Negotiating a Coalition of the Willing: Curt Bramble and the Utah Immigration Fight

It was 3am on a cold winter day in 2011 and Curt Bramble sat bolt upright in bed, struck by an epiphany: he knew how he was going to solve a problem that had been vexing him, the Utah Republican party and the state legislature. Despite the early hour, he jotted down some notes and sighed with relief. He knew that neither side would like his proposal but they'd probably live with it. Yes, he thought, they likely would.

Earlier that day, Bramble, a Utah state senator, had told colleagues that he was withdrawing from the fight to pass immigration legislation in Utah. He didn't see a way to bring the myriad stakeholders together; they had reached an impasse. Every new idea for a solution would appease one group while alienating another. But as he looked down at his notes, now illuminated by the breaking dawn, he realized that he was ready to do battle again.

1999 to 2007

In 1999, the Utah state legislature passed a bill allowing undocumented immigrants to obtain a Utah driver's license. Soon after, anecdotal stories about undocumented immigrants using their licenses to register to vote put pressure on legislators to reconsider the law.

In the four general legislative sessions that followed, repeal bills were introduced. "I was asked to be the Senate sponsor of a couple of those bills," said Bramble, a Republican, who was elected to the Utah Senate in 2000.[1] "There were never enough votes to do it, but there was this groundswell of concern that undocumented individuals were taking advantage of those rights exclusively reserved for citizens," said Bramble.

This case was written by Laura Winig, Senior Case Writer, in collaboration with Brian Mandell, Senior Lecturer in Public Policy, at the John F. Kennedy School of Government, Harvard University (HKS). Funding for this case was provided by The William and Flora Hewlett Foundation. HKS cases are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

Copyright © 2018 President and Fellows of Harvard College. No part of this publication may be reproduced, revised, translated, stored in a retrieval system, used in a spreadsheet, or transmitted in any form or by any means without the express written consent of the Case Program. For orders and copyright permission information, please visit our website at case.harvard.edu or send a written request to Case Program, John F. Kennedy School of Government, Harvard University, 79 John F. Kennedy Street, Cambridge, MA 02138.

This work is licensed under the Creative Commons Attribution-NonCommercial License. To view a copy of this license, visit https://creativecommons.org/licenses/by-nc/4.0/; or, (b) send a letter to Creative Commons, 171 2nd Street, Suite 300, San Francisco, California, 94105, USA.

After the 2004 legislative session, Bramble and Republican Representative Rebecca Lockhart, seeking empirical data to support or refute these claims, commissioned a legislative audit of the voting records in Utah. The audit revealed that of the 40,000 records audited, 14 showed undocumented immigrants had registered to vote and as many as three had then voted. "The conclusion was that it was happening on a very limited basis," said Bramble. Still, that was sufficient for Bramble and Lockhart to introduce, in 2005, Senate Bill 227, which rescinded driver's licenses for undocumented immigrants and in their place offered driving privilege cards. The cards could be used to apply for automobile insurance and granted holders permission to drive legally—provided each applicant passed an English-language driving test and submitted to a background check.

Statutorily, the cards could not be used as official government identification. "They can't use it to go into a bar. They can't use it to buy controlled substances, register to vote, buy firearms, etc.," Bramble explained. He believed that this would quiet the (legitimate) concerns raised primarily by his fellow Republicans.

The bill passed, but rather than diminishing criticism, it raised new concerns. "Immediately after we passed it the same folks that wanted to repeal the driver's licenses started a movement to repeal the driving privilege card," said Bramble. In 2007, Bramble commissioned another legislative audit—this time, of the driving privilege card—to determine whether it was fulfilling the expectation that drivers would obtain insurance—the chief concern raised by the opposition. In January, 2008 the audit findings were released: "They found that statistically the insured rate with the driving privilege card was virtually the same as regular driver's licenses. In other words, the program was working," said Bramble.

2008 Legislative Session

In 2008, as the tenets of the Tea Party movement[a] began to emerge nationwide, some Republicans in the Utah legislature began to advocate for more stringent legislation toward undocumented immigrants. Though immigration was regulated by the federal government, which had jurisdiction over enforcement of immigration laws, Republican Chris Herrod ran for Utah state office on a pro-enforcement platform and took office as Representative in 2008. "There were a couple of bills to crack down a little bit on illegal immigration," said Herrod.[2] "And then the Democrats decided they needed to push back." Paul Mero, then president of the Sutherland Institute, a Utah-based conservative public policy think tank, said the push back was in reaction to the escalating pitch of the anti-immigrant conversation. "Typically the state legislature is very professional, but when it came to this issue there was a different vibe," said Mero.[3]

In the 2008 session, legislation to revoke the driving privilege card was again put forward. "And again, I heard that tone, a bit shrill, a bit over the top," said Mero. Alarmed by the nature of the discourse—and believing that this legislation was a prelude to more punitive legislation—Mero sought

[a] In 2009, the Tea Party was a U.S. conservative social and political movement that supported limited taxation, government regulation and tight controls on immigration.

counsel from a general authority within his church, the Church of Jesus Christ of Latter-Day Saints (LDS; also known as the Mormons)[b] who assured him that undocumented immigrants were violating no moral law. "Between the conversation I had with the LDS general authority and the [new legislation], I decided to persuade the Sutherland Institute staff and board of directors that we should get involved in this issue," said Mero, who described himself as a "natural law conservative."

