

NEW JERSEY FIGHTS BACK

*How New Jersey Can Stand Up for
Immigrants and the Working Class,
Enhance Community Safety and Build a
Stronger Garden State for All*





ABOUT US

Make the Road Action in NJ builds political power rooted in working-class, immigrant and Latino communities, promotes policy solutions that improve the lives of all New Jersey residents, and strengthens the movement for justice through electoral and grassroots organizing to advance progressive political and policy change.



The new federal administration has launched unprecedented attacks on immigrant and working-class communities. Every day, many of us in New Jersey wake up in fear of being separated from our families, losing our health insurance or being stripped of our hard-earned workplace protections. Given the federal climate, New Jersey must take substantial steps to use its state powers to protect immigrants, workers and vulnerable populations, enhance public safety and create a stronger economy for all. We – immigrants and workers – provide critical support to New Jersey’s economy through our employment and tax contributions. Census records show that in the past year, New Jersey lost 227,000 residents to other states but attracted over 60,000 new immigrants over the same period.¹ Over one million of New Jersey’s immigrants are naturalized citizens, forming a growing part of the electorate.² We believe that our liberties and rights should be protected, and the state of New Jersey must use its power to reject repressive immigration enforcement policies that break up our communities, and protect our rights in the workplace. New Jersey is stronger when it embraces its diversity and champions the contributions of all its residents.

8-POINT PLAN

1. *Increase Trust Between Residents and Law Enforcement to Build Real Community Safety* **PG 4**
2. *Expand Access to Justice for Immigrants* **6**
3. *Raise the Floor for All Workers* **7**
4. *Protect the Privacy of All Residents* **8**
5. *Improve Access to Driver’s Licenses for Immigrants and to Safe, Affordable Transportation for All Residents* **9**
6. *Facilitate Economic Growth by Expanding Access to Educational and Professional Opportunities* **10**
7. *Defend Access to Affordable Health Care* **11**
8. *Increase Access to Affordable Housing* **12**

1. Increase Trust Between All New Jersey Residents and Law Enforcement to Build Real Community Safety



The Trump administration's call for mass deportations and threats to curtail important police reforms mean many New Jersey residents fear interacting with law enforcement. We are looking to state leaders to fight back against these unjust federal policies through state action. The state of New Jersey is not served when residents are scared to interact with law enforcement. To increase trust and cooperation between community members and law enforcement, New Jersey should:

Limit New Jersey law enforcement's interaction with Immigration and Customs Enforcement (ICE) by rescinding and replacing sections of New Jersey's Attorney General Law Enforcement Directive 2007-3 that directs local law enforcement to notify ICE when undocumented immigrants are arrested for even the most minor offenses.³ To limit cooperation with ICE, the Attorney General should rescind all requirements for state and local law enforcement to inquire about immigration status and to report immigration status to ICE. Cooperation between state and local law enforcement and the federal Immigration and Customs Enforcement (ICE) breaks down trust, separates families and increases state and local spending. New Jersey should also encourage counties to end 287(g)

agreements with ICE that deputize local law enforcement agents and jails to serve as ICE agents.

Pass a New Jersey TRUST Act that limits the state's participation in unconstitutional and costly immigration "hold" requests in jails across the state. Such a policy, enacted in California and Connecticut, would rebuild trust in New Jersey between law enforcement and immigrant communities.

End the Use of Broken Windows Policing which leads to racial profiling and increases mistrust between communities of color and law enforcement.⁴ Under the Trump Administration, broken windows policing creates new risks for immigrants since immigrants who are arrested become a priority for deportation.⁵ The governor and Attorney General should work with local law

enforcement to create policies that minimize arrests for minor crimes. Additionally, the state can incentivize localities to review and end broken windows policing through funding initiatives.

