



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

Welcoming the Stranger through Immigrant Integration



Introduction

In this document, CLINIC lays out five state-level legislative initiatives that can be enacted to build communities and make states stronger by educating and including immigrants. These integration measures recognize the economic, social, and cultural contributions immigrants make at the local and state levels. In addition, these integration measures have strategic importance because they counteract and neutralize anti-immigrant bills and give legislators positive bills to support in the often contentious area of immigration policy.

Integration initiatives, such as those listed below, have gained momentum throughout the U.S. in recent years. Each of these measures ensures that all residents can succeed and contribute to building stronger communities and stronger states.

(1) Legislation that Creates Tuition Equity for All

(2) Legislation that Strengthens Human Trafficking Laws

(3) Legislation that Invests in English Language Instruction

(4) Using the Budget Process to Integrate Immigrants

(5) Other Legislation: Access to Financial Aid and Protection Against Immigration Consultant Fraud

Note on Sources: CLINIC relied on the expertise of a myriad of organizations to put this document together. Their publications and reports, as well as information on their websites, provided valuable information for this document. These organizations include: the Annie E. Casey Foundation, the Congressional Research Service, Grantmakers Concerned with Immigrants and Refugees, the Migration Policy Institute, the National Conference of State Legislatures, the National Immigration Law Center, the Polaris Project, and the Progressive States Network, Inc.

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Legislation Establishing Tuition Equity for All

Background:¹ Laws that invest in young people by promoting higher education access and affordability through in-state tuition make a state stronger and more competitive. These types of laws are called “tuition equity laws.” As explained by the National Immigration Law Center (NILC), “tuition equity laws provide in-state tuition rates at colleges or universities to students who attend high school in a state for a number of years, graduate, and meet certain other criteria, regardless of their immigration status.”² Since 2001, 16 states have enacted tuition equity laws. In most states, there is a vast difference between the in-state and out-of-state tuition rate. Thus, for most students, the in-state tuition rate greatly increases the ability of students without legal status to pursue their educational goals beyond high school.

Components of Tuition Equity Laws

Laws that allow high school graduates or recipients of a GED to benefit from in-state tuition rates usually mandate that students meet eligibility requirements. These include:

- ✓ students must live in a state for a certain period of time (normally 1-4 years),
- ✓ students must graduate from high school or receive their GED in the state,
- ✓ students must be accepted into a public college or university, and,
- ✓ students must sign an affidavit stating that they have filed an application to legalize their immigration status, or will file such application as soon as they are eligible to do so.

High School in State: As noted above, states with tuition equity laws require that students be enrolled in school in the state for a period of years.³ States differ on the number of years that they require students to attend. For example, New Mexico requires students to attend 1 year of high school in the state. New York and Washington require students to attend 2 years of high

¹ The National Immigration Law Center (NILC) is an organization that has been at the forefront of promoting tuition equity legislation. The organization has excellent materials on its website, including a tool kit that can be used by advocates to begin a tuition equity campaign. The toolkit can be accessed at: <http://www.nilc.org/eduaccessstoolkit.html>. NILC’s materials, as well as materials from the National Conference of State Legislatures (NCSL), provided valuable information to this section. <http://www.ncsl.org>.

² National Immigration Law Center, “Campaigns on Education Gained Momentum in 2011,” October 2011. <http://www.nilc.org/ed-legislative-session-summary.html>.

³ National Immigration Law Center, “Table: Laws & Policies Improving Access to Higher Education For Immigrants.” <http://www.nilc.org/eduaccessstoolkit2a.html#tables>.

school in the state. California, Colorado, Illinois, Kansas, Maryland, Minnesota, Nebraska, Oregon, Rhode Island, Texas, and Utah require students to attend 3 years of high school in the state. Connecticut requires students to attend 4 years of high school in the state.

States with Tuition Equity Laws

State	Bill Number	Legislative Session
California	AB 540	2001
Colorado	SB 33	2013
Connecticut	HB 6390	2011
Illinois	HB 60	2003
Kansas	HB 2145	2004
Maryland	SB 167 & HB 470	2011
Minnesota	HB 2787	2013
Nebraska	LB 239	2006
New Mexico	SB 582	2005
New York	SB 7784	2001-2002
Oklahoma	SB 596 & HB 1804	2003 & 2008
Oregon	HB 2787	2013
Texas	HB 1403	2001
Utah	HB 144	2002
Washington	HB 1079	2001-2002

Worth Noting: Over the past 13 years, a total of 16 states have passed a version of a tuition equity bill and 15 states retain tuition equity laws today. As depicted in the chart, California and Texas were the first states to enact legislation in 2001. They were followed by New York (2001-2002), Washington (2001-2002), Utah (2002), Illinois (2003), Oklahoma (2003), and Kansas (2004).

Oklahoma subsequently amended its law in 2008. Currently, the Oklahoma Board of Regents determines whether to grant in-state tuition rates to students without status. This allows undocumented students, who meet Oklahoma's original statutory requirements, to continue to receive in-state tuition.

New Mexico and Nebraska passed tuition equity measures in 2005 and 2006. Wisconsin followed in 2009 but subsequently revoked its legislation in 2011.

Connecticut passed a law allowing in-state tuition for students without status in 2011. Also in 2011, the governor of Maryland signed a bill that allowed students without status to pay

in-state tuition at community colleges. This law was challenged by referendum, but voters voted to approve the law in November of 2012, 59 to 41 percent.⁴

In 2012, ten states introduced new tuition equity policies or additions to previous laws. Unfortunately, none of these bills became law. However, several bills made unprecedented progress. For instance, in Colorado, SB 12-015, known as ASSET (Advancing Students for a Stronger Economy Tomorrow) passed the full Senate as well as a House Committee. This year, the ASSET bill passed both chambers and was signed into law by Colorado's governor on April 29, 2013. Oregon and Minnesota also passed tuition equity laws in 2013.

States Looking to Pass Tuition Equity Measures: A number of states introduced versions of tuition equity bills or introduced legislation to improve their existing tuition equity laws during the 2013 legislative session. These states include: Arizona, Arkansas, California, Connecticut, Florida, Indiana, Iowa, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Pennsylvania, Rhode Island, and Virginia.