With Sutherland's support, on May 5, 2008, Mero published the treatise, *Onus or Opportunity? Conservativism and Illegal Immigration in Utah.* In the essay, Mero noted that conservatives were divided on their approach to undocumented immigrants: "Many Utah lawmakers fall into the . . . 'enforcement first' group of conservatives. For them, the answer to this question—what do we do about immigrants already here illegally?—is simply an extension of their sentiments about federal border policy: remove every internal economic incentive for those people to come to Utah or to stay here—no jobs, no welfare benefits, no reason to be here, no illegal immigrants, problem solved."[4]

But "an authentic conservative approach to illegal immigration," Mero went on to argue: "not only respects the rule of law, it understands its essential nature. It understands that any effective rule of law must insinuate the human experience, it must be humane (absent of ideology) and, at least in America where people are allowed great latitude to 'work out their salvation,' it must err on the side of freedom, not punishment. . . . While a free society requires that *specific* laws be exact, this same free society requires that our general rule of law be characterized by a spirit of patience, fluidity, and transformative processes—it must be characterized by a sense of assimilation where all people are permitted to *become* free, not simply stamped "LEGAL."[5]

The Business Community

In the meantime, Utah's business community had taken notice of the legislative agenda. "Many business leaders feel that the right thing for the community happens to be the right thing for business, and that is to have a good immigration policy," said Wesley Smith, then Executive Vice-President and General Counsel at the Salt Lake Chamber of Commerce.[6] In 2008, the Chamber published a public policy guide comprised of its guiding principles on immigration. "The principles were designed so that if legislation comes up, a Chamber lobbyist can sit with a legislator and share the business community's position,'" said Smith. The principles were written in recognition of the business community's ongoing labor shortages and were, consequently, pro-immigration. "We had a lot of business leaders who had good relationships with immigrants and some of their key people were immigrants. That influenced our position," said Smith.

The Democrats

In November 2008, Luz Escamilla (nee Robles), a Democrat who emigrated from Mexico, became the first Latina senator elected to the Utah legislature. Escamilla, who, as a private citizen, had worked

[b] In the LDS church, a General Authority is a member of the highest levels of leadership with both administrative and ecclesiastical authority.

with Bramble on the driving privilege card legislation, noticed that the volume of anti-immigrant bills introduced in the Utah legislature had been consistently rising. "There were five anti-immigrant bills in 2004 and then we were escalated to 20 anti-immigrant bills per session as years were passing," said Escamilla.[7] "As we hit 2009, we're just seeing the tsunami coming. How do we stop this?" said Escamilla. It was clear to her that it was time for the Democrats, who consistently rejected legislation designed to penalize or burden immigrants—legal or otherwise—to be proactive and propose solutions.

The Patrick Henry Caucus

In the spring of 2009, five Republican Utah state representatives—Kenneth Sumsion, Carl Wimmer, Stephen Sandstrom, Chris Herrod and Keith Grover—formed the Patrick Henry Caucus within the legislature, specifically to "rein in federal control of the states."[8] "Our purpose is to restore and uphold the rights and sovereignty of the individual states as guaranteed by the 10th amendment of the constitution," said Herrod in a promotional video posted on YouTube.[9]

During the 2010 legislative session, the Patrick Henry Caucus sponsored 12 pieces of legislation in support of states' rights, including a bill that exempted guns manufactured in Utah from federal law and one that prevented the federal government from compelling Utahns to purchase health care plans.[10]

In the meantime, the Patrick Henry Caucus took notice of another states' rights issue—immigration—as pro-enforcement immigration sentiment was gaining ground in neighboring Arizona. There, tough legislation was being championed by Russell Pierce, Senate president of Arizona and a stake president[c] within the LDS church. On April 23, 2010, Arizona Senate Bill 1070, the Support Our Law Enforcement and Safe Neighborhoods Act, was signed into law. The Act required state police—if they suspected an individual of being an illegal immigrant[d]—to try to determine their immigration status during a "lawful stop or arrest."

As Utahns followed the news in Arizona, public opinion began to sway: polling conducted in Utah one week after the law passed in Arizona showed that 65% of Utahns (and 76% of Republicans) favored an enforcement-only approach like Arizona's.[11] Herrod, Sandstrom and Wimmer were concerned that if Utah did not pass similar enforcement legislation, undocumented immigrants from Arizona—fleeing their state's new law—would seek refuge in Utah. Wimmer saw an opportunity to take advantage of a widening political schism. "Both Republicans and Democrats were divided. [But] many felt the federal government had completely failed, *intentionally* failed, at enforcing immigration law, and the ones who were reaping the consequences of their failure were the states," said Wimmer.[12] "The fact that Arizona passed spoke to those of us who supported state sovereignty. We wanted to look forward with some kind of legislation that would mirror the Arizona law."

---

[c] Within the LDS church, a stake president is a lay leader of a stake—a geographical grouping of congregations.

[d] Note that U.S. federal law required that non-U.S. citizens older than 14 years of age who stayed in the United States for longer than 30 days register with the U.S. government and those older than 18 were required to be in possession of "proper identification" at all times; violation was a federal misdemeanor crime.

Summer 2010

In May 2010, the Sutherland Institute hosted its annual Legacy Awards banquet. Mero was seated next to Escamilla and they watched as the Pete Suazo Business Center was presented with the Personal Responsibility Award; Suazo, the state's first Latino state senator, had established the center to help immigrants and minorities start businesses.[13] The Patrick Henry Caucus members did not attend the event—though they had done so faithfully in prior years—another red flag to Mero. Escamilla thanked Mero for publishing his essay and suggested they join forces to stop the momentum of the Patrick Henry Caucus. She and Mero described this moment as "the start of the opposition."

In June 2010, Escamilla and Mero organized a series of meetings to discuss a potential legislative response to an enforcement-only, Arizona-style bill that Sandstrom had announced he was planning to introduce in the 2011 legislative session. The meetings were attended by representatives of the business community (policy lobbyists from Chamber of Commerce), the Catholic church, the LDS church, the American Civil Liberties Union (ACLU), Utah attorney general Mark Shurtleff, Democratic legislators, immigration attorneys, and Latino community leaders. Escamilla noted that this was the first issue where the pro-immigration community found common ground with the Sutherland Institute. "We probably disagree on 95% of issues. On this one, we agreed: we have to keep families together," said Escamilla.

The group recognized that there was no viable state-level solution to immigration since the U.S. Constitution gave the federal government oversight over immigration while states controlled state functions such as issuing drivers' licenses. Still, with Sandstrom quickly gathering enough support to pass his bill, they decided to try to go beyond stopping the bill: they would draft their own legislation. "We had to create an alternative. We weren't going to turn public opinion until they saw there was an alternative to what was presented by Sandstrom," said Mero.

