

State Immigration Project

Policy Options for 2008

December 2007





PROGRESSIVE STATES TASK FORCES

Representatives from the following organizations serve on task forces relevant to specific issues and to act as a resource to legislators and local organizations.

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FOR MORE INFORMATION

For more information on policy options discussed in this program or for help in your states, visit www.progressivestates.org, where we will be adding additional details in coming months. also feel free to contact:

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INTRODUCTION

Using Smart State Policy to Challenge the Anti-Immigrant Movement

THE KEY to challenging anti-immigrant movements in the states is to respond with legislation that puts those promoting anti-immigrant policies on the defensive. Their goal is to pit African-American voters against Latinos, legal immigrants against undocumented immigrants, and native-born workers against undocumented workers. So progressive leaders need to promote policies that unite people across those divides, while highlighting that those leading the anti-immigrant charge are actually against the interests of working families of all races and immigrant status.

Anti-immigrant politics are focusing largely on five main messages:

- Undocumented immigrants are undercutting jobs and wages for native workers
- Immigrants aren't assimilating or learning English
- Undocumented immigrants are a burden to taxpayers and don't deserve public benefits
- Non-citizens are voting illegally in large numbers
- Immigrants cause crime and are a threat to national security

Progressives should highlight not only the facts that refute these arguments, but also identify policies that undercut the political alliances anti-immigrant forces are trying to build around these myths. In this document, we highlight five sets of policies that can directly challenge those right-



wing views on immigrants and build alternative political coalitions:

- **Wage Enforcement as Immigration Policy:** Much of the anger at immigrants derives from fears that sweatshops and sub-minimum wage labor will undermine wage standards. Punishing employers who violate wage laws will politically unite all workers, immigrant and native alike, and actually strengthen the progressive political base. If wage enforcement bills end up being attached to anti-immigrant bills, many in the business lobby will break their current alliances with anti-immigrant politicians.
- **Encouraging Immigrant Integration and Naturalization:** Progressives need to emphasize that all avail-



able evidence shows that most are eager to become full members of our communities if given a chance. Highlight policies that help all immigrants better integrate, which will unite the interests of legal and undocumented immigrants along with the members of their communities who are already voting citizens.

- **Immigrants and Public Benefits:** While state leaders and advocates need to highlight the studies that show that undocumented immigrants actually pay substantial taxes and use limited public benefits, they also need to demand studies of the lost benefits to citizens and the costs to taxpayers from onerous anti-immigrant enforcement rules. Progressive leaders can show that broad-based benefits for all residents is the best investment in the long-term and should demand that the federal government, which receives billions in taxes paid by undocumented workers, share those revenues with states to expand services for communities with heavy immigrant populations.

- **Voting Reform versus “Voter ID” Attacks:** Given the complete lack of evidence that non-citizens have illegally voted in US elections, progressives need to challenge the voter ID requirements that are disenfranchising many legal voters. While voter ID laws need to be defeated, the other part of progressive mobilization should be demanding that voting be made easier, through reforms like same day registration and voting by mail, for people who do overcome these new barriers to proving their legal right to vote.
- **Immigrant Outreach as Public Safety and Anti-Terror Policy:** Most law enforcement groups recognize that it is harder to protect victims of crime when millions of people living in our communities are fearful of talking to the police when they see a crime or are a victim of one. Progressive leaders can highlight this reality by promoting policies that protect undocumented immigrant victims and witnesses of crime when they contact the police and encourage community policing efforts involving undocumented immigrant communities.

Each of these sets of policies emphasizes why better inclusion of immigrants in our communities, not sanctions, are the best approach. The key for progressives is to use legislative campaigns to actively focus public debate on areas where public attitudes towards immigrants are most positive and to direct frustrations over the economy at the corporate interests who are most responsible for stagnating family incomes.

Different policies will no doubt be promoted in different states. In a number of states where heavy immigration in the modern era is a relatively new phenomenon, political leaders are facing more fear among the public and may have to be more strategic in the policies they promote. In such states, a heavier focus on issues like wage enforcement policies may be the best option to create the greatest unity among progressive constituencies. In other states where long-term immigrant communities are politically mobilized in broader local alliances, passing more proactive immigrant policies can help change the national narrative and emphasize the strong pro-immigrant constituencies across the nation.

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General Resources for State Immigration Policies

The National Immigration Law Center has a list of suggested pro-active measures in its Pro-Immigrant Measures Available to State or Local Governments: A Quick Menu of Affirmative Ideas that contributed to producing this document. The following additional documents and groups have many resources that provide research and other documents to assist state advocates in promoting good state immigration policies.

- NILC—State and Local Policies on Immigrant Access to Services
- National Employment Law Project, More Harm Than Good: Responding To States' Misguided Efforts To Regulate Immigration
- Fair Immigration Reform Movement, Immigration Reform and Immigrants at the State Level
- National Council of La Raza, State and Local Immigration Initiatives
- Drum Major Institute, Principles for an Immigration Policy to Strengthen and Expand the American Middle Class
- NCSL, Overview of State Legislation Related to Immigration and Immigrants in 2007 (April 2007)
- American Immigration Lawyers Association, Making the Case for Fair and Reasonable Immigration Policy—talking points and surveys and polls
- ACLU Immigrant Rights Project
- National Immigration Project of the National Lawyers Guild
- National Association of Latino Elected and Appointed Officials (NALEO)

Wage Law Enforcement as Immigration Policy

WHILE MANY advocates of “fighting illegal immigration” claim to be doing so in the name of helping low-income workers, it is remarkable that almost none of them are addressing the pervasive theft of low-income worker wages by employers violating wage laws.

Advocates and progressive state leaders need to emphasize legislation that highlight a few key points:

- Only a minority of those working under illegal work conditions are undocumented immigrants;
- Our nation’s systematic lack of enforcement of wage laws has contributed to the dysfunction of our immigration system;
- The denial of employment rights to such immigrants has only further undermined wage law enforcement, thereby feeding more low-wage immigration.

In fact, cracking down on sweatshops and wage violators would be one of the most effective deterrents to employers recruiting undocumented immigrants. If all employers have to pay a decent wage, the attraction of hiring undocumented immigrants would diminish tremendously. Since going after employers who violate wage laws will politically unite all workers, immigrant and native alike, cracking down on those abusive employers will actually strengthen the progressive political base.