Model Language for Tuition Equity Bills

This model language for a tuition equity bill was written by the National Immigration Law Center (NILC). NILC has been at the forefront of promoting tuition-equity laws throughout the U.S. This model language can be found on NILC's website at:

<http://www.nilc.org/eduaccessstoolkit2b.html#model>

- (1) An individual, other than a non-immigrant within the meaning of 8 U.S.C. 1101(a)(15)(F), (a)(15)(H)(iii), (a)(15)(J) (including only students or trainees) or (a)(15)(M), shall be exempt from paying out of state tuition rates, if:
- (A) the individual meets all of the following criteria: (i) attended high school in [State] for [##] or more years, (ii) graduated from a [State] high school or attained the equivalent thereof, and (iii) is registered as an entering student, or is enrolled at a public institution of higher education in [State], and
- (B) if the individual is without lawful immigration status, files an affidavit with the institution of higher education stating that he or she has filed an application to legalize

⁴ Under the Maryland Dream Act, eligible students who begin their higher education at a Maryland public community college pay the in-county tuition rate if they are residents of the service area of the community college that they attend. After they complete their associate's degree at a community college, they can continue their higher education at a Maryland public university or college at in-state tuition rates.

his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(2) Information obtained in the implementation of this section is confidential. An institution of higher education that receives an affidavit described in paragraph (B) of this section shall treat the affidavit as an education record of the student under the provisions of the federal “Family Educational Rights and Privacy Act of 1974,” 20 U.S.C. 1232g.

When Legislation Is Not An Option: Other Avenues for Enhancing Access to Higher Education

Getting legislatures to pass and governors to sign tuition equity laws can be daunting in many states where anti-immigrant sentiment is strong and/or the political will for such change does not exist. In a few states, advocates for tuition equity have bypassed the state political process and pursued other avenues in order to expand access to higher education for all students within the state. Below are three such avenues.

1. State Boards of Governors for Higher Education

State Boards of Governors/Regents for Higher Education can and have enacted tuition equity policies. For instance, in September 2011, Rhode Island’s Board of Governors for Higher Education voted unanimously to provide access to in-state tuition at the state’s public colleges and university to certain students, regardless of immigration status. Governor Chafee of Rhode Island supported the policy, and it took effect in 2012. The policy is similar to a tuition equity law. To be eligible for in-state tuition, students without immigration status must have completed at least three years of high school in Rhode Island, graduated from a high school or received a GED in the state, and signed an affidavit saying that they will pursue citizenship as soon as possible.

Also, as discussed above, Oklahoma passed a tuition equity bill in 2003. The legislature amended the law in 2008. Through the amendment, Oklahoma’s Board of Regents allows undocumented students, who meet Oklahoma’s original statutory requirements, to receive in-state tuition. This policy is still in effect in Oklahoma.

2. Individual Colleges and Universities

Another alternative to passing a tuition equity law is for institutions themselves to offer a nonresident discounted tuition rate for students who lack immigration status. For example, the University of Hawaii's Board of Regents approved a tuition equity policy in February of 2013. Pursuant to the policy, students will be charged in-state tuition if they have lived in Hawaii for at least the past 12 months, graduated from a high school in the United States, and sign an affidavit saying they plan to seek legal status. Importantly, Hawaiian law empowers the University's Board of Regents to waive or reduce the tuition fee for both resident and nonresident students.

Western Michigan University offers in-state tuition to any student that can prove in-state residency. Starting in 2014, undocumented students at the University of Michigan (Ann Arbor, Flint, and Dearborn) will also qualify for in-state tuition.

Before Maryland voters approved the state's tuition equity law by referendum in November of 2012, Montgomery College in Maryland offered reduced tuition to students without lawful status. Additionally, before Colorado passed its 2013 tuition equity law, the Metropolitan State University of Denver established a differentiated nonresident policy that charges \$7,157 per year for a full-time student. This rate is higher than its in-state-rate of \$4,304 but lower than its out-of-state rate of \$15,985.

There are at least two significant reasons that college or university boards consider these types of tuition policies. First, many individuals within higher education acknowledge the importance of giving all young people the opportunity to pursue and benefit from a college/university education. Second, many board members understand the importance of attracting more students to their school and filling their classrooms.

3. Executive Action by a Governor

A third avenue for advocates to obtain greater access to higher education for students within the state is to ask the governor to take executive action. As an example, in November of 2012, Governor Patrick of Massachusetts issued an executive action allowing in-state tuition to undocumented immigrants who have been approved for a federal program called Deferred Action for Childhood Arrivals (DACA). The federal DACA program allows certain young immigrants, who have been in the country without status and who meet eligibility requirements,

to live and work in the U.S. on a temporary basis. Massachusetts recognizes the DACA work permit to grant those immigrants in-state tuition rates. Thus, Governor Patrick could extend in-state tuition by executive action to DACA recipients because these recipients are granted work permits by the federal government.

Conclusion: While these three options can help students if state legislation remains untenable, they are precarious. A policy by a State Board of Governors, a decision by a board of trustees of a college, and an executive action by a governor can easily be changed or rescinded. A law is much more difficult to repeal. Additionally, the executive action for DACA recipients affects a relatively small number of immigrant students. Lastly, the legality of having colleges and universities offer a discounted rate has not been fully tested in the courts.

Talking Points

State Economics: Tuition equity laws are right for our students and for our economy.

- ✓ Tuition equity laws build a skilled workforce that can expand the state's economy.
- ✓ A college degree is the best way to ensure a stable tax base and economic growth for states.
- ✓ Each student who attends college and obtains a professional job helps to strengthen the state's economy through wages, income tax payments, sales tax payments, increased property taxes, and consumption of goods and services.
- ✓ College educated individuals are less likely to drain the social service budget of the state. Without a doubt, students whose aspirations and educational opportunities are limited are more likely to drop out of school and become part of a permanent underclass in society with added social costs.
- ✓ A study found that "the net economic effect of the Maryland Dream Act will be positive and the benefits will be substantial. Even if the only consideration is fiscal effects on state and local governments, the impact of the Dream Act will be positive. The initial costs of the investment in education will be more than offset by increased tax revenues

and lower government spending on incarceration and other government programs that result from a more educated citizenry.”⁵

Tuition equity laws generate critical tuition revenue.