The LDS Church

Two million Mormons lived in Utah—2/3 of the state's population. Officially, the church supported no political party however, Mormons largely voted Republican and typically held conservative views on political issues. The LDS church had an interest in resisting Sandstrom's legislation, as Utah State Senator Stuart Reid, a Republican and former lobbyist for the church explained: "The church's focus was on the family. They didn't want to see families being divided, where you have a father, whose children are born in the country, gets caught up in a dragnet that ships him back to Mexico. That really bothered them," said Reid.[14]

As Mero's group gained focus and momentum, some, including the Catholic church and the ACLU decided to leave. "The ACLU dropped out because they believe immigration is a federal issue and so legally, they didn't want to be part of anything that was going to deal with the Supremacy Clause," explained Mero. "But, a legal challenge really was part of our motivation. Let's push this. When the federal government drops the ball, the states are left with the mess. The state has a right to control its

own destiny here. We had over 100,000 undocumented immigrants. Our policy goal was to create legislation that would hold undocumented immigrants accountable as equals in our society. And strategically the idea was to create an alternative to the Arizona option," said Mero.

The Utah Compact

By August, Mero felt that the group had successfully drawn the outlines of pro-immigrant legislation to introduce a worker's permit program and they disbanded. Escamilla turned to the arduous task of working with the legislative counsel and Dimitri Moumoulidis, the former executive director of the Utah Democratic Lawyers Council to draft a bill. In the meantime, Mero began to focus on shaping public opinion. "If you're in Mexico and you're standing six inches away from freedom, are you telling me you wouldn't take that step? You would if you wanted to improve the lives of your family. That's the kind of tone we took—partly moralistic, partly shaming, to work on Mormon sentiments," said Mero, estimating that more than 80% of the state's legislators were members of the LDS church.

In the meantime, the business community wanted the Chamber of Commerce to get more involved. "We had visionary business leaders who were saying, we do not want immigrants in our community to feel like they're not welcome here," said Smith. "We want them as consumers, we want them as employees, we want them as entrepreneurs in our community. We knew we had a mandate at the Chamber to figure out a solution," said Smith.

Jason Mathis, Executive Director of Salt Lake City's Downtown Alliance, a non-profit business group closely affiliated with the Chamber, convened a meeting at the Chamber that included its president, its director of communications, Mero, Shurtleff and a host of other stakeholders. "The law enforcement community, the county sheriff, the police chief and faith-based groups were invited too," said Smith. Neither Escamilla nor other legislators were tapped to participate. "They made it clear that this was business driven," said Escamilla.

Mathis' group decided the key to building support for what would likely be seen, in one of the country's most conservative states, as a liberal position on immigration, was to find common ground on principles, not policy. "Because when you start talking about policy, you get into arguments," said Smith. "You start talking past a huge population of Utahns who don't get involved in policy," he said. The group developed five principles which they called the Utah Compact (see **Exhibit 1**).

Moving quickly to announce and publicize the Utah Compact became a top priority. "We didn't want to play defense in public policy," explained Smith. "And we knew Sandstrom's legislation was coming fast," he said. Indeed, on August 13, 2010, at a press conference in the State Capitol rotunda, Sandstrom announced he would introduce a bill during the 2011 session that would mirror Arizona's bill. Herrod believed public opinion would support Sandstrom's bill and pointed to the existence of the Utah Compact as proof. "Business leaders realized that public opinion was against them. They were losing the argument," said Herrod.

The Compact Signing

On November 11, 2010, community, law enforcement, business and religious leaders gathered at the Utah State Capitol to sign the Utah Compact. Though the Governor, Gary Herbert, did not attend the ceremony or sign the Utah Compact, he encouraged the legislature to follow the Compact's principles when crafting immigration legislation.

The LDS church also declined to sign the Compact but later that afternoon, issued a statement. "Though the decision was made to not be part of the signing and ceremony, the statement the church issued was meant to show complete support," said Bill Evans, then Government Relations Director for the Church of Jesus Christ of Latter Day Saints.[15] Evans, who had served as a lobbyist for the LDS Church for more than 30 years, explained why the church believed the Utah Compact was important: "Conservative anti-immigration sentiment was cresting. My own belief was that something that public and that broad-based was needed to counterbalance what became a pretty strong presence in the legislature," said Evans. Reid described how the Church likely decided on its approach:

> At some point, there were discussions in the councils in the Church, and they concluded that they wanted to support pro-immigration legislation. They would have communicated that first to the leadership, and then legislators would have circled back to them to say, are you really supporting this? And they would have confirmed it through their lobbyists. The Church would have communicated at the higher levels with the Governor on it, too, so that he wouldn't be surprised or step out and say, "I can't support this," and then find out later that he's viewed as opposing his own church.

Almost immediately, the Compact drew criticism from the Patrick Henry Caucus. Herrod felt it was designed to be manipulative. "In general, I agree with the principles but they're applied dishonestly. I believe we're all children of our heavenly father. I believe that we should treat all people with respect. But it is the application of the principles that hurts people," said Herrod. Smith saw the criticism as inevitable and even welcomed it. "Frankly, we saw that one coming from a long way out. And that's the beauty of the strategy. These are principles . . . that Utahns will support. When those on the other side of the issue talk negatively about these principles, how can they possibly win?" said Smith.

Those involved in writing the Utah Compact acknowledged that the purpose of articulating the principles was to advance a legislative agenda. "The Compact wasn't just a compact, it was a compact to pass legislation," said Evans. Bramble agreed: "The Compact's goal was to define and put forward a set of principles that any legislative solution, whether it be federal or state, would honor. Those principles included keeping the family unit intact. It included the economic impact to the workforce. It included obeying the law," he said.

The Democrats' Bill

With the Compact signed, Escamilla was eager to get going on writing policy. "Principles are a great

way to start a conversation, but we didn't have time for that," she said. In the fall, Escamilla began to work with legislative staff to draft the bill, which called for the establishment of a worker's permit program for undocumented immigrants.

Before the session started, she invited Sandstrom to lunch. "I asked him to join us on this bill. It was his chance to stop the craziness and not look so evil, punitive and mean. Join this bill that has some enforcement mechanisms," said Escamilla, who asked Sandstrom to be the bill's House sponsor. "He very politely said, 'I am already too deep into this. The anti-immigrant movement owns this. I can't back down now,'" explained Escamilla.

