



Immigration REPORT

NOVEMBER 2009



Inside . . .

Schwarzenegger Blocks E-Verify Ban in California
PAGE 3

FAIR Report Details Continued Homeland Security Vulnerabilities
PAGE 3

Gutierrez Outlines House Amnesty Bill
PAGE 4

Poll: Amnesty Would Likely Trigger More Illegal Immigration
PAGE 4

Administration Weakens Immigration Detention
PAGE 5

Just 10 Percent of Borders Secure, Says DHS
PAGE 6

USCIS Gears Up to Process Amnesty Applications
PAGE 7

Congress Kills Permanent Extension of E-Verify; Limits Vital Protection for American Workers to Just Three Years

When squarely presented with the opportunity to make E-Verify a permanent program, Congressional leaders balked. A permanent extension of E-Verify was part of the Senate Homeland Security Appropriations bill, but during conference negotiations with leaders of the House, that protection was limited to just three years. The House Appropriations measure had included a two-year extension of the program.

E-Verify is the voluntary program that allows employers to verify electronically the work status of new hires to ensure they are legally authorized to work

in the U.S. and are not illegal aliens. The program is used by some 140,000 employers nationwide with a 99.6 percent accuracy rate.

On the positive side of the ledger, the three-year extension of E-Verify will ensure that the program remains in place as American workers struggle through a period of high unemployment. The final language of the DHS Appropriations bill agreed to by House-Senate conferees also includes \$137 million in funding for E-Verify in Fiscal Year 2010 — \$18.5 million more than was included in the Senate bill.

CONTINUED on page 2



E-VERIFY *continued*

However, the failure to permanently reauthorize E-Verify, and the outright removal of other important immigration enforcement provisions that were in the Senate bill, provide further evidence of the Obama administration's and the congressional leadership's desire to dismantle all effective controls against illegal immigration. With some 15 million Americans officially unemployed — 25 million if those who have dropped out of the labor market, or who are involuntarily working part-time are included — a three-year extension of E-Verify was the bare minimum the Obama administration could approve and still maintain any credible claim that it is prepared to enforce our immigration laws.

In addition to limiting the E-Verify extension to just three years, House and Senate conferees scrapped an amendment passed by the Senate that would have allowed employers to use

IN ADDITION TO LIMITING THE E-VERIFY EXTENSION TO JUST THREE YEARS, HOUSE AND SENATE CONFEREES SCRAPPED AN AMENDMENT PASSED BY THE SENATE THAT WOULD HAVE ALLOWED EMPLOYERS TO USE E-VERIFY TO CHECK THE WORK DOCUMENTS OF WORKERS ALREADY ON THEIR PAYROLLS — AT PRESENT IT CAN ONLY BE USED TO VERIFY THE WORK DOCUMENTS OF NEW HIRES.

E-Verify to check the work documents of workers already on their payrolls — at present it can only be used to verify the work documents of new hires. A further amendment shredded by Congressional leaders would have blocked the Obama administration's decision to kill the “no-match” rule intended to make employers accountable when they receive notice from the Social Security Administration that their employees are using bogus Social Security numbers. Conferees also stripped provisions that would have required that Homeland Security construct 700 miles of *double-layered* border fence.

It is becoming increasingly clear that the White House and congressional leaders are intent on using E-Verify as a bargaining chip to leverage another amnesty bill. In their effort to promote such a highly unpopular move, the president and congressional leaders have promised tough enforcement against the employment of illegal aliens in the future. Thus,

they could not kill E-Verify — the only effective program that prevents the employment of illegal aliens — but they were not willing to make a long-term commitment to the program either.

FAIR strongly backed the permanent extension of E-Verify, included in the Senate Appropriations bill by Sen. Jeff Sessions (R-Ala.). In addition, the organization has fought to expand the use of E-Verify and make its use mandatory by all employers in the U.S. Thanks in part to efforts by FAIR, seven states now require employers to use E-Verify to check employment eligibility, while two others encourage its use.