- ✓ Tuition equity measures can provide crucial tuition revenue for state universities and colleges that have experienced budget cuts in recent years.
- ✓ In-state tuition is not free tuition. Tuition equity laws increase tuition revenue because most of these students would not otherwise be able to attend college.

Tuition equity laws allow states to maximize returns on their investments in young people.

- ✓ Tuition equity laws help states to fully realize the investment they have already made in their students. It is counterproductive to invest in kindergarten through twelfth grade but not higher education.
- ✓ Tuition equity laws allow states to maximize returns on their investments in young people by encouraging them to stay in the state and leverage their education to help power the state’s economy into the future.

Tuition equity laws help to inspire students to stay in school and work hard to achieve their educational goals.

- ✓ Tuition equity laws encourage students to excel in high school and motivate families to make the sacrifices needed to pay for college.
- ✓ Without educational opportunities, young people may underperform in high school and drop out, which may lead them to become part of a permanent underclass in society with added social costs.
- ✓ Students without status who came to the U.S. with their parents as young children should not be deprived of access to a state college or university because of their parents’ choices.
- ✓ The cost of out-of-state tuition often stops many high-achieving students from going to college. Without in-state tuition, most undocumented students cannot afford college.

⁵Maryland Institute for Policy Analysis and Research Policy Brief, *Private and Government Fiscal Costs and Benefits of the Maryland Dream Act*, T. H. Gindling and Marvin Mandell, UMBC (October 2012).
<http://www.umbc.edu/mipar/Documents/dreamactpolicybrief.pdf>.

Responding to Common Misconceptions

Argument: Tuition equity bills will drain the state’s budget.

Response: It is difficult to predict how many new students will enroll in a public college or university if a tuition equity bill is enacted. In general, many eligible students come from low-income backgrounds and are unable to afford college even at in-state tuition rates. The Oregon University System reported that, according to information provided by states with tuition equity laws, “the number of students [taking advantage of] the program has not been large – from ‘a handful’ to a few hundred.”⁶ Also, each student who attends college can strengthen the state’s economy.

Argument: Tuition equity laws reward illegal activity.

Response: Tuition equity laws reward good behavior. The laws inspire students to stay in school, work hard, achieve good grades, and pursue their educational and career goals.

Argument: Tuition equity laws are a waste of taxpayer money because students without status cannot legally work after their graduation.

Response: Students that have qualified for the federal DACA program are granted a work permit. Tuition equity laws help these students afford a college or university education. In addition, Congress is considering Comprehensive Immigration Reform that will likely benefit students without status and grant them a path to citizenship that includes work authorization.

Argument: Tuition equity laws cost taxpayers too much money.

Response: The tuition and fees paid by enrolling students who do not have status would constitute new revenue for the state’s educational institutions because few undocumented students are currently enrolling and paying out-of-state tuition rates. Additionally, as mentioned above, the state gains long-term benefits when students achieve higher education because each student who attends college helps to contribute to the state’s economy, both during their studies and after graduation.

⁶ Oregon University System, “Tuition Equity in Oregon: Ensuring That All Students Can Succeed and Contribute,” 2013. http://ous.edu/sites/default/files/dept/govrel/files/TuitionEquity_IssueBrief_FINAL_VersionIII.pdf.

Argument: Tuition equity bills violate federal immigration law.

Response: Tuition equity laws have withstood legal challenges. The seminal case to date is *Martinez v. Regents of the University of California*.⁷ In this case, plaintiffs filed a class-action lawsuit in 2005 arguing that state education officials violated federal law by offering in-state tuition to students without status while charging U.S. citizens out-of-state tuition rates. The crux of the plaintiffs' argument was that the California law violates federal law because it uses high school attendance as a proxy for a residency requirement. The court upheld the law. In 2008, a California appeals court reversed the ruling. In 2010, the California Supreme Court reversed the appeals court decision. The U.S. Supreme Court declined to review this decision in June of 2011. Therefore, California's tuition equity law remains valid throughout the state.

There have been other court challenges to tuition equity laws, but all have been dismissed on procedural grounds before reaching the merits of the cases. For instance, in a case challenging the Kansas tuition equity law, the court found that the plaintiffs lacked standing to bring the case. This decision was upheld by the U.S. Court of Appeals for the 10th Circuit and the U.S. Supreme Court declined to review the ruling.⁸

Argument: It is against the law to allow students without status to attend a state college/university.

Response: Enrollment of undocumented students at public colleges and universities does not violate federal law. The U.S. Department of Homeland Security (DHS) made this position clear in two letters it issued in 2008. In the letters, Immigration and Customs Enforcement (ICE), an agency within DHS, stated that: (1) enrollment of undocumented students does not violate federal law; (2) it is a matter left to the state to decide; and (3) in the absence of state law, it is a matter left to institutions to decide.⁹

⁷ *Martinez v. Regents of University of California*, 50 Cal. 4th 1277 (Nov. 15, 2010).

⁸ *Day v. Sebelius*, 376 F. Supp. 2d. 1022 (D. Kan. 2005), affirmed *Day v. Bond*, 500 F.3d 1127 (10th Cir. 2007), rehearing and rehearing en banc denied *Day v. Bond*, 511 F.3d 1030 (10th Cir. 2007), cert. denied 554 U.S. 918 (2008).

⁹ US Department of Homeland Security, Immigration and Customs Enforcement (2008, May 9). Letter sent to Jim Hackenburg. <https://salsa.democracyninaction.org/o/371/images/ICE%20Statement%20on%20Enrollment%20of%20Undocumented.pdf>. U.S. Department of Homeland Security, Immigration and Customs Enforcement (2008, July 9). Letter sent to Thomas J. Ziko. A copy can be found on the National Immigration Law Center's website at: <http://www.nilc.org/wrkshop2-11.html>

Legislation that Strengthens Human Trafficking Laws¹⁰

Background: Human trafficking is the act of recruiting, harboring, transporting, providing, or obtaining a person for compelled labor or commercial sex acts through the use of force, fraud, or coercion. According to the U.S. government, human trafficking is a modern-day form of slavery wherein people profit from the control and exploitation of others. Profits are enormous – human trafficking generates billions of dollars in revenues for criminal enterprises all over the globe. Victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. Victims are young children, teenagers, men, and women.

