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FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM
Immigration
REPORT

DECEMBER 2018/ JANUARY 2019

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Out Like a Lamb: The GOP-Led 115th Congress Meekly Caves on Border Wall Funding

In its final days, after two years of foot-dragging, the Republican-led 115th Congress, again failed to make good on its promise. With funding for the Department of Homeland Security (DHS) still to be finalized during a post-election lame duck session, the outgoing Congress had an opportunity to include \$5 billion for the initial phase of construction for the border wall.

The original deadline for approving a DHS budget was December 7. However, because of the mourning period for the

late President George H.W. Bush, final consideration of the budget was pushed back to December 21. With Christmas looming, and unified Democratic opposition to construction of a border wall, the Republican leadership squandered the last bit of leverage they had to deliver on the president's signature campaign promise.

President Trump publicly threatened to veto the DHS spending bill if it did not include the \$5 billion he requested for border wall construction (already a deep

WALL FUNDING continued on page 2

FAIR Sends Media Team to the Border to Provide Balance to Coverage

The migrant "caravan" was a media event from the day it departed Central America bound for the U.S. border. The organizers planned it that way. They understood that the media would cover it as a human interest story rather than an organized assault on the sovereignty of the United States. The mainstream media did not disappoint, as it focused its coverage on the most sympathetic caravan members, while ignoring the planners' overt efforts to abuse the U.S. asylum system on a massive scale.



FAIR's Dave Ray (R) interviews Chris Harris at the southern border.

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WALL FUNDING *continued from page 1*

cut to his initial demand for \$25 billion). Instead, Senate Democrats were initially willing to agree to \$1.6 billion for border security, so long as it was made clear that it would not be used for any meaningful border enforcement. Senate Minority Leader Chuck Schumer (D-N.Y.) stipulated that Senate Democrats would agree to the \$1.6 billion figure under certain conditions. “NOT a concrete wall or increases in detention beds or [U.S. Immigration and Customs Enforcement] agents. We should stick to this agreement,” Schumer tweeted. What, exactly, the money would be used for if the wall, detention beds, and more ICE agents are off the table, is unclear.

But even this vague and minimal funding for border security is too much for many House Democrats who will be in the majority in the 116th Congress. Signaling the challenge incoming Speaker Nancy Pelosi (D-Calif.) will face, members of her caucus openly threatened to oppose her if she yielded on border secu-



President Trump's tense White House meeting with Rep. Nancy Pelosi and Sen. Chuck Schumer. Image courtesy of the White House.

rity funding. Rep. Vicente Gonzalez (D-Texas) warned prior to the vote for House Speaker, “I know Nancy needs all the support she can get right now. If they give away border-wall funding, I think there would be an effect on how the Congressional Hispanic Caucus (CHC) would feel come Jan. 3. She should be very concerned that members of the CHC don't abandon her Jan. 3 and I'm hoping she doesn't abandon us while she's negotiating this next budget.” That message was reinforced by the far left House Progressive Caucus,

which called for “zero funding for Trump's ill-conceived border wall, reducing funding for detention beds, and curbing inhumane border and interior enforcement.”

The current edition of the FAIR newsletter was completed before final consideration of the FY 2019 DHS Appropriations measure. FAIR will report on the resolution of this matter in upcoming newsletters, including President Trump's threat to veto the spending bill if it does not include the border wall funding he requested. ■

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FAIR Exit Poll: Administration's Immigration Stance Likely Spared GOP Greater Losses

In the final weeks of the 2018 midterm campaign, President Trump's closing argument to American voters was a renewed pledge to secure the nation's borders and enforce U.S. immigration laws. It was not enough to spare his party full control of Congress – the party occupying the White House almost always loses seats in midterm elections – but the president's firm stance on immigration appears to have minimized losses in the House of Representatives and helped Republicans increase their majority in the Senate.

According to exit polling commissioned by FAIR, President Trump's immigration policies enjoy broad public support and are far more popular than the president himself. The nationwide poll of 1,000 actual voters was conducted by Zogby Analytics on Election Day.

EXIT POLL continued on page 4

BORDER TRIP *continued from page 1*

With the arrival of 6,000 Central American migrants in Tijuana, Mexico, in late November, FAIR dispatched its Media Response Team to San Diego, California, to offer some first-hand analysis of the situation and provide live updates on the caravan. The team also observed the general state of border security along the San Diego Sector of the U.S. – Mexico border and the tactics used by both the Border Patrol and U.S. Military to secure the nation's border.