FAIR will continue to work to expand the use of this effective tool to discourage illegal immigration. As the number of employers using E-Verify grows, and more state and local governments require its use, it will become more difficult for Congress and the White House to gut the program.

Immigration
REPORT

Board of Directors

Nancy Anthony	Sarah G. Epstein
Sharon Barnes	Frank Moma
Henry Buhl	Roy Porter
Douglas E. Caton	Stephen Swensrud
Pat Choate	John Tanton
Donald A. Dollins, Jr.	Alan Weiden

Staff

Dan Stein President	Julie Kirchner Executive Director	Ira Mehlman Senior Editor
------------------------	--------------------------------------	------------------------------

FAIR Immigration Report
(ISSN 1067-3337) is published 10 times a year
by the Federation for American Immigration
Reform a non-profit membership organization.

FAIR 20 Massachusetts Ave. NW 12th Floor Washington, DC 20001
1-800-368-7328 | www.fairimmigration.org | info@fairimmigration.org



Schwarzenegger Blocks Bill Barring Cities and Counties from Using E-Verify

It wasn't an outright veto, but with California's unemployment rate at 12.2 percent, Gov. Arnold Schwarzenegger refused to sign a bill that would have prohibited cities and counties throughout the state from requiring contractors to use E-Verify to ensure that workers are legally eligible to be employed in the U.S. By returning it to the legislature without the governor's signature, the bill cannot take effect and local governments in California will be able to make use of E-Verify a condition for issuing contracts.

The growing number of local governments requiring contractors to use E-Verify has been one of the most positive developments in the effort to combat illegal immigration and protect the jobs of American workers. Even Los Angeles County, which has traditionally showered illegal aliens with protections and benefits, is exploring the possibility of mandating the use of E-Verify. Although Congress has refused to make E-Verify permanent, the increasing popularity of the program will add to the pressure for permanent reauthorization in the future.

In the meantime, FAIR and its legal arm, the Immigration Reform Law Institute (IRLI), will continue to work with local governments in California and around the country to promote local policies that include mandated use of E-Verify. Local laws that IRLI has had a role in drafting have withstood legal challenges from illegal alien advocacy groups.

FAIR Report Evaluates the Continued Failure to Address Weaknesses in Enforcement

If the attacks of 9/11 are a fading memory for political leaders, several terrorist plots exposed during September should serve as a reminder that America's enemies will exploit any vulnerability to attack the United States. Many of the vulnerabilities that continue to leave our nation exposed relate to our failure to enforce immigration laws and secure vital identity documents, finds a new report from FAIR, entitled *Backsliding on National Security*.

Eight years after 9/11, *Backsliding on National Security* reveals that the Obama administration and Congress are taking steps that reverse progress towards making this country less vulnerable and are placing the interests of illegal aliens and certain industries ahead of the security of the nation. Since taking office, the Obama administration has:

- Supported a rollback of secure identity requirements mandated by the REAL ID Act.
- Restricted efforts by state and local police to enforce immigration laws.
- Encouraged illegal immigration by curtailing worksite enforcement efforts, while holding out the prospect of amnesty for illegal aliens.



Gutierrez Outlines “Core Principles” for Forthcoming Amnesty Bill

At an October 13 Capitol rally and news conference, Rep. Luis Gutierrez (D-Ill.) unveiled his “core principles” for what he calls “comprehensive immigration reform.” He signaled that these principles will constitute the core of an illegal alien amnesty bill he intends to introduce in the House of Representatives after Thanksgiving.

Much like the outline offered by his Senate counterpart, Charles Schumer (D-N.Y.), Gutierrez’s plan for overhauling U.S. immigration policy begins with amnesty for those who are here illegally. From there it moves on to a call for massive increases in family- and employment-based immigration. Unlike Schumer’s outline, which at least pays lip service to the need for future immigration enforcement, Gutierrez’s plan is focused entirely on meeting the demands of would-be immigrants.