The U.S. government estimates that as many as 17,500 people are trafficked into the United States each year. Many victims trafficked into the United States do not speak or understand English. Often kept in isolation, they have difficulty locating and communicating with service providers, law enforcement, and others who might be able to help them.

As reported by the Congressional Research Service, the trafficking of individuals within the U.S. is known as domestic or “internal” human trafficking. Domestic human trafficking occurs most often in the context of work / labor. Industries where domestic human trafficking is most prevalent include: domestic service, agriculture, manufacturing, janitorial services, hotel services, construction, health and elder care, hair and nail salons, massage parlors, and strip clubs. Domestic human trafficking also includes the sex trafficking of women and children. According to the Congressional Research Service, more investigations and prosecutions have occurred for sex trafficking offenses than for labor trafficking offenses.

Federal Law: Federal law prohibits the trafficking of persons. The Trafficking Victims Protection Act (TVPA) of 2000 was the first comprehensive federal law on trafficking in persons. The law provides a three-pronged approach that addresses prevention, protection, and prosecution. Congress reauthorized the TVPA through the Trafficking Victims Protection Reauthorization Acts (TVPRA) of 2003, 2005, and 2008. Under U.S. federal law, “severe forms of trafficking in persons” include both sex trafficking and labor trafficking.

- **Sex trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act, in which the commercial sex act

¹⁰ Much of the background information in this section was gleaned from an excellent Congressional Research Service Report written by Alison Siskin and Liana Sun Wyler entitled “Trafficking In Persons: U.S. Policy and Issues for Congress,” dated February 19, 2013. <http://www.fas.org/sgp/crs/row/RL34317.pdf>. Additional information is from the Polaris Project’s website. <http://www.polarisproject.org>.

is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age. 22 U.S.C. Section 7102.

- **Labor trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery. 22 U.S.C. Section 7102.

State Law: Trafficking in persons is a crime in every state within the U.S. Wyoming became the 50th state to ban human trafficking in February 2013. Thus, officials in all 50 states can respond directly to local instances of human trafficking instead of relying solely on the federal government to identify and prosecute cases.

Human Trafficking Initiatives¹¹

According to the Polaris Project, an organization that fights against human trafficking and modern-day slavery in the U.S. and around the world, the most effective and comprehensive trafficking legislation addresses **prosecution, prevention and protection of victims** (characterized as the “3 Ps”). Some states have enacted comprehensive laws that encompass all three components. Other states have focused on strengthening one of the “3 Ps” by changing the criminal code, introducing more severe penalties and punishments for traffickers, or amending state laws to add new prevention and protection measures.

Below are five initiatives that legislators can take to strengthen state human trafficking laws:

- (1) Introduce and pass comprehensive anti-trafficking legislation,
- (2) Introduce and pass legislation to provide training to state employees so that law enforcement personnel have the best tools to stop trafficking in their communities,
- (3) Introduce and pass legislation to provide protections and services to victims of trafficking,
- (4) Introduce and pass legislation to strengthen the criminal provisions of the state’s existing anti-trafficking law, and

¹¹ Ideas for ways to strengthen trafficking laws were gleaned from a number of materials developed by the National Conference of State Legislatures. These include: (1) “State Immigration Laws by Subject” from January through June of 2012.

http://www.ncsl.org/Portals/1/Documents/immig/Enacted_Laws_byCategory_July2012.pdf.

(2) “Recent Trends in State Human Trafficking Legislation,” <http://www.ncsl.org/Documents/CJ/RecentTrendsInHumanTrafficking.pdf>.

(3) “Human Trafficking Enactments 2011 and 2012.” <http://www.ncsl.org/issues-research/justice/human-trafficking-legislation-2011-and-2012.aspx>. Materials developed by the Polaris Project also contributed to this section. <http://www.polarisproject.org>.

(5) Introduce and pass legislation to create Human Trafficking Task Forces or Human Trafficking Study Commissions.

1. Introduce and Pass Comprehensive Anti-Trafficking Legislation

In May 2103, New Jersey enacted a comprehensive anti-trafficking law called the “Human Trafficking Prevention, Protection, and Treatment Act.” This law strengthens New Jersey’s existing trafficking law by increasing penalties for and providing resources to prevent human trafficking in New Jersey. It also creates a Commission on Human Trafficking to review laws and enforcement and make recommendations to state policy makers; establishes a “Human Trafficking Survivor’s Assistance Fund” to provide victim’s services; promotes awareness, and develops training and educational materials; and increases both financial penalties and prison time for those who traffic individuals. Governor Christie of New Jersey also signed bills designating each January as “Human Trafficking Prevention Month” and January 11th as “Human Trafficking Awareness Day.” New Jersey’s Human Trafficking Prevention, Protection, and Treatment Act can be found at:

<http://www.judiciary.state.nj.us/legis/P.L.%202013,%20c.51%20-%20The%20Human%20Trafficking%20Prevention,%20Protection,%20and%20Treatment%20Act.pdf>

Model Comprehensive Legislation: Legislators seeking to sponsor and pass a comprehensive anti-trafficking law can look to a variety of sources for a model bill. In addition to New Jersey’s law, available at the link above, model legislation can also be found at the websites of the Polaris Project and the Uniform Law Commission, described below.

