



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration REPORT

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Senate Jobs Bill: Hire an Illegal Alien, Get a Tax Break

In late February, the Senate approved a \$15 billion package of tax breaks and credits intended to stimulate new job creation in the U.S. However, because of loopholes in the Hiring Incentives to Restore Employment (HIRE) Act, there is no guarantee that jobs created under this program will be filled by American workers.

The HIRE Act, authored by Senate Majority Leader Harry Reid (D-Nev.), includes no requirement that employers who claim the bill's tax benefits hire legal U.S. workers. Under the legislation, employers who hire foreign workers — even illegal aliens — will be eligible to receive the \$1,000 tax credit and an exemption from the employer's share of payroll taxes. While the intent of the bill is to help reduce U.S. unemployment, employers who benefit from the tax credits will not be required to use the federal E-Verify system to ensure that the workers they hire are legally able to work in the U.S.

These glaring loopholes in the bill were not inadvertent oversights on the

part of Sen. Reid and the Democratic leadership. In an analysis issued prior to the February 24 vote on the HIRE Act, FAIR pointed out the omissions in the legislation that could cost unemployed American workers job opportunities. In addition, Sen. Charles Grassley (R-Iowa), speaking on the Senate floor, noted the same problems with the bill. "The bill as currently written would allow employers of illegal workers to benefit from the payroll tax holiday," Grassley said. However, as majority leader, Sen. Reid would not permit amendments to be offered that could easily have corrected the problem and the loophole remained in the bill.

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Sen. Majority Leader
Harry Reid

Virtual Fence Is Virtually Useless in Securing U.S. Borders

Every Congress and every president in recent memory has vowed to regain control of America's borders. After 9/11, the imperative for securing our borders became not just controlling rampant illegal immigration, but a matter of national security. Security fencing has proven extremely effective at controlling illegal border traffic and, in 2006, President George W. Bush signed legislation authorizing construction of 700 miles of new fencing along the U.S.-Mexico border. Because of delays and budget cuts, that additional security barrier is only now being completed. Moreover, after promising to build a double-layer security fence, Congress quickly scaled it back to just a single strand of fencing.

In addition, in place of actual fencing, the Department of Homeland Security has invested in an electronic "virtual fence" to secure parts of the border. In 2006, the Boeing Corporation received the contract to build the first 28 miles of virtual fencing, to be delivered

by June 2007. In February 2010, DHS revealed that American taxpayers got virtually nothing for the actual \$6.7 billion spent so far on the project.

The virtual fence was supposed to consist of a series of nine security towers equipped with night vision cameras, radar and sensors, along with a variety of communications systems and soft-



Virtual fence security tower in Arizona.

ware to monitor activities along large stretches of the border. The software system failed to distribute the information gathered by the detection devices, while the radar system had difficulty distinguishing between blowing tumbleweed and human beings. After billions of dollars and years of delay, DHS

Secretary Janet Napolitano ordered a reassessment of the whole project. "Americans need border security now — not 10 years down the road," said the secretary.

FAIR could not agree more. Unfortunately, President Obama seems not to agree with Secretary Napolitano. The president's proposed 2011 budget calls for a \$226 million cut in funding for the Secure Borders Initiative, an amount which, among other things, would pay for fencing, infrastructure and technology to help protect America's borders.

While electronic monitoring devices along the border may be valuable enhancements to more conventional fencing and manpower, they are not a substitute. In addition to reassessing the virtual fence project, FAIR continues to press for construction of the double-layer fence that was originally promised — but not delivered — to the American public.

Immigration REPORT

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Study Resoundingly Endorses E-Verify; Critics Still Complain

Opponents of immigration enforcement moved quickly to exploit a government commissioned report, issued by Westat, a Maryland-based social science research firm, on the effectiveness of the E-Verify program. E-Verify is a system that allows employers to electronically check the work authorization of the people they hire. The system is currently used by more than 180,000 employers and is mandatory for all federal contractors, as well as government contractors in 12 states.