Refuse to Host Private Detention Centers or Enter into Contracts with ICE. Some states are taking the lead in standing up against private immigration detention centers, which have been found by the Department of Justice to be sites of rampant human rights abuses. In California, SB 29, a bill that proposes to ban local governments from contracting with private prison companies that detain immigrants, recently passed a key committee.⁶

Reform the state penal code to minimize the harsh and unintended immigration consequences of criminal convictions, and set up an Immigrant Pardon Panel. Because of the way the New Jersey criminal code is written, even minor state convictions can trigger automatic deportation. For example, for some low-level crimes, like shoplifting in the fourth-degree, even a green card holder could be deported simply because the charge carries a possible sentence of more than one year.⁷ The governor should

create a commission to review the criminal code and make minor changes that would serve law enforcement objectives while minimizing the unintended harsh consequences of minor criminal convictions. The governor can also use his or her Constitutional authority to set up a pardon board to pardon the state criminal convictions of individuals facing serious immigration consequences due to their criminal record. Former Maryland Governor Robert Erlich and former New York Governor David Paterson made frequent use of their pardon power to vacate old or minor criminal convictions for lawfully residing immigrants.⁸



2. Expand Access to Justice for Immigrants in New Jersey

Thousands of immigrants in New Jersey are deprived of their basic due process right to counsel in immigration court because immigration proceedings are technically civil, not criminal proceedings, and they do not qualify for free counsel. Despite the fact that many of these individuals have lived in the United States for most of their lives or are even U.S. citizens, they are torn from their families, put in detention for indeterminate amounts of time, and risk permanent exile without any legal assistance. New Jersey should expand access to legal services for immigrants and opportunities for immigrants to become citizens:

Provide access to counsel in immigration court. Implementing a state-funded program to provide free immigration counsel to New Jersey's indigent immigrants in deportation proceedings will save taxpayer dollars spent on foster care for children of detained parents and help New Jersey employers save in turnover costs when their employees are deported. New York City successfully implemented a local and state-funded program called The New York Immigrant Family Unity Project (NYIFUP), which will soon be expanded statewide and could serve as a model for New Jersey.⁹

Provide assistance with citizenship applications. Approximately 346,000 Lawful Permanent Residents (LPRs) are eligible for citizenship in New Jersey. Naturalization provides

better access to jobs, academic scholarships and increased political participation for immigrants.¹⁰ Many of these residents are eligible to be naturalized but don't have the means or time to navigate this complicated process. New Jersey can initiate citizenship through public-private partnerships and the creation of a statewide Office for New Americans.



3. Raise the Floor for All New Jersey Workers

As the federal landscape shifts, with the federal government potentially prioritizing workplace raids over employer minimum wage compliance, low-wage workers will be pushed into the informal and unregulated economy. Unscrupulous employers that pay their workers subminimum wages will be rewarded, driving down standards for all workers. New Jersey's current hourly minimum wage of \$8.44 leaves hundreds of thousands of working families in poverty. A growing number of cities and states across the United States have moved to increase their wage to \$15. For close to a million workers across the state, the promise of a measured increase to \$15 will mean greater economic stability and a boon to our state economy, but only if the increase covers all workers. As change for the better on the federal level is unlikely, New Jersey should take the following steps:

Sign minimum wage increase into law to raise the minimum wage to \$15/hour without carve-outs for any group of workers.

Amend state wage and hour laws to strengthen remedies and penalties so wage thieving employers will no longer be rewarded a competitive advantage for their bad behavior. This includes creating liquidated damages, increasing the statute of limitations so that workers may pursue up to six years of unpaid wages and bolstering anti-retaliation measures.

Strengthen the Office of the Attorney General and State Department of Labor and Workforce Development to fight back against unlawful retaliation and discrimination in the workplace and immigration workplace raids. The AG can protect workers and pressure

employers to resist workplace raids by conducting a full workplace audit after an immigration raid occurs in a workplace in order to hold the employer accountable for any violations of workers' rights. Finally, the AG and State DOL can increase immigrant workers' cooperation and trust in their investigations by creating a clear policy for signing off on U Visa Certifications for undocumented workers who are the victims of workplace violations and by requesting deferred action for workers picked up in a raid so that they can serve as witnesses for workplace audits.¹¹

Establish state-wide earned sick leave and expand family leave policies to ensure that all workers are afforded the right to care for their families and take earned sick leave.