Polaris Project: The Polaris Project fights against human trafficking and modern-day slavery in the U.S. and around the world. The organization also advocates for stronger federal and state laws, operates the National Human Trafficking Resource Center hotline ([1-888-373-7888](tel:1-888-373-7888)), conducts trainings, and provides vital services to victims of trafficking. The Polaris Project has written model comprehensive state legislation that combats human trafficking. This model legislation is written so that states can choose to adopt the entire model legislation or only certain parts of it to strengthen existing laws. The model legislation can be found at:

[http://www.polarisproject.org/storage/documents/policy_documents/state_policy/Final Comprehensive ModelLaw 8 2010.pdf](http://www.polarisproject.org/storage/documents/policy_documents/state_policy/Final%20Comprehensive%20ModelLaw%208%202010.pdf)

In addition, the Polaris Project's U.S. Policy Program offers technical assistance to state legislators, their staffs, and others working on legislation to combat human trafficking. The policy team can be contacted at (202) 745-1001 or at policy@polarisproject.org.

Uniform Law Commission: In July 2013, the Uniform Law Commission (ULC) drafted a uniform state trafficking law which was approved by the American Bar Association. The ULC's Uniform Act on Prevention of and Remedies for Human Trafficking is available to legislators and advocates on ULC's website.¹² The ULC, a non-profit association comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands, works for the improvement of state laws by drafting uniform state laws on subjects where uniformity is desirable and practicable.

2. Pass Legislation to Provide Training for State Employees

One of the challenges states face as they address this issue is training personnel to identify and handle trafficking cases and to assist victims. The National Conference of State Legislatures (NCSL) reported that in 2011 and 2012, fifteen states enacted seventeen laws that addressed training and standards for public personnel. Below are two examples from NCSL's materials.

In 2012, Nebraska enacted LB 1145 which provides, among other things, mandatory training to law enforcement officers, judges, prosecutors, public defenders, and others regarding the issues of human trafficking and methods used in identifying victims of human trafficking. The text of the law can be found at:

<http://nebraskalegislature.gov/FloorDocs/102/PDF/Slip/LB1145.pdf>.

In 2011, Virginia enacted SB 1453 which directed the Department of Criminal Justice Services, in coordination with the Attorney General's Office, to advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses. The text of the law can be found at:

<http://legiscan.com/VA/text/SB1453/id/206138/Virginia-2011-SB1453-Enrolled.html>.

¹²http://www.uniformlaws.org/shared/docs/Prevention%20of%20and%20Remedies%20for%20Human%20Trafficking/2013AM_UPRHT_As%20Approved_Edited%20title%20page%20for%20web%20post.pdf

3. Pass Legislation that Provides Protections and Services for Victims of Trafficking

States can bolster and augment their trafficking laws by addressing the needs of victims. Here are just a few ways that states can make a significant difference in the lives of trafficking victims: educate victims about the National Human Trafficking Resource Center hotline and other helpful resources; allow victims of sex trafficking to have unjust convictions removed from their criminal records; provide them with witness protection; and establish legal remedies and rehabilitation services for trafficking victims.

Posting Notices & Requesting Identification: In 2012, Virginia enacted H 1200 which requires adult entertainment businesses to post notice of the National Human Trafficking Resource Center Hotline to alert potential trafficking victims of the availability of assistance. A copy of the law can be found at: <http://leg1.state.va.us/cgi-bin/legp504.exe?121+ful+CHAP0630>. Other states that passed similar legislation requiring the posting of the Hotline's information or other notices regarding slavery or human trafficking include: Alabama SB 50 (2012), California SB 1193 (2011), Colorado HB 1151 (2012), Louisiana SB 4 (2012), Maryland HB 607 (2012), Nebraska LB 1145 (2011), and Pennsylvania HB 235 (2011).

In 2012, Virginia enacted H 1188 (identical to VA S 259) which requires the dissemination of human trafficking awareness and training materials (including strategies for the prevention of child trafficking) to local school staff. The text of the law can be found at: <http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+CHAP0317>.

In 2012, Florida enacted H 7049, which requires owners and employees at massage establishments to present, at the request of law enforcement, a current state-issued driver's license or ID, U.S. passport, green card, or employment authorization card. The law states that a person who coerces - for labor, services, or commercial sexual activity - any individual who is an unauthorized alien, commits a felony of the first degree. The text of the law can be found at: http://laws.flrules.org/files/Ch_2012-097.pdf.

Expungement or Vacation of Criminal Convictions: A number of victims of trafficking come to the attention of law enforcement when they are arrested for prostitution or related offenses. Some states have passed measures that relate to the expungement or vacation of a prostitution conviction under certain circumstances. These include: Colorado HB 105 (2012),

Hawaii SB 2576 (2012), Ohio HB 262 (2012), Nebraska LB 1145 (2011), Oregon HB 4146 (2012) (juvenile records), Vermont SB 122 (2011), and Washington SB 6255 (2011).

States have also assisted victims by enacting laws that allow defendants to obtain immunity from prosecution or invoke an affirmative defense to their alleged crimes. For instance, South Dakota enacted SB 146 (2012) which provides for an affirmative defense of compulsion for the crime of prostitution if the defendant proves that he/she is a victim of human trafficking. Tennessee enacted HB 2823 (2011) which grants immunity from prosecution for prostitution where a person is a victim of involuntary labor servitude, sexual servitude, or where the person is a victim as defined under the federal Trafficking Victims Protection Act.

Civil Right of Action, Tax Funds, and Rehabilitation for Victims of Trafficking:

Tennessee enacted a series of anti-trafficking laws in 2011 including Tennessee 2489 which creates a civil right of action for victims of human trafficking offenses. In 2011, California enacted SB 764 which allows taxpayers to designate on their tax returns that a specified amount of their refunds be transferred to the Child Victims of Human Trafficking Fund established in the State Treasury.

In addition, Tennessee enacted SB 2370 (2011) which requires the Department of Human Services to develop a plan for the state to assist in rehabilitating victims of human trafficking and provides for coordination of services for health care, mental health care, legal services, housing, job training, education and victim compensation funds.

