corrections. Other interviews were conducted with staff from local correctional facilities, law enforcement agencies, school districts, and public health departments. Staff also contacted the National Conference of State Legislatures and the Kentucky State Data Center.

Descriptions of the unauthorized alien population are based on estimates.

Staff analyzed data used by the Pew Hispanic Center and the U.S. Census Bureau to estimate and describe the unauthorized alien population in the U.S. and Kentucky. To estimate unauthorized aliens' direct, short-term costs, staff analyzed emergency medical assistance, education, and correctional facility data provided by federal and state agencies.

Staff also conducted a review of other fiscal impact analyses related to immigration and unauthorized aliens. The results of these analyses varied significantly.

Organization of the Report

Chapter 1 provides an overview and background of this report and lists major conclusions. A framework for fiscal analysis is established, and other studies that examined unauthorized aliens' fiscal impact are summarized. Summaries of important federal immigration laws and immigration-related laws enacted by states, including Kentucky, conclude the chapter.

Based on estimates, Chapter 2 describes unauthorized alien populations in the United States and Kentucky.

Chapters 3 through 6 describe four public programs accessed by unauthorized aliens: primary and secondary public education, emergency medical assistance, public health, and correctional facilities. Each chapter begins with a description of the legal background and process by which unauthorized aliens access those services. Descriptions of available data follow. If possible, staff estimated direct, short-term costs of providing public services to those who may be unauthorized aliens.

This report has eight appendices. Appendix A is the response to this report by the Kentucky Department of Education. Appendix B is the response of the Kentucky Department of Corrections. Appendix C summarizes examples of recent immigration-related laws enacted by other states. Appendix D describes the research methods used by the Pew Hispanic Center to estimate the unauthorized alien population in the United States and Kentucky. Appendix E shows the estimated number of primary and secondary education students who may be unauthorized aliens per Kentucky public school district. Appendix F details expenditures under the Medicaid emergency medical assistance program. Appendix G provides details about State Criminal Alien Assistance Program recipients in Kentucky. Appendix H considers why the number of unauthorized alien inmates at the Department of Corrections seems low compared to other states.

Major Conclusions

This report has five major conclusions:

1. In 2005, an estimated 30,000 to 60,000 unauthorized aliens lived in Kentucky.
2. Unauthorized aliens can access a limited number of public programs, which include primary and secondary education, emergency medical assistance, and certain public health services.
3. State agency policy or federal provisions may limit or prohibit agencies from asking about an individual's immigration status.
4. Correctional facilities may ask inmates about their immigration status but do not appear to consistently check their responses.
5. Unauthorized aliens' net fiscal impact cannot be determined with reasonable accuracy due to a lack of reliable information. Cost-only estimates are made in this study of providing primary and secondary education, emergency medical assistance, and correctional facilities to those who may be unauthorized aliens.

This report has five major conclusions.

1. Unauthorized aliens generally do not want to be identified, so the number of unauthorized aliens in Kentucky cannot be determined accurately. An estimate, based in part on U.S. Census Bureau data, indicated that 30,000 to 60,000 unauthorized aliens lived in Kentucky in 2005.
2. Unauthorized aliens can access a limited number of public programs. Federal statutes and case law generally grant unauthorized aliens access to primary and secondary education, emergency medical assistance, immunizations, and treatment for communicable diseases.
3. State agency policy may limit or prohibit agencies from asking about an individual's immigration status. State law and regulations could be changed to require some programs to collect information about program applicants' immigration status. However, federal statutes and case law generally prohibit such questions for primary and secondary education, emergency medical assistance, and certain public health services.
4. Correctional facilities may ask inmates about their immigration status, but Kentucky's facilities do not appear to consistently check inmates' responses, so the actual number of unauthorized alien inmates is not known.
5. Unauthorized aliens' net fiscal impact cannot be determined with reasonable accuracy due to a lack of reliable information. Cost-only estimates are made in this study of providing primary and secondary education, emergency medical assistance, and correctional facilities to those who may be unauthorized aliens.

Analyzing Fiscal Impact

Unauthorized aliens have short-term, long-term, direct, and indirect costs and benefits. These effects cannot be measured accurately because reliable and descriptive information about the unauthorized alien population generally does not exist.

Ideally, unauthorized aliens' net fiscal impact on state and local governments would be calculated by subtracting costs from benefits. A positive difference would indicate that benefits outweigh costs; a negative difference would show that costs outweigh benefits. Calculating net fiscal impact is difficult because benefits and costs can be short term or long term, direct or indirect.

For example, educating a student requires direct expenditures by governments. This could be measured as a short-term cost by fiscal year or for a longer time period. Indirect costs are the impacts of how money spent educating a student comes at the expense of higher taxes or funding for other programs. Long-term benefits in the form of higher tax revenues and lower crime rates may also exist (Watts). The net fiscal effect of educating a student, therefore, would be the sum of all current and future benefits less the sum of all current and future costs.

Because reliable information specific to unauthorized aliens generally does not exist, estimating net fiscal impact cannot be accomplished with reasonable accuracy. Previous studies of unauthorized aliens' fiscal impact encountered similar problems.

Previous Studies. A 1998 report concluded that fiscal analyses failed to consider long-term as well as indirect costs and benefits of immigration (Vernez). Staff's review of more recent fiscal impact studies indicated that these shortcomings remain.

Previous fiscal impact studies generally concluded that unauthorized aliens impose some short-term costs and contribute some short-benefits to state and local governments, but estimates varied widely.

Staff reviewed 28 studies on the impact of immigration and unauthorized aliens. Studies of the unauthorized alien population were conducted by governmental agencies and nonprofit organizations. Peer-reviewed studies were rare.

Every study of unauthorized aliens' fiscal impact estimated program-specific, short-term costs and benefits attributable to unauthorized aliens. Most selected a limited number of public programs, estimated the number of unauthorized aliens that accessed those programs, and then estimated the fiscal impact.

These studies generally concluded that unauthorized aliens imposed some costs and contributed some fiscal benefits, but estimates varied widely (Bolin; Camarota; Martin; State of Iowa; State of Minnesota; U.S. Congressional Budget Office). Whether long-term and indirect benefits, if considered, would outweigh costs was uncertain. No study quantitatively considered long-term

and indirect costs and benefits. As such, these studies may or may not accurately reflect the true fiscal impact that unauthorized aliens have on state and local governments.

Relevant Laws, Regulations, and Case Law

Federal laws determine who can enter the U.S., the legal rights of immigrants, and the process by which immigrants can become citizens.

Federal laws determine who may enter the United States, the legal rights of immigrants, and the process by which immigrants can become U.S. citizens. Federal provisions prohibit unauthorized aliens from accessing many public benefits, such as nonemergency Medicaid and Temporary Assistance to Needy Families. Questions about a person's immigration status, in some instances, may be prohibited by federal provisions. State and local government laws, regulations, and policies related to immigration policy cannot conflict with federal provisions or the U.S. Constitution.

Federal

Immigration law is a federal prerogative (8 USC 1103). The Immigration and Nationality Act (INA) is the basic body of immigration law (8 USC 1101 et seq).

There are three main categories of unauthorized aliens: 1) foreign nationals who overstay their nonimmigrant visas, 2) foreign nationals who enter the country without the federal government's approval, and 3) foreign nationals who are admitted on the basis of fraudulent documents. All three categories violate the INA and are subject to removal (Wasem).

The U.S. Department of Homeland Security oversees enforcement of the INA. Within the department, the U.S. Immigration and Customs Enforcement agency investigates, identifies, apprehends, and removes unauthorized aliens from the United States.

Entering the country illegally is a misdemeanor for the first offense and a felony for subsequent offenses. It is a felony to fail to leave the U.S. after ordered to do so, and to reenter the country without permission after having been officially denied the right to reside in the U.S.

Criminal Violations. Entering the country illegally is a misdemeanor for a first offense and a felony for subsequent offenses. Failing to leave the U.S., as ordered by an immigration court, is a felony. Reentering the country without permission after having been officially denied the right to reside in the U.S. is also a felony (8 USC 1325; 8 USC 1326; 8 USC 1253). Using false documents to enter the U.S. or obtain benefits falls under several federal laws. Some are criminal violations and others are civil.

The U.S. Supreme Court has ruled that children are eligible to attend public primary and secondary schools regardless of their immigration status.

Primary and Secondary Education. In 1982, the U.S. Supreme Court ruled that children are eligible to attend public primary and secondary schools regardless of their immigration status (*Plyler v. Doe*, 457 U.S. 202 (1982)). In general, only minimal information, such as name and age, can be required to enroll a child in school. Federal law prohibits schools from asking for documentation of immigration status. Schools may request a Social Security number but cannot require one.

Under federal law, Medicaid must fund treatment of an emergency medical condition for unauthorized aliens as long as they meet certain Medicaid eligibility requirements.

Emergency Medical Assistance Under Medicaid. Under federal law, Medicaid must fund treatment of an emergency medical condition for unauthorized aliens as long as the person meets state Medicaid eligibility and other requirements (42 USC 1396b(v)(3)) as noted in 8 USC 1611 and 8 USC 1641).

Public health departments must comply with federal and state requirements related to asking program recipients about their immigration or citizenship status.

Public Health Services. Local public health departments must comply with federal and state requirements related to asking for a patient's immigration status. According to an official from the state Department for Public Health and staff from several local health departments, the federal government generally does not require information about immigration status for the kinds of health services offered by local health departments.

Only federal agents can determine if a person is in the U.S. without proper authorization.

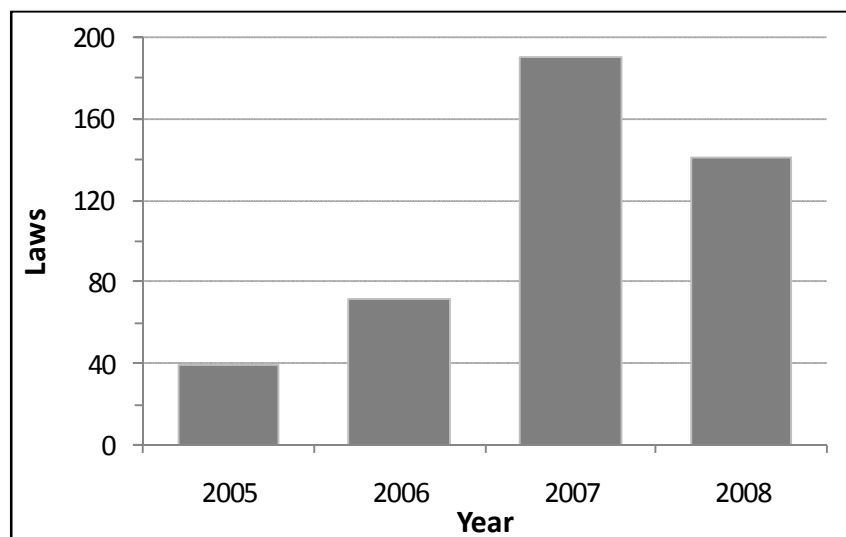
Corrections. Only federal agents can determine if a person is in the U.S. without proper authorization. Federal agencies decide whether to criminally prosecute unauthorized aliens or deport them. The federal government also decides whether a suspected unauthorized alien inmate is to be held for up to 48 hours past scheduled release time for federal officials to possibly take custody of the inmate (8 USC 1357; 8 CFR 287.7).

States

States have taken an increasingly active role in enacting immigration-related laws, including those specific to unauthorized aliens.

States have taken an increasingly active role in enacting laws related to immigrants, including unauthorized aliens. According to the National Conference of State Legislatures, 39 immigration-related laws were enacted in 2005. In 2007, 190 laws were enacted (“A Review”; “2007”). Figure 1.A shows the number of immigration-related state laws that were enacted from 2005 to 2008.

Figure 1.A
Number of Immigration-related Laws Enacted by States
2005 to 2008



Sources: National Conference of State Legislatures. “2007,” “2006,” “A Review,” and “State Laws.”

More than 400 laws related to immigration were enacted from 2005 to 2008, and each state enacted at least one such law.

More than 400 laws related to immigration were enacted from 2005 to 2008. Each state enacted at least one such law in this period. Table 1.1 lists the number of enactments by each issue area. The most common types were identification and driver's licensing (87 laws), employment (67 laws), and public benefits (57 laws). The 35 miscellaneous laws enacted in 2008 included 9 that established studies or commissions on immigration.

Table 1.1
Immigration-related Laws Enacted by States Per Issue Area
2005 to 2008

Issue Area	Year				Total
	2005	2006	2007	2008	
Identification/Driver's License	9	6	40	32	87
Employment	5	14	29	19	67
Public Benefits	5	10	33	9	57
Miscellaneous	3	6	14	35	58
Human Trafficking	9	13	18	5	45
Education	3	3	22	12	40
Law Enforcement	3	8	16	12	39
Health	0	0	14	11	25
Legal Services	2	5	3	2	12
Voting	0	6	0	1	7
Omnibus/Multiple issues	0	1	1	3	5
Total	39	72	190	141	442

Sources: National Conference of State Legislatures. "2007," "2006," "A Review," and "State Laws."

Appendix C summarizes examples of enacted state laws related to the provision of certain services to immigrants, including unauthorized aliens.

Since 2005, Kentucky has enacted three laws related to immigration. They involve professional licenses, human trafficking, and firearm licenses.