Soon after, in December 2010, she released a draft of her bill, the Utah Pilot Accountability Permit Program. Escamilla drew immediate, national attention for her bill, giving interviews to Fox News' Greta Van Susteren and Univision's Jorge Ramos. Immigration policy experts said that her bill could become a model for the nation—and was notable for its bipartisanship. "If a bipartisan piece of immigration legislation can work its way through in Utah, it shows Congress it can be done," said Ann Morse, program director for the National Conference of State Legislators' Immigrant Policy Project.[16]

But Mero proclaimed Escamilla's bill dead on arrival. "Even though she is a faithful Mormon, she's a female Hispanic Democrat. Three strikes you're out, right?" explained Mero. Escamilla admitted that some Democrats were upset about the bill. "They wanted to know why am I proposing legislation for something that was in the [jurisdiction] of the federal government? They had real concerns about the constitutionality. But I felt we had to try. My job as a lawmaker is to bring forward policies that I think are possible," she said, and policy-wise, Mero considered it "the gold standard." Upon learning that the bill was being stalled in the rules committee, Mero approached the Senate president: "He said, 'On such an important issue we're not going to let a Democrat be the lead on this issue, but I think we've got a solution.'" Soon after, Escamilla learned that Bramble had been tasked with finding a "Utah-based solution."

Bramble Steps In

Bramble was selected partly because he had served as Senate majority leader a couple years earlier, partly for his dogged, proven ability to craft problem-solving legislation and partly due to his reputation for getting bills passed. Reid said Bramble was chosen to essentially serve as whip on the legislation. "I think it's fair to say that Curt probably plays that role better than any other legislator, maybe in the country. I think he prides himself on passing the most number of bills. And he makes that a goal every legislative session. He knows the system. He knows how to negotiate. And people know that if you're going to oppose him, it's not going to be a comfortable ride," said Reid. Bramble admitted he enjoyed the challenge—though he said he was more interested in finding solutions to problems rather than in passing bills. "I have a reputation for being able to take on very difficult issues, navigate them, bring stakeholders together," said Bramble. Stan Lockhart, former Chairman of the Utah Republican party, agreed: "The Senate leadership team were all guys who had fought many battles with Curt both with him and against him over the years; they were not necessarily his allies. But they knew he was the only

one who had the wherewithal to get anything done."[17]

Bramble's marching orders were to devise a "Utah solution" to the problem many states were grappling with: how to manage undocumented immigrants. Federal policies were at the heart of the challenge; though the federal government bore responsibility for enforcement of immigration laws, the states carried an unfunded mandate to provide local services, placing a financial burden on municipalities. For instance, every child, regardless of their immigration status, was entitled to a publicly-funded education. Also, the federal Emergency Medical Treatment and Labor Act required that anyone seeking emergency care at a hospital be stabilized and treated, regardless of their insurance status or ability to pay. In addition, many children of undocumented immigrants were born in the U.S. and therefore, as U.S. citizens, were entitled to state welfare benefits.

While Arizona's new law sought to lower these financial burdens by mandating that state authorities assist federal authorities with identifying and deporting undocumented immigrants—which often led to parents being separated from their U.S. born children—Bramble knew this was not an option for Utah. "We very quickly recognized the Arizona law was not a Utah solution. Utah has a different cultural expectation. As a state that's big on family values, we're not interested in taking the child out of the family or making the child a ward of the state," said Bramble.

Bramble first focused on better defining the problem. "You can make a case that individuals who are here and posing a burden on the state should be able to contribute through paying taxes toward the cost of that burden. So, if we can't deport them and we're obligated to provide these services, then it seems only logical that we should develop a proposal that would allow them to come out of the shadows," said Bramble.

Bramble felt the best way to reach agreement on the problem definition was to seek data to verify the scope and nature of the problem. He commissioned a study to determine if the concerns raised by the Patrick Henry Caucus—the most significant being that undocumented immigrants were stealing citizens' legal identities—were legitimate. "The data did not support the premise," said Bramble. Ultimately, the problem definition that suited everyone was that undocumented immigrants posed a financial burden on the state. Arriving at a solution, would prove to be a much harder task.

Bill Wright

In the meantime, Bill Wright, a recently-elected Republican Utah state representative, had begun working on his own pro-immigration bill. Mero said that on any other issue, Wright would have sided with the Patrick Henry Caucus. "But on this one he broke from them because of his own experiences," he said.

Wright, at the suggestion of then Speaker of the House, ran for office and won in 1988. He served as a House member for 12 years before running for Senate, where he served a single term. Reid felt that Wright's passion for helping immigrants might have cost him re-election to the Senate. Undaunted, Wright campaigned for a seat in the House and won.

Wright had been thinking about the issue since 2009 and had taken to meeting with Escamilla in the early morning hours to talk about their mutual concerns. Wright, who employed many immigrants in his dairy farm business, felt a common-sense approach was in order. “God’s law is not being broken,” he explained, noting that it was both impractical and uncompassionate to believe, as many Republicans did, that undocumented immigrants already in the U.S. who were living within a reasonable standard of conduct—such as being law abiding and willing to work—should be deported.

While Wright described himself as a far-right conservative who did not believe in open borders, he acknowledged that there were misconceptions about undocumented immigrants in Utah. “The Patrick Henry Caucus members talk about them not paying taxes but they do. They have jobs. What our government won’t tell you is that it withholds taxes and since undocumented immigrants can’t file returns, the money sits there. We make money off them,” said Wright. He was even more adamant that many people misunderstood the important role that undocumented immigrants played in the U.S. economy. “If undocumented immigrants were deported, you won’t get a vegetable, you won’t get a fruit. You won’t get a gallon of milk. It isn’t about jobs for Americans; it’s about willingness to go do a job. Americans aren’t willing to take these jobs,” said Wright.