New Mexico enacted HB 304 (2013) which provides mental health and substance abuse counseling, along with housing relief and vocational training, for victims of trafficking.¹³

4. Pass Legislation to Strengthen the Criminal Provisions of Existing Laws

In recent years, many states have strengthened their existing laws by making it easier for law enforcement to prosecute traffickers. In 2012 and 2013, states passed legislation that made it illegal to withhold travel documents and redefined what constitutes a human trafficking offense. For example, Maine enacted SB 591 (2012) which makes it illegal to withhold travel or immigration documents as a means to hinder a person's movement.¹⁴ Arkansas enacted the "Human Trafficking Act of 2013" which defines involuntary servitude to include destroying,

¹³ The text of New Mexico's law can be found at: <http://www.sos.state.nm.us/uploads/files/HB304%282%29.pdf>

¹⁴ The text of the law can be found at: http://www.mainelegislature.org/legis/bills/display_ps.asp?LD=1731&snum=125

withholding, or confiscating a passport, immigration document, or other government identification document of another person in the attempt to make the person engage in labor or a commercial sexual activity.¹⁵

Oklahoma enacted HB 2518 (2012), which defines human trafficking for commercial sex to include recruiting, enticing, harboring, maintaining, transporting, providing, purchasing, or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act.¹⁶

In 2012, Utah enacted HB 97 which adds the offenses of human trafficking, human smuggling, and aggravated human trafficking to the list of offenses that, when conducted as a pattern of unlawful activity, would constitute racketeering.¹⁷ In 2013, Utah also enacted HB 163 which removes any statute of limitation for aggravated human trafficking, aggravated human smuggling, and aggravated exploitation of prostitution.¹⁸

5. Pass Legislation to Create Human Trafficking Task Forces and Study Commissions

Legislators around the country have begun to recognize that effective anti-trafficking policies require understanding the nature of the crimes. In May, New Jersey's comprehensive anti-trafficking legislation created the Commission on Human Trafficking to review laws and enforcement strategies and make recommendations to state policy makers. NCSL reported that during 2013, seven states enacted ten human trafficking laws. Four of the ten laws establish groups to study trafficking issues.¹⁹ For example, the Texas legislature enacted HB 1272 which creates the Human Trafficking Prevention Task Force; the Tennessee legislature enacted SB 1036 which establishes a human rights task force to address all aspects of human trafficking; and the Arkansas legislature enacted HB 1203 and SB 242 which authorize the creation of a state task force for the prevention of human trafficking.

Other Resources: Northeastern University has a Human Trafficking Data Collection and Report Project that includes state and federal human trafficking legislation. This information can be found at: <http://www.northeastern.edu/humantrafficking/>

¹⁵ The text of the law can be found at: <http://www.arkleg.state.ar.us/assembly/2013/2013R/Bills/HB1203.pdf>.

¹⁶ The text of the bill can be found at: http://www.oklegislature.gov/cf_pdf/2011-12%20ENGR/hb/hb2518%20engr.pdf

¹⁷ The text of the law can be found at: <http://le.utah.gov/~2012/bills/hbillenr/HB0097.htm>

¹⁸ The text of the law can be found at: <http://le.utah.gov/~2013/bills/hbillenr/hb0163.pdf>

¹⁹ See NCSL report at: http://www.ncsl.org/documents/immig/ImmigRptJanJune2013_bySubject.pdf.

The United States Conference of Catholic Bishops (USCCB) operates an Anti-Trafficking Program to “educate on the scourge of human trafficking as an offense against fundamental dignity of the human person; to advocate for an end to modern day slavery; and to provide training and technical assistance on the issue.”²⁰ More information can be found at: www.usccb.org/about/anti-trafficking-program/

Talking Points

Below are talking points to encourage your legislators to introduce measures to help strengthen anti-trafficking laws:

- ✓ Human trafficking is a horrific crime against the fundamental rights and dignity of the human person.
- ✓ The state should be part of the solution and pass legislation that seeks to eradicate the horrible crime of modern day slavery by, among other things, severely punishing traffickers, training first responders, and assisting and rehabilitating victims.
- ✓ Prevention of trafficking in persons includes strengthening the laws to deter would-be traffickers.
- ✓ It is crucial that state prosecutors have multiple tools at their disposal to ensure strong and successful prosecutions.
- ✓ Awareness of the nature and extent of human trafficking is fundamental to preventing and eradicating it.
- ✓ Child victims of trafficking are particularly vulnerable and need strong, compassionate services and benefits to rehabilitate their lives and move forward.

²⁰ The USCCB Anti-Trafficking Program has recently launched three initiatives: (1) Provide employment services to individuals who need assistance entering the legitimate workforce; (2) Implement a new trafficking awareness campaign in immigrant communities that begins with Haitians in South Florida, pockets of indigenous Maya communities around the country, and new Hispanic migrants in areas of concern; (3) Conduct, with partners, a 24-month research project to present a profile of survivors of human trafficking and evaluate the effectiveness of interventions to stabilize, rehabilitate, and integrate them into the wider American society.

Legislation that Invests in English Language Instruction

Background: Most immigrants come to the U.S. without the ability to speak and understand English effectively or easily. Many attempt to negotiate rental agreements, register children for school, and facilitate doctor visits with limited or moderate English proficiency. The lack of English skills can make adjusting to the U.S. extremely difficult and can undermine a family's social and economic well-being if they do not have access to classes and programs that can improve their English skills.

In 2011, Limited English Proficient individuals comprised about 25.3 million, or 9 percent, of the U.S. population over age 5, according to the Migration Policy Institute²¹. The term Limited English Proficient (LEP) refers to any person age 5 and older who reported speaking English "less than very well" as classified by the U.S. Census Bureau.

Unfortunately, federal and state funding for English acquisition programs has not kept pace with the growth of LEP populations. Additionally, budget crises in many states have led to the reduction of English as a Second Language (ESL) Programs. While English programs are offered in many cities across the country, unfortunately there often exist long waiting lists, overcrowded classrooms, shortages of experienced teachers, and programs of uneven quality. ESL programs in major cities like New York, Boston, and Chicago have thousands of adults on waiting lists. In new immigrant gateway communities (areas with relatively high populations of recently arrived immigrants), especially in the south, there is a dearth of ESL programs. An overwhelming need exists to expand and support access to adult English classes.