4. Protect the Privacy of All Residents

At a time when the Trump administration is calling for increased surveillance of vulnerable communities and immigration enforcement, it is critical that New Jersey use its authority to prevent the federal government from obtaining the personal information that New Jersey residents share routinely with state agencies. New Jersey should develop a privacy of information policy and limit information sharing between all state agencies and federal authorities within the bounds of federal law, including 8 U.S.C. § 1336. Whenever possible, state agencies should no longer inquire into a person's immigration status, sexual orientation, gender identity or religion. This will increase the protection of vulnerable populations, including immigrants, religious minorities and LGBTQ people, and their willingness to use critical state services for themselves and their families without the fear of repercussions from the federal government.



5. Expand Access to Driver's Licenses for Immigrants and Strengthen Safe and Affordable Transportation for All New Jersey Residents

Working and immigrant families in New Jersey face significant barriers to safe and affordable transportation. The state's public transportation infrastructure is inadequate to meet the needs of working families. Driving is a necessity, but because of lack of access to driver's licenses, undocumented immigrants risk deportation just by driving their children to school. Twelve states and Washington, D.C. currently permit undocumented immigrant residents to apply for a driver's license.¹² Nearly 464,000 New Jersey immigrants would be eligible for a driver's license. Because more drivers will be licensed, insured and receive proper training, our roads will be safer.¹³ The state will also collect an estimated \$5-11 million in revenue from new license and registration fees.¹⁴ New Jersey should:

Pass legislation expanding access to driver's licenses for all qualified state residents, regardless of immigration status.

This legislation must protect the privacy of undocumented drivers from federal immigration enforcement.

Improve and expand access to public transportation to reduce wait times, expand transportation opportunities for the working poor, and encourage less reliance on cars across New Jersey. The state must also keep down New Jersey transit fees so that it remains affordable for all residents.



6. Facilitate Economic Growth by Expanding Access to Educational and Professional Opportunities for Immigrants and Working People

Ensuring quality education from pre-K to college is key for the economic growth of our state. Guaranteeing all New Jersey high school graduates receive a college education is an investment that will have huge economic and social benefits for our state. The pursuit of higher education must be accessible for all residents, regardless of financial circumstance or immigration status. College tuition rates are too high for many students. Even with in-state tuition rates, many undocumented students are not able to attend college because they are barred from receiving federal and state financial aid.¹⁵ New Jersey should:

Expand access to state aid to undocumented students which will ensure that more of these students can go to college and obtain degrees that will lead them to high paying jobs, thereby lowering the relatively high poverty rates in their communities by contributing more in state taxes and supporting the economy by spending more. Eight states already provide state financial aid to undocumented students. They include California, Illinois, Minnesota, New Mexico, Oklahoma, Oregon, Texas and Washington.¹⁶ New Jersey must ensure that higher education is affordable for all students, both citizens and non-citizens.

Expand opportunities for adult education in particular ESOL and job training that is not tied to immigration status or work

authorization by allocating sufficient state funds.

Allocate funding to expand after-school programs and to set up a universal pre-K program that benefits all children. New Jersey must also ensure that public schools serve as sanctuaries and prohibit the sharing of student information with ICE officials.