Where anti-immigrant politicians propose workplace sanctions against immigrants, progressives should be proposing

amendments that highlight the broader illegality of broken wage and safety laws that undermine workplace standards for all Americans. If anti-immigrant politicians resist such laws, it will just emphasize that their concern for wage losses by low-income workers is empty and is just a smokescreen for hatred and nativism. And if every immigration bill is tied to proposals to tighten enforcement of wage and employment laws, many in the business lobby will break their current alliances with anti-immigrant politicians.





Core wage enforcement legislation should include:

- Increase Penalties for Wage Law Violations
- Enforce Wage Laws Against Employers Using Undocumented Workers
- Stop Misclassification of Workers as “Independent Contractors”
- Expand Coordination and Funding by Enforcement Agencies
- Strengthen Legal Services for Low-Wage Workers
- Encourage Private Action Against Wage Law Violators
- Prevent Discrimination Based on National Origin
- Make it a Crime to Coerce Labor based on Worker’s Immigration Status
- Stop Government Purchases from Domestic and Overseas Sweatshops

Increase Penalties for Wage Law Violations

In practice, the punishment for violating wage laws and getting caught is usually at worst just paying what is owed or maybe a small fine on top of that, but some states have created policies to significantly increase the penalties for violating those laws.

- A number of states have increased penalties for violations of the law, with New York State establishing one of the toughest penalties—up to a \$20,000 fine for repeat wage law violators. New York, Massachusetts and a number of other jurisdictions also require that employers caught violating the law must pay any legal fees of employees plus three dollars for every dollar they illegally failed to pay them—a much greater threat against and incentive to employers not to violate the law.
- Right now a range of minor criminal offenses by its owners or managers can deny a business an operating license or a public contract, yet repeat violators of wage laws continue to receive operating licenses and public contracts from most jurisdictions. However, responsible contracting laws in a few states and cities now deny public contracts or operating licenses to wage law violators. See Los Angeles Responsible Contractor Ordinance for one example and San Francisco’s city minimum wage for provisions that authorize city agencies to revoke permits or licenses for businesses that violate the law.
- Theft should be considered theft—and a number of jurisdictions are increasingly applying “theft of wages” statutes to force employers to obey wage laws—or face arrest and jail. In 2002, the police department in Austin began threatening employers with arrest if they did not properly pay their employees. Other jurisdictions, including Denver and Phoenix, have followed suit. Many states already have “theft of wages” statutes on the books, so all that is needed is to enforce these provisions. See NELP’s Using Criminal Theft of Service Laws To Enforce Workers’ Right to be Paid (NELP)

for more on how to use such criminal theft statutes or add them to a state's criminal code.

Enforce Wage Laws Against Employers Using Immigrant Workers

In the words of New York's highest court, applying state wage laws fully against employers of undocumented workers is necessary since weak employment rights for undocumented workers makes "it more financially attractive to hire undocumented aliens [and] would actually increase employment levels of undocumented aliens, not decrease it."

States like California and New York have established clearly that their laws fully protect undocumented immigrants against retaliation when they bring wage claims against employers.

For example:

- California SB 1818 declared that all legal remedies are available to workers regardless of immigration status
- In *Balbuena v. IDR Realty*, the New York Court of Appeals affirmed immigrant workers' full legal rights under that state's employment laws.
- The New York State Attorney General issued a formal opinion stating that federal precedent "does not preclude enforcement of State wage payment laws on behalf of undocumented immigrants."

To assure that workers understand their rights at work, Iowa and Nebraska have laws requiring translators on the job where more than 10% of the workforce is non-English-speaking. See Iowa Code section 91E.2.

Fight Misclassification of Workers as Independent Contractors

States are also increasingly targeting the employer tactic of misclassifying employees as "independent contractors," which excludes workers from minimum wage, prevailing wage, overtime, health and safety, and right to organize protections. A February report by Cornell University researchers estimated, for example, that 704,000 of the seven million private-sector workers in New York state were misclassified

as independent contractors, costing the state \$175 million in unemployment insurance taxes each year and undermining those workers' rights.

Because of these problems, cracking down on misclassification of independent contractors is becoming a priority for many states:

- Colorado this year enacted HB 07-1366, a law requiring construction sites to make sure all workers, whether officially employees or "independent contractors," are covered by workers' comp insurance.
- Minnesota enacted MN Statute 181.723, which requires any independent contractor in the construction industry to be certified as an Independent Contractor by the state.
- California was the first state to create a "Joint Enforcement Strike Force" to focus on misclassification of workers as "independent contractors." Under this system, tax and labor agencies work together through an "Employment Enforcement Task Force" to perform onsite inspections and audits of suspect small companies. In 2002, the Task Force collected \$74 million in unpaid wages and \$10 million in payroll tax assessments.
- Establishment of "joint employer" liability is a powerful tool to protect low-wage workers. The New York Attorney General's office has aggressively pursued wage claims against joint employers, including against large supermarket and drugstore chains for unpaid wages due to delivery workers misclassified as independent contractors. (<http://www.oag.state.ny.us/2000AnnualReport.pdf>)
- In Connecticut in 2007, a bill was introduced that would have made it a criminal offense to hire undocumented workers, but instead it was modified into a state law to go after all employers who commit workers' compensation premium fraud and cheat workers out of benefits—and the state out of taxes owed—by not carrying compensation at all. The new law, Pub. Act. No. 07-89, provides that employers who mis-

represent the number or type of their employees for purposes of the workers' compensation system, can be issued a stop work order and ordered to pay a fine of up to \$1,000. Employers worried about unfair competition supported the bill, and both legislative houses passed it unanimously.

See also:

- National Employment Law Project, *Combating Independent Contractor Misclassification in the States*
- Workplace Fairness, *Contractors*
- Cornell University Institute for Labor Relations, *The Cost of Worker Misclassification in New York State (Feb. 2007)*
- Office of Minnesota Legislative Auditor, *Misclassification of Employees as Independent Contractors*

Expand Coordination and Funding by Enforcement Agencies

Whatever the penalties and the law, one key to enforcement is making sure agencies are well-funded and creatively coordinate their work for maximum effectiveness.