Rep. Luis Gutierrez (D-Ill.)

Rep. Gutierrez did not provide a timeline indicating when his legislation would be brought up in the House. The Senate amnesty bill, which Sen. Schumer had hoped to have completed by Labor Day, had still not been introduced by mid-October. President Obama and congressional leaders, however, continue to point to early 2010 as the likely time frame for a legislative attempt to enact amnesty. A key Senate supporter of amnesty, Lindsey Graham (R-

Amnesty Would Likely Increase Illegal Immigration Finds Poll of Mexicans

A public opinion poll conducted by Zogby International of people in Mexico finds that an amnesty for illegal aliens in this country would likely increase future illegal immigration from Mexico. According to the poll, commissioned by the Center for Immigration Studies, 56 percent of people in Mexico think it is likely more Mexicans would go to the United States illegally after enactment of an amnesty.

The Zogby poll also revealed the staggering migration pressure from Mexico. The poll found that 36 percent of the country’s population – 39 million people – would move to the U.S. if given the opportunity. Belying claims by amnesty advocates that immigrants are eager to embrace their new country, the poll found that 69 percent of respondents said that the primary loyalty of Mexican-Americans (Mexico- and U.S.-born) should be to Mexico. Only 20 percent said it should be to the U.S.

This latest polling information reinforces FAIR’s long-stated position that, in addition to being unjustified and damaging to the interests of the American people, amnesty would merely encourage even greater levels of illegal immigration in the future. Other data in the Zogby poll reveal the urgent need to assimilate the millions of immigrants who have settled here in recent decades, and the potential danger of large numbers of people whose primary loyalty is not to this country.

Homeland Security Aims to Weaken Immigration Detention System

Reinforcing the Obama administration's policy of not enforcing U.S. immigration laws, the Department of Homeland Security (DHS) announced plans that would change the way in which the government detains illegal aliens pending their removal from the country. Under the guise of "reform," the administration is taking steps to minimize the number of deportable aliens who will be held in detention.



In recent years, the number of detention beds was increased in response to the exceptionally high percentage of deportable aliens who disappeared before they could be removed from the country. The so-called "catch and release" policy was widely criticized and DHS began using available space in local jails and private detention facilities to house aliens facing deportation. As a result, the ability to remove aliens was vastly enhanced — much to the chagrin of illegal alien advocacy groups and the Obama administration, which has repeatedly signaled its intention to abandon enforcement in all but the most serious criminal cases.

Under the "reforms" announced on October 6, DHS will commence "market research about utilizing converted hotels, nursing homes and other residential facilities as immigration detention facilities for non-criminal, non-violent populations." DHS stated that the determination for placing deportable aliens in these facilities will be

"commensurate with their risk of flight" — ignoring the documented fact that virtually all deportable aliens who are not detained are flight risks.

The October 6 announcement also raised concerns over whether the Obama administration is actually planning to further expand taxpayer-subsidized legal support services to aliens who have already had their day in court and have been determined ineligible for asylum or

THESE LATEST STEPS AIMED AT LIMITING THE ABILITY TO DETAIN ILLEGAL ALIENS IN SECURE FACILITIES APPEAR TO BE PART OF AN OVERALL STRATEGY TO ENSURE THAT NONCRIMINAL ILLEGAL ALIENS ARE ALLOWED TO REMAIN IN THE UNITED STATES.

any other form of relief. If so, this proposal would serve to further undermine the interests of the American people in ensuring the efficient operation of our immigration system.

The United States will never solve the problem of mass illegal immigration by deporting everyone who is here illegally. However, a vigorous effort to apprehend and deport illegal aliens is an important component to a comprehensive strategy to enforce our immigration laws. Since taking office, the Obama administration has moved in the opposite direction, curtailing worksite enforcement and signaling that only "dangerous" criminal aliens will be targeted for apprehension and removal. These latest steps aimed at limiting the ability to detain illegal aliens in secure facilities appear to be part of an overall strategy to ensure that noncriminal illegal aliens are allowed to remain in the United States.