Expand access to professional licenses for all New Jersey residents. Many non-citizens are unable to work lawfully as self-employed contractors because state licensing applications require citizenship or legal status. States such as California have passed laws that allow undocumented immigrants to apply for professional licenses using IRS-issued federal taxpayer identification numbers as proof of identification.¹⁷

7. Defend Access to Affordable Health Care for All New Jersey Residents

The current administration's threats to cut health coverage will put all low-income residents at risk. Despite recent reforms, the Census Bureau estimates that around 10% of individuals (close to 1 million people) in New Jersey are still uninsured.¹⁸ Around 18% of those individuals are undocumented.¹⁹ By protecting coverage for the working poor and further expanding health care for undocumented immigrants and Lawful Permanent Residents (LPRs) who do not qualify for Medicaid, New Jersey could improve the health and safety of its residents and decrease costly emergency room visits. New Jersey should:

Preserve Affordable Health Care for the Working Poor in the face of continued threats to federal funding, the state must step up to protect the Medicaid expansion and other parts of the Affordable Care Act that has provided coverage to nearly 500,000 New Jersey families.

Lift the Five Year Bar to restore coverage so that LPRs – including children – do not have to wait five years to be eligible for Medicaid. Until 2010, New Jersey provided Medicaid coverage to all qualified LPRs.²⁰

Ensure Limited English Proficient Individuals have adequate access to translation and interpretation in medical settings by passing legislation to require language

access plans in hospitals, pharmacies and other health care settings.

Provide coverage to undocumented immigrants by expanding NJ FamilyCare or implementing a State-Wide Direct Access Program that does not take citizenship status into account. In Massachusetts, a similar program called Health Safety Net provides all state residents with essential services on a sliding scale.²¹ Expanding care has been proven to save the state money. In fact, in New Jersey's 2017 Budget Proposal, the state noted a "steep reduction in the demand for uncompensated hospital care due to the expansion of NJ FamilyCare."²²

8. Increase Affordable Housing for All New Jersey Residents

Affordable housing for New Jersey residents is under attack by the Trump administration's threats to diminish HUD funding. New Jersey must protect and expand its affordable housing stock. In addition, because federal and many state housing programs will continue to restrict access on the basis of immigration status, New Jersey must ensure that it creates housing programs that are funded directly by the state or other entities to ensure that immigrants do not face increased risks of eviction or homelessness. New Jersey should protect all low-income residents by taking these steps:

Strengthen rent-control laws across New Jersey to ensure that all residents can find affordable housing options.

Encourage the construction of new affordable housing that can be accessible to all residents, including those that are

undocumented and cannot apply for federal assistance programs.

Set up community land trusts that will allow New Jersey localities to purchase foreclosed houses and turn them into affordable housing units that can be made available to all New Jersey residents.