- One of the most obvious places for states to beef up enforcement is making sure public money doesn't fund lawbreakers. Ohio's Attorney General has announced a program to crack down on government contractors violating the state's prevailing wage law. Richard J. Hobbs, executive vice-president of the Association of General Contractors, a construction trade group, applauded the plan since it "keeps your low-rate, less of a quality firm from coming in and underbidding" legitimate, honest firms.
- The New York State Attorney General's Office created a targeted campaign to stop greengrocers from violating labor laws and ultimately developed an industry code of conduct. (http://www.oag.state.ny.us/press/2002/sep/sep17a_02.html)
- The California Targeted Industries Partnership Program created focused enforcement projects aimed at the apparel, construction, agriculture, restaurant and

janitorial services industries. (<http://www.dir.ca.gov/dlse/tipp4.htm>)

- To raise additional funds for enforcement, the San Francisco minimum wage ordinance provides for employer fines to be provided to the city in order to offset the costs of investigating and remedying the violation. http://www.ci.sf.ca.us/site/uploadedfiles/oca/living_wage/nw/ordinance.pdf

Strengthen Legal Services for Low-Wage Workers

A number of states are increasing funding for legal services, often a critical ally for low-wage workers seeking to enforce their rights.

One key tool recently has been requiring banks to pay a higher interest rate on funds deposited in special accounts that lawyers use to temporarily hold money deposited by clients, so-called Interest on Lawyer Account Funds (IOLA). Florida—the first state back in 1981 to use interest on lawyer accounts to fund legal services—was also the first state in 2004 to require banks to offer competitive interest rates on those accounts, increasing revenue from that source from \$22.7 million in fiscal year 2004-05 up to \$67.3 million by the following year. New York and other states have since joined Florida with similar programs.

See also:

- New York Governor's Office, *New State Regulations to Increase Funding for Civil Legal Assistance to Eligible Poor New Yorkers*
- ABA Journal Report, *Expressing Their Interest: Rise in Rates Swells IOLTA, and Legal Services Gain*

Since the federal Legal Services Corporation bars funding for many immigrant workers, some states are working to provide funding for immigrant workers denied fair treatment. One model is New York's proposed A2289, which would provide legal services for immigration and immigrant worker matters excluded from federally-funded legal services. The program and services would be available to all immigrants including migrant farm workers and immigrant day laborers, regardless of immigration status.

Encourage Private Action Against Wage Law Violators

To supplement often under-funded public enforcement and legal services agencies, states can also encourage unions and other workers advocates to help bring legal actions against wage law violators.

- One approach are laws modeled on California's Labor Code Private Attorneys General Act, which allows present and former employees to collect not only damages for unpaid wages but also twenty-five percent of the civil penalties that are normally paid to the state as well.
- San Francisco's city minimum wage ordinance authorizes community groups and unions to file complaints, without having to show that the workers not being paid are their members.
- A number of states give outside labor advocates access to non-work areas of employer property to educate employees on their rights. Massachusetts, California (see §20900 of the CA Agricultural Labor Relations, Solicitation by Non-Employee Organizers regulations) and a few other states give farmworker advocates access to agricultural fields; states including California, Colorado and New Jersey require mall owners to give union organizers, as well as others, access to sidewalks, parking lots and interior public spaces. And the City of Hartford enacted a law giving the general public access to outside areas of certain large retailers. States should enact broader access laws to assure that labor advocates can access employer property to educate all workers on their rights, since such worker-to-worker education is the most effective means to encourage workers to come forward.

Prevent Discrimination Based on National Origin

Since government crackdowns against undocumented immigrants will likely lead to a more general backlash against all Latino and immigrant workers, states can take actions to protect their residents against unfair discrimination.

Illinois's recently enacted HB 1744 prohibits employers from enrolling in any Employment Eligibility Verification System (E-Verify), because of the poor quality of its databases. The bar on using E-Verify will continue until the Social Security Administration and Department of Homeland Security databases are able to make a determination on 99% of the tentative nonconfirmation notices issued to employers within 3 days, unless otherwise required by federal law. (<http://www.ilga.gov/legislation/95/HB/09500HB1744.htm>.)



See also:

- Electronic Privacy Information Clearinghouse, *E-Verify System: DHS Changes Name, But Problems Remain for U.S. Workers*
- National Immigration Law Center, *Court Halts Government from Implementing Flawed Social Security No-Match Rule*
- NILC, *Why States and Localities Should Not Require Participation in the Basic Pilot Program*

To directly deal with discrimination against legal immigrant workers, New York's proposed A4603 would amend the state executive law and the civil rights law to clearly outlaw discrimination because of alien status. (<http://assembly.state.ny.us/leg/?bn=A04603&sh=t>)

Make it a Crime to Coerce Labor based on Worker's Immigration Status

States are increasingly protecting the victims of human trafficking and punishing employers and others who coerce immigrants to perform labor under threat.

- California's AB 1278, enacted this year, would void as contrary to public policy any labor contract provision that deducts from a person's wages the cost of emigrating and transporting that person to the U.S.
- In 2006, Colorado enacted SB 06S-005, which makes it a felony to coerce labor by threatening to destroy documents relating to a person's immigration status or by threatening to notify law enforcement that a person is in violation of federal immigration law. In 2007, Virginia enacted a similar bill, HB 1921, which provides that any person who confiscates, withholds or threatens to withhold any actual or purported passport, immigration document or other government identification document and thereby extorts money, property, or pecuniary benefit is guilty of a Class 5 felony.
- Oregon's HB 2020 would similarly expand the crimes of coercion and theft by extortion to include threatening to report person's immigration status.

Stop Government Purchases from Domestic and Overseas Sweatshops

While states cannot change the bad trade policy that has undermined the economy of Mexico and other countries where immigrants are leaving for the U.S., states do have the power through their own purchasing decisions to help end the global sweatshops that drive undocumented immigration. California, Illinois, Maine, New Jersey, New York, Pennsylvania, along with sixty cities, counties and school districts, have changed their procurement policies to ban government purchases from contractors violating internationally recognized labor rights.