DHS Admits Just 10 Percent of Borders Secured with No Plan to Improve in 2010

At the end of the last fiscal year on September 30, the Department of Homeland Security (DHS) claimed that 894 miles of U.S. borders and coastline were under “effective control.” In setting forth its goals for fiscal year 2010, the department plans to have the same 894 miles under control come next September. That’s 894 miles out of a total of 8,607 miles of land and coastal borders that DHS is responsible for protecting — or slightly better than 10 percent.

But it’s not just the Obama administration that is failing to take border security seriously. During House-Senate deliberations on the DHS Appropriations bill, conferees stripped an amendment that would have required completion of 700 miles of double fencing along the southern border by the end of FY 2010. That provision, authored by Sen. Jim DeMint (R-S.C.), had been part of the Senate’s DHS funding bill.

The apparent lack of concern about protecting our borders ignores the growing threats to homeland security. In recent months, several terrorist plots have been exposed, while drug wars in Mexico pose a growing threat along our southern border. In its final report in 2005, the 9/11 Commission cited lack of adequate border security as a likely vulnerabil-

ity to be exploited by terrorists seeking to attack the U.S.

The abject neglect of border security further exposes the administration’s and the congressional leadership’s lack of credibility as they press for another massive illegal alien amnesty. Both the President and many congressional supporters of amnesty have promised that tighter enforcement of U.S. immigration laws, including securing the border, would be the trade-off for rewarding millions of illegal aliens.

In his seven point outline for “comprehensive immigration reform” issued in June, Sen. Charles Schumer (D-N.Y.), chairman of the Immigration, Border Security and Refugees Subcommittee, stated that, “Operational control of our borders — through significant additional increases in infrastructure, technology, and border personnel — must be achieved within a year of enactment of legislation.” With 7,713 miles of border still to be secured, no plan to bring even one additional mile under control during the coming year, and the congressional leadership’s failure to honor its commitment to complete the border fence, the American public can have no confidence that any future promises of better enforcement will be fulfilled.

GUTIERREZ *continued*

S.C.), insisted that immigration legislation would have to wait until Congress completes work on its health care policy bill.

The outlines presented by the expected authors of the Senate and House immigration bills, coupled with the policies pursued by the Obama administration, provide clear

evidence that elected officials intend to ignore the interests of the American people as they contemplate reforming our immigration system. As we approach 2010, FAIR will once again need to mobilize the American people as we did in 2007 to protect their interests in this important debate about the future of

our country. FAIR is firmly committed to opposing any legislation that includes amnesty for illegal aliens and increases to already excessive levels of immigration, and will use all of our resources to make sure the voices of the American people are heard.

Homeland Security Gearing Up to Process Amnesty Applications

While the Department of Homeland Security (DHS) has no plans to expand control of America's borders in the new fiscal year, the department has big plans to expand its ability to process the millions of applications that would result from an illegal alien amnesty. Although no amnesty legislation has yet been introduced in Congress, the director of the U.S. Citizenship and Immigration Services (USCIS), Alejandro Mayorkas, told *The New York Times* that his agency is "underway to prepare" for the possibility of giving legal status to millions of illegal aliens.

Mayorkas said that USCIS's goal "is to be ready to expand rapidly to handle the gigantic increase in visa applications it would face" if an amnesty bill is signed into law. USCIS's preparation — even before an amnesty bill has been introduced — appears to be an effort to head-off criticism raised during the 2007 push for amnesty that the agency was ill-equipped to manage the process.

Mayorkas did not discuss how his agency would sort through millions of applications, weed out the fraudulent ones, or conduct meaningful background checks on the millions of likely applicants. The potential threat to homeland security was noted by Rep. Steve King (R-Iowa) the ranking member of the House Immigration Subcommittee. "There is a risk to national security that they will take their eyes off background checks of immigrants while they are busy setting up for legislation that has not been introduced in any way, shape or form."