Thanks to the help of retired Border Patrol Agent Christopher Harris, FAIR was able to examine and explore several parts of the area's border fencing and border wall, discussing its effectiveness and gaining invaluable insight from an agent who had worked for more than 20 years in the sector.

Harris drove the FAIR team to several points along the border and it became immediately clear that thanks to the substantial border wall in this sector, the caravaners, despite their best efforts, were being held at bay across the border in Tijuana, Mexico, and forced to enter the U.S. and file their asylum claims through the legal port of entry. Multiple layers of reinforced wall helped an enormous presence of Border Patrol agents and vehicles secure the area. Many helicopters, dispatched by the Department of Homeland Security and the U.S. Coast Guard, made their presence known overhead as well. The area seemed to be on complete lockdown and Border Patrol personnel appeared to be extremely prepared to take on any type of dangerous, possibly violent incursion.



Dave Ray and Chris Harris overlook a segment of the San Diego Sector of the U.S.–Mexico border.

The media response team and Harris also surveyed the area where just days before, a group of nearly 1,000 caravaners had successfully broken through the border fencing, pushing women and small children in front of them and then hurling rocks, concrete and bottles at U.S. Border Patrol Agents. This attack clearly underscored the complete lack of credibility of many of the caravaners, who claimed to be seeking the safety of asylum in the U.S. while unleashing extreme violence on the very Border Patrol agents whose safety and protection they were seeking.

FAIR also had the opportunity to view border fencing along Imperial Beach – once another hotbed of illegal immigration – which extends into the Pacific Ocean and has been the frequent area of congregation by illegal migrants taunting Border Patrol agents from atop the fencing. Thanks to the fine work of the U.S. military, this portion of the sector became completely revitalized and effectively secured. Just a couple weeks earlier, this area had been a gathering ground for hundreds of migrants. However, during FAIR's trip, the staff only witnessed a mere two dozen individuals milling about

on the Mexican side of the wall.

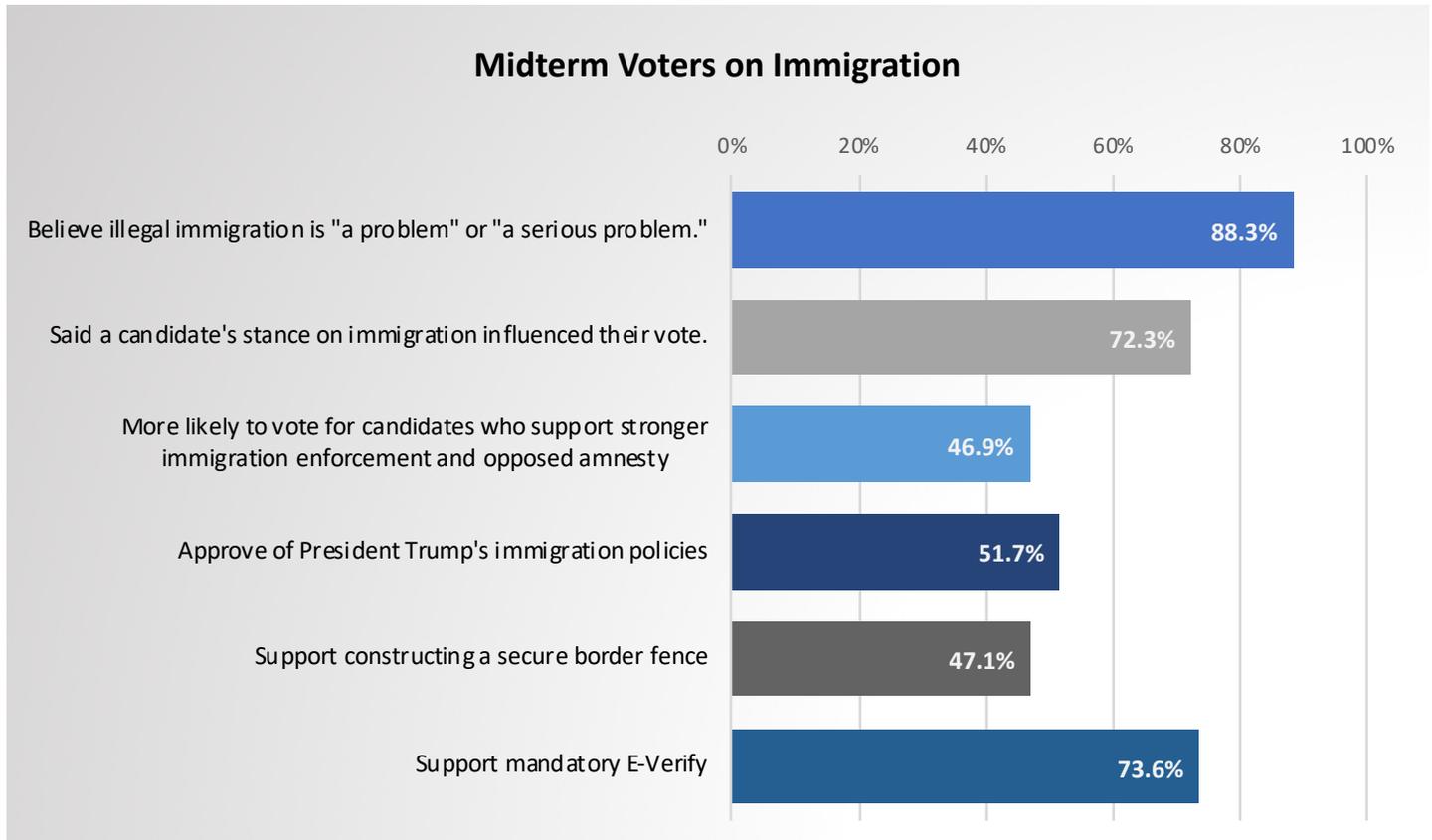
These realities from the border, not widely reported by the mainstream media, were the reason the FAIR team was dispatched. The full picture of what was occurring was then disseminated through social media outlets and talk radio.