Kentucky. Since 2005, Kentucky has enacted three laws related to immigration. House Bill 275, enacted in 2005, requires proof of citizenship for certain professional licenses. Senate Bill 43, enacted in 2007, defines "human trafficking" and specifies certain penalties. House Bill 639, enacted in 2008, requires that the Kentucky State Police conduct an immigration status check before issuing an original or renewal firearms license.

Chapter 2

Unauthorized Alien Populations in the United States and Kentucky

Because unauthorized aliens do not want to be identified, reliable and accurate information about them generally does not exist.

This chapter describes the unauthorized alien populations in the United States and Kentucky. Unlike the authorized population, taking a census of the unauthorized alien population is not practical. Unauthorized aliens generally do not want to be recognized out of concern that they and their families may be deported, so the unauthorized alien population can only be estimated.

One commonly accepted method to estimate the unauthorized alien population is the “residual method.” It estimates the number of unauthorized aliens by subtracting the number of known legal immigrants from the total number of immigrants. U.S. Census Bureau, Immigration and Customs Enforcement, and Department for Homeland Security data are used.

Estimates of the Unauthorized Alien Population

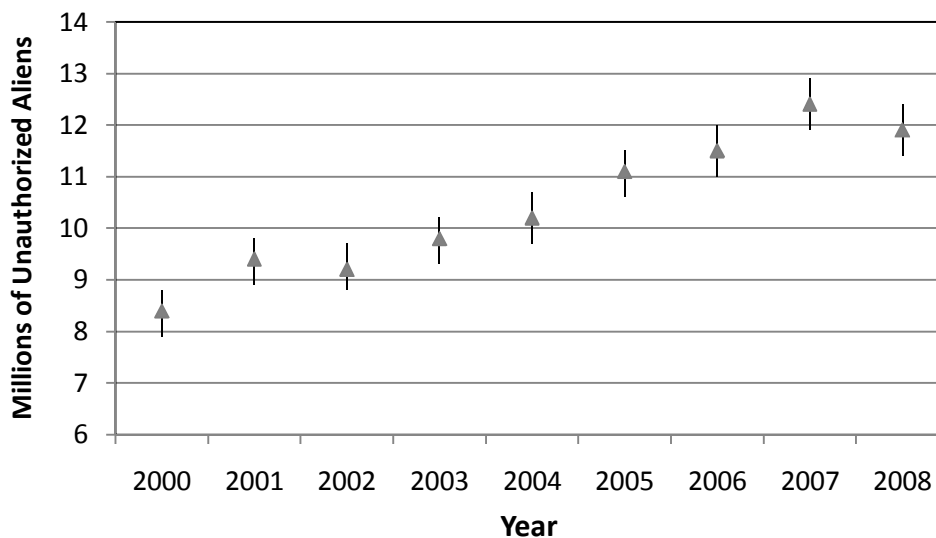
Based on recent estimates, between 11.4 million and 12.4 million unauthorized aliens lived in the United States in 2008. An estimated 30,000 to 60,000 lived in Kentucky in 2005.

The most recent estimates indicate that 11.4 million to 12.4 million unauthorized aliens lived in the United States in 2008, down slightly from the previous year (Camarato; Passel and Cohn 1). California and Texas accounted for nearly 37 percent of the estimated unauthorized alien population. Those states plus Florida and New York accounted for more than 50 percent of the total (Passel 25).

Appendix D describes the research methods used to develop estimates of the unauthorized alien population.

Figure 2.A shows the estimated number of unauthorized aliens in the United States from 2000 to 2008. For each year, the triangle indicates the estimate and the line indicates the margin of error above and below the estimate.

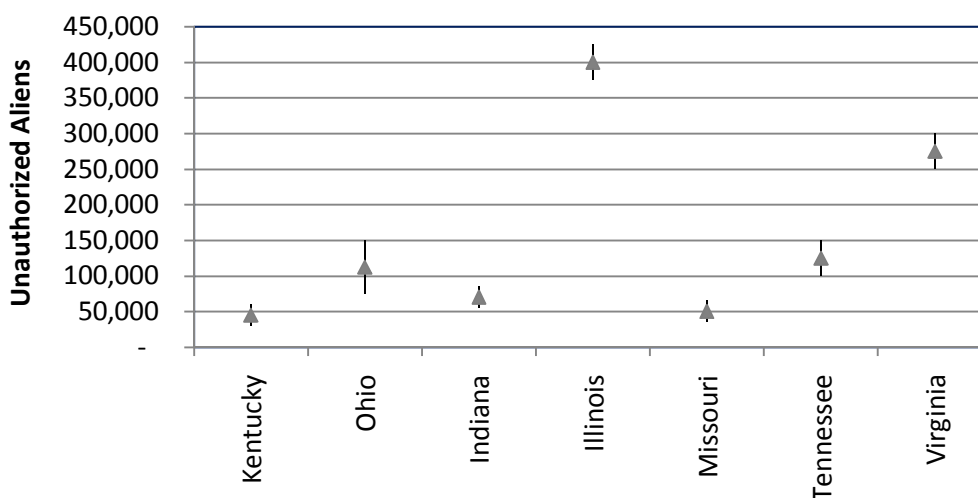
Figure 2.A
Estimated Number of Unauthorized Aliens in the United States, 2000 to 2008



Source: Passel and Cohn and LRC staff calculations.

For Kentucky, the estimated unauthorized alien population was 30,000 to 60,000 based on the 2005 U.S. Current Population Survey (Pew). Figure 2.B shows estimates of the unauthorized alien populations for Kentucky and selected neighboring states for 2005.¹

Figure 2.B
Estimated Number of Unauthorized Aliens in Kentucky and Selected States, 2005



Source: Pew Hispanic Center and LRC staff calculations.

¹ West Virginia is not included because its number of unauthorized aliens is too low to estimate without significant error.

Citizenship Status by Area Development District

Relative to the United States, Kentucky has a small percentage of noncitizens. Noncitizens include unauthorized aliens and refugees.

Table 2.1 shows the percentages of noncitizens in the United States and Kentucky, including by Kentucky area development district.² Noncitizens are people from other countries who live in the United States and include unauthorized aliens and refugees.

Table 2.1
Noncitizens as Percentage of Total Population for U.S.,
Kentucky, and Area Development Districts, 2007

	Noncitizen % of Population
United States	7.2%
Kentucky	1.7%
Area Development Districts	
Purchase	1.2%
Pennyrile	0.5%
Barren River	2.4%
Lake Cumberland	0.7%
Green River	0.7%
Lincoln Trail	1.1%
KIPDA	3.1%
Northern Kentucky	1.8%
Buffalo Trace/Gateway	0.2%
FIVCO	0.3%
Bluegrass	2.7%
Big Sandy	0.3%
Kentucky River	0.0%
Cumberland Valley	0.1%

Note: KIPDA is the Kentuckiana Regional Planning and Development Agency.

Source: Data compiled by LRC staff from the U.S. Census Bureau's 2007 American Community Survey.

Relative to the United States, Kentucky has a small percentage of noncitizens. For 2007, Kentucky's noncitizen population was 1.7 percent compared to 7.2 percent for the U.S.

² Buffalo Trace and Gateway Area Development Districts were combined due to data limitations.

The three area development districts with the highest percentages of noncitizens in 2007 were the Kentuckiana Regional Planning and Development Agency, Bluegrass, and Barren River, but the percentages of noncitizens living in these districts were still significantly smaller than the national percentage.

Of the area development districts, the Kentuckiana Regional Planning and Development Agency (KIPDA), Bluegrass, and Barren River had the highest percentages of noncitizens. KIPDA's rate was the highest at 3.1 percent. The percentages of noncitizens living in these area development districts were still significantly smaller than the national percentage.

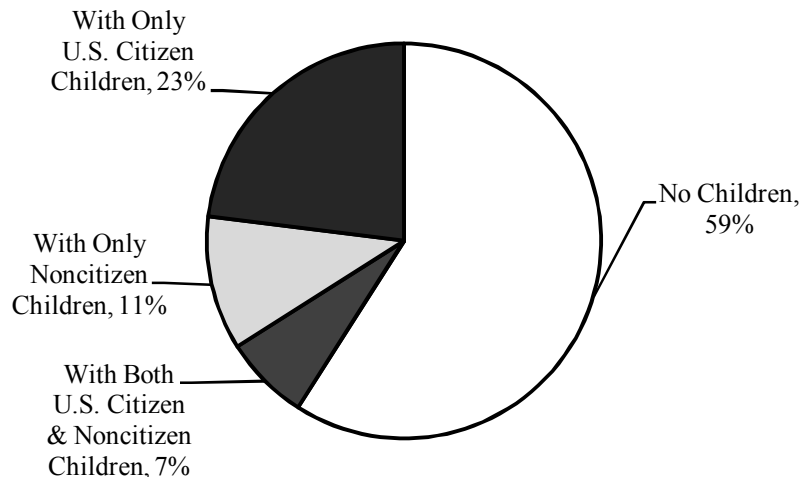
Family Characteristics

In the U.S., there are approximately 6.6 million unauthorized alien families. Such a family is defined as having a head of the family or spouse who is unauthorized.

Nationally, most unauthorized aliens do not have children living with them in the United States.

Figure 2.C shows the estimated composition of unauthorized alien families in the U.S. in 2005. Fifty-nine percent of unauthorized alien families were singles or couples living without children, 23 percent only had children born in the U.S., 11 percent only had noncitizen children, and 7 percent had both U.S. citizen and noncitizen children.

Figure 2.C
Estimated Composition of Unauthorized Alien Families
in the United States, 2005



Source: Passel 15.

Characteristics about unauthorized aliens living in Kentucky could not be estimated with reasonable accuracy due to lack of survey data.

Detailed characteristics of the unauthorized alien population in Kentucky cannot be estimated because there were not enough state-level observations in the survey data. Consequently, family characteristics for unauthorized aliens living in Kentucky may be different than for the U.S.

Of those living in unauthorized alien households in the U.S. in 2005, it was estimated that approximately 4.9 million were children. Of this number, an estimated 3.1 million, or 64 percent, were born in the U.S.³ Approximately 1.6 million children were not U.S. citizens. This represented less than 3 percent of the school-age population. An estimated 17 percent of children of unauthorized alien parents were younger than 6 (Passel).

Region of Origin

Table 2.2 shows unauthorized aliens' regions of birth for 2006. Fifty-seven percent of the estimated population was from Mexico (Passel 24). Characteristics of unauthorized aliens in Kentucky may differ from characteristics of the population at the national level.

Table 2.2
Unauthorized Alien Population in the
United States by Region of Origin, 2006

Region of Origin	% of U.S. Unauthorized Alien Population
Mexico	57%
Central America	14%
Asia	10%
South America	7%
Caribbean	4%
All Other	3%
Europe and Canada	2%
Africa	2%
Total	100%

Source: Passel 24.

³ The 14.6 million individuals in unauthorized families included the 11.1 million unauthorized aliens. Unauthorized alien families can include U.S. citizens and legal residents as well as unauthorized aliens.

Table 2.3 presents selected social and economic characteristics of the native-born and unauthorized alien populations living in the U.S. in 2005. In general, unauthorized aliens were less educated, had lower incomes, and had high labor force participation rates for men and lower rates for women. More than one-half of unauthorized aliens were employed in the construction, leisure and hospitality, and manufacturing industries.

Table 2.3
Selected Social and Economic Characteristics of Native-born
and Unauthorized Alien Populations in the U.S., 2005

	Native Population	Unauthorized Alien Population
Educational Attainment		
Less than high school graduate	9%	48%
High school graduate	32%	25%
Some college	29%	11%
Bachelor's degree or more	30%	17%
Average Family Income and Family Size		
Family Income	\$48,700	\$29,500
Family Size	1.97	2.29
Below Federal Poverty Level (Adults)	13.5%	25.2%
Labor Force Participation Rate (Age 18-64)		
Males	83%	94%
Females	72%	54%
Major Industry		
Agriculture, forestry, fisheries, hunting	1%	4%
Mining	0%	0%
Construction	7%	20%
Manufacturing	11%	14%
Wholesale and retail trade	15%	11%
Transportation and utilities	5%	3%
Information	2%	1%
Financial activities	7%	3%
Professional and business services	10%	13%
Education and health services	21%	6%
Leisure and hospitality	8%	17%
Other Services	5%	7%

Source: Passel 26-27.

Criticisms of the Residual Estimating Method

Estimates of the unauthorized alien population have margins of error and should be used cautiously.

The residual estimating method relies heavily on survey data taken from a population that has little incentive to answer the survey questions accurately. In response, researchers generally apply some form of error correction. The size of the error correction varies among authors' estimates and is a function of the source of survey data. Estimates are also sensitive to the assumptions made about the rates of immigration.

Critics have some concern about the reliability of legal immigrants' reported year of entry. Entry dates recorded by federal agencies are expressed as "administrative" dates, which must be converted to year-of-entry dates to be compatible with the U.S. Census and American Community Survey data. The result is an increased possibility of error.

The American Community Survey and the Current Population Survey are based on samples of the total U.S. population. Estimates of the total foreign-born population, therefore, are subject to sampling variability. For the 2006 American Community Survey, the margin of error for the foreign-born population was plus or minus 125,000 (Hoefer).