The need for ESL classes appears especially urgent as Congress weighs immigration reform legislation. Margie McHugh, an expert on immigration integration issues at the Migration Policy Institute, recently stated that "without schooling, about 55 percent of undocumented immigrants wouldn't be able to pass the English portion of the U.S. citizenship test. . . if it were given today."²²

²¹ <http://www.migrationinformation.org/Feature/display.cfm?ID=960>

²² Goodwin, Liz, "English requirement in immigration reform will test underfunded ESL system," Yahoo News, The Ticket, February 26, 2013. <http://news.yahoo.com/blogs/ticket/english-requirement-immigration-reform-test-underfunded-esl-system-171501009--election.html>

The immigration reform bill passed by the U.S. Senate in June 2013 does include federal funding for English education. However, given the tremendous benefit that high quality English programs provide and the increasing need and demand for ESL classes, it seems likely that states will need to find ways to augment the federal government's efforts.

States Can Ensure that Newcomers Integrate into Communities by Providing High Quality Language Acquisition Programs

The development of effective English acquisition programs benefits all residents in the state. It allows all members to be fully integrated into their communities socially, economically, and politically. It also builds a stronger workforce that supports the state's economy, builds stronger families, and enhances safety and security within communities throughout the state. Below are three initiatives that legislators can take to improve English skills for immigrants residing and working in the state.²³

1. Invest in the development of and the expansion of high-quality ESL programs to meet the demand of the LEP population within the state.
2. Invest in the development of vocational ESL programs that focus on improving workplace English and learning job-related skills. Programs that teach both English and workplace soft skills are known as Vocation English as a Second Language (VESL) courses. VESL programs vary but usually serve higher educated LEP workers and include the following components: (a) teaching English vocabulary used in the workplace, (b) teaching basic computer and workplace skills, (c) providing job counseling and placement services, and (d) offering basic training to help participants obtain credentials or pass tests to work in specific occupations.
3. Invest in ESL Programs that strengthen immigrant families such as intergenerational language acquisition programs. These programs improve the language development of both parents and children as young as pre-school age. These are essentially family literacy programs because they

²³ The idea for encouraging legislators to introduce the three ESL initiatives in this section was taken from an excellent briefing paper that was researched and written by Tia Elena Martinez and Ted Wang entitled "Supporting English Language Acquisition: Opportunities For Foundations To Strengthen The Social And Economic Well-Being Of Immigrant Families" This briefing paper was published by the Annie E. Casey Foundation and Grantmakers Concerned with Immigrants and Refugees. A copy of the briefing paper can be found at: <http://www.aecf.org/upload/PublicationFiles/1.pdf>.

work to improve both English skills and parenting skills. This type of program typically includes: (a) ESL and adult education, (b) training for parents that supports the educational growth of their children (classes on nutrition, the importance of reading, information about school and community resources), (c) early childhood education for children that focuses on the development of pre-literacy skills (vocabulary building and verbal expression), and (d) joint activities to allow parents and children to learn together.

Talking Points

Below are talking points that you can use to encourage legislators to introduce and support bills that provide language access to immigrants.

English proficiency is necessary for full participation in U.S. society. Language access and acquisition:

- ✓ helps immigrants learn and improve their English
- ✓ develops confidence to engage in civic life
- ✓ helps immigrants to fully and meaningfully participate in their communities
- ✓ provides a skill that is essential for immigrants to become U.S. citizens

English proficiency builds a strong workforce and bolsters the economy. Language access and acquisition:

- ✓ helps the economy and employers by preparing a workforce that can understand and speak English
- ✓ can lead to increased earnings for immigrants
- ✓ increases the buying power of immigrants by ensuring that they can negotiate in the marketplace

English proficiency strengthens families. Language access and acquisition:

- ✓ can foster higher levels of parental participation in their children's education
- ✓ helps parents communicate with their children's teachers and helps them assist their children with their school work
- ✓ allows parents to advocate for their children at school to address their children's needs

- ✓ can lead to greater school readiness for young children
- ✓ can improve parent-teen relationships because parents will not need to rely on their children to translate for them
- ✓ can improve intergenerational communication in immigrant families

English proficiency enhances safety and emergency preparedness within communities.

Language access and acquisition:

- ✓ helps all residents obtain meaningful access to vital programs, services and timely emergency preparedness information
- ✓ gives residents the ability to understand requirements and laws as well as interact with government officials and employers without fear
- ✓ imparts immigrants with the confidence to interact with state officials to report crimes or violations and participate in emergency preparedness

Conclusion: In order for immigrants to be fully engaged and integrated into the civic and economic life of their communities, they must be able to speak and understand English. There is little doubt that English proficiency helps immigrants obtain better jobs, support their children's educational development, further their economic and buying power, improve their knowledge and access to medical services, and enhance safety and security in their communities. As full participants in society, their work and involvement benefits the state and all of its residents.

Example of a Language Access Bill

SECTION 1: The Department of Labor and the Department of Education shall establish and administer a grant program that invests in high-quality language acquisition programs. This grant program shall be created for the purpose of providing resources for all immigrants in this state to learn English in order to strengthen immigrant families, enhance their economic security, and achieve their full potential as contributing members in their communities within our state.

The Departments of Labor and Education shall use existing staff to assist in the implementation of the program and provide grant funding from whatever funding sources are available, including, but not limited to funds from the federal, state, county, and municipal governments.

The Departments of Labor and Education shall allocate and disperse funds each fiscal year to community-based not-for-profit organizations, immigrant social service organizations, faith-based organizations, and on-site job training programs that provide high-quality language acquisition programs.

SECTION 2: This act shall take effect upon becoming law, the public welfare requiring it.

Using the Budget Process to Integrate Immigrants

Recognizing that it may be difficult for legislators to pass a stand-alone bill in some states, another viable option is to encourage state legislators to appropriate funds in the state budget to support integration programs that benefit immigrant communities and the entire state. Here are some examples:

- ✓ **California** appropriated funds for **adult basic education, English as a Second Language** for lawful permanent residents, and **citizenship and naturalization preparation** services.
- ✓ **New York** appropriated funds for services related to **human trafficking programs**.
- ✓ **Utah** appropriated funds for **Consumer Protection** to implement the provisions of a new law **requiring immigration consultants to register** with the state.

Other Budget Appropriations that Assist Immigrants

In 2012 and 2013, legislatures in many states appropriated funds to programs that improve the lives of immigrants. Below are additional examples.