See also:

- Progressive States, *Stopping Immigration at the Source: Anti-Sweatshop Legislation*
- Global Exchange, *Sweatfree Campaigns*
- AFL-CIO, *Stop Sweatshops*
- Sweatfree Consortium, *Model Resolution to Join the State and Local Government Sweatfree Consortium*
- Sweatfree Communities, *Procurement Officials in the Sweatfree Movement*

General Resources: Wage Enforcement as Immigration Policy

- Progressive States, *Pervasive Violations of Wage Laws—and What States Can Do About It*
- Progressive States Network, *Cracking Down on Wage Law Violators*
- National Employment Law Project, *More Harm Than Good: Responding To States' Misguided Efforts To Regulate Immigration*
- Brennan Center, *Enforcement of Workplace Rights*
- AFL-CIO, *Executive Council Statement on Immigration Policy*
- Drum Major Institute, *Principles for an Immigration Policy to Strengthen and Expand the American Middle Class*
- National Immigration Law Center, *State and Local Proposals That Punish Employers for Hiring Undocumented Workers Are Unenforceable, Unnecessary, and Bad Public Policy*
- List of Organizations involved in wage law enforcement, participants in a 2005 wage enforcement conference sponsored by NELP and the Brennan Center for Justice.

Research Studies on Enforcing Wage Laws

- LA Times, *How L.A. Kept Out a Million Migrants*—article highlighting how strong wage enforcement efforts encouraged undocumented immigrants to seek out states with weaker wage laws and enforcement
- Brennan Center—*Unregulated Work in the Global City* (2007)
- Brennan Center, *Survey of Literature Estimating the Prevalence of Employment and Labor Law Violations in the US* (2005)
- Urban Institute, *Paying the Price: The Impact of Immigration Raids on America's Children*—report highlighting the devastating effect of workplace raids on children often left abandoned or traumatized in their wake.

Immigrant Integration and Naturalization

WHILE ANTI-IMMIGRANT

forces raise fears that recent immigrants resist integration into American society, progressives need to emphasize that all available evidence shows that most are eager to become full members of our communities if given a chance. Studies by research groups like RAND have shown that Latino immigrants, for example, are assimilating into the economy at the same rate as earlier waves of European immigrants.



Politically, progressives can promote legislation that helps all immigrants better integrate, which will unite the interests of legal and undocumented immigrants along with the members of their communities who are already voting citizens. Especially if anti-immigrant politicians oppose policies that help legal immigrants, it will emphasize to the voting parts of those communities that all the rhetoric about the problem being “illegal” immigration is empty and the bigotry is aimed at the whole ethnic community.

Illinois has created the most comprehensive “New Americans Policy” involving business, religious and community leaders to expand English language programs, welcome centers, jobs programs and document translation programs aimed at new immigrants, but a number of states have promoted a range of legislation to better integrate new immigrants.

Core immigration integration and naturalization legislation should include:

- Expand Access to Adult English Classes
- Create Government Offices to Assist the Naturalization Process for Aspiring Citizens
- Provide In-State Tuition for All State Residents
- Protect Immigrants from Private Discrimination
- Prevent Abuses Committed by “Notarios” and Others Hurting Immigrants Through Fraud

Expand Access to Adult English Classes

Despite claims by anti-immigrant groups that new immigrants don’t want to learn English, all evidence shows that there are millions of immigrants literally begging to learn English, only to find insufficient classrooms teaching in their communities. Many business leaders recognize that problem and want better language training programs, diverging sharply from anti-immigrant groups wanting to deny such help.

A number of states have proposed directed funding to help new immigrants learn English and integrate more easily into their communities:

- Illinois’s SB 1446, also known as the “We Want to Learn English Initiative” was passed by the legislature this October and requires that the Illinois Community College Board establish and administer a pro-

gram to provide resources for lawful immigrants and refugees to learn English in order to move towards becoming full members of American society. The initiative provides for an annual budget of \$25 million, with no less than half of the funds appropriated for the Initiative being disbursed through community-based, not-for-profit organizations, immigrant social service organizations, faith-based organizations, and on-site job training programs.

- Minnesota's HF 979 / SF 923 will increase funding for affordable and accessible adult English language instruction. The additional money proposed was passed in the Omnibus Education Finance Bill.
- New York's proposed A2289 would establish a program to provide resources to community-based organizations to facilitate adult English and civics instruction, along with assistance with the citizenship process.

See also:

- Migration Policy Institute, *Adult English Language Instruction in the United States: Determining Need and Investing Wisely*, July 2007
- American Immigration Law Foundation, *ESL Education Helps Immigrants Integrate, Interest remains high despite a national shortage of ESL programs*, 2002

Create Government Offices to Assist the Naturalization Process for Aspiring Citizens

By promoting legislation to help legal immigrants get citizenship, state leaders can focus the debate on the positive feelings voters have about new Americans becoming integrated members of our nation. States and local governments can take action to assist naturalization—from improving registration procedures at driver licensing offices and other government offices to assisting in the naturalization process. In California, Santa Clara County early on developed an Immigrant Relations and Integration Services (IRIS) to support immigrant integration programs in the county, serving as one of the inspirations for Illinois' Office of New Americans, which is a leader among the 11 states that have offices to tailor services to immigrants and help with naturalization. Massachusetts

operates an Office for Refugees and Immigrants that also assists in citizenship efforts.

States can create government offices or fund organizations to assist immigrants to successfully complete the process of obtaining U.S. citizenship through naturalization. A few recent proposals include:

- California's AB 930 would develop and fund a naturalization and civic participation program to assist eligible immigrants through the naturalization process and to help them integrate into the economic and civic fabric of the state
- Connecticut's SB 926 would appropriate funds for a community organization to develop and implement a state-wide customized training program to assist legal immigrants in obtaining their United States citizenship.
- Iowa's SF 2269 would have the department of workforce development establish immigration service centers that offer one-step services to deal with the multiple issues related to immigration and employment.
- New York's A9078, the Access for New Americans Act, includes civic and English classes, along with assistance with immigration requirements and related legal services.

States can also enact refundable tax credits for naturalization expenses :

- Indiana's SB 240 would create an Adult Education Tax Credit which would give employers a credit of up to \$300 per employee and up to \$5,000 per year for payment of an employee's expenses related to adult education programs, including citizenship training.
- Minnesota's HF 747 would create a specific Citizenship Income Tax Credit.
- Texas's HB 240 would require school districts to grant students an excused absence from school when appearing at a governmental office to complete paperwork

required in connection with the student's application for U.S. citizenship or to take part in a naturalization oath ceremony.