Because of these and other criticisms of the residual method, estimates of the unauthorized alien population are presented with margins of error, which are often large. These criticisms explain why different estimates using the same methodology can be notably different from one another and that estimates of the unauthorized alien population should be used cautiously.

Chapter 3

Primary and Secondary Public Education

In 1982, the U.S. Supreme Court established that public schools cannot deny students primary and secondary education based on their immigration status or that of their parents. As a result, every student in the United States, including unauthorized aliens, can access primary and secondary public education.

Case law prohibits schools from asking for documentation of immigration status. Schools may request a Social Security number but cannot require one. For each student enrolling in a public school, Kentucky law requires either a certified copy of the student's birth certificate or other reliable proof of the student's identity and age.

In general, only minimal information, such as name and age, can be required to enroll a child in school. For every student enrolling in a public school, Kentucky law requires a certified copy of the student's birth certificate or other reliable proof of the student's identity and age. Schools may request a Social Security number but cannot require one. Case law prohibits schools from asking for documentation of immigration status.

Because documentation of a student's immigration status cannot be required, the number of students who may be unauthorized aliens and attending public schools in the United States can only be estimated. Some previous studies counted all students born to unauthorized alien parents as unauthorized alien students, even if the student was born in the United States. Other studies defined "unauthorized alien students" as those who were born in a foreign country and who lacked proper authorization to live in the United States. This study considers noncitizen students with a foreign birth country and a missing or incomplete Social Security number as a proxy for unauthorized aliens.

Staff estimated that annual state and local costs for educating students defined as unauthorized aliens in this report are approximately \$25 million.

Relevant Laws, Regulations, and Case Law

Federal

The 1982 U.S. Supreme Court decision *Plyler v. Doe* (457 U.S. 202) established that public schools cannot deny access to primary and secondary education based on a student's immigration status or that of the parents. The court held that a Texas law denying free public school education to children of unauthorized aliens violated the 14th Amendment, which prohibits

states from denying to any person within their jurisdiction equal protection of the laws. An unauthorized alien, the court ruled, is a “person” within the meaning of the amendment.

Plyler v. Doe has generally been interpreted to mean that a public primary or secondary school cannot engage in any practice that would inhibit or discourage an unauthorized alien child from attending. In general, only minimal information, such as name and age, can be required to enroll a child in school. A school district’s residency requirements must be the same regardless of a child’s immigration status or that of the parents.

Case law prohibits schools from asking for documentation of immigration status for enrollment. Schools may request a Social Security number but cannot require one.

Kentucky

Kentucky law indicates that every child satisfying the age requirements and residing within the state can attend a public elementary or secondary school (KRS 158.030). School districts often accept such items as a utility bill, a copy of a rental agreement, a property deed, or a property sale agreement as proof of residency in the district. Some Kentucky school districts require more than one document.

For any student enrolling in an elementary or secondary school, Kentucky law also requires

1. a) a certified copy of the student’s birth certificate, or
b) other reliable proof of the student’s identity and age and an affidavit of the inability to produce a copy of the birth certificate (KRS 158.032(3));
2. a completed immunization certificate (KRS 158.035);
3. a completed school medical examination form (KRS 156.160(1)(g) and 704 KAR 4:020, Sec. 2); and
4. a completed Kentucky eye examination form (KRS 156.160(1)(h) and 704 KAR 4:020, Sec. 2).

Several local school officials contacted by staff indicated that students without a birth certificate or other reliable proof of identity and age at the time of enrollment could still attend school. If the appropriate documents were not provided after a certain period, a school district might eventually prohibit the student from attending. Foreign birth certificates meet the requirement for a birth certificate.

It is uncertain what constitutes “other reliable proof of a student’s identity and age.” Besides a birth certificate, some districts accept a passport or an I-94 immigration form, which is the form that documents an immigrant’s arrival and departure. At least one school district accepts transcripts from a foreign school.

Enrollment

Enrollment forms used in Kentucky vary by district. Some district forms state that Social Security numbers are required, which is contrary to federal case law. Some enrollment forms state that only a birth certificate is required and do not note that other reliable proof of a student’s identity and age may be substituted per state law.

Students enroll in a primary or secondary public school by providing required documents and completing a local enrollment form. Kentucky does not have a state-mandated enrollment form, so school districts develop their own. Each district collects similar information, but enrollment requirements occasionally vary. Some school districts’ enrollment forms state that student Social Security numbers are required, which is contrary to federal case law. Others indicate that Social Security numbers are optional, still others do not provide any guidance. Some school district enrollment forms state that only a birth certificate is required and do not note that other reliable proof of a student’s identity and age may be substituted per KRS 158.032(3). It is unclear if school district staff help parents and guardians complete the enrollment form.

Recommendation 3.1

Recommendation 3.1 is that the Kentucky Department of Education should identify the information public schools may legally require or request of first-time enrollees and then facilitate and monitor compliance.

The Kentucky Department of Education should identify the information public schools may legally require or request of first-time enrollees. The department should facilitate and monitor compliance by all Kentucky school districts.

Appendix A is the department’s response to this recommendation.

Data and Estimated Costs

The Kentucky Department of Education collects student demographic details such as ethnicity; biographic information such as name, age, and birth country; and educational data such as whether the student has limited English proficiency. At no point are students identified by their immigration status. Consequently, there are limited means by which to estimate the number of students who are unauthorized aliens and the educational costs associated with those students.

Analysis

As a proxy for the number of students who may be unauthorized aliens, staff identified noncitizen students with a foreign birth country and an incomplete Social Security number.

As of October 2008, approximately 2,500 students, or 0.4 percent of all Kentucky public school students, might have been unauthorized aliens. The annual state and local cost for educating these students was estimated to be \$24.6 million, or 0.4 percent of total expenses. The cost estimate was based on multiplying each district's per-student cost by the number of such students in the district.

Without information specifically identifying unauthorized alien students attending primary and secondary public school in Kentucky, staff analyzed demographic and personal data for every student as of October 27, 2008. Students who were noncitizens, born in a foreign country, and who lacked a complete Social Security number were used as a proxy for unauthorized aliens.¹

Based on these determinants, 2,534 students, or 0.4 percent of all students, might be unauthorized aliens. Applying district per-pupil expenditures for each student, the total state and local annual cost for those students is about \$24.6 million. This represents approximately 0.4 percent of total district expenses.

Eighty-four school districts had students who were born in a foreign country, lacked a Social Security number, and were not citizens. The average number of such students in these districts was 30.

Appendix E shows the estimated number of students who may be unauthorized aliens for each school district having at least one such student.

¹ By default, all students are initially identified as U.S. citizens. The Kentucky Department of Education provided the first three digits of each student's Social Security number. Staff interpreted blanks and entries with fewer than three digits to indicate that a Social Security number was not present. A missing or incomplete Social Security number does not definitively indicate a student's immigration status, but it is one method by which status can be inferred.

Seventy-four percent of students defined as unauthorized aliens for this report attended school in Fayette, Jefferson, Boone, Shelby, or Warren County School Districts. These districts accounted for 75 percent of statewide expenditures for such students. As of October 2008, 90 school districts had no students who may have been unauthorized aliens as defined for this report.

Seventy-four percent of students meeting the previously described three conditions attended one of five school districts in Kentucky. Table 3.1 lists those districts and the estimated number of students who may be unauthorized aliens.

Table 3.1
Estimated Numbers of Students Per School District
Who May Be Unauthorized Aliens, 2007-2008

District	Estimated Number	Percent of State Total
Fayette County	830	32.8%
Jefferson County	579	22.8%
Boone County	234	9.2%
Shelby County	164	6.5%
Warren County	67	2.6%
All Other Districts	660	26.0%
State Total	2,534	100.0%

Note: This study considers students who are not citizens with a foreign birth country and a missing or incomplete Social Security number as a proxy for unauthorized aliens. Percentages may not add to 100 due to rounding.
Source: Staff's analysis of data provided by the Kentucky Department of Education.

The Fayette County School District had the highest estimated number of students who may be unauthorized aliens as defined for this report. Jefferson County School District had the second-highest number, even though its total student population was more than twice as large as that of Fayette County.

Education costs correspond to the number of students who may be unauthorized aliens, so the five school districts with the highest estimated number of such students also had the highest estimated annual expenditures as shown in Table 3.2.

Table 3.2
Estimated Expenditures Per School District for Students
Who May Be Unauthorized Aliens, 2007-2008

District	Estimated Expenditures	Percent of District Expenditures
Fayette County	\$8,200,000	2.5%
Jefferson County	\$6,300,000	0.7%
Boone County	\$2,000,000	1.4%
Shelby County	\$1,500,000	2.4%
Warren County	\$600,000	0.5%
All Other Districts	\$6,100,000	0.2%
Total	\$24,600,000	

Note: This study considers students who were not citizens with a foreign birth country and a missing or incomplete Social Security number as a proxy for unauthorized aliens.

Source: Staff's analysis of data provided by the Kentucky Department of Education.

Table 3.2 also shows that these five districts accounted for most of the \$24.6 million estimated cost attributable to students in Kentucky who may be unauthorized aliens. As a share of each district's total expenditure for 2007-2008, impacts varied. Fayette County (2.5 percent) and Shelby County (2.4 percent) School Districts had the highest percentages. Warren County (0.5 percent) and Jefferson County (0.7 percent) School Districts had the lowest percentages.

The five districts with the highest percentages of students who may be unauthorized aliens were Shelby County (2.7%), Fayette County (2.4%), Mayfield Independent (2%), Boone County (1.3%), and Monticello Independent (1.3%).

Relative to total school district membership, the estimated percentages of students who may be unauthorized aliens is small: less than one-half of 1 percent of all students.

Table 3.3 lists the five school districts with the highest percentages of students who may be unauthorized aliens.

Table 3.3
Five School Districts With the
Highest Percentages of Students Who
May Be Unauthorized Aliens, 2007-2008

District	Percent of District's Students
Shelby County	2.7%
Fayette County	2.4%
Mayfield Independent	2.0%
Boone County	1.3%
Monticello Independent	1.3%

Note: This study considers students who were not citizens with a foreign birth country and a missing or incomplete Social Security number as a proxy for unauthorized aliens.

Source: Staff's analysis of data provided by the Kentucky Department of Education.

Of all districts, Shelby County had the highest percentage of students who may be unauthorized aliens (2.7 percent). Mayfield Independent and Monticello Independent did not rank among the school districts with the highest numbers or costs of students who may be unauthorized aliens, but both have relatively large percentages of such students.

Limitations of the Cost Estimates

There are limitations to the estimates of the number and cost of students who may be unauthorized aliens.

These cost estimates have several important limitations. First, using student birth country and U.S. residency status as a proxy for the number of students who may be unauthorized aliens could include some resident alien, nonresident alien, and immigrant students who lawfully reside in the U.S.² In contrast, students who provide false Social Security numbers would not be counted as unauthorized aliens.

Second, school capacity is not considered. Educating one more student imposes an additional cost. Those costs may be relatively small, such as adding one more student to an existing teacher's

²According to Title IX, Part C, Section 3301 of the No Child Left Behind Act, immigrants are students who are between the ages of 3 and 21, were not born in the U.S., and have not been in school in the U.S. for more than 3 full academic years. Immigrant students may or may not be limited English proficient.

class. At some point, costs may be relatively large; adding additional students could result in hiring additional teachers or building more classroom space.

Third, education involves short-term costs and long-term benefits. Short-term education costs are government expenditures made in the present period. Long-term benefits include the gains derived from a well-educated labor force in some future period. This report only considers short-term costs.

Costs of educating students who may be unauthorized aliens are likely to be higher than for the average student, but it is unclear how much.

Fourth, some unauthorized alien students may have limited English proficiency and may be more costly to educate. According to a staff person from the Jefferson County Public Schools, a recent study of that district estimated annual outlays per student with limited English proficiency to be about \$3,000 more than for other students. This figure may or may not be representative of other school districts. Without additional details, the cost of educating students who may be unauthorized aliens is assumed to be consistent with each district's per-pupil expenditure amount.

Chapter 4

Emergency Medical Assistance Under Medicaid

Under federal law, unauthorized aliens may be eligible for emergency medical care. For fiscal year 2007, total Kentucky Medicaid expenditures for emergency medical assistance to recipients who were unable to prove their immigration status, which includes unauthorized aliens, were \$2.3 million.

Under federal law, unauthorized aliens may be eligible for Medicaid benefits for certain emergency medical conditions if they meet state Medicaid eligibility requirements.¹

Under Kentucky's Medicaid program, emergency medical assistance pays for a variety of services including inpatient acute care, physician services, primary care, and pharmacy benefits. Coverage is generally limited to 2 consecutive months (907 KAR 1:011, Sec. 5(12)(b)).

For fiscal year 2007, total Kentucky Medicaid expenditures for emergency medical assistance to recipients who were unable to prove their immigration status, which includes unauthorized aliens, were \$2.3 million.

Relevant Laws and Regulations

Medical emergencies generally include conditions that would place the patient's health in serious jeopardy.

Emergency medical conditions are generally defined as acute symptoms that, absent immediate medical attention, could reasonably be expected to place the patient's health in serious jeopardy, seriously impair bodily functions, or cause serious bodily dysfunction (42 USC 1396b(v)). Emergency medical conditions include emergency labor and delivery but exclude organ transplant procedures (42 USC 1396b(v)); 8 USC 1611; 8 USC 1641).