The announcement of USCIS's preparations for a massive illegal alien amnesty coincided with the release of

the September unemployment figures that revealed that 9.8 percent of the labor force — more than 15 million workers — is officially unemployed. That figure, the highest in 26 years, becomes significantly higher if discouraged job-seekers and part-time workers are included in the equation. Thus, while the administration is failing to address the crisis faced by American workers, it is getting a jump-start on a program that would enable millions of illegal aliens to compete for every available job in the United States.



Alejandro Mayorkas
Director of USCIS

The administration's determination to press ahead with amnesty at all costs must be taken seriously. While USCIS is getting an early start on its preparation for amnesty, neither is FAIR waiting for the introduction of legislation to build the case against amnesty. On a daily basis, FAIR is

working to inform the American people about the impact that amnesty would have on struggling U.S. workers and on the nation's security, and will continue to do so until the issue is put to rest.

THERE IS A RISK TO NATIONAL SECURITY THAT THEY WILL TAKE THEIR EYES OFF BACKGROUND CHECKS OF IMMIGRANTS WHILE THEY ARE BUSY SETTING UP FOR LEGISLATION THAT HAS NOT BEEN INTRODUCED IN ANY WAY, SHAPE OR FORM.

Support FAIR at Year's End

Today's economy has made it necessary to make careful choices about how you give your funds. With proposed changes in federal tax laws, giving this year may save you more than ever before. If you are subject to the alternative minimum tax (AMT), charitable deductions reduce the amount of both the regular income tax and the AMT. Here are some ways you can help FAIR continue to fight to secure true immigration reform:

WILSON MATCH CAMPAIGN Contribute a minimum of \$250 total for 2009 and/or 10% over your 2008 contribution and you qualify for the match.

GIFTS OF STOCK/SECURITIES Gifts of securities, owned for longer than one year, can be deducted from income tax at the full current value and can be used to offset tax on up to 30% of your AGI. In addition, no tax is due on any gain. If you own securities that are worth less than they cost, consider selling them and making a gift of cash with the proceeds. You may be able to deduct this loss from other taxable income along with the amount of the cash contribution.

GIFTS FROM RETIREMENT PLANS If you are 70 1/2 and have an IRA, consider making a gift directly from these funds. Gifts given in this way are not taxed as income to you and offer a way to make completely tax free gifts.

Visit our website www.fairus.org for more information.

Here's an Additional Contribution. Keep up the Good Work!

Cut here and mail to FAIR
25 Massachusetts Avenue, NW • Suite 330 • Washington, DC 20001

\$25 \$50 \$100 \$250 \$500 \$1,000 Other \$ _____

All contributions are tax-deductible.

I am making my donation by **check payable to FAIR**, or credit card (check one)



Name (as it appears on card): _____

Card Number: _____ Expiration Date: _____

Signature: _____ Amount: _____

I've included at least \$25 for a Gift Membership to:

Gift recipient's name: _____

Address: _____

City/State/Zip: _____

Stay Informed. Get Involved. Make a Difference!

I would like to receive the FAIR Immigration Report and Legislative Updates online.

I would like to receive only the Legislative Updates online.

Here is my email address: _____

NL1109



FAIR is one of a select few charitable organizations certified by the BBB Wise Giving Alliance. You can be sure we are operating responsibly and are committed to ethical standards.



OUR GOALS ARE THE SAME AS YOURS.

- ▶ End illegal immigration
- ▶ Restore common sense to immigration policies
- ▶ Enforce immigration laws
- ▶ Stop terrorists at our borders
- ▶ Find a balance between people and resources

The immigration issue has never been bigger or hotter—and that means the challenges we face—and the opportunities—are greater than ever. As America approaches a defining moment in its immigration history, your pledge to FAIR in the 2009 Combined Federal Campaign is needed now more than ever. Look for FAIR under our full name in your CFC brochure.


FAIR
FEDERATION FOR AMERICAN
IMMIGRATION REFORM

CFC Number 11696