States can also improve government communication and coordination over programs promoting immigrant integration:

- Illinois's SB 1746 enacted the Latino Family Commission in 2007, which will advise the Governor and General Assembly, as well as work directly with State agencies to improve and expand existing policies, services, programs, and opportunities for Latino families.
- Minnesota's HF 1315/ SF 1081 would create a Minnesota Commission on New Americans to study ways to eliminate under-use of immigrants in the state's work force, develop business opportunities for immigrants; use the immigrant community to enhance and expand state trade relations with other countries, improve opportunities for the study of English as a second language, increase the efficient use of state programs and services, and take other steps to improve the economic and social conditions of immigrants in the state.

See also:

- Progressive States—*IL: Policies to Bring Immigrants into Economic Mainstream*
- New Americans Policy Council, *For the Benefit of All: Strategic Recommendations to Enhance the State's Role in the Integration of Immigrants in Illinois*
- Illinois Coalitions for Immigrants and Refugee Rights, *The New Americans Initiative*
- NCSL, *State and Local Immigrant Offices*

Provide In-State Tuition for All State Residents

One key to integrating the children of new immigrants into our communities is making sure they can get a college education. Nebraska in 2006 joined nine other states that have passed laws to provide the in-state tuition rate to undocumented immigrants who attend state colleges and universities. This year, the Connecticut legislature voted to

do so as well, although unfortunately the Governor in that state vetoed the bill. States across the country are promoting such in-state tuition or DREAM Acts: Arizona's HCR 2029, Arkansas's SB 981, Connecticut's HB 5329/HB 5656, Idaho's HB 220, Minnesota's HF 722/ SF 653, New Jersey's A4032, North Carolina's H1183, Rhode Island's HB 5308, Iowa's HF 470/ SF 267.

See also:

- FIRM—In-State Tuition Campaigns

States can also ensure access to state or locally funded financial aid and scholarships, regardless of immigration status:

- California's SB 1, which was enacted by the legislature but vetoed by the governor, would have made California high school graduates who meet the non-resident in-state tuition requirements eligible for a fee waiver at community colleges and enable them to participate in the Cal Grant state financial aid program.
- New York's A4653 would expand scholarship opportunities for immigrant students

Protect Immigrants from Private Discrimination

To prevent local discrimination against immigrants, legislation should add immigration and citizenship status to the grounds of prohibited discrimination under fair housing laws and/or prohibit cities, counties, and landlords from making inquiries into immigration status.

- California AB 976 was enacted in October to block local ordinances that promote housing discrimination against immigrant community members; the bill would also prohibit landlords from making inquiries about immigration status or request documentation in most cases.
- Texas's HB 2676 would similarly prevent any political subdivision from requiring that a landlord refuse to lease to a prospective tenant solely on the basis of their immigration status and would prohibit landlords from inquiring into a tenant's immigration status.

Prevent Abuses Committed by “notarios” and Others Hurting Immigrants Through Fraud

A number of states are taking action to stop the abuses committed by “notarios” and others who harm community members by engaging in fraudulent and unauthorized practice of law.

- California’s AB 630, which was enacted in 2006, requires a person acting as an immigration consultant to submit to and pass a background check by the Department of Justice and FBI. It also requires a registration with the Secretary of State.
 - Kentucky’s HB 166, also passed in 2006, prohibits any person in the business of providing immigration assistance from giving legal advice and requires registration with the Attorney General’s Office before providing immigration assistance services in the state. The bill also requires providers to post signs that specify that the provider is not an attorney and may not give or accept fees for giving legal advice.
 - Indiana’s SB 445, passed in 2007, requires any non-attorney who advertises as a notary public or notario publico to include a disclosure stating that the person is not an attorney with criminal penalties for failure to do so or accept payment for legal advice.
 - Similar proposals in other states include New York’s A3235, South Carolina’s H 3025, Illinois’s SB 0546, Texas’s HB 906, and Wisconsin’s AB 468.
- Grant-makers Concerned with Immigrants and Refugees, *Investing in Our Communities: Strategies for Immigrant Integration* (2006)
 - CLASP—*The Challenges of Change: Learning from the Child Care and Early Education Experiences of Immigrant Families* (2007)

Other General Resources on Immigrant Integration Policies

- Migration Policy Institute, *Leaving Too Much to Chance: A Roundtable on Immigrant Integration Policy*
- Urban Institute, *Immigration Studies: The Integration of Immigrant Families in the United States*

Immigrants and Public Benefits

MANY OF the attacks on immigrants focus on the idea that undocumented immigrants use more benefits than they pay in taxes. Advocates first need to highlight the multiple studies that have shown that even when you total up the limited services for which they do qualify—public school education and emergency medical care for example—



undocumented immigrants pay significantly more in state taxes than states spend on those benefits. The Texas State Comptroller, for example, estimated that undocumented immigrants added over \$17 billion to the state economy and paid over \$400 million more in taxes than they received in benefits from the state.

Progressives need to emphasize three key points beyond educating the population:

- When draconian ID requirements are imposed, legal citizens, not undocumented immigrants, lose more benefits under such policies;
- The costs of trying to screen out undocumented immigrants is higher than their current burden to taxpayers;

Core immigrants and public benefits legislation should include:

- Commission Studies Showing Taxes Paid and Economic Contributions by Immigrants, Both Legal and Undocumented
- Measure Costs of Burdensome ID Rules for Receiving Benefits
- Protect Privacy of Users of Public Benefit Programs
- Make Services Available to Immigrant Victims of Domestic Violence and Human Trafficking
- Provide Health Care for Immigrant Communities
- Pass Resolutions Asking Federal Government to Provide Funding for Local Immigrant Services

- Anti-immigrant politicians have made the problem worse for state and local leaders by denying federal aid for communities needing financial help from the federal level.

State leaders need to both document the myths promoted by anti-immigrant forces, but also promote policies that emphasize the ways investing in public services reflects our common values and the long-run economic benefits from such investments.

Commission Studies Showing Taxes Paid and Economic Contributions by Immigrants, Both Legal and Undocumented

To bring to light the real facts about the costs and real benefits of immigration, a number of states are proposing commission studies on economic role and contributions of immigrants, including workforce participation, business or jobs generated, revitalization of neighborhoods, and taxes paid.