Kentucky's administrative regulations define "emergency medical condition" the same way as federal law. Administrative regulation limits Medicaid payment for an emergency medical condition to the month in which the medical emergency began and the following month. Under certain circumstances, the eligibility period may be extended (907 KAR 1:011, Sec. 5(12)(b)).

¹ This report uses the term "unauthorized alien." Federal law uses the description "alien who is not lawfully admitted for permanent residence" in the U.S. (42 USC 1396b(v)).

Accessing Emergency Medical Assistance

Unauthorized aliens may access emergency medical services by visiting a hospital, physician's office, or other medical provider. The patient applies to the local Department for Community Based Services office for payment of those services. If eligible, Medicaid will pay for treatment of the emergency medical condition for as long as 2 months.

Accessing emergency medical assistance under Medicaid is a multistep process. First, a person with a medical emergency seeks medical assistance. Typically, a person will visit a hospital, a physician's office, or an acute care facility. Next, a medical provider treats the individual. After medical care has been provided, either the patient or, if the patient agrees, the provider on behalf of the patient applies for enrollment in the Medicaid emergency medical assistance program. Local offices of the Kentucky Department for Community Based Services process enrollment requests.

Upon department approval, payment for emergency medical care is available for up to 2 consecutive months: the month in which medical care was initially provided and the following month. During the coverage period, medical services are limited to those necessary for treatment of the original emergency medical condition. Treatment may include several categories of services, such as outpatient hospital, physician, and pharmacy.

Data and Cost Estimates

The Kentucky Department for Medicaid Services documents all emergency medical services provided to nonqualified aliens, including those who may be unauthorized aliens.

The Kentucky Department for Medicaid Services documents all emergency medical services and assigns alien recipients to one of two groups: nonqualified or qualified. Nonqualified aliens, as described by staff from the Department for Medicaid Services and detailed in administrative regulation, are persons who are unable to prove they are legal residents (907 KAR 1:011, Sec. 5). Some nonqualified aliens may be in the U.S. legally. Qualified aliens, by comparison, are nonresidents who were granted asylum, refuge, or other legal sanctuary. Because unauthorized aliens are the focus of the study, LRC staff requested and analyzed data only for nonqualified aliens from FY 2001 to FY 2007.

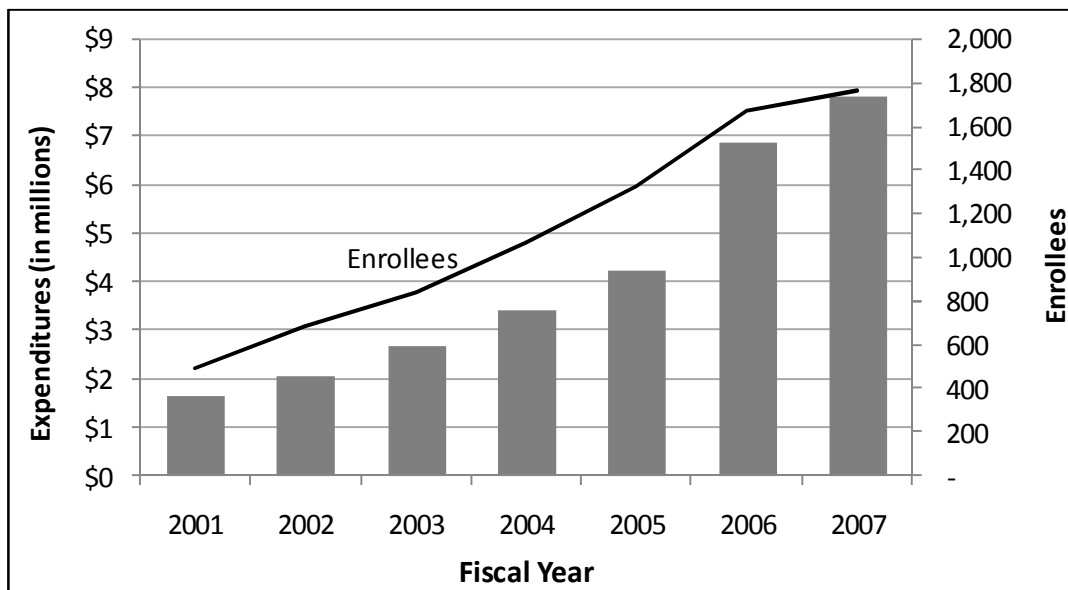
Analysis

From FY 2001 to FY 2007, nonqualified aliens filed more than 59,000 claims for emergency medical assistance under Medicaid. The total cost of those claims was \$28.7 million. The federal government pays part of this cost; Kentucky's share was approximately \$8.6 million.

Nonqualified aliens filed more than 59,000 claims for emergency medical assistance from FY 2001 to FY 2007, at a total cost of \$28.7 million. Under Medicaid, those costs are split between the federal and state government. Kentucky's share of the total was \$8.6 million, of which some lesser amount was for treating unauthorized aliens.

Figure 4.A shows total federal and state expenditures and number of nonqualified alien enrollees from FY 2001 to FY 2007.

Figure 4.A
Total Federal and State Expenditures and Number of Enrollees for
Nonqualified Aliens Receiving Emergency Medical Assistance in Kentucky
Fiscal Year 2001 to Fiscal Year 2007



Source: Staff analysis of data provided by the Kentucky Department for Medicaid Services.

The number of nonqualified aliens accessing emergency medical care is growing. In FY 2007, enrollment was 1,759, a 260 percent increase from 488 in FY 2001.² Over this period, total expenditures rose from \$490,000 to \$2.4 million, a 390 percent increase. The average expenditure per enrollee went from \$1,455 in FY 2001 to \$1,520 in FY 2007.

² These numbers include PASSPORT recipients. PASSPORT is the managed care network for the Louisville Metro area. According to a staff person from the Kentucky Department for Medicaid Services, PASSPORT recipients should not be enrolled in the time-limited emergency medical care program. The department is working to correct this.

The number of nonqualified alien emergency medical assistance claims under Medicaid rose from 3,400 in FY 2001 to 14,400 in FY 2007. From FY 2001 to FY 2007, 68 percent of all claims were for physician services, inpatient hospital acute care, and pharmacy services. However, inpatient hospital acute care accounted for 70 percent of all expenditures.

Claims. Emergency care frequently resulted in multiple claims. Between FY 2001 and FY 2007, each nonqualified alien enrollee, on average, had between seven and eight claims. More than 3,400 nonqualified alien emergency medical assistance claims were paid in FY 2001. That figure rose to 14,400 in FY 2007, a 322 percent increase.

Forty-three percent of all claims were for physician services. Inpatient hospital acute care (14 percent) and pharmacy services (11 percent) were the next most frequent types of claims.

Categories of Spending. Despite the high proportion of claims, physician services represented only 17 percent of total federal-state expenditures. Inpatient hospital acute care accounted for 70 percent of spending from FY 2001 to FY 2007. In FY 2001, the average inpatient hospital acute care expenditure was \$2,400, compared with \$425 spent, on average, on all other services. For FY 2007, the average inpatient hospital acute care expenditure was \$2,800 compared with \$300, on average, for all other services.

Table 4.1 shows expenditure and claim figures for inpatient hospital acute care, outpatient hospital, and physician services.

Table 4.1
Federal and State Emergency Medical Care Expenditures and Claims for Nonqualified Aliens in Kentucky by Category of Service, Fiscal Year 2001 to Fiscal Year 2007

Category of Service	Federal and State Expenditures	% of Total Expenditures	Claims	% of Total Claims
Inpatient Hospital Acute Care	\$20,029,317	69.8%	8,371	14.2%
Physician	\$4,972,789	17.3%	25,525	43.2%
Outpatient Hospital	\$1,483,963	5.2%	5,444	9.2%
All Other Services	\$2,193,946	7.6%	19,744	33.4%
Total	\$28,680,015	100.0%	59,084	100.0%

Note: Percentages may not add to 100 due to rounding.

Source: Staff analysis of data provided by the Kentucky Department for Medicaid Services.

The number of emergency room visits relative to other medical services was relatively small.

Emergency Room Visits. Emergency room visits are a relatively small proportion of total claims and expenditures for nonqualified aliens. From FY 2001 to FY 2007, more than 1,000 emergency room claims cost more than \$228,000. The number of claims for nonqualified aliens increased for all years except one.

Table 4.2 shows the number of emergency room visits from FY 2001 to FY 2007.

Table 4.2
Emergency Room Visits by Nonqualified
Aliens, Fiscal Year 2001 to Fiscal Year 2007

Fiscal Year	Federal and State Expenditures	Claims	Average Cost Per Claim
2007	\$43,663	224	\$195
2006	\$42,339	182	\$233
2005	\$35,799	172	\$208
2004	\$33,684	144	\$234
2003	\$16,847	112	\$150
2002	\$36,787	116	\$317
2001	\$19,044	71	\$268
Total	\$228,162	1,021	\$223

Source: Staff analysis of data provided by the Kentucky Department for Medicaid Services.

Appendix F lists all expenditures made under the emergency medical assistance program by category of service.

Limitations

The number of unauthorized aliens that access emergency medical assistance services is not known because Medicaid does not specifically identify unauthorized alien recipients, and unauthorized aliens may also receive treatment without enrolling in Medicaid.

For at least two reasons, the number of unauthorized aliens that access emergency medical assistance services is not known. First, unauthorized aliens are not specifically identified when they receive emergency medical treatment. They are categorized as nonqualified alien recipients, which may include legal residents who were unable to prove their immigration status. Second, unauthorized aliens may access emergency medical care without enrolling in the Medicaid emergency medical assistance program. By enrolling in the Medicaid program, however, expenses related to their treatment and care may be paid by federal and state governments. As a result, the figures included in this report may not represent all emergency medical services provided to unauthorized aliens in Kentucky.

These data also do not permit estimates of uncompensated care costs attributable to unauthorized aliens. Uncompensated care costs are medical bills that a recipient or third party does not pay. Medical providers generally end up bearing these costs.

Chapter 5

Public Health

Public health departments provide many services to local communities but generally do not ask recipients to prove their citizenship or provide documentation of their immigration status. Federal and state laws and policies may prevent public health departments from asking for this information.

Anecdotal evidence from public health department officials suggests that the number of unauthorized aliens accessing services varies widely. Some health departments, particularly those in rural, nonagricultural areas, appear to have few unauthorized alien patients. In agricultural and urban areas, it is likely that unauthorized aliens consume a larger proportion of public health department services because unauthorized aliens appear to represent a larger share of these local populations.

This report does not estimate the costs of providing public health services to unauthorized aliens. The Department for Public Health provided available demographic and personal information for recipients. The data were insufficient to estimate the number of unauthorized aliens who access services from local public health departments.

This report does not estimate the costs of providing public health services to unauthorized aliens. The Department for Public Health provided available demographic and personal information for recipients at each local public health department. The data were insufficient, however, to estimate the number of unauthorized aliens who access services from local health departments.

Public Health Departments

The primary mission of public health departments is to improve the health and well-being of the entire community, particularly through preventive care. Public health departments provide clinical and nonclinical services. Clinical services include immunizations, prenatal care, tuberculosis screening, treatment for sexually transmitted diseases, adult preventive care, and well-child pediatrics. Nonclinical services include septic tank inspections, food inspections, and home infestation examinations.

Governance

Fifty-six local public health departments, some covering multiple counties, serve Kentucky's 120 counties. A board of directors governs each local public health department. Board members are appointed by the secretary of the Cabinet for Health and Family Services. The exceptions are the Jefferson County, Lexington-

Fayette, and Northern Kentucky Health Departments, which have locally appointed boards of directors.

All public health departments are staffed by county, not state, employees. Although the Cabinet for Health and Family Services does not have direct authority over local health department employees, it does have statutory oversight authority related to the provision of public health in Kentucky. Through the Kentucky Department for Public Health, the cabinet establishes policies governing the activities and practices of local health departments; supervises their financial, personnel, and other administrative functions; establishes their standards of operation; evaluates their organization and activities; and allocates, modifies, or cancels allotments of state funds to local health departments (KRS 211.170).

Funding

The largest source of health department revenues, more than 40 percent, comes from service fees.

Local health department funding comes from federal, state, and local governments and service fees. Table 5.1 identifies revenue sources by category for Kentucky's public health departments.

Table 5.1
Revenue by Funding Source for Kentucky
Local Health Departments, Fiscal Year 2008

Funding Source	Revenues	% of Total
Federal	\$55,586,924	17.7%
State	\$46,823,094	14.9%
Local	\$60,225,586	19.2%
Service Fees	\$133,187,735	42.5%
Other	\$17,816,585	5.7%
Total	\$313,639,924	100.0%

Source: Staff's analysis of data provided by the Kentucky Department for Public Health.

State funds are either mandated by Kentucky law or appropriated by the General Assembly to the Department for Public Health, which then allocates funds to local health departments. Local governments may also fund local health departments by imposing a public health tax or appropriating funds.

Legal Requirements

Public health departments must comply with federal and state requirements. Most laws and policies do not require local health departments to ask about immigration or citizenship status.

LRC staff consulted federal and state agency staff in order to identify specific public health programs that may or may not provide access to unauthorized aliens. Officials agreed that federal law prohibits asking patients about their immigration status whenever they seek immunizations, testing, or treatment for communicable diseases. Interpretations differed about other public health programs.