CONTINUED on page 7

2011 Budget Reveals that Immigration Enforcement Is a Low Priority for Administration

Although the federal deficit is projected to balloon to nearly \$1.6 trillion in FY 2011, one of the few areas in which the Obama administration appears to pinch pennies is immigration enforcement and border security. The president's proposed FY 2011 budget, delivered to Congress in February, includes spending cuts in key immigration enforcement and border security programs.

Among the budget cuts called for in the 2011 budget:

- **The Secure Border Initiative**

Funding for security infrastructure to protect U.S. borders would be trimmed from \$800 million in FY 2010 to \$574 million in FY 2011; \$226 million cut.

- **US-VISIT (United States Visitor and Immigrant Status Indicator Technology)**

This long-delayed system is an entry-exit tracking program that collects information, including biometric identifiers, on foreign nationals when they enter the United States. It allows DHS to know whether temporary visitors depart the U.S. when they are supposed to. Under the proposed FY 2011 budget, funding for US-VISIT would be cut by \$39 million, from \$374 million to \$335 million.

- **The Border Patrol**

The president's budget proposal calls for a reduction in Border Patrol manpower by 180 agents. As cross-border violence and criminal activity increase, America's front line of defense is slated to shrink in the coming fiscal year.

- **SCAAP (State Criminal Alien Assistance Program)**

Even as budget crises force states like California to release criminal aliens early from prison, or contemplate paying for home countries to incarcerate them, already meager federal grants to help states pay these costs are frozen in the FY 2011 budget proposal. In FY 2009, the SCAAP budget was \$400 million. In FY 2010 SCAAP funding was cut to \$330 million, the same amount proposed for FY 2011. This compares with an estimate by the Government Accountability Office (GAO) that the states spend about \$1.7 billion to incarcerate criminal aliens.

All of these cuts are consistent with the Obama administration's efforts to reduce immigration enforcement. Each of the programs slated for cuts in next year's budget provides vital protection for the security and well-being of the American people. FAIR will work with allies in Congress to press for restoration of funding to secure our borders and enforce U.S. immigration laws.



EACH OF THE PROGRAMS SLATED FOR CUTS IN NEXT YEAR'S BUDGET PROVIDES VITAL PROTECTION FOR THE SECURITY AND WELL-BEING OF THE AMERICAN PEOPLE. FAIR WILL WORK WITH ALLIES IN CONGRESS TO PRESS FOR RESTORATION OF FUNDING TO SECURE OUR BORDERS AND ENFORCE U.S. IMMIGRATION LAWS.

ARIZONA & OKLAHOMA

Two states that have led the way in demonstrating that citizens and local government have the ability to defend themselves against mass illegal immigration are showing the way again. By a 6-2 vote, the Government Committee of the Arizona State House approved H2382, a bill authored by Rep. Carl Seel (R-Phoenix) that would require schools in the state to collect data on illegal alien enrollment and associated costs.

In Oklahoma, the House Appropriations and Budget Committee unanimously approved HB 3384, which would require school districts to report to the state the number of illegal aliens enrolled and how much it is costing them. The bill would also require districts to certify whether the cost of educating illegal alien students is having an adverse impact on the education of other kids. HB 3384 was written by Rep. Randy Terrill, who authored Oklahoma's landmark law in 2007 that denies nonessential benefits and service to illegal aliens and allows the state to hold employers accountable for hiring illegal aliens. Terrill has worked closely with FAIR and the Immigration Reform Law Institute (IRLI).

COLORADO

Under enormous lobbying pressure from business interests, the Colorado State Senate Veterans and Military Affairs Committee narrowly rejected a bill that would have mandated the use of E-Verify. The bill's author, State Senator Dave Schulties (R-Colorado Springs), predicts that the battle to require employers to use E-Verify is not over. According to Schulties, immigration reform activists in Colorado are preparing an effort to put an initiative requiring the use of E-Verify on the November ballot.