- Virginia's HB 1673, passed in April 2007, creates the Virginia Commission on Immigration as an advisory commission in the executive branch. The purpose of the Commission is to study, report, and make recommendations to address the costs and benefits of immigration on the Commonwealth, including the impact on education, health care, law enforcement, local demands for services and the economy, and the effect on the Commonwealth of federal immigration and funding policies.
- Illinois' proposed SB 0059 would have required the Commission on Government Forecasting and Accountability to conduct a study, compile data, and make a report concerning the economic effects, both inflows and outflows, of illegal immigration on the public and private economies of Illinois.

Such official studies will just reinforce the message of other reports from California, Texas, Florida, New Mexico, Washington DC, Long Island, NY, and Arizona that new immigrants both pay taxes and contribute significantly to our state economies.

See also:

- National Immigration Law Center, *Immigrants and the US Health Care System*
- Urban Institute, *Civic Contributions: Taxes Paid by Immigrants in the Washington, D.C. Metropolitan Area*
- California Immigrant Policy Center, *Looking Forward: Immigrant Contributions to the Golden State*
- Texas Office of the Controller, *Undocumented Immigrants in Texas: A Financial Analysis of the Impact to the State Budget and Economy*

- Economic Policy Institute, *Immigration not driving the erosion of health insurance*
- Iowa Policy Project, *Undocumented Immigrants in Iowa: Estimated Tax Contributions and Fiscal Impact*

Measure Costs of Burdensome ID Rules for Receiving Benefits

While the justification for passing these anti-immigrant laws was to save taxpayer money, follow-up studies have shown little evidence of any savings—hardly surprising since there was little evidence beforehand that undocumented immigrants were receiving many benefits. ID requirements are usually so extreme that many legal citizens are turned away. For example, Colorado passed a law that prevented state agencies from even accepting a U.S. passport as documentation to obtain a driver's license, leading to the irony that one of the state's main proponents of the bill saw his daughter rejected for a license. The sad result, as the National Immigration Law Center notes, is that "U.S. citizens are less likely than noncitizens to have the documents required by the new verification laws." (p.7) While the law was amended to allow passports and a few other documents, the law has still inflicted burdens, both financial and personal on citizens of the state. In fact, one study in Colorado found that the law there was costing the state an additional \$2 million in increased administrative costs without any identifiable savings. States should promote similar studies in their states.

- See the Denver Post article "*Colo. Immigration Law Falls Short of Goal: State Agencies \$2 million cost and no savings*" for more on the Colorado study.

But if such ID rules save the taxpayers little money, the impact on *legal* residents and citizens can be severe. This was highlighted when the federal government imposed new identification requirements for new applicants for Medicaid. The result? Initial estimates were that 1.2 to 2.3 million citizens lacked the documents required by the new rules and were in danger of losing coverage. Follow-up studies by both the Center for Budget and Policy Priorities and the Government Accountability Office (GAO) found that Medicaid rolls declined in 44 states after Congress imposed the new

requirements—and most of those losing coverage were legal residents eligible for coverage but unable to produce the necessary documents. For other social programs covered by the states with the new anti-immigrant laws, confusion and fear led people to lose other benefits. States should commission their own studies to show the impact of benefit ID laws in hurting legal residents of their states.

See also:

- Progressive States Network, *Kids are collateral damage in immigration witch hunt*
- Center on Budget and Policy Priorities, *New Medicaid Citizenship Documentation Requirement is Taking a Toll: States Report Enrollment is Down and Administrative Costs Are Up*
- Government Accountability Office (GAO), *Medicaid: States Reported that Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens* (June 2007)

Protect Privacy of Users of Public Benefit Programs

State leaders can highlight the lost privacy that anti-immigrant witchhunts engender by pursuing policies and resolutions that limit questioning and recording of immigration status by city and state agencies, except where required by federal law.

- One model is New York a3161 which would amend the New York City Charter to add that no city employee may disclose information as to the immigration status of individuals who use services provided by the city and limits disclosure of confidential information to only when law enforcement has constitutional warrants.
- Texas HB 2381 would prohibit an officer, employee, or medical staff member of a general hospital to inquire as to the immigration status or nationality of a person who needs or receives emergency services, unless the information is necessary to provide those services to the person.

Make Services Available to Victims of Human Trafficking

One area where the public has great sympathy for extending public benefits is to immigrant victims of trafficking, domestic violence, and other serious crimes.

- Florida HB 7181, California's SB 1569, North Carolina SB 1078 all makes public social service benefits available to victims of trafficking, domestic violence, and other serious crimes.
- Hawaii HCR 204 proposed a resolution to have the state investigate existing obstacles, in statute, rule, or policy, that limit or deny benefits to victims of trafficking and assist such victims in attaining needed services.

Provide Health Care for Immigrant Communities

Many states are providing health care to immigrants, both legal and undocumented, recognizing that long-term investments in education and health care will pay off with a more skilled and healthy workforce in the future. More than half of the states spend their own funds to provide services to at least some immigrants ineligible for federal services.

- Illinois' AllKids program extended coverage to children of all income levels, regardless of immigration status. It was joined by Massachusetts, Hawaii, New York and California as those states continued to expand health benefits for many immigrant children. The state of Washington this spring extended health coverage to all children in families up to 250% of the federal poverty line (moving to 300% in 2009), again regardless of immigration status.
- Rhode Island proposed SB 415 would extended health coverage to children who do not meet citizenship or alienage requirements under title XIX of the Social Security Act.
- In California, even Republican Governor Schwar-

zenegger has said he wants to include all undocumented immigrants in any plan for universal access to health care, because as he argued in a speech announcing his own plan in January, “the decision for my team was do we treat them in emergency rooms at the highest cost available or we do it right and do it efficiently?”

- Rhode Island’s HB 5412 would provide assistance to lawfully present immigrants who are ineligible for federally funded services (health coverage, food stamps, and/or subsistence income) due to arbitrary restrictions such as the five-year waiting period.
- Texas HB 1302 would establish eligibility for non-emergency public health benefits provided by a municipality, county, or public hospital for a person who would otherwise be ineligible due to their immigration status, provided that only local money is used to provide the benefits.