Bramble agreed with Wright but he was concerned that it might be difficult to convince his fellow lawmakers to take a pragmatic—not emotional—approach to the legislation:

> The toughest piece that Congress refuses to take on is what to do with the people that are already here. It’s really easy to say well, let’s deport them. Are you going to lock them up? Every one of them has the constitutional right to due process. When you’re talking about millions of people it is a practical absurdity to say you’re going to round them up and ship them out. It is just simply never going to happen. And if it’s never going to happen, then be intellectually honest, recognize it, and come up with a practical approach to how you deal with it.

On New Year’s Eve, Wright dined with Bramble, Rebecca Lockhart and their spouses and announced he would sponsor his own bill. “They talked about strategy and the elements of the bill that would be important and said who would do what and where,” said Stan Lockhart. “Bramble and House Speaker Rebecca Lockhart liked the optics of having a rural, ultra conservative farmer leading the bill,” said Stan Lockhart.

Setting the Table

Bramble used a go-to strategy to recruit a working group: he put the word out that he would be convening all parties interested in solving the immigration problem but that he himself would not be sponsoring the legislation. “It’s not my bill. And as soon as that’s out in the hallways, as soon as the various interested parties understand that, they’ll come to the table. I said we’re going to find a solution to this. Come join us. Anyone’s welcome to come sit at the table if they want to engage,” said Bramble.

He made a special effort to recruit those who might be considered natural opponents—namely Democrats and members of the Patrick Henry Caucus. “The first folks I spoke with were Sandstrom, Herrod and Wimmer,” said Bramble. “If I don’t invite them to the table, it fuels their rhetoric. If I’m going to overcome their arguments, I better figure out what their arguments are. I’m better served to find out as early so I can to craft something that’s going to neuter them. And there’s just a chance that we may find common ground,” he added.

Escamilla said she, too, received a personal invitation to join the group. “If it wasn’t for Curt, I don’t know that they would have involved me,” she said. While Escamilla, Sandstrom and Herrod agreed to join the group, Wimmer declined. “From my perspective, there was no difference between the Utah Compact group and Curt Bramble’s group. There were a lot of middle-of-the-road, moderate Republicans and others who wanted to come up with a Compact compromise,” said Wimmer.

Nevertheless, Bramble packed the Senate majority caucus room—which he had graciously offered for their meeting space—with legislators and lobbyists, at first calling weekly and then more frequent meetings. Republicans in attendance included Sandstrom, Herrod, Smith, Mero, Evans, Rebecca Lockhart, Reid and Wright. Among Democrats, House minority leader David Litvack and senators Ben McAdams and Escamilla—who served as point person for the Democrats—joined. “You look for those whose hearts are open to being persuaded by others. You take it one step at a time and you build a coalition of the willing,” said Bramble. Indeed, Coalition of the Willing became the group’s informal moniker.

2011 Legislative Session

On January 21, three days before the 2011 legislative session was due to begin, the Sutherland Institute sponsored a public immigration debate in Lehi, Utah, 30 miles south of Salt Lake City, drawing a crowd of 800 and a slew of media outlets. Mero invited Escamilla, Bramble, Shurtleff and Doug Wright, a local talk radio personality, to join his side of the panel. On the pro-enforcement side sat Herrod, Sandstrom, a woman whose child had her social security number stolen numerous times, a Mexican man who had legally immigrated to the U.S. and a U.S. Foreign Service Officer. Herrod argued his position forcefully. “For me it comes down to a fairness issue. It’s simply not fair to those who are trying to come here legally,” said Herrod, who spoke from personal experience. After graduating from Brigham Young University, he took a teaching job in the former Soviet Union where he met and married a woman from Kharkiv, Ukraine. They returned to the United States together and underwent a lengthy process to legalize her residency. “I’ve experienced the process from start to finish,” said Herrod.

The debate was contentious, and by the time Mero delivered his team’s closing remarks, the room had grown raucous. Afterwards, the panel members needed a police escort out of the venue. Herrod felt the crowd’s reaction revealed that the other side’s arguments were weak and unpopular. “I think it’s safe to say we creamed them. I don’t know a single person that thinks that they even came close to winning. Even people on their side told Senator Bramble that your arguments are not flying,” said Herrod. One newspaper reported, “If the immigration debate on Friday night was any indication, the

legislative session is going to be loud, a little ugly and will not change anyone's mind."[18]

Coalition of the Willing

After the first meeting of the Coalition of the Willing, Sandstrom and Herrod decided to pull out. "Steve and I joined the group because we had an interest in trying to come up with a solution. We were genuine about that. But Curt and I have had a long history of battles back and forth, and it became apparent rather quickly that they already had a bill in mind. All we were doing was lending our credibility to the bill, not really crafting a bill. We were doing our cause and the issue harm by participating. It was going to be an amnesty bill from the very beginning," said Herrod.

Reid disagreed. "We were willing to negotiate with them. It was more that they were not willing to negotiate with us. If they stayed in the room, the legislation may have looked different. But they weren't willing to do that, because they held an all or nothing position," he said. Evans agreed, and worried that the issue had become an emotional one for Sandstrom and Herrod. "There are some issues that I have come to understand people feel just deep in their gut. Immigration for some reason was an emotional thing, not an intellectual thing. And how do you change something that's so deep inside someone that it can't be reasoned with?" said Evans.

Bramble noted that Sandstrom and Herrod were the first—and only—defectors from the coalition. "Ultimately, we lost just that hard core," said Bramble, noting they were the same people who had consistently opposed all pro-immigration legislation.

By now, Bramble's group was meeting frequently and the challenge was significant: they needed to craft legislation that could win a simple majority: 38 (of 75) votes in the House and 15 (of 29) in the Senate. They had to achieve true bi-partisan support, given that the Utah state legislature was comprised of 20 Republicans and 9 Democrats in the Senate and 51 Republicans and 24 Democrats in the House of Representatives—making it one of the most conservative, strongly Republican-held state legislatures in the country.