RHODE ISLAND

The federal First Circuit Court of Appeals dismissed a case filed by the American Civil Liberties Union against a Rhode Island State Trooper who, in 2006, had turned over to ICE a van full of illegal aliens. After pulling the van over for a traffic infraction, the trooper discovered that none of the passengers could produce valid U.S. identification. The ACLU sued the state trooper on behalf of the illegal aliens, alleging he had violated constitutional protections against unlawful search and seizure, and the aliens' civil rights. With assistance from IRLI, FAIR's public interest law affiliate, which filed a friend of the court brief, the First Circuit dismissed the suit. The dismissal reaffirms the right of law enforcement officers to act upon reasonable suspicion that immigration laws are being violated.

Rasmussen Poll: Americans Believe Illegal Immigration Is a Burden and Government Is Part of the Problem

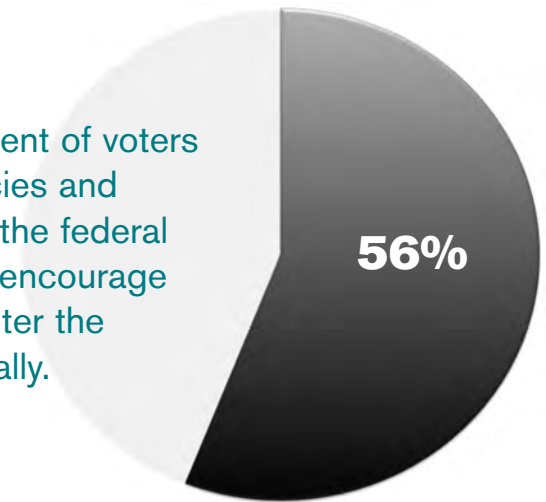
A nationwide opinion poll released by Rasmussen Reports in early March found that 67 percent of U.S. voters believe that illegal aliens are “a significant strain on the U.S. budget” and are a contributing factor to our record deficits. In spite of the fact that two-thirds of voters believe that illegal immigration is detrimental to the interests of the American people, barely one-fourth of voters have confidence that Congress will act to correct the problem.

“This belief that Congress is more likely not to do what the majority of voters favor illustrates why unhappiness with Congress has reached the highest level ever recorded by Rasmussen,” states the report. The survey found that 71 percent of voters think Congress is doing a poor job. Not only is the federal government not likely to be part of the solution, large majorities of voters believe that government is a huge part of the problem. According to Rasmussen Reports:

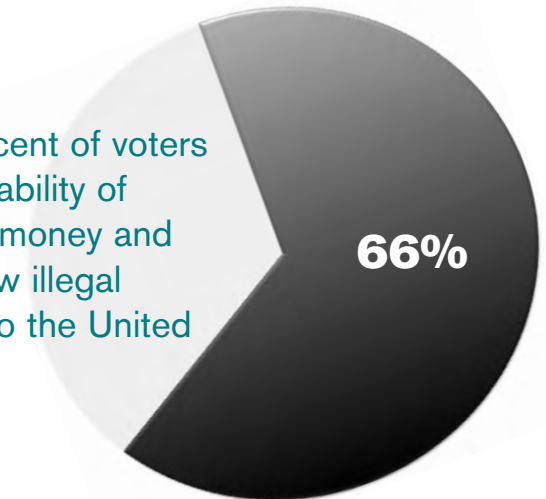
- 56% of voters say “the policies and practices of the federal government encourage people to enter the country illegally.”
- 66% of voters say “the availability of government money and services draw illegal immigrants to the United States.”
- 68% of voters believe that gaining control of the border is more important than granting amnesty to illegal aliens. Only 26% see amnesty as a solution to the problem.

The findings of the Rasmussen poll further illustrate that the policies advocated by FAIR and others in the immigration reform movement truly represent the mainstream opinion of the American people.