See also:

- National Immigration Law Center, *Comprehensive Health Care for Immigrants: A Sound Strategy for Fiscal and Public Health*
- National Immigration Law Center, *Immigrant-Friendly Health Coverage: Outreach and Enrollment*

Pass Resolutions Asking Federal Government to Provide Funding for Local Immigrant Services

Since the federal government collects many taxes from undocumented immigrants, including social security taxes for which the federal government has to pay no benefits, a number of programs have been designed to funnel those revenues back to the states. In fact, federal policies continue to deny help even for legal immigrants who clearly pay taxes. A clear example is the failure to include funding for legal immigrant children in the recent SCHIP bill approved by Congress. Programs like the State Criminal Alien Assistance Program (SCAAP) were also designed to channel some of those increased tax revenues to states that are particularly impacted by new immigrants to help them deal with increased costs that local tax revenues might not fully cover, yet the

Bush administration and others have argued for cutting its funding.

Recognizing that the federal government collects taxes from immigrant workers without providing funds even for federally-mandated health care services, proposed California SJRX1 asks the Congress and President of the United States to enact legislation that would provide full reimbursement for the costs of providing federally mandated health care services to anyone, regardless of immigration status.

Voting Reform versus “Voter ID” Attacks

THE CHARGE that undocumented immigrants voting is a major problem is, unfortunately, a place where anti-immigrant forces are mobilizing around a big lie, stoking hate on pure fiction.

The cynical goals of voter identification laws pushed by the right-wing is highlighted by a basic fact—there is zero evidence that undocumented immigrants are illegally voting. At its “Truth about Fraud” website, for example, the Brennan Center for Justice has highlighted that fraud is a red herring used by the right-wing to disenfranchise legal voters through abusive identification rules. This is emphasized by the national scandal of the Bush Administration firing U.S. Attorneys, in part because some of those appointees refused to go along with partisan pressure to generate non-existent cases of voter fraud. Five years of investigations revealed no real evidence of voter fraud by an administra-

Core voting reform legislation should include:

- Hold Hearings or Create Commissions to Expose the Lack of Immigrant Voter Fraud
- Pass Deceptive Practices and Voter Intimidation Prevention Acts
- Pass Laws to Make Voting Easier Once People do Manage to Register to Vote

tion as determined to find non-existent voter fraud as non-existent WMDs in Iraq.

Progressive leaders should be alarmed, though, that while little fraud has been stopped, the result in states that have implemented voter ID rules has been a sharp drop in voting by legally eligible voters, the real goal of right-wing campaigners promoting the myth of undocumented immigrants voting. A report prepared for the federal Election Assistance Commission found that in states with voter ID requirements, blacks were 5.7% less likely to vote and Hispanics appeared to be 10% less likely to vote under those requirements.

Such voter ID laws need to be defeated, but the other part of progressive mobilization should be demanding that voting be made easier for people who do overcome these new barriers to voting.



Hold Hearings or Create Commissions to Expose the Lack of Immigrant Voter Fraud

State leaders need to expose the fraud in anti-immigrant myths about non-citizens voting in large numbers and use such hearings or commissions to refocus debate on the real ways voters are disenfranchised by burdensome election rules and tactics used to suppress the vote.

See also:

- Progressive States, *Fighting Vote Suppression by the Rightwing*
- New York Times, “*In 5-Year Effort, Scant Evidence of Voter Fraud*”
- Brennan Center, *The Truth About Fraud*
- Project Vote, *The Politics of Voter Fraud*
- Century Foundation, *Where’s the Voter Fraud?*
- Eagleton Institute, *Testimony presented to the U.S. Election Assistance Commission (February 8, 2007)*.

Pass Deceptive Practices and Voter Intimidation Prevention Acts

Too often, we see have seen campaigns to intimidate voters based on their race or use other tactics to suppress the vote of legal voters. States need Deceptive Practices and Voter Intimidation Prevention Acts to create strong penalties for groups that suppress voter turnout through deception and intimidation. If anti-immigrant forces are going to raise fraud as a justification for voter ID bills, then progressives should demand through proactive legislation and amendments attached to their bills that all forms of fraud, deception and intimidation be removed at the ballot box.

See also:

- Center for Policy Alternatives, *Voter Protection Model Bill*
- NAACP LDF and MALDEF *Uncover Significant Voter Intimidation Attempts During Recent 2006 Election Cycle*
- People for the American Way, *The Long Shadow of Jim Crow: Voter Suppression in America*

Pass Laws to Make Voting Easier Once People do Manage to Register to Vote

In states moving to create greater hurdles to registration and voting are enacted, progressives need to demand simplification of the process once people produce the necessary ID.

- Registration to vote and voting itself should be combined, as a number of states have done with same day voter registration laws. Just this past session, both Iowa and North Carolina approved same day voter registration laws. See IA HSB 204.
- In order to give people a longer window to vote at their convenience, voters should be allowed to sign up as permanent mail-in voters, a reform enacted in Colorado just this year following states like Minnesota, Washington, California and Oregon (the last of which has full vote by mail or all elections.)
- States also need to reform database procedures, following best practices to improve voter matching and verification after registration to avoid problems when voters show up on election day.

See also:

- Progressive States, *Cleaning up Election Day Disasters*
- Demos, *Election Day Registration*
- Brennan Center, *Best practices in database matching and voter verification*
- Progressive State, *Voting by Mail: Ending Long Lines, Hanging Chads, & Paperless Elections*

Immigrant Outreach as Public Safety and Anti-Terror Policy

WHILE ANTI-IMMIGRATION forces seek to paint immigrants as a dangerous criminal force, the facts show that immigrants commit fewer crimes than the general population. But more importantly, most law enforcement groups recognize that it becomes harder to protect victims of crime, particularly immigrants themselves, when millions of people living in our communities are fearful of talking to the police when they witness a crime or are a victim of one. As a report endorsed by the Major Cities Chiefs Association, representing the police departments of New York City, Los Angeles, Houston and city departments serving over fifty million residents outlined:

Immigration enforcement by local police would likely negatively effect and undermine the level of trust and cooperation between local police and immigrant communities. If the undocumented immigrant's primary concern is that they will be deported or subjected to an immigration status investigation, then they will not come forward and provide needed assistance and cooperation...Such a divide between the local police and immigrant groups would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.

Progressive leaders can frame reasonable treatment of immigrant communities as critical to promoting public safety.