Department for Public Health policy is to provide services without asking about a patient's immigration or citizenship status.

For each program, local public health departments must comply with requirements established by each funding source. If a federal statute or grant, for example, requires verification of a person's citizenship status, local public health departments must comply with that requirement.

According to an official from the Department for Public Health and staff from several local health departments, the federal government generally does not require information about recipients' immigration status. . LRC staff consulted with staff at the U.S. Department of Health and Human Services, Commonwealth of Kentucky agencies, and public health agencies in other states to identify specific health programs that prohibited questions about recipients' immigration status. These officials agreed that federal law prohibits asking patients about their immigration status whenever they seek immunizations, testing, or treatment for communicable diseases. Interpretations differed about other public health programs. .

For programs funded in whole or part by the state, local public health departments follow policies established by the Kentucky Department for Public Health. Unless otherwise required, the department's policy is to provide health services without asking about a recipient's immigration or citizenship status. According to department officials, asking patients to prove their immigration status could deter them from seeking services that may provide wide-ranging public health benefits. Officials from local public health departments made similar comments.

Public health programs funded entirely by local government and nongovernmental grants, it appears, have the ability to prohibit or grant access to unauthorized aliens. According to public health officials interviewed by LRC staff, these types of programs are uncommon.

Accessing Clinical Public Health Services

Unauthorized aliens access public health services by going to a health department. Health departments collect name, date of birth, address, gender, and ethnicity information but not immigration or citizenship status.

For clinical services, every visit follows a similar pattern. The encounter begins with a person making an appointment or walking in to a public health department. Registration and billing information is collected. The person's name, date of birth, address, gender, and ethnicity are required, but a Social Security number or documentation of a person's immigration or citizenship status is not.

A nurse, nurse practitioner, or physician examines the person and provides appropriate care or refers the individual to another provider if the health department does not provide the type of service the patient needs.¹ A patient encounter form identifies the services provided by the public health department. A health department employee enters this information into the state's public health records database. Making follow-up appointments, if necessary, concludes the visit. The same process applies to a citizen, legal resident, or unauthorized alien patient.

According to Department for Public Health officials, local public health departments document each service provided to each patient. Local health departments record demographic details, such as name, address, gender, and race. All information is entered into a public health records database maintained and managed by Custom Data Processing, the Department for Public Health's third-party software vendor. Each public health department has access to its own data via a limited set of Custom Data Processing reports. At the state level, the Department for Public Health has access to dozens of standard reports, including reports that summarize local health department information.

According to Department for Public Health officials, each year approximately 1 million people receive clinical and nonclinical services from Kentucky's public health departments. On average, each person utilizes these services three times a year, so the total annual number of encounters is about 3 million.

Approximately 80 percent to 90 percent of all clinical service recipients are women and children, according to officials with the Department for Public Health. Prenatal and child well-being services are among the most common services.

¹ For example, some public health departments do not provide prenatal care but may contract with a third party to provide those services.

Chapter 6

Correctional Facilities

The number of unauthorized alien inmates cannot be determined accurately because correctional facilities do not consistently identify or document which inmates are unauthorized aliens and because each jail maintains its own inmate database.

Determining exact total costs for incarcerating unauthorized aliens requires knowing how many unauthorized alien inmates there are and the cost per inmate, which varies among jails (Commonwealth). This cannot be done because Kentucky correctional facilities do not always identify or document which inmates are unauthorized aliens. Each local jail also maintains its own database, so retrieving detailed information about the entire jail population would require gathering data from 74 separate jail databases.

LRC staff estimated the total cost of incarcerating unauthorized alien inmates to range from \$1.7 million to \$2.8 million for FY 2008.

Some information about unauthorized alien inmates does exist. Several local jails and the Kentucky Department of Corrections apply for and receive federal reimbursement for a portion of their salary costs related to housing unauthorized alien inmates identified by federal authorities. Using these and other data, staff estimated the approximate total cost of incarcerating unauthorized aliens in Kentucky's correctional facilities to be \$1.7 million to \$2.8 million and potential federal reimbursement revenues to be \$310,000 to \$547,000 in FY 2008.

Legal Authority

Only federal agents have the authority and ability to determine if a person is in the U.S. illegally.

Only federal agents have the authority and ability to determine if a person is in the U.S. illegally. Only federal agencies decide whether to criminally prosecute unauthorized aliens for entering the country without authorization or to use a civil process to deport such persons. Entering the country illegally is a misdemeanor for a first offense and a felony for subsequent offenses. Failing to leave the U.S. when ordered by an immigration court is a felony. Reentering the country without permission after having been denied the right to reside in the U.S. is also a felony. Using false documents to enter the U.S. or to qualify for certain benefits falls under several federal laws. Some violations are criminal and others are civil. The federal government also decides whether and when it will take custody of unauthorized alien inmates housed at local jails and state prisons.

Incarceration

An inmate's immigration or citizenship status is not a primary concern for correctional facilities. Correctional facilities use different criteria to determine which inmates will have their immigration status checked and use different verification methods.

Correctional facilities in Kentucky house approximately 37,000 inmates on any given day. An inmate's immigration or citizenship status is not a primary concern for correctional facilities, according to officials contacted by LRC staff. Officials described their primary function as following judicial orders to incarcerate individuals. Correctional facilities, which include local jails and state prisons, may check an inmate's status, but criteria and methods used to identify suspected unauthorized alien inmates vary by facility.

Booking

Each inmate is booked into a correctional facility after an encounter with law enforcement or on a judge's order. General information about the individual is requested, including name, birth date, Social Security number, and address. Every inmate is fingerprinted.

Depending on a variety of factors, including the length of time an individual might be incarcerated and the individual's mental state, correctional facility staff may conduct more extensive interviews. Staff may also request federal determination of an inmate's immigration or citizenship status.

Checking Immigration Status

Some correctional facilities use a missing Social Security number, foreign birth country, or limited English proficiency to identify inmates with questionable immigration statuses.

An inmate's immigration or citizenship status may be checked if staff at a local jail or state prison suspect that an inmate is an unauthorized alien, but criteria vary. LRC staff found correctional facilities using different combinations of a missing Social Security number, a foreign birth country, limited English proficiency, or limited knowledge about local or national facts to identify suspected unauthorized aliens. In one instance, officials indicated that they check a person's immigration status if they believe that the inmate is providing false immigration information.

To check an inmate's immigration status, correctional facility staff contact a local U.S. Immigration and Customs Enforcement (ICE) office by phone, submit an electronic query to ICE, or query one of two Federal Bureau of Investigation databases.

Once correctional facility staff determine that an inmate's immigration status should be checked, staff use different verification methods. One method is to contact one of three U.S. Immigration and Customs Enforcement (ICE) offices in Kentucky and provide relevant personal and biographic information about the suspected unauthorized alien inmate. ICE officials then attempt to verify the inmate's immigration status.

Some correctional facilities check an inmate's immigration or citizenship status by running the inmate's name through the National Crime Information Center. This is a Federal Bureau of Investigation database used primarily by state and local law enforcement officials to determine whether an individual has outstanding arrest warrants, including for some types of immigration violations.

At least one Kentucky correctional facility uses the Integrated Automated Fingerprint Identification System to check an inmate's immigration status. This is another Federal Bureau of Investigation database that relies on fingerprint information to check a person's criminal history.

Some correctional facilities submit an electronic query to the Law Enforcement Support Center, which is operated by ICE. This information center searches multiple federal databases to help state and local law enforcement officials identify unauthorized aliens. Response times depend on the crime committed and vary from a matter of hours to several days. An ICE official said that an electronic query to the center is the preferred way to verify the status of an unauthorized alien inmate.

Detaining Unauthorized Aliens

The federal government decides whether and when to take custody of unauthorized alien inmates housed at local jails and state prisons.

The federal government decides whether and when to take custody of unauthorized alien inmates housed at local jails and state prisons. Generally, the federal government will not take custody until the inmate's prison term has expired. In those situations, federal immigration officials will place a detainer on an inmate. Detainers require correctional facilities to hold inmates for up to 48 hours past their scheduled release times. Should ICE officials not take custody within 48 hours, the inmate is supposed to be released.¹

¹ Requests to local ICE offices are generally informal and, according to an ICE official, not tallied or otherwise recorded. Likewise, correctional facilities do not keep track of these requests. According to correctional facility staff, ICE verification responses may be nearly instantaneous or could take several days.

ICE officials are primarily interested in inmates who have committed serious crimes or who were previously deported.

ICE Does Not Detain Every Unauthorized Alien. According to staff from several Kentucky correctional facilities, ICE officials are primarily interested in detaining unauthorized aliens who have committed serious crimes or who have been previously deported. Individuals alleged to have committed relatively minor offenses, such as shoplifting, will generally not be of interest. An ICE official explained that ICE has limited resources and must prioritize which individuals to detain.

Data and Estimated Costs and Revenues

The number of unauthorized alien inmates cannot be determined with reasonable accuracy. Correctional facilities do not consistently request federal confirmation of inmates' immigration statuses, federal officials do not always inform correctional facilities of an inmate's immigration status, inmate management databases do not specifically identify unauthorized aliens, and each jail maintains its own inmate database.

Staff estimated the number and costs of unauthorized alien inmates incarcerated in Kentucky correctional facilities, but the actual number of such inmates is unknown. First, correctional facilities do not consistently request federal confirmation of suspected unauthorized alien inmates. They also follow different procedures for how such requests are made. Second, even if confirmation is requested, federal officials do not always inform correctional facilities about an inmate's immigration or citizenship status. Third, correctional facility inmate management databases do not specifically identify unauthorized aliens. Anecdotal evidence suggests that those databases may be able to identify inmates with detainees, but detainees can be placed on inmates for reasons not related to immigration, and the ability to access that information varies by local jail. Fourth, a statewide database identifying important personal and demographic characteristics of jail inmates, including detainer information, does not exist.

State Criminal Alien Assistance Program

Staff were able to estimate the total number of unauthorized aliens incarcerated in Kentucky correctional facilities using information specific to the State Criminal Alien Assistance Program (SCAAP). This is a federal program managed by the U.S. Department of Justice's Bureau of Justice Assistance in partnership with the U.S. Department of Homeland Security. SCAAP reimburses state and local correctional facilities for a portion of their salary costs attributable to housing unauthorized alien inmates.

SCAAP funding is not automatic. Each year correctional facilities must request reimbursement for inmates suspected of being unauthorized aliens. ICE reviews those requests and determines each inmate's immigration status. Federal reimbursements only apply to known or suspected unauthorized aliens who were incarcerated for more than 3 consecutive days in a state or local

correctional facility and who were convicted of at least one felony or two misdemeanors.

Appendix G provides details about Kentucky correctional facilities that received SCAAP funds for FY 2000 to FY 2008.

Analysis

To estimate unauthorized alien inmates' fiscal impact requires knowing how many unauthorized alien inmates there are and what it costs to incarcerate each of them. Information about these factors is incomplete.

Determining the costs of incarcerating unauthorized aliens is dependent on knowing how many unauthorized aliens are incarcerated during a given period and the cost of incarcerating each of them. Information for both is incomplete. Kentucky correctional facilities do not universally identify or record which inmates are unauthorized aliens. Per-inmate cost figures also vary by correctional facility and may not consistently measure the same costs.

SCAAP data are the most reliable means to estimate fiscal impact because the federal government identifies which inmates are unauthorized aliens. However, few Kentucky correctional facilities apply for this reimbursement.

The most reliable available measures of the number and cost of incarcerated unauthorized aliens come from SCAAP data. Unfortunately, SCAAP data are limited to a few local jails and the state prison system in Kentucky.² As a result, the number and cost of unauthorized alien inmates for facilities that do not receive SCAAP funds must be estimated.

To estimate fiscal impact, staff used SCAAP and other data.

The following section describes the reported number and cost of unauthorized alien inmates at Kentucky correctional facilities receiving SCAAP funds. The subsequent section estimates the numbers and costs of unauthorized alien inmates at facilities that did not apply for SCAAP funds.

² Local Kentucky jails that received SCAAP funds represented about 12 percent of Kentucky's total inmate population in FY 2008.

Facilities Receiving SCAAP Funds. Table 6.1 shows the number of unauthorized alien inmates, number of days incarcerated, average length of stay, salary costs, and SCAAP revenues for each Kentucky correctional facility that received SCAAP funds in FY 2008.

Four county jails received \$149,958 in SCAAP funds for 589 unauthorized alien inmates in FY 2008. These jails incurred \$484,054 in salary costs.

According to U.S. Bureau of Justice Statistics information, Carroll County, Lexington-Fayette, Nelson County, and Shelby County Jails incarcerated 589 unauthorized alien inmates for 22,000 days in FY 2008. These jails incurred \$484,054 in salary costs and received \$149,958 in SCAAP funds.

The Kentucky Department of Corrections received \$12,122 in SCAAP funds for 46 unauthorized alien inmates in FY 2008. The department incurred \$46,621 in salary costs.

The Kentucky Department of Corrections received reimbursement for 46 unauthorized alien inmates who were incarcerated for a collective 5,847 days in FY 2008. Total salary costs were \$46,621, and the department received \$12,122 in SCAAP funds.