Endnotes

- 1 Erin Petenko, *227k Residents moved out of New Jersey last year, 62k immigrants moved in*, NJ.COM (Nov. 17, 2016, 1:15 PM), http://www.nj.com/news/index.ssf/2016/11/227k_people_moved_out_of_nj_last_year_and_62k_immigrants_moved_in.html.
- 2 *Fact Sheet: New Americans In New Jersey*, AMERICAN IMMIGRATION COUNCIL (Jan. 1, 2015), <https://www.americanimmigrationcouncil.org/research/new-americans-new-jersey>.
- 3 Att'y Gen. Law Enforcement Directive No. 2007-3 (2007), <http://www.nj.gov/oag/newsreleases07/ag-le-directive-2007-3.pdf>.
- 4 See generally Bernard Harcourt, *ILLUSION OF ORDER: THE FALSE PROMISE OF BROKEN WINDOWS POLICING* (2005); see also U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING, *THE FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING 6* (May 2015); Sarah Childress, *The Problem With Broken Windows Policing*, PBS FRONTLINE (June 28, 2016), <http://www.pbs.org/wgbh/frontline/article/the-problem-with-broken-windows-policing/>.
- 5 Exec. Order No. 13,768 82 FR 8799 2017 WL 388889(Pres.).
- 6 SB: 29 Law enforcement: immigration, CALIFORNIA LEGISLATIVE INFORMATION, https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=20170180SB29 (last visited Apr. 4, 2017).
- 7 8 U.S.C § 1227(a)(2)(A)(iii) (West 2008); see also *Aggravated Felonies: An Overview*, AMERICAN IMMIGRATION COUNCIL (Dec. 16, 2016) <https://www.americanimmigrationcouncil.org/research/aggravated-felonies-overview>.
- 8 See Rachel Barkow, *The Politics of Forgiveness: Reconceptualizing Clemency*, 21 FED. SENT'G REP. 1 (Feb. 2009), available at http://www.law.nyu.edu/sites/default/files/ecm_pro_062016.pdf; see also *Paterson Pardons 24 to Stop Deportations*, ASSOCIATED PRESS (Dec. 24, 2010, 1:28 PM), <http://newyork.cbslocal.com/2010/12/24/paterson-pardons-24-to-stop-deportations/>.
- 9 See Bettina Rodriguez Schlegel, *New York Immigrant Family Unity Project Lays Groundwork for Constitutional Victory*, THINK JUSTICE BLOG (Dec. 28, 2015), <https://www.vera.org/blog/new-york-immigrant-family-unity-project-lays-groundwork-for-constitutional-victory>; see also *New York State Becomes First in the Nation to Provide Lawyers for All Immigrants Detained and Facing Deportation*, VERA INSTITUTE OF JUSTICE (Apr. 7, 2017, 7:10 PM), <https://www.vera.org/newsroom/press-releases/new-york-state-becomes-first-in-the-nation-to-provide-lawyers-for-all-immigrants-detained-and-facing-deportation>.
- 10 See Robert Warren and Donald Kerwin, *The US Eligible-to-Naturalize Population: Detailed Social and Economic Characteristics*, 3 J. Migr. and Hum. Sec., 306, 319 (2015).
- 11 *The U Visa: A Potential Immigration Remedy for Immigrant Workers Facing Labor Abuse*, NAT'L EMP. LAW PROJECT (Mar. 2014), available at <http://nelp.org/content/uploads/2015/03/UVvisa.pdf>; see also H. Esteban Diaz et al., *Wage Theft and U Visas: A Guide to Analyzing Federal and State Crimes Relevant for Undocumented Workers Seeking U Visa Remedies*, available at <http://www.law.unc.edu/documents/clinicalprograms/wagetheftanduvisasguide.pdf>.
- 12 *States Offering Driver's License to Immigrants*, NAT'L CONF. OF STATE LEGISLATURES (July 8, 2015), available at <http://www.ncsl.org/research/immigration/states-offering-driver-s-licenses-to-immigrants.aspx>.
- 13 Erika J. Nava, *Share the Road: Allowing Eligible Undocumented Residents Access to Driver's Licenses Makes Sense for New Jersey*, NEW JERSEY POLICY PERSPECTIVE (Sept. 30, 2014), available at <https://www.njpp.org/reports/share-the-road-allowing-eligible-undocumented-residents-access-to-drivers-licenses-makes-sense-for-new-jersey>.
- 14 Erika J. Nava, *Fast Facts: Allowing Undocumented Residents to Drive Legally Would Help New Jersey*, NEW JERSEY POLICY PERSPECTIVE (Nov. 5, 2015), <https://www.njpp.org/reports/fast-facts-allowing-undocumented-residents-to-drive-legally-would-help-new-jersey>.
- 15 Erika J. Nava and Gordon MacInnes, *Access to Financial Aid is Essential to Give Undocumented New Jerseyans a Better Shot at a College Education*, NEW JERSEY POLICY PERSPECTIVE (July 2016), available at http://www.njpp.org/wp-content/uploads/2016/07/NJPP_TuitionEquity_July2016.pdf.
- 16 Erika J. Nava, *Tuition Equality Act is a Half Measure Without Access to Financial Aid*, NEW JERSEY POLICY PERSPECTIVE (Apr. 8, 2015), available at <https://www.njpp.org/reports/tuition-equality-act-is-a-half-measure-without-access-to-financial-aid>.
- 17 Alejandra Molina, *New Law Lets Immigrants Apply For Licenses*, THE PACIFIC ENTERPRISE, (Jul. 28, 2015, 9:34 PM), <http://www.pe.com/articles/law-775007-state-california.html>.
- 18 United States Census Bureau, *Quick Facts: New Jersey (2014)*, available at <https://www.census.gov/quickfacts/table/DIS010214/34>.
- 19 Kaiser Family Foundation, *How Will The Uninsured in New Jersey Fare Under The Affordable Care Act?* (July 6, 2014), available at <http://kff.org/health-reform/fact-sheet/state-profiles-uninsured-under-aca-new-jersey/>.
- 20 *Full Text of Gov. Chris Christie's Speech on Fiscal 'State of Emergency'*, The Star Ledger (Jan. 11, 2010 at 11:40 AM), http://www.nj.com/politics/index.ssf/2010/02/chris_christies_speech_on_budg.html.
- 21 *Health Safety Net*, Health and Human Services <http://www.mass.gov/eohhs/consumer/insurance/more-programs/health-safety-net/> (last visited Nov. 10, 2016).
- 22 Office of Management and Budget, *The State of New Jersey: Fiscal Year 2017 Budget Summary 9* (Feb. 16, 2016), available at <http://www.nj.gov/treasury/omb/publications/17bib/BIB.pdf>.