Herrod believed that perhaps Bramble's task might not be as difficult as it appeared. "Everybody says that this is a one-party state, but there are really three parties: Democrats, liberal moderate Republicans (they're as much Democrats as they are Republicans, but to get elected in Utah you have to say you're a Republican) and conservative Republicans. And I would argue that that block in the middle is the biggest block in the state," said Herrod. But Bramble knew his chances of drafting passable legislation looked bleak. "The rule of law is core to Republican philosophy. It is a highly emotionally charged issue that is very, very difficult to get people to look at from a practical, reasonable, rational, pragmatic perspective. I didn't think there was much hope," he said.

House Bill 116

Wright described himself as a "far right" conservative when it came to issues like personal liberties, but when it came to giving people the opportunity to work and earn a living, "I'm about as far left as you

can go," he said. Wright said that when other Republicans saw he was sponsoring House Bill (HB) 116, Guest Worker Program, which would provide permits to undocumented immigrants to legally working in Utah, they were surprised. "When I filed the bill it was just like, 'Whoa, look at his record. How could he ever come up with something like this?'" Indeed, despite his reputation, Wright encountered significant resistance from his fellow Republicans who felt the bill's lack of law enforcement provisions was unacceptable. "I thought I just need to get up there and it would be simple," said Wright. "I thought I could get [support from] all the Republicans and half the Democrats. I was naïve enough I thought that this would just be a simple bill. They just need someone to draft it right," said Wright.

Shortly after Wright introduced HB 116, Reid, a fellow Mormon, approached him. "He was getting slammed by House members, so to buoy him up, I shared with him the Proclamation of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints," said Reid, who explained the proclamation:

> In the Church, there are a handful of apostolic proclamations[e] that guide us, and usually they have to do with public policy. The very first proclamation ever given shortly after the death of Joseph Smith, who was the first president and founding prophet of our Church, is on what we call the Lamanites. Now, the Lamanites, in our belief, are people in the Book of Mormon. And we believe that the descendants of those Lamanites are the Native Americans of North and South America. The proclamation puts a stake in the ground about what's important to the Church in terms of governmental policies. The proclamation talked about the Mormon obligation to help and aid the Native Americans and the government's responsibility to help them—using our scriptural term—to blossom as a rose. It talks about in our scriptures that we carry them in our arms and upon our shoulders, to help them become enlightened and developed and prosperous.

Wright was "over the moon" about the proclamation. "Because it helped justify his feelings and at that moment Bill and I became brothers in the battle to help Native American immigrants no matter the personal consequences for us politically" said Reid. "Now, you don't talk about those things in the legislature. But for some who are devoted, when the Church comes forward and says, we'd like to support this legislation, people get it, at least the devoted do."

Senate Bill 60

Though she was participating in the Bramble's coalition, Escamilla nevertheless pushed forward with her own bill. On February 3, 2011, Escamilla introduced Senate Bill (SB) 60, the Utah Pilot Accountability Permit Program. In exchange for a permit to work legally, SB 60 allowed undocumented immigrants to register to receive an accountability card, which would require holders to pay income taxes and prohibit them from receiving social or welfare benefits, including unemployment benefits. The bill also required

[e] In the Mormon church, proclamations were "solemn and sacred in nature and were issued with the intent to bring forth, build up, and regulate the affairs of the Church as the kingdom of God on the earth. Subject matter has included instruction on doctrine, faith, and history; warnings of judgments to come; invitations to assist in the work; and statements of Church growth and progress."[e]

businesses that wanted to hire permit holders to register with the state and impose fines on businesses that knowingly hired undocumented immigrants. It would further require that businesses made "concerted efforts to hire citizens and lawful immigrants."[19]

Escamilla was proud of her bill and believed it offered a legitimate compromise to Republicans; indeed, many within her own party were dismayed. "They wanted to know why we were doing the federal government's job. Also, the bill had enforcement provisions which she acknowledged were unpopular with Democrats. Nevertheless, Escamilla pushed for her bill's consideration. "I had a conversation with Senate President Waddoups about my bill. I said, 'I want my bill to be heard, to have its time and be a fair process. If they vote the bill down fine, but my bill needs to be heard,'" said Escamilla. Even so, Escamilla knew she would eventually have to let go of her bill. "Because it's just how the game is played here. How am I going to pass a major reform bill in Utah as a Democrat?" she said.

Though moving through the Utah legislature, both HB 116 and SB 60 were meeting with significant resistance. On February 8, Utah's second largest newspaper, *Deseret News,* which was owned by the LDS church, published a Letter to the Editor, written by Mero, about the dynamics of Utah politics. In the letter, Mero chastised moderate Republicans for discarding ideas simply because they were proposed by Democrats and called on Bramble "to lead an effort to cobble together a unified approach. . . While the shrill activist voices don't have enough clout to pass anything into law, it seems they do have enough clout to stop reasonable ideas," Mero wrote.[20]

Soon after, Escamilla learned that the Republican leadership had asked Bramble to craft an omnibus immigration bill. The bill was likely to include some provisions from her bill and she supported that—as long as Bramble's bill didn't morph into Arizona-style legislation.[21]

A few days later, on February 11—just two weeks into the 2011 legislative session—a new opinion poll showed that now, 71% of Utahns were in favor of creating a state-issued work permit for undocumented immigrants.[22] "We had turned public opinion 180 degrees," said Mero, who credited the Utah Compact.

Senate Bill 288

On February 24, 2011, the same day Escamilla's bill advanced to the Senate floor (where it did, eventually, die), Wright's bill, HB 116, passed the House. "It didn't have enforcement. It didn't have any penalties. But Bill [Wright] was highly respected in the House. He was able to get a bill that was liberal—not politically liberal, but liberal as it related to solving problems—passed," said Bramble. Still, Bramble knew HB 116 would never make it through the Senate.

That day, Bramble introduced an omnibus bill, Senate Bill 288, the Utah Immigration and Enforcement Amendments, to the Senate majority caucus. "The Utah Compact Bill[f] includes provisions for sanctions against employers for individuals that hire employees that wouldn't have authorization

[f] In public discourse, Bramble referred to Senate Bill 288 as the Utah Compact Bill.

under a Utah guest worker program. There are provisions for enforcement. There are provisions for penalizing individuals who have violated immigration law to be in the state of Utah. It's a bill that deals in a more comprehensive fashion with immigration in Utah," said Bramble.[23] Bramble's bill included elements of Wright's bill, but added enforcement provisions that would enable it to pass the Senate. "It was far more restrictive than HB 116, but we needed to get it back through the House for concurrence," said Bramble.