Table 6.1
Kentucky Correctional Facilities Receiving SCAAP Funds, Fiscal Year 2008

Facility	Number of Unauthorized Alien Inmates	Number of Days Incarcerated	Average Length of Stay (Days)	Salary Costs	Federal SCAAP Revenues
Carroll County	5	143	28.6	\$2,039	\$614
Lexington-Fayette	384	15,560	40.5	\$384,522	\$119,587
Nelson County	21	915	43.6	\$11,499	\$3,463
Shelby County	167	5,292	31.7	\$85,994	\$26,294
Jail Total	589	22,000		\$484,054	\$149,958
Dept. of Corrections	46	5,847	127.1	\$46,621	\$12,122
Total	635	27,847	43.9	\$530,675	\$162,080

Source: Staff's analysis of data provided by the U.S. Bureau of Justice Statistics.

Generally, local inmates are incarcerated for misdemeanors and state inmates for felonies. Misdemeanors typically carry shorter sentences than felonies, so unauthorized aliens were incarcerated, on average, for fewer days at local jails than at state facilities.

Based on figures from the Department of Corrections, staff estimated total incarceration costs were \$750,000 for the four county jails that received SCAAP funds and \$300,000 for the Department of Corrections in FY 2008.

To estimate total incarceration costs attributable to unauthorized aliens, staff used average cost figures published by the Kentucky Department of Corrections for FY 2007. For local jails, the average daily incarceration cost was \$34.06, and for the Department of Corrections it was \$50.99. Based on these figures, total incarceration costs were estimated to be \$750,000 for the four jails and \$300,000 for the Department of Corrections.

Appendix H considers why the number of unauthorized alien inmates at the Department of Corrections seems low compared to local jails in Kentucky and correction departments in other states.

The Louisville Metro Corrections Department has rarely applied for SCAAP reimbursements in recent years.

Louisville. Using data provided by the Louisville Metro Corrections Department and data for selected SCAAP recipients, staff estimated Louisville's potential annual cost of incarcerating unauthorized aliens. Staff also estimated the department's potential SCAAP revenue.³

Staff's cost estimate had two parts. First, staff estimated total costs for the 29 Louisville Metro Corrections Department inmates with an ICE detainer between September 2007 and September 2008. Those inmates, according to data provided by the department, were incarcerated for a collective 1,510 days.

Since ICE does not place a detainer on every unauthorized alien inmate and correctional facility staff may not always identify unauthorized aliens, staff estimated the number of other inmates that might have been unauthorized aliens. Staff used data provided by the Louisville Metro Corrections Department to identify inmates without a documented Social Security number and who were incarcerated for more than 3 days. Those inmates were considered possible unauthorized aliens. Staff also considered the number of unauthorized alien inmates at other correctional facilities to establish a range of costs.

An estimated 100 to 310 unauthorized alien inmates were housed at the Louisville Metro Corrections Department over a 1-year period. Estimated total incarceration costs ranged from \$270,000 to \$840,000.

Based on these methods, staff estimated that 100 to 310 unauthorized alien inmates were incarcerated for 4,700 to 14,400 days at the Louisville Metro Corrections Department between September 2007 and September 2008. Estimated total incarceration costs ranged from \$270,000 to \$840,000.

³ Based on estimates by the Pew Hispanic Trust, staff identified states with similar estimated unauthorized alien populations: Alabama, Arkansas, Kansas, Missouri, Mississippi, Nebraska, and South Carolina. Staff calculated the median percentage of total inmate days that were suspected unauthorized alien inmate days (1.9 percent) using SCAAP data.

The Louisville Metro Corrections Department did not apply for SCAAP funds in recent years, but LRC staff estimated SCAAP revenues as if it had. The department provided some data required by the SCAAP application and LRC staff estimated the other components.⁴ Based on these conditions, the department might have received \$48,000 to \$144,000 in SCAAP funds for FY 2008 had it applied.

Other Facilities Not Applying for SCAAP Funds. Anecdotal evidence suggests that the number of unauthorized alien inmates at other facilities that did not apply for SCAAP funds varies. For example, Franklin County Regional Jail staff indicated that 7 of its 280 inmates as of September 29, 2008, had ICE detainers. Boone County Jail reported that 2 or 3 of its 450 inmates had ICE detainers as of October 3, 2008. Staff at these facilities did not know how many other inmates might be unauthorized aliens.

From 250 to 600 unauthorized alien inmates might have been housed at local jails, other than Louisville Metro, that did not apply for SCAAP funds in FY 2008. The costs of incarcerating these inmates were estimated to be \$390,000 to \$950,000. If these correctional facilities had applied for SCAAP funding, they might have received \$100,000 to \$241,000 for FY 2008.

Staff used average values from other SCAAP correctional facilities in Kentucky to estimate the number of unauthorized aliens incarcerated at jails that did not apply for SCAAP funds, other than Louisville Metro.⁵ Staff also determined weighted values from Kentucky SCAAP recipients to calculate an alternative estimate.

Based on these conditions, 250 to 600 unauthorized alien inmates might have been incarcerated for 11,500 to 27,800 days in jails, other than Louisville Metro, that did not apply for SCAAP funding during FY 2008. Using an average incarceration cost, staff estimated total incarceration costs attributable to unauthorized aliens ranged from \$390,000 to \$950,000 in FY 2008 for these facilities. Had these local correctional facilities applied for SCAAP funds, they might have received \$100,000 to \$241,000 in federal funds.

⁴ To arrive at a SCAAP estimate, staff entered all data into SCAAP's 2007 funding formula. Reimbursements are affected by federal appropriations to SCAAP and, in general, the number of state and local SCAAP applicants. As the number of eligible inmate days increases, all else equal, the reimbursement rate and the dollar amount for each recipient agency falls. To accommodate changes to these inputs, staff would have had to assume changes to previously awarded reimbursements, so staff held them constant. Finally, all inmates listed by SCAAP applicants are reviewed by ICE to determine if they qualify for reimbursement.

⁵ A problem of using data from SCAAP participants to estimate figures for other facilities is that facilities with relatively high numbers of unauthorized alien inmates may be more likely to apply for SCAAP funding than other facilities, all else being the same. Applying these figures to other facilities could overestimate the numbers and costs of unauthorized alien inmates.

SCAAP Participation. Most correctional facilities in Kentucky do not apply for SCAAP funding. Local jail officials provided different explanations for their lack of participation. Some indicated that the costs of applying were expected to exceed the financial award. Others stated that their staff was overburdened with routine jail operational duties, leaving little or no time to complete SCAAP application forms. One person cited turnover in jail management.

Staff asked two of the four 2008 Kentucky SCAAP recipients to estimate how much time it took them to complete the SCAAP application. Their responses did not provide specific timeframes, but they suggested that time and effort could vary according to the ability of local jail staff to search their own inmate management database. Detailed information about each suspected unauthorized alien inmate is required in the SCAAP application.

The estimated statewide total cost for housing unauthorized alien inmates ranged from \$1.7 million to \$2.8 million. The estimated statewide SCAAP reimbursement total ranged from approximately \$310,000 to approximately \$547,000.

State Summary. Table 6.2 summarizes the findings for FY 2008 for facilities that received SCAAP funding, the Louisville Metro Corrections Department, and all other correctional facilities. The estimated statewide total cost for housing unauthorized alien inmates ranged from \$1.7 million to \$2.8 million. The estimated statewide SCAAP reimbursement total ranged from approximately \$310,000 to approximately \$547,000.

Table 6.2
Estimated Costs and SCAAP Revenues for Unauthorized Alien Inmates
in Kentucky Correctional Facilities, Fiscal Year 2008

Facility	Unauthorized Alien Inmates	Estimated Total Cost	Actual SCAAP Revenues	Estimated Potential SCAAP Revenues
Department of Corrections	46	\$300,000	\$12,122	-----
Carroll County, Lexington-Fayette, Nelson County, and Shelby County Jails	589	\$750,000	\$149,958	-----
Louisville Metro Corrections	100 to 310	\$270,000 to \$840,000	-----	\$48,000 to \$144,000
All Other Facilities	250 to 600	\$390,000 to \$950,000	-----	\$100,000 to \$241,000
Total	985 to 1,545	\$1,710,000 to \$2,840,000	\$162,080	\$148,000 to \$385,000

Source: Staff's estimates and analysis of data provided by the U.S. Bureau of Justice Statistics and the Louisville Metro Corrections Department.

It is recognized that applying for SCAAP funding is a decision to be made by officials of local jails and that they would have to use their own information to determine the number of inmates they suspect are unauthorized aliens. However, anything feasible that the Department of Corrections could do to help local facilities successfully apply for SCAAP funding would be helpful. One reason is the availability of potentially hundreds of thousands of dollars in federal revenue. In addition, local facilities applying for SCAAP reimbursement would likely produce more accurate information about the number of unauthorized alien inmates in local correctional facilities.

Recommendation 6.1

Recommendation 6.1 is that the Department of Corrections should support local correctional facilities that want to apply for funding from SCAAP.

The Kentucky Department of Corrections should support local correctional facilities that want to apply for funding from the federal State Criminal Alien Assistance Program.

Appendix B is the department's response to the recommendation.

Works Cited

Bolin, Tim. "The Economic and Fiscal Impacts of Immigration." Institute for Research on Labor and Employment. 2006. <<http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1136&context=iir>> (accessed July 3, 2008).

Camarota, Steven A. "The High Cost of Cheap Labor: Illegal Immigration and the Federal Budget." Center for Immigration Studies. Aug. 2004. <<http://www.cis.org/articles/2004/fiscal.pdf>> (accessed July 10, 2008).

Commonwealth of Kentucky. Auditor of Public Accounts. "Report from the State Auditor: Kentucky Jails, A Financial Overview." Vol. 1. Feb. 2006.
<http://www.auditor.ky.gov/Public/Audit_Reports/Archive/2006JailSurveyVolumeIFinal.pdf>
(accessed Dec. 9, 2008).

Hoefler, Michael, Nancy Rytina, and Bryan C. Baker. "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2007." U.S. Department of Homeland Security, Office of Immigration Statistics. Sept., 2008. <www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2007.pdf>
(accessed July 10, 2008).

Martin, Jack, and Ira Mehlman. "The Costs of Illegal Immigration to Californians." Federation for American Immigration Reform. <http://www.fairus.org/site/DocServer/ca_costs.pdf?docID=141> (accessed July 8, 2008).

National Conference of State Legislatures. Immigration Policy Project. "2007 Enacted State Legislation Related to Immigrants and Immigration." Revised Jan. 31, 2008. <<http://www.ncsl.org/print/immig/2007Immigrationfinal.pdf>>
(accessed April 28, 2009).

---. ---. "2006 State Legislation Related to Immigration: Enacted and Vetoes." Nov. 17, 2006.
<<http://www.ncsl.org/programs/immig/6ImmigEnactedLegis3.htm>> (accessed April 28, 2009).

---. ---. "A Review of State Immigration Legislation in 2005." Jan. 2007.
<<http://www.ncsl.org/programs/immig/IMMIGStateLegisJuly06.htm>> (accessed April 28, 2009).

---. ---. "State Laws Related to Immigrants and Immigration in 2008." Dec. 18, 2008.
<<http://www.ncsl.org/print/immig/StateImmigReportFinal2008.pdf>> (accessed April 28, 2009).

Passel, Jeffrey. "Unauthorized Migrants in the United States: Estimates, Methods, and Characteristics." *OECD Social, Employment, and Migration Working Papers*, No. 57, OECD Publishing. 2007.
<<http://titania.sourceoecd.org/vl=720315/cl=38/nw=1/rpsv/cgi-bin/wppdf?file=514gxvc8127g.pdf>>
(accessed Nov. 17, 2008).

Passel, Jeffrey S., and D'Vera Cohn. "Trends in Unauthorized Immigration: Undocumented Inflow Now Trails Legal Inflow." Pew Hispanic Center. Oct. 2, 2008. <<http://pewhispanic.org/reports/report.php?ReportID=94>>
(accessed Nov. 17, 2008).

Pew Hispanic Center. "Estimates of the Unauthorized Migrant Population for States based on the March 2005 CPS." April 26, 2006. <<http://pewhispanic.org/files/factsheets/17.pdf>> (accessed July 3, 2008).

State of Iowa. Legislative Services Agency. Fiscal Services. "Undocumented Immigrants' Cost to the State." Feb. 22, 2007. <<http://www.legis.state.ia.us/lsadocs/IssReview/2007/IRKRJ002.PDF>> (accessed July 8, 2008).

State of Minnesota. Department of Administration. Office of Strategic Planning & Results Management. "The Impact of Illegal Immigration on Minnesota: Costs and Population Trends." Dec. 2005.
<http://www.state.mn.us/mn/externalDocs/Administration/Report_The_Impact_of_Illegal_Immigration_on_Minnesota_120805035315_Illegal%20Immigration%20Brief%2026.pdf> (accessed July 9, 2008).

United States. Census Bureau. "American Community Survey." 2007.

---. Congressional Budget Office. "The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments." Dec. 2007. <<http://www.cbo.gov/ftpdocs/87xx/doc8711/12-6-Immigration.pdf>> (accessed July 9, 2008).

---. Department of Labor. Bureau of Labor Statistics. "Quarterly Census of Employment and Wages." <[http://data.bls.gov/PDQ/servlet/SurveyOutputServlet;jsessionid=f0305a4971d0\\$3F\\$1C\\$3](http://data.bls.gov/PDQ/servlet/SurveyOutputServlet;jsessionid=f0305a4971d0$3F$1C$3)> (accessed Sept. 15, 2008).