Support for Refugee Resettlement Efforts: A number of states appropriated federally funded grants to support refugee resettlement and assistance programs. These states included: Arkansas, California, Colorado, Georgia, Kansas, Michigan, Missouri, New York, Pennsylvania, Utah, Washington, and Wisconsin.

Support for Naturalization Assistance: A number of states supported programs that assist immigrants in becoming United States citizens. These included: California, Illinois, Missouri, New York, Ohio, and Washington.

Support for Migrant Health and Education: Arkansas, Illinois, Kansas, Michigan, Minnesota, New York, and Ohio supported programs that assist migrants to receive health care and education.

Other Legislation: Access to Financial Aid and Protection Against Immigration Consultant Fraud

Other ideas for integration legislation involve access to financial aid/scholarships for all students and protection against immigration consultant fraud. Below is general information about both of these important initiatives. CLINIC can provide more data, materials, and support to any partner that would like to advance these measures at the state level.

Building Stronger Communities and Stronger States Through Financial Aid and Scholarships

The cost of a college or university education -- even at the in-state tuition rate -- can be prohibitive for many students and families. Financial aid and scholarships can make the difference between attending and not attending an institution of higher education. States that have tuition equity laws have begun passing legislation that provides state financial aid and/or scholarships to all students in the state. These states include: California, Illinois, New Mexico, Minnesota, and Texas.

The financial aid and scholarship initiative can be the “next step” in the legislative process after passing a tuition equity bill, or it can be paired with a tuition equity law. Minnesota included a state-level Dream Act in its omnibus Higher Education bill. The bill passed out of the Minnesota legislature and was signed into law by Governor Dayton on May 23, 2013. Students who meet the eligibility requirements of the Minnesota Dream Act have access to the following benefits: (1) **in-state tuition rates** at public colleges and universities regardless of immigration status; (2) **state financial aid** available to students who meet state residency requirements regardless of immigration status, and (3) **privately funded financial aid** through public colleges and universities regardless of immigration status.

For more information on financial aid and scholarship aid to students without immigration status, please see NILC’s website at: www.nilc.org.

Building Stronger Communities and Stronger States through Protection against Immigration Consultant Fraud

Individuals who are neither lawyers nor representatives accredited by the Department of Justice often take advantage of immigrants by holding themselves out as experts qualified to help immigrants obtain lawful status. They take immigrants' money and promise to provide services, but often are not competent or knowledgeable in immigration law and fail to deliver services or results. These unethical "immigration consultants" or "notarios" are not lawyers or valid accredited representatives. These individuals are committing fraud and have created serious legal and financial problems, including unnecessary detention and deportation, for countless immigrants.

The need to introduce and pass legislation to protect immigrants against immigration consultant fraud exists throughout the U.S. This need will increase substantially with the passage of any immigration reform legislation. Below is information about a law that Utah passed in 2012 to protect its residents and to curb immigration consultant fraud within the state.

This comprehensive law is known as the "**Immigration Consultants Registration Act.**" Utah Code Section 13-49-101 et seq. It requires that immigration consultants (1) file an application for registration with the Utah Division of Consumer Protection prior to engaging in the business of or acting in the capacity of an immigration consultant; (2) provide a cash bond or surety bond in the amount of \$50,000; (3) submit to a criminal background check; and, (4) pay a registration fee of \$200 to the Utah Division of Consumer Protection. An applicant will be denied a permit if he/she has ever been convicted of a felony or, within the last 10 years, a misdemeanor involving theft, fraud, or dishonesty. *Importantly, a person who is either authorized to practice law in the state of Utah, or authorized by federal law to represent persons before the Board of Immigration Appeals or United States Citizenship and Immigration Services is exempt from the law.*

Utah defines an "immigration consultant" as a person who provides nonlegal assistance or advice on an immigration matter, including:

(1) completing a document provided by a federal or state agency, but not advising a person as to the person's answers on the document;

- (2) translating a person's answer to a question posed in a document provided by a federal or state agency;
- (3) securing for a person supporting documents, such as a birth certificate, that may be necessary to complete a document provided by a federal or state agency;
- (4) submitting a completed document on a person's behalf and at the person's request to the United States Citizenship and Immigration Services; and
- (5) referring a person who could undertake legal representation activities in an immigration matter.

Under the law, immigration consultants are required to provide clients with a written contract containing specific information, as well as a signed receipt for payment. In addition, consultants must conspicuously display a notice that lists important information, including: the immigration consultant's full name, evidence of compliance with any applicable bonding requirement, a statement that the immigration consultant is not an attorney, the services that the immigration consultant provides, and the current and total fee for each service. Each client must also receive a written disclosure (in the client's native language) that provides detailed information, including the immigration consultant's agent for service of process. Other provisions of the law discuss requirements related to advertising, translations, and treatment of original documents.

Importantly, the law outlines unlawful acts, fines, and criminal charges, as well as investigations and actions by the attorney general and district or county attorney to address violations of the law. The comprehensive law and questions concerning the law can be found at: <http://consumerprotection.utah.gov/registrations/immigration-consultant.html>

Conclusion

CLINIC has developed this document with the hope that partners will consider working with their state legislators to introduce and enact some or all of these integration measures. As noted throughout the document, these measures build communities and make states stronger because they recognize and enhance the economic, social, and cultural contributions that immigrants make at the state and local levels.

While many of these measures have gained momentum and many will get more traction if federal comprehensive immigration reform becomes law, it may take time to educate legislators about the benefits of these measures. Our advice is to get started and do not give up! As an example, over ten years of efforts, Colorado's tuition equity bill failed to pass out of the legislature six times. It finally passed and was signed into law in 2013.

If you need assistance identifying experts who can speak with your legislators about these integration measures, please let us know. Direct testimony from individuals that know the benefits of these initiatives can be persuasive and powerful. CLINIC affiliates can help connect you with law enforcement officers to speak about the prevalence of trafficking in the state, students who can explain what a college education means to them, immigrants who are on waiting lists for ESL classes, and members of the business community who share the belief that integrating immigrants is good for the state's economy. We look forward to working with you to improve the lives of all state residents!

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