Core immigrant outreach for public safety and anti-terror policy legislation should include:

- Promote Community Policing in Immigrant Communities
- Protect Immigrant Victims and Witnesses to Crimes, Particularly of Domestic Violence
- Issue Licenses and Identification
- Prevent Racial Profiling of immigrants
- Condemn Private Vigilantism

Community Policing in Immigrant Communities

The broadest message by progressives must be that we don't improve public safety by making immigrants afraid to cooperate with the police or anti-terror authorities. States should condemn turning every police officer or, even worse, every social worker into a potential immigration enforcement agent, because it undermines community policing and other known effective law enforcement approaches.

Rhode Island HB 5237 and New Hampshire HB 404 would prohibit the use of state and local law enforcement agencies for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship who are in violation of federal immigration laws.

See also:

- *Major Cities Chiefs Statement on Immigration*—Police chiefs statement on need for separation of local law enforcement and federal immigration enforcement
- Appleseed, *Forcing Our Blues into Gray Areas: Local Police and Federal Immigration Enforcement*
- Vera Institute of Justice, *Strengthening Relations between Police and Immigrants and Building Strong Police-Immigrant Community Relations: Lessons from a New York City Project*
- CAUSA, *Collaboration with federal immigration enforcement hurts community policing*
- National Immigration Forum, *Success Story: Santa Ana Uses Community Policing Methods to Reduce Crime in Heavily Immigrant Area*,
- *USA Today*, “Chiefs, mayors order local cops: Leave catching illegal immigrants to the feds”
- Institute for Policy Research, *Community Policing and “the New Immigrants:” Latinos in Chicago* prepared for the National Institute of Justice, U.S. Department of Justice (2002)
- National Immigration Forum, *Police in “New Immigrant” States Say Asking Them to Enforce Immigration Laws Would Harm Public Safety*

Protect Immigrant Victims and Witnesses to Crimes, Particularly of Domestic Violence

Progressive leaders can ally with both law enforcement and victims’ rights groups by promoting policies that protect immigrant victims of crime when they contact the police and by encouraging community policing efforts in immigrant communities.

To encourage victims and witnesses of crime, particularly those suffering from domestic violence, to come forward, state need clear policies to limit police inquiry into their immigration status. Rhode Island HB 5237 and SB 735 are both designed to promote immigrant assistance in crime fighting by protecting the identity of such immigrant victims and witnesses of crime.

See also:

- *Letter to Congress from the National Network to End Violence Against Immigrant Women*. Describing the

- impact that REAL ID will have on battered women
- National Immigration Project, *Noncitizen Survivors of Domestic Violence*, including *Local Police Enforcement of Immigration Laws and Its Effects on Victims of Domestic Violence*
- Violence Against Women Network, *Somewhere to Turn: Making Domestic Violence Services Accessible to Battered Immigrant Women, A ‘How To’ Manual For Battered Women’s Advocates and Service Providers*
- Electronic Privacy Information Center, *REAL ID and Domestic Violence*

Issue Licenses and Identification

State leaders need to emphasize that top law enforcement officials are on record supporting such drivers license identification programs as a way to bring undocumented immigrants out of the shadows and better track state residents for law enforcement purposes. Top officials who have publicly supported these measures include former New York police chief William Bratton, who now heads Los Angeles’ police force, and anti-terror officials like Richard A. Clark, the counter-terrorism czar for Presidents Clinton and Bush. Eight states do not require proof of legal status to obtain a driver license: Hawaii, Maine, Maryland, Michigan, New Mexico, Oregon, Utah, and Washington, with none of them suffering ill effects to public safety.

There are a number of models for removing bars to undocumented immigrants receiving licenses:

- New Jersey A2607 would permit the state to issue driving privilege cards, with the same privileges and legal responsibilities of a basic driver’s license, to persons who cannot prove ID or lawful presence in the country.
- New York a3755 would allow for foreign passports, valid documentation issued by the United States citizenship and immigration services and consular photo identification documents to be acceptable proof of identity for a license and would further provide that eligibility for a license not to be conditioned on a particular immigration status.

- California SB 60 would require compliance with the REAL ID Act of 2005, but would also require the Department of Motor Vehicles to issue a driver's license that permits driving, and is not acceptable by a federal agency for federal identification or for any other official purpose, to an applicant who does not provide valid documentary evidence of lawful status under the federal act.

Many Americans are concerned about lost privacy in all aspects of our lives, so another approach is to combine licensing laws for immigrants with a more general policy denying the DMV the right to inquire about a wide range of personal information, from legal status to gender orientation, as long as the person can produce some reasonable identification.

See also:

- New York Coalition for Immigrants' Right to Driver's Licenses, *Equal Access for All Communities*
- National Immigration Law Center, *Immigrants & Driver's Licenses: Resources for Advocates*
- National Immigration Law Center, *Driver's Licenses for All Immigrants: Quotes from Law Enforcement*
- City of New Haven, *New Haven's Elm City Resident Cards Fact Sheet*

Prevent Racial Profiling

Hysteria over immigrants encourages racial profiling by law enforcement, so proposals like Texas HB 2428 / SB 150 would prohibit law enforcement profiling based on a person's immigration or nationality status.

Condemn Private Vigilantism

A number of proposed bills condemn vigilante or hate activity targeting immigrants:

- California AJR 16, adopted by both chambers in 2007, urges local, state, and federal government officials, when crafting immigration policy that affects the United States-Mexico border, to take steps to recognize and protect the human rights of immigrants, and publicly



denounce xenophobia and anti-immigrant bias as having no place in immigration policy.

- Arizona HCR 2011 is a proposed resolution against civilian patrol groups in Arizona. The resolution opposes individualized groups that are not formally affiliated with any federal or state law enforcement agency and whose members take it upon themselves to invade Arizona.

General Public Safety Resources

- NCLR, *State and Local Police Enforcement of Immigration Law, A Toolkit for Advocates*
- National Immigration Forum, *State and Local Police Enforcement of Immigration Laws*

NOTES



About the Progressive States Network

The Progressive States Network was founded in 2005 to drive public policy debates and change the political landscape in the United States, by focusing on attainable, progressive state actions. The Progressive States Network advances this agenda by providing coordinated research and strategic advocacy tools to forward-thinking state policymakers, legislative staff, and non-profit organizations. We function as a meeting space for progressive legislators, activists, and citizens, and serve as a hotbed of information exchange. We track legislation in all 50 states, helping to spark change across the country. We make it easier for people to learn more about how to get good ideas passed into law—and take power into their own hands.

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