Vernez, Georges, and Kevin F. McCarthy. "The Costs of Immigration to Taxpayers." Rand. 1996. <http://www.rand.org/pubs/monograph_reports/2007/MR705.pdf> (accessed July 9, 2008).

Wasem, Ruth Ellen. "Unauthorized Aliens' Access to Federal Benefits: Policy and Issues." Congressional Research Service. May 21, 2008. <<http://openers.com/document/RL34500>> (accessed Oct. 21, 2008).

Watts, Amy L. "Education and the Common Good." Kentucky Long-Term Policy Research Center. June 2001. <http://www.kltprc.net/books/educationcommongood/education_and_the_common_good.pdf> (accessed Nov. 14, 2008).

Appendix A

Response From the Kentucky Department of Education

KDE is having discussions about creating a document that combines the federal case laws and Kentucky law regarding information schools may/may not require for enrollment. Some examples of “other reliable proof” would be included in order to assist schools with compliance. This document will be considered a “clarification” provided to superintendents in the usual ways, so it can be distributed to schools for all staff that complete the forms. It will also be shared with KDE personnel in appropriate offices to distribute in the field since several federal programs work with populations related to the issues identified by the LRC study, which include Migrant Education, Title III, McKinney-Vento Education for Homeless and others.

Appendix B

Response From the Kentucky Department of Corrections



JUSTICE AND PUBLIC SAFETY CABINET

Steven L. Beshear
Governor

J. Michael Brown
Secretary

Department of Corrections

P.O. Box 2400
Frankfort, Kentucky 40602
Phone (502) 564-4726
Fax (502) 564-5037
www.kentucky.gov

LaDonna H. Thompson
Commissioner

May 12, 2009

Gregory L. Hager, Committee Staff Administrator
Program Review and Investigations Committee
700 Capital Avenue
Frankfort, KY 40601

Dear Mr. Hager:

Based on findings in the April 30, 2009 draft report, "Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs but Overall Costs and Benefits are Unknown," the Department of Corrections has implemented steps to provide a variety of assistance to local jail facilities in applying for funding through the State Criminal Alien Assistance Program as recommended in Chapter 6 of the report.

First, the Department is scheduled to provide information about the SCAAP FFY10 application process at the Local Jailer's Conference planned for June, 2009. This short informational session will explain the costs and benefits of application, as well as walk-through the necessary components of a successful application.

Secondly, the Department plans to provide small group training sessions in February, 2010 in anticipation of an April solicitation release. The small group training session will assist specific jail staff in preparing the application, with an emphasis on data gathering and application submission.

Lastly, the Department is planning the computer-based training module specifically to address the State Criminal Alien Assistance funding opportunity and application processes. This training module will be available to assist local jail staff in preparing a successful application.

The Department routinely offers support to local jail facilities that request assistance in securing grant funding. It is understandable that while many local jail facilities do not have the staff to support a full time grants administrator, their local governments often employ individuals in this function.

I hope this information will be of assistance to the jailers in Kentucky as they attempt to secure additional funds to support the operation of their facilities.

Sincerely,



LaDonna H. Thompson
Commissioner

Cc: J. Michael Brown, Secretary
Charles Geveden, Deputy Secretary
Carol Beth Martin, Chief of Staff
Mark Mangeot, Legislative Liaison
Rick Graycerek, Committee Project Staff
Colleen Kennedy, Committee Project Staff
Jon Roenker, Committee Project Staff

Appendix C

Selected State Laws Related to Immigration Enacted in 2007 and 2008

In 2007 and 2008, states enacted numerous laws related to the provision of services to immigrants, including unauthorized aliens. LRC staff used information compiled by the National Conference of State Legislatures to identify examples of laws related to the program areas examined in this study (National. “2007”; National. “State Laws”). Sixteen laws are summarized below: four related to primary and secondary education, four related to health care, and eight related to corrections.

Primary and Secondary Public Education

North Dakota S.B. 2200 (2007) requires schools to report the number of “new immigrant English language learners” in the school and provides for extra compensation for serving them. A “new immigrant English language learner” is defined as an English language learner who was not born in the U.S. and has not attended school in the U.S. for more than 3 school years.

Pennsylvania H.B. 1286 (2007) appropriates \$40 million in federal funds for immigrant language instruction.

Pennsylvania H.B. 1295 (2007) authorizes the State Department of Education to establish a receipt account for emergency immigration education assistance.

Virginia H.B. 2631 (2007) establishes that the name and address of a pupil, the record of a pupil’s daily attendance, a pupil’s scholastic record, the names of a pupil’s parents, a pupil’s date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States government seeking this information in the course of official duty when the pupil is an alien.

Health Care

Colorado H.B. 1199 (2008) removes a 1-year residency requirement before a person is able to receive hospitalization assistance for the treatment of tuberculosis. This means treatment is available immediately, regardless of immigration status. This treatment is in addition to the tuberculosis-related services that were already available regardless of immigration status.

South Carolina H.B. 4400 (2008) establishes that every state agency or political subdivision must verify the lawful presence of any alien 18 years of age or older who has applied for federal, state, or local public benefits except

- public health assistance for immunizations and testing of and treatment for symptoms of communicable diseases;
- delivery of in-kind services at the community level;

- services unrelated to an individual recipient's income or resources;
- services necessary for the protection of life or safety; or
- prenatal care.

Missouri H.B. 1549 (2008) establishes that no alien unlawfully present in the U.S. shall receive any state or local public benefit, except

- public health assistance for immunizations and for testing of and treatment for symptoms of communicable diseases;
- delivery of in-kind services at the community level;
- services unrelated to an individual recipient's income or resources;
- services necessary for the protection of life or safety; or
- prenatal care.

Oklahoma H.B. 1804 (2007) establishes that verification of lawful presence in the U.S. shall not be required

- for any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;
- for assistance for health care items and services that are necessary for the treatment of an emergency medical condition of the alien involved, as defined in 42 USC 1396b(v)(3), and are not related to an organ transplant procedure;
- for short-term, noncash, in-kind emergency disaster relief;
- for public health assistance for immunizations with respect to diseases and for testing of and treatment for symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease; or
- for programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter specified and authorized by the U.S. attorney general, after consultation with appropriate federal agencies and departments, that
 - deliver in-kind services at the community level, including those through public or private nonprofit agencies,
 - do not place conditions on the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient, and
 - are necessary for the protection of life or safety.

Corrections

Colorado S.B. 134 (2008) establishes that bonds and fees recovered from persons illegally in the country who were charged with crimes related to dangerous drugs are divided equally between the Capital Construction Fund that is used for prison construction and operations and the County Jail Assistance Fund that is used to maintain and operate county jails.

New York A. B. 3286 (2007) establishes that if an inmate is eligible for deportation, the Board of Parole is allowed to

- grant parole, so that the inmate will be immediately deported if the inmate's sentence is indeterminate (an indeterminate sentence is not fixed but falls within a range based on the prisoner's conduct and rehabilitation) or
- release an inmate early from a determinate sentence, so that he or she can be deported (a determinate sentence is for a fixed length of time).

North Carolina S.B. 229 (2007) requires the administrator of a jail or other confinement facility to determine if confined persons under felony or impaired driving charges are lawfully present in the U.S.

Oklahoma H.B. 1804 (2007) establishes that no local government shall enact any ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from communicating or cooperating with federal officials with regard to the immigration status of any person within the state.

The law also specifies that when a person charged with a felony or driving under the influence is confined in a county, municipal, or regional jail authority, a reasonable effort must be made to determine the person's citizenship status. If the person is a foreign national, the jail must make a reasonable effort to verify that the person has been lawfully admitted to the United States. If verification cannot be determined from documents in the person's possession, verification must be made within 48 hours through a query to the Law Enforcement Support Center. If the lawful immigration status of the prisoner cannot be verified, the jail must notify the United States Department of Homeland Security.

Texas S.B. 1470 (2007) establishes that if a person is convicted of a misdemeanor involving family violence and the defendant is not a U.S. citizen, a guilty plea may result in deportation, exclusion from admission to the U.S., or the denial of naturalization under federal law.

Virginia H.B. 820/S.B. 609 (2008) requires jails and correctional facilities to check an inmate's immigration status by querying the federal Law Enforcement Support Center if

- the person was born in a country other than the U.S.,
- the person is a citizen of a country other than the U.S., or
- the answer to those questions is unknown for the person.

Jails must communicate the results of their queries to the state's Local Inmate Data System. Each month, information identifying persons illegally present in the U.S. is sent to the Central Criminal Records Exchange of the Department of State Police. Correctional facilities must communicate directly to the Central Criminal Records Exchange about inmates who are confirmed to be illegally present in the U.S. A person's immigration status must be recorded in the person's criminal history record.

Virginia H.B. 30 (2008) establishes that all State Criminal Alien Assistance Program payments received by the Department of Corrections must be deposited directly into the general fund.

South Carolina H.B. 4400 (2008) authorizes and directs the South Carolina Law Enforcement Division to create a memorandum of understanding between South Carolina and the U.S. Department of Justice or Department of Homeland Security to enforce federal immigration laws using state and local law enforcement personnel. The law specifically mentions the federal 287(g) program or other applicable federal program designed for the purpose of state enforcement of federal immigration laws.

The director of the South Carolina Department of Corrections, the sheriff of a county, and the governing body of a municipality that maintains a paid police department may join this memorandum of understanding. They may also, subject to the availability of funds, send corrections officers and local law enforcement officers to training.

The law also requires that a reasonable effort must be made to determine if a person charged with a criminal offense and confined in a state, county, or municipality jail is unlawfully present in the U.S. No state officer shall attempt to make an independent judgment of an alien's immigration status. State officials must verify an alien's status with the federal government in accordance with 8 USC 1373(c).

If a prisoner is an alien, the jail must make a reasonable effort to verify whether the prisoner is unlawfully present in the U.S. Verification must be made within 72 hours by querying the Law Enforcement Support Center. If the prisoner is determined to be unlawfully present, the jail must notify the U.S. Department of Homeland Security.

The jail must account for daily expenses incurred for the housing, maintenance, and care of prisoners who are aliens unlawfully present in the U.S. The law states that these jails must invoice the Department of Homeland Security for those expenses.

Appendix D

Research Methods for Estimating the Unauthorized Alien Population

Unlike the authorized population in the United States, taking a census of the unauthorized alien population is not practical. Unauthorized aliens generally do not want to be identified, so it is difficult to accurately and reliably count this population.

To estimate the unauthorized alien population, the Pew Hispanic Center and others use a “residual method.” The basic principle is that the number of unauthorized aliens residing in the United States is equal to the total number of all immigrants in the country minus the total number of legal immigrants living in the country. Among other sources, researchers have used data from the U.S. Census Current Population Survey, the Department for Homeland Security, and the Immigration and Naturalization Service.

The unauthorized alien population is, therefore,

$$UA_{\text{total}} = A_{\text{total}} - L_{\text{total}} \quad (\text{equation 1})$$

where UA_{total} = Total unauthorized aliens
 A_{total} = All immigrants (legal and unauthorized)
 L_{total} = Total legal immigrants.

Some unauthorized aliens will be counted but others will not. To account for this, equations 2 through 5 describe how the number of uncounted unauthorized aliens is estimated.

$$UA_{\text{counted}} = A_{\text{counted}} - L_{\text{counted}} \quad (\text{equation 2})$$

where UA_{counted} = Counted unauthorized aliens
 A_{counted} = All counted immigrants (legal and unauthorized)
 L_{counted} = Total counted legal immigrants.

The two different groups in equation 2 come from different sources of data. The counted legal immigrant population, L_{counted} , generally comes from census data. This count must be adjusted for the undercount problem discussed in the criticisms section. So, the legal immigrant count is

$$L_{\text{counted}} = L_{\text{total}} - L_{\text{uncounted}} = L_{\text{total}} * (1 - u_{\text{legal}}) \quad (\text{equation 3})$$

where $L_{\text{uncounted}}$ = Legal immigrants not counted in the survey
 u_{legal} = Census undercount rate of legal immigrants.

The second piece of data in equation 2, the total of all counted immigrants both legal and illegal, is also typically estimated from the census. This estimate includes all immigrants excluding those foreign born who are not really considered immigrants. In other words,

$$A_{\text{counted}} = FB_{\text{counted}} - NI_{\text{counted}} \quad (\text{equation 4})$$

where FB_{counted} = Foreign-born population counted in the census
 NI_{counted} = Nonmigrants counted in the census.

Now, if equations 3 and 4 are substituted into equation 2, the result is

$$UA_{\text{total}} = \frac{UA_{\text{counted}}}{(1-u_{\text{unauthorized}})} = \frac{(A_{\text{counted}} - L_{\text{counted}})}{(1-u_{\text{unauthorized}})} \quad (\text{equation 5})$$

where UA_{total} = All counted and uncounted unauthorized aliens
 $u_{\text{unauthorized}}$ = The undercount rate for unauthorized aliens.

The undercount rate for unauthorized aliens is developed by looking at specialized survey data, data from Mexico, and other data sources.

Methodology and equations are the work of Jeffrey Passel of the Pew Hispanic Center and can be found in similar form in Passel. Equations were modified slightly in notation to reflect differences in terminology. For a detailed explanation of the residual method, see Passel.