He was prepared: he had taken his notes from his 3am epiphany—which took elements from all of the bills before the legislature—back to the Coalition of the Willing and they decided to use HB 116 as the vehicle back through the House. "Bill Wright was already the sponsor and he agreed with what we were doing," said Bramble. He approached Reid and asked him to serve as Senate sponsor on the amended version of HB 116, which now included Bramble's amendments, providing for enforcement and employee verification. Escamilla was ebullient: "HB 116 contained many of the provisions in my bill. If you read it their bill is the same premise," said Escamilla.

Governor Signs House Bill 116

House Bill 116 passed the House, 41 to 32, in the last hour of the session. Patrick Henry Caucus members were disappointed in the political process. "Honestly, it wasn't necessarily that we did not like the bill itself, but the politics behind the bill is what left a bad taste in the mouth of a lot of legislators," said Wimmer. "The language to that bill was not released until a few hours before we were going to vote,[g] but they already had all of the votes lined up to pass it. It completely undermined any attempt to pass a bill that was similar to House Bill 1070 in Arizona. It was the exact opposite of everything that we were working on," he said. The Senate's final vote after conference with the House was 19 yeas (15 Republicans and 4 Democrats), 5 nays (4 Republican and 1 Democrat) and 5 absent (all Republicans).

On March 15, 2011, Utah Governor Gary Herbert signed HB 116 along with three other immigration bills which, combined, constituted what he called the "Utah Solution." "Utah has taken a thoughtful, rational approach and found common ground," said Herbert at the signing ceremony.[24] He took the opportunity to call on Utah's federal delegation to follow suit. "There are those who will say these bills may not be perfect, but they are a step in the right direction and they are better than what we had," said the Governor. "Thanks to the vision and determination of these local leaders, what we have begun today is a framework for a national conversation about immigration and a means to engage the federal government. Once again, Utah leads the nation in finding solutions and making tough choices."[25]

The LDS Church

Many directly involved in the legislation believed that the LDS church played a central role in ensuring its successful passage. Indeed, most agreed that if not for the church's interest in the

[g] Bramble disagreed with Wimmer's characterization, noting that HR 288 had "extraordinary transparency" throughout the entire session and debate on the provisions had been occurring for weeks.

legislation, it would never have passed: “There was no upside for Republicans to support the immigration legislation,” said Reid. “There was no upside for anybody, except for those who were in Salt Lake, and almost all of them are Democrats. Curt Bramble and I wouldn’t even have supported it—in fact, he may have opposed it—save for the Church’s involvement and the leadership coming to him. I’m absolutely convinced of that,” said Reid.

Wimmer, too, was adamant that without pressure from the church, HB 116 would have failed. “They’re going to tell you that it was a wonderful compromise. That business leaders and the Chamber of Commerce and people from all sides came together, united, to pass this legislation when that is absolutely not the case. The bill would not have passed if the LDS Church did not lean heavily on legislators,” he said.

Evans denied that the church engaged in any arm-twisting over HB 116. Indeed, he noted that the church leaders responsible for government relations were typically circumspect about weighing in on any legislation because of the church’s presence, size and influence in the state. “We used to kid, taking the title from a Sherlock Holmes movie, that we had a seven percent solution; that is if you take all the bills and resolutions that are up here in any given year, the LDS church would weigh in on about 7% of them,” said Evans. Immigration was one of them. Indeed, Mero noted that Evans and other church lobbyists were very visible during the legislative session, albeit largely holed up in small meeting areas where they often held one-on-one meetings with legislators.

Nevertheless, Bramble said that in his 17 years in the Senate, the Church had never asked him to vote one way or another on a bill and HB 116 was no exception. But Mero acknowledged that the church’s support of the Compact had posed a difficult challenge for legislators who were church members as their political and religious positions came into direct opposition. “The church’s position made it personal now, because now we’re not talking just policy, we’re talking your faith. Are you a faithful member of your church? And even though the church never put it out like that, nor would they, you can’t help but feel it,” said Mero.

Evans felt that the church was simply practicing its preaching. “The anti-immigrant momentum, it seems to me, has to some considerable extent missed the point: that undocumented immigrants are *here*. And being here, our humanity calls on us to do something for them, not to try to make it more difficult for them to be here or try to break up their families or push them away. And I think it’s that overall concern for the humanity of those who are here and not documented, and trying to find solutions that can make their being here as productive as possible,” said Evans.

Smith said that exposure to people from other countries personalized the issue for many Utahns. Bramble’s own family was a good example: “We have six children. Four have served LDS missions. Three were in Spanish-speaking countries where migrant labor comes from. How do you send your sons and daughters out to the world to share the gospel, to proselytize, and then say but we’re going to kick you out?” said Bramble.

Mero felt that in the final analysis, they had simply reminded Utahns of the values they already held.

“That was the real objective. It wasn’t necessarily the legislation. We managed to align Utah public policy with Utah values. The Patrick Henry Caucus was not doing that. There was a dissonance between the values that they claimed to live by and the policies they were promoting. Our job was to show Utahns a way that aligned with their values,” said Mero.

Bramble agreed. “In America, it is still possible to find an American solution, not a Republican or Democratic, but an American solution, and then go back to your constituency and make the case. Citizens want leadership. They want their elected officials to take on the tough issues and discharge their duties with practical, rational, reasonable solutions. And if you do, they’ll support you,” he said.

Exhibit 1. Utah Compact

A Declaration of Five Principles to Guide Utah's Immigration Discussion

FEDERAL SOLUTIONS: Immigration is a federal policy issue between the U.S. government and other countries—not Utah and other countries. We urge Utah's congressional delegation, and others, to lead efforts to strengthen federal laws and protect our national borders. We urge state leaders to adopt reasonable policies addressing immigrants in Utah.

LAW ENFORCEMENT: We respect the rule of law and support law enforcement's professional judgment and discretion. Local law enforcement resources should focus on criminal activities, not civil violations of federal code.