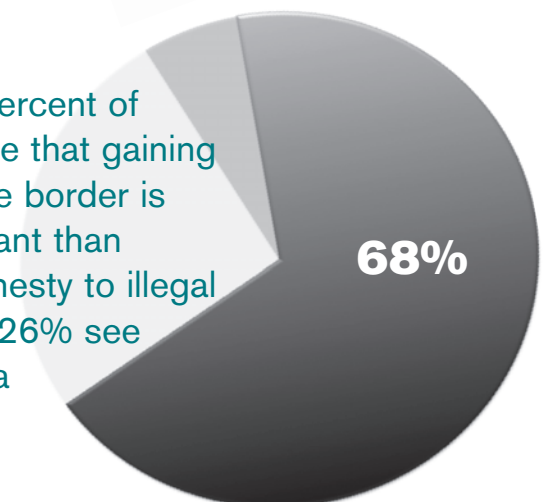
Fifty-six percent of voters say the policies and practices of the federal government encourage people to enter the country illegally.



Sixty-six percent of voters say the availability of government money and services draw illegal immigrants to the United States.



Sixty-eight percent of voters believe that gaining control of the border is more important than granting amnesty to illegal aliens. Only 26% see amnesty as a solution.



Decline in Illegal Alien Population Demonstrates that Enforcement Works

A report released by the Department of Homeland Security (DHS) in February asserts that the illegal alien population of the United States declined between 2008 and 2009. According to DHS, the illegal alien population declined from an estimated 11.6 million in January 2008 to 10.8 million in January 2009. If true, this would represent the first decrease in the illegal alien population in more than 30 years, and provides strong evidence that sensible enforcement of immigration laws are an effective way to address mass illegal immigration.

During 2008, the Immigration and Customs Enforcement bureau (ICE) carried out the most vigorous and strategic effort to enforce immigration laws in the workplace in recent memory. During the final year of the Bush administration, ICE targeted high profile businesses that flagrantly hired illegal aliens, prosecuting company executives and removing the illegal workers from the country — policies that have been dramatically curtailed since the Obama administration came to power. At the same time, the use of E-Verify increased dramatically, making it more difficult for illegal aliens to obtain jobs. Also in 2008, there was a sharp increase in the number of state and local law enforcement departments participating in immigration enforcement under the 287(g) program.

The recession and rising unemployment also contributed to fewer illegal aliens arriving in this country and more returning home, but economic conditions alone were not responsible for reducing the illegal alien population. The decline in the illegal population began in mid-2007 when ICE first

DURING 2008, THE IMMIGRATION AND CUSTOMS ENFORCEMENT BUREAU CARRIED OUT THE MOST VIGOROUS AND STRATEGIC EFFORT TO ENFORCE IMMIGRATION LAWS IN THE WORKPLACE IN RECENT MEMORY. ICE TARGETED HIGH PROFILE BUSINESSES THAT FLAGRANTLY HIRED ILLEGAL ALIENS, PROSECUTING COMPANY EXECUTIVES AND REMOVING THE ILLEGAL WORKERS FROM THE COUNTRY – POLICIES THAT HAVE BEEN DRAMATICALLY CURTAILED SINCE THE OBAMA ADMINISTRATION CAME TO POWER.

began a serious enforcement effort, predating the recession. In spite of the bad economic conditions, legal immigrants (who are not deterred by strong enforcement) continued to arrive in record numbers.

Further reinforcing evidence of the deterrent effect of enforcement is the overall pattern of decline of the illegal alien population. According to the

DHS estimate, the number of illegal aliens in the country declined by about 7.3 percent in 2008. In Arizona, the state with the most effective local enforcement policies, the illegal population fell by nearly 18 percent.