Appendix E

Estimated Numbers of Public School Students Who May Be Unauthorized Aliens Per Kentucky Public School District, 2008

For this report, the proxy for an unauthorized alien student is a student who is not a citizen, who was born in a foreign country, and who lacks a complete Social Security number. The table below excludes districts that did not have students who met these criteria.

District	Estimated Number
Fayette County	830
Jefferson County	579
Boone County	234
Shelby County	164
Warren County	67
Oldham County	51
Jessamine County	46
Bowling Green Independent	46
Scott County	37
Woodford County	35
Mayfield Independent	29
Kenton County	20
Montgomery County	19
Franklin County	17
Districts With 11 to 15 Students Who May Be Unauthorized Aliens	
Carroll County, Christian County, Elizabethtown Independent, Glasgow Independent, Hardin County, Madison County, Marion County, Monticello Independent, Webster County	
Districts With 6 to 10 Students Who May Be Unauthorized Aliens	
Ashland Independent, Casey County, Covington Independent, Danville Independent, Daviess County, Henderson County, Laurel County, Logan County, McLean County, Monroe County, Muhlenberg County, Murray Independent, Powell County, Pulaski County, Russell County, Simpson County, Todd County	

Table continued on next page

Districts With 1 to 5 Students Who May Be Unauthorized Aliens	
Adair County, Barren County, Beechwood Independent, Berea Independent, Bourbon County, Boyd County, Boyle County, Bullitt County, Butler County, Calloway County, Campbell County, Carter County, Corbin Independent, Edmonson County, Eminence Independent, Erlanger-Elsmere Independent, Fleming County, Fort Thomas Independent, Gallatin County, Grant County, Greenup County, Hancock County, Harrison County, Hart County, Hopkins County, LaRue County, Letcher County, Lincoln County, Livingston County, McCracken County, Mercer County, Newport Independent, Ohio County, Owen County, Owensboro Independent, Paducah Independent, Raceland-Worthington Independent, Rowan County, Russell Independent, Russellville Independent, Silver Grove Independent, Somerset Independent, Taylor County, Williamstown Independent	
Total	2,534
Median	5

Appendix F

Expenditures for Emergency Medical Assistance Under Medicaid for Nonqualified Aliens by Category of Service, Fiscal Year 2007

Category of Service	Total Federal and State Expenditures
Inpatient Hospital Acute Care	\$5,759,965
Physician	\$1,218,629
Outpatient Hospital	\$440,114
Pharmacy	\$79,473
Health Access Nurturing Development Services	\$75,300
Primary Care	\$54,729
Nurse Anesthetist	\$34,646
Hospice	\$25,350
Preventive Care	\$24,385
Certified Nurse Practitioner	\$19,065
Early Periodic Screening, Diagnosis, and Treatment (EPSDT)	\$17,077
Dental	\$15,432
Transportation	\$13,750
Durable Medical Equipment Supplier	\$11,702
EPSDT-Related Services	\$10,841
Independent Lab	\$8,162
Rural Health Clinic	\$4,633
Case Mix-Nursing Facility	\$4,015
Home Health	\$3,771
First Steps/Early Intervention	\$3,049
Vision	\$988
Nonemergency Transportation	\$961
Commission for Children with Special Health Care Needs	\$610
Ambulatory Surgery	\$410
Chiropractor	\$181
Renal Dialysis Clinic	\$158
Total	\$7,827,396

Source: Kentucky Department for Medicaid Services.

Appendix G

Kentucky Recipients of the State Criminal Alien Assistance Program

Six correctional facilities, plus the Commonwealth of Kentucky, received State Criminal Alien Assistance Program (SCAAP) funds in the past 9 fiscal years.

The first table lists the number of inmates in facilities eligible for reimbursement under SCAAP per correctional facility for fiscal years 2000 to 2008. The second table summarizes SCAAP awards to Kentucky correctional facilities by fiscal year.

Of Kentucky SCAAP recipients, the Lexington-Fayette County Jail and the Shelby County Jail had the highest numbers of eligible unauthorized alien inmates. The Kentucky Department of Corrections had fewer eligible inmates but frequently received more SCAAP funding because each eligible inmate was incarcerated, on average, for a longer period and because per-day costs were generally higher. SCAAP funding is based, in part, on length of incarceration. State correctional facilities house inmates convicted of felonies; local jails primarily house individuals accused or convicted of misdemeanors. Felony sentences are generally longer than misdemeanor sentences.

**Inmates in Facilities Eligible for Reimbursement Per Jurisdiction Under SCAAP
Fiscal Year 2000 to Fiscal Year 2008**

	Fiscal Year									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Carroll County	16	23	31	28	43	9	10	15	5	180
Kenton County	-	-	12	48	83	28	58	60	-	289
Lexington-Fayette	66	176	228	208	404	399	338	392	384	2,595
Louisville Metro	-	-	-	-	1	-	-	-	-	1
Nelson County	-	-	-	-	-	-	-	-	21	21
Shelby County	-	-	-	110	96	131	193	131	167	828
Dept. of Corrections	37	40	45	24	54	85	93	28	46	452
Total	119	239	316	418	681	652	692	626	623	4,366

Note: - indicates that the correctional facility did not apply for SCAAP funding.

Source: Staff's analysis of data provided by the U.S. Bureau of Justice Statistics and the Kentucky Department of Corrections.

Summary of SCAAP Funds Per Jurisdiction, Fiscal Year 2000 to Fiscal Year 2008

	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Carroll County	\$3,412	\$4,738	\$13,386	\$2,851	\$4,531	\$1,041	\$3,396	\$3,321	\$614	\$37,290
Kenton County	\$0	\$0	\$3,874	\$10,015	\$12,875	\$1,605	\$11,729	\$7,382	\$0	\$47,480
Lexington-Fayette	\$21,471	\$115,792	\$73,421	\$34,123	\$54,531	\$69,269	\$88,257	\$125,561	\$119,587	\$702,012
Louisville Metro	\$0	\$0	\$0	\$0	\$35	\$0	\$0	\$0	\$0	\$35
Nelson County	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,463	\$3,463
Shelby County	\$0	\$0	\$0	\$6,140	\$100,320	\$113,902	\$45,911	\$20,217	\$26,294	\$312,784
Dept. of Corrections	\$142,464	\$123,249	\$104,838	\$13,249	\$60,005	\$51,142	\$66,463	\$28,516	\$12,122	\$602,048
Total	\$167,347	\$243,779	\$195,519	\$66,378	\$232,297	\$236,959	\$215,756	\$184,997	\$162,080	\$1,705,112

Source: Staff's analysis of data provided by the U.S. Bureau of Justice Statistics and the Kentucky Department of Corrections.

Appendix H

Analysis and Comparison of Kentucky Department of Corrections Unauthorized Alien Inmate Population

According to State Criminal Alien Assistance Program (SCAAP) data, the Kentucky Department of Corrections consistently housed fewer unauthorized alien inmates than did Lexington-Fayette and Shelby County jails. For certain fiscal years, other Kentucky county jails also had more unauthorized alien inmates. This might indicate that the Department of Corrections has omitted potential unauthorized alien inmates from their SCAAP application.¹

Staff examined the numbers and percentages of unauthorized alien inmates at 48 other state correctional departments that received SCAAP funds. Relative to these states, Kentucky had one of the lowest numbers and percentages of unauthorized alien inmates. So staff requested inmate data from the Kentucky Department of Corrections to determine whether additional inmates could have been included in the SCAAP application.² At the end of fiscal year 2007, 141 inmates were identified by the Department of Corrections as having an “unknown” birth country. An additional 133 had a foreign birth country.

The table below presents selected details about state correctional departments that received SCAAP funds in fiscal year 2006, the most recent year for which complete information was available. Only Alaska’s state correctional facility did not receive SCAAP funds.

For fiscal year 2006, the Kentucky Department of Corrections received SCAAP funding for 93 known and suspected unauthorized aliens. Thirty-eight state correctional departments had a higher number. Kentucky’s unauthorized alien inmates were incarcerated for 26,343 days, giving it a similar ranking.

As a percentage of inmate days reimbursed, unauthorized alien inmate days represented 0.38 percent of total inmate days at the Kentucky Department of Corrections. Forty-three state correction departments had a higher rate.

For state correctional departments with a lower percentage of unauthorized alien inmate days, each one had more unauthorized alien inmates than any local correctional facility receiving SCAAP funds within their state. In Kentucky, several local jails had more unauthorized alien inmates than the Kentucky Department of Corrections.³

¹ According to a staff person from the Kentucky Department of Corrections, the state checks the background of every inmate not born in the U.S. and who was incarcerated for 4 or more consecutive days. Those that cannot be identified as U.S. citizens are included in the SCAAP application.

² Based on data provided by the U.S. Bureau of Justice Statistics, nearly all inmate names submitted by the Kentucky Department of Corrections were deemed eligible for reimbursement.

³ It is unclear whether the difference in number of unauthorized alien inmates between some local jails and the state prison is due to the types of crimes committed (felonies versus misdemeanors) or deficiencies in the process by which the state identified inmates to include in its SCAAP application.

**State Criminal Alien Assistance Program Data for State Departments of Corrections
Fiscal Year 2006**

State	% Inmate Days Reimbursed	Rank (1= highest)	Eligible Inmates	Rank (1= highest)	Eligible Inmate Days	Rank (1= highest)	Award Amount	Rank (1= highest)
AL	0.21%	48	63	43	18,389	42	\$67,117	42
AR	0.76%	41	138	37	34,914	36	\$206,045	37
AZ	10.64%	2	5,023	5	1,237,978	5	\$13,501,247	5
CA	12.35%	1	31,012	1	7,532,337	1	\$102,371,137	1
CO	5.41%	8	1,525	9	394,440	10	\$3,331,966	12
CT	1.61%	28	432	25	107,499	25	\$1,164,248	21
DE	0.91%	38	99	38	22,326	39	\$241,756	36
FL	5.22%	10	5,485	4	1,581,114	3	\$18,608,485	4
GA	2.36%	21	1,675	8	464,836	7	\$2,357,609	13
HI	1.58%	29	179	34	32,909	37	\$314,332	35
IA	1.20%	33	151	35	37,513	35	\$434,161	30
ID	3.69%	13	284	32	85,395	29	\$394,593	32
IL	3.67%	14	2,557	6	595,764	6	\$6,852,619	6
IN	1.20%	34	453	24	104,636	26	\$602,621	27
KS	1.84%	26	290	31	60,263	31	\$403,838	31
KY	0.38%	44	93	39	26,343	38	\$66,463	43
LA	0.36%	45	147	36	46,894	33	\$151,691	39
MA	5.94%	6	754	16	215,102	16	\$5,520,039	8
MD	1.84%	27	553	19	154,613	20	\$1,445,257	18
ME	1.20%	32	28	45	9,149	45	\$94,015	40
MI	0.93%	37	536	20	165,288	19	\$1,681,261	16
MN	3.91%	12	425	26	113,348	24	\$1,307,365	20
MO	0.86%	40	408	27	93,186	27	\$445,074	29
MS	0.25%	47	81	41	18,696	41	\$57,093	45
MT	0.45%	43	9	48	2,678	46	\$14,284	48
NC	3.30%	18	1,845	7	434,412	8	\$4,735,261	10
ND	0.54%	42	11	47	2,454	47	\$18,858	47
NE	3.53%	16	223	33	52,621	32	\$392,707	33
NH	2.35%	22	89	40	21,129	40	\$190,603	38
NJ	3.03%	19	1,147	12	303,370	12	\$5,561,627	7
NM	5.53%	7	526	21	130,274	22	\$1,019,504	23
NV	8.15%	4	1,287	11	349,930	11	\$3,468,287	11
NY	6.68%	5	5,503	3	1,553,028	4	\$33,864,661	2
OH	1.04%	35	641	18	167,440	18	\$1,125,832	22
OK	2.33%	23	777	15	199,585	17	\$719,148	25

State	% Inmate Days Reimbursed	Rank (1= highest)	Eligible Inmates	Rank (1= highest)	Eligible Inmate Days	Rank (1= highest)	Award Amount	Rank (1= highest)
OR	8.67%	3	1,439	10	403,747	9	\$4,955,805	9
PA	0.97%	36	485	23	142,551	21	\$1,324,807	19
RI	3.45%	17	352	28	42,335	34	\$1,009,514	24
SC	1.40%	31	495	22	117,173	23	\$455,372	28
SD	1.42%	30	67	42	16,264	43	\$61,869	44
TN	0.89%	39	351	29	84,666	30	\$351,737	34
TX	5.31%	9	11,539	2	2,924,822	2	\$19,653,851	3
UT	4.04%	11	317	30	88,541	28	\$631,667	26
VA	1.86%	25	737	17	217,656	15	\$1,633,223	17
VT	0.32%	46	25	46	2,349	48	\$24,435	46
WA	3.63%	15	974	13	230,169	14	\$2,026,006	15
WI	2.92%	20	795	14	231,799	13	\$2,095,720	14
WV	--	--	8	49	1,537	49	\$686	49
WY	2.21%	24	51	44	14,696	44	\$80,064	41
Median	2.03%		432		107,499		\$719,148	

Source: Staff analysis of data provided by the U.S. Bureau of Justice Statistics.