FAMILIES: Strong families are the foundation of successful communities. We oppose policies that unnecessarily separate families. We champion policies that support families and improve the health, education and well-being of all Utah children.

ECONOMY: Utah is best served by a free-market philosophy that maximizes individual freedom and opportunity. We acknowledge the economic role immigrants play as workers and taxpayers. Utah's immigration policies must reaffirm our global reputation as a welcoming and business-friendly state.

A FREE SOCIETY: Immigrants are integrated into communities across Utah. We must adopt a humane approach to this reality, reflecting our unique culture, history and spirit of inclusion. The way we treat immigrants will say more about us as a free society and less about our immigrant neighbors. Utah should always be a place that welcomes people of goodwill.

Source: Utah Compact web site, https://the-utah-compact.com, accessed October 16, 2017.

Endnotes

[1] Casewriter interviews with Curtis Bramble, August 15 and August 17, 2017, Salt Lake City, Utah.

[2] Casewriter interview with Chris Herrod, August 17, 2017, Orem, Utah.

[3] Casewriter interview with Paul Mero, August 16, 2017, Herriman, Utah.

[4] Sutherland Staff, "Onus or Opportunity? Conservativism and Illegal Immigration in Utah," Sutherland Institute, May 5, 2008, https://sutherlandinstitute.org/onus-or-opportunity/, accessed October 17, 2017.

[5] Sutherland Staff, "Onus or Opportunity? Conservativism and Illegal Immigration in Utah," Sutherland Institute, May 5, 2008, https://sutherlandinstitute.org/onus-or-opportunity/, accessed October 17, 2017.

[6] Casewriter interview with Wesley Smith, August 15, 2017, Salt Lake City, Utah.

[7] Casewriter interview with Luz Escamilla, August 15, 2017, Salt Lake City, Utah.

[8] Billy Hesterman, "Founders of Patrick Henry Caucus Moving On," *Daily Herald*, December 29, 2011, http://www.heraldextra.com/news/local/govt-and-politics/legislature/founders-of-patrick-henry-caucus-moving-on/article_aaed3c37-2f22-53a3-b3bd-5ec3391f7d5b.html, accessed October 17, 2017.

[9] "Revolution Media: Patrick Henry Caucus" video, YouTube, February 25, 2010, https://www.youtube.com/watch?v=U5legitZhpo, accessed October 17, 2017.

[10] Billy Hesterman, "Founders of Patrick Henry Caucus Moving On," *Daily Herald*, December 29, 2011, http://www.heraldextra.com/news/local/govt-and-politics/legislature/founders-of-patrick-henry-caucus-moving-on/article_aaed3c37-2f22-53a3-b3bd-5ec3391f7d5b.html, accessed October 17, 2017.

[11] Arthur Raymond and Bob Bernick Jr., "Poll Shows Utahns Favor Utah Version of Arizona Immigration Law," *Deseret News*, April 30, 2010, http://www.deseretnews.com/article/700028497/Poll-shows-Utahns-favor-Utah-version-of-Arizona-immigration-law.html?pg=all, accessed October 17, 2017.

[12] Casewriter interview with Carl Wimmer, August 16, 2017, by telephone.

[13] Sutherland Staff, "Feulner to Present Award to Utah. . .", Sutherland Institute, undated, https://sutherlandinstitute.org/feulner-to-present-award-to-utah/, accessed September 5, 2017.

[14] Casewriter interview with Stuart Reid, August 17, 2017, Salt Lake City, Utah.

[15] Casewriter interview with Bill Evans, August 15, 2017, Salt Lake City, Utah.

[16] Elizabeth Stuart, "Sen. Luz Robles' bill could become national model, *The Deseret News*, January 5, 2011, https://www.deseretnews.com/article/700098043/Sen-Luz-Robles-bill-could-become-national-model.html, accessed November 12, 2017.

[17] Casewriter interview with Stan Lockhart, September 11, 2017, via telephone.

[18] Heidi Toth, "Illegal Immigration Debate: Hard Workers or Criminals?" *Daily Herald*, January 22, 2011, http://www.heraldextra.com/news/local/govt-and-politics/illegal-immigration-debate-hard-workers-or-criminals/article_cef83a3e-9a3b-52a1-943d-fe352dc86fb1.html, accessed October 17, 2017.

[19] Billy Hesterman, "Bipartisan Immigration Bill Unveiled in Utah," *Daily Herald*, February 3, 2011, http://www.heraldextra.com/news/local/govt-and-politics/legislature/article_b92e66fb-b198-5f60-9852-8137298a10d1.html, accessed October 17, 2017.

[20] Paul T. Mero, "Partisanship Hinders Utah Immigration Solution," *Deseret News*, February 8, 2011, https://www.deseretnews.com/article/700108243/Partisanship-hinders-Utah-immigration-solution.html, accessed October 17, 2017.

[21] Billy Hesterman, "Bipartisan Immigration Bill Unveiled in Utah," *Daily Herald*, February 3, 2011, http://www.heraldextra.com/news/local/govt-and-politics/legislature/article_b92e66fb-b198-5f60-9852-8137298a10d1.html, accessed October 17, 2017.

[22] John Daley, "Poll: Utahns Undecided on Immigration Solution," KSL.com, February 21, 2011, https://www.ksl.com/?nid=148&sid=14463232, accessed October 17, 2017.

[23] Billy Hesterman, "Sen. Bramble Crafting 'Utah Compact Bill' on Immigration," *Daily Herald*, February 24, 2011, http://www.heraldextra.com/news/local/govt-and-politics/legislature/sen-bramble-crafting-utah-compact-bill-on-immigration/article_f79e04cd-839e-5bca-903c-3ab7675fc31f.html, accessed October 17, 2017.

[24] "Governor Herbert Signs Immigration Reform Legislation," Utah.gov website, March 15, 2011, https://www.utah.gov/governor/news_media/article.html?article=4435, accessed October 17, 2017.

[25] "Governor Herbert Signs Immigration Reform Legislation," Utah.gov website, March 15, 2011, https://www.utah.gov/governor/news_media/article.html?article=4435, accessed October 17, 2017.