The decrease in aliens illegally entering the country and the increase in those leaving validates FAIR's long-standing advocacy of "attrition through enforcement," and negates the illegal alien advocacy lobby's assertion that amnesty is the only way to deal with the millions of illegal aliens in the country. If jobs for illegal aliens become scarce — either because of strategic immigration enforcement, a recession, or both — they will respond rationally: fewer will come, and more will make the decision to return home.

Unfortunately, with 25 million American workers unemployed or underemployed, and with countless state and local governments burdened with unwelcome costs associated with illegal immigration, the Obama administration has abandoned an immigration enforcement strategy that was producing positive results. In addition to effectively ending worksite enforcement and deportation of noncriminal aliens, the administration and congressional leaders have provided illegal aliens an incentive to remain in the country or to continue to sneak into the country by holding out the promise of amnesty.

JOBS BILL *continued*

Protecting the interests of illegal aliens at the expense of American workers and taxpayers is a consistent pattern on the part of Sen. Reid. In 2009, he refused to allow critical amendments to the \$787 billion economic stimulus bill that would have reauthorized the highly effective E-Verify program and required employers who received stimulus money to use the system to ensure that legal workers were hired. This provision had been approved by the House, but Sen. Reid, together with Speaker Nancy Pelosi (D-Calif.) stripped it during conference committee deliberations.

FAIR will continue to keep the pressure on Congress and the Obama administration to safeguard the jobs and tax dollars of law-abiding citizens and legal immigrants. While Sen. Reid's control of the legislative process made it impossible to correct the deficiencies of the bill on the Senate floor, FAIR was able to expose these loopholes in the media and through direct contact with our members and our activists. Throughout the remainder of this session of Congress, FAIR will use its resources to ensure that the government upholds its responsibilities to protect American jobs and tax dollars.

E-VERIFY *continued*

According to the report, illegal aliens have been able to manipulate the system by perpetrating various kinds of identity theft and fraud. These findings were cited by those who have opposed strong enforcement of employer sanctions laws as evidence that policing the workforce is too difficult to accomplish and that amnesty for illegal aliens is the only solution to illegal immigration. Sen. Charles Schumer (D-N.Y.), a leading amnesty proponent, called the report "a wake-up call to anyone who thinks E-Verify is an effective remedy to stop the hiring of illegal immigrants."

What Sen. Schumer and other opponents of immigration enforcement failed to mention is that in spite of these findings, Westat resoundingly endorsed the E-Verify program. The Westat report noted that E-Verify has successfully denied employment to hundreds of thousands of illegal aliens (successfully protecting job opportunities for unemployed Americans) and that the program likely "deters many unauthorized workers from even applying for jobs with participating employers." The report found that 96 percent of the initial responses were consistent with the person's work authorization status.

Moreover, U.S. Citizenship and Immigration Services bureau (USCIS) is already taking steps to combat identity fraud and theft. To address the problem of illegal aliens using someone else's valid identity documents, USCIS is expand-

ing the use of the Photo Tool program that allows employers to view a digital photo of the individual to whom a green card or work authorization document were issued. This year, passport photos will also be available online. USCIS is also working to implement a system that flags Social Security numbers that appear to be used fraudulently.

What the Westat report really demonstrates is the need for improved data sharing among government agencies, a problem that FAIR has consistently fought to correct. The flaws in the system that allowed illegal aliens to gain employment stem from the inability of USCIS to easily access data from other agencies like the Social Security Administration, the IRS, or state motor vehicle departments. The findings also highlight the lack of security in "breeder documents," like birth certificates — another weakness FAIR has urged Congress to fix.

Preventing illegal aliens from gaining employment remains the most effective deterrent to illegal immigration, which is precisely why the amnesty lobby has vehemently opposed E-Verify and other efforts to enforce employer sanctions laws. It is certain that they will continue to distort the overall positive conclusions of the Westat report in their effort to kill E-Verify. In reality, the report provides strong confirmation of the effectiveness of E-Verify and valuable examples of where improvements need to be made.

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