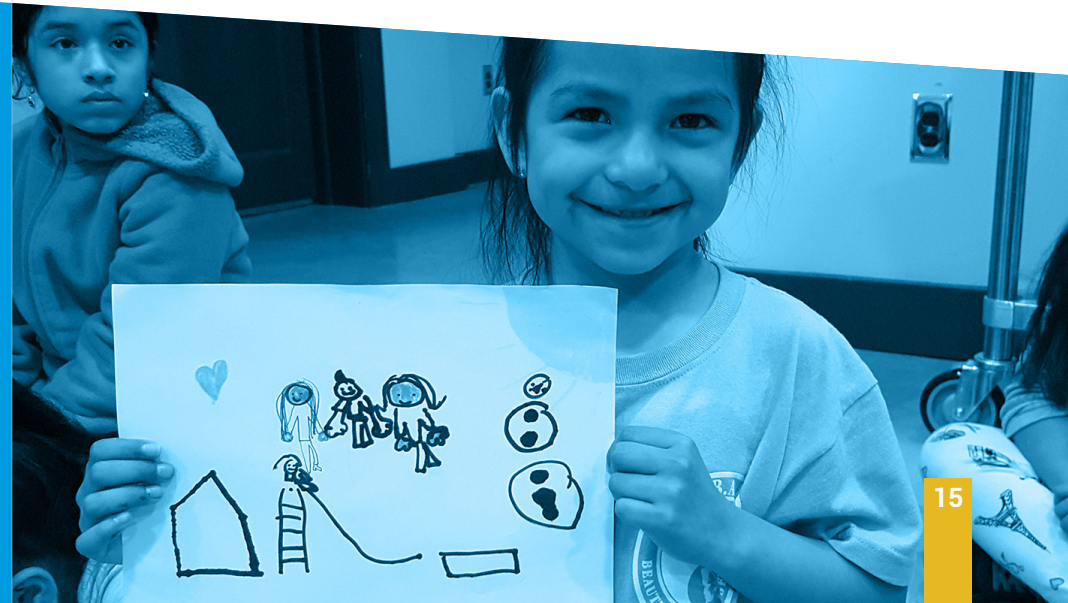
Acknowledgments






This platform was created by Make the Road Action in NJ members and leaders, with assistance from Ilana Herr and Eugenie Montaigne, under the supervision of Sara Cullinane and Nancy Morawetz. Graphic design and layout by Deborah Herr.



NEW JERSEY FIGHTS BACK





 @maketheroadact
 @maketheroadactionNJ
 NJ@maketheroadaction.org