Dave Ray, FAIR's communications director, conducted multiple Facebook video interviews with Harris, which gained thousands of views on FAIR's social media outlets and helped spread awareness of the issue to Americans from across the nation.

Following the border tour, the media response team scheduled and completed 22 radio station interviews with hosts from around the country. Starting at 3:30 in the morning and running until 3:30 in the afternoon, the media team worked tirelessly to provide live updates on the migrant caravans and border security in the sector.

With its third trip to the border in just under 12 months, FAIR aims to report live from other portions of the U.S./Mexico border in the upcoming months and will continue to offer exclusive insight to fill the rather large gaps left by the mainstream media's reporting. ■

EXIT POLL *continued from page 2*



Unsurprisingly, signature policies like construction of a secure border wall and mandatory E-Verify are overwhelmingly popular with the Republican base. But they are also widely supported by Independent voters – the folks who generally provide the margin for victory in close elections. These policies even enjoy significant support among Democrats, with a clear majority, nearly 55 percent, favoring mandatory use of E-Verify during the hiring process.

The Zogby Analytics poll once again dispelled the widely asserted contention that support for sensible immigration enforcement is absent among minority voters. Like many similar polls, minority voters tended to be as supportive, or even more supportive, of efforts to protect borders and American jobs.

The exit polling on immigration is relevant to both the Republicans who retain control of the White House and the Senate, as well as the Democrats who now control the House. Heading into the 2020 election cycle (which has already begun), Republicans need to understand that immigration enforcement and adoption of merit-based legal immigration policies remain among the party's strongest issues. The GOP cannot afford the sort of timid leadership that prevailed in the 115th Congress that resulted in squandered opportunities to deliver on immigration promises made by the president and Republican members of Congress.

While the Democratic Party is being pulled further to the left on immigration, the polling indicates that yielding to their more extreme base risks losing critical swing voters

who provided the margin of victory in House seats that changed hands in 2018. The "Abolish ICE" message may play well in districts like the one newly-elected firebrand Alexandria Ocasio-Cortez (D-N.Y.) was elected in, but is widely unpopular in the purple districts that switched from Republican to Democrat in this election. If Nancy Pelosi and others in the party's leadership have aspirations of remaining in the majority beyond this election cycle, they would do well to ignore their radical fringe and get behind mainstream immigration enforcement policies.

NEWS FROM OUR State & Local Operations

NEW JERSEY

Since taking the reins at the start of 2018, Gov. Phil Murphy has strengthened New Jersey's status as a sanctuary state for illegal aliens. Following the governor's lead, state Attorney General Gurbir Grewal closed out 2018 by ordering law enforcement departments around the Garden State to limit their cooperation with federal immigration authorities. Under Grewal's directive, local law enforcement officers will be barred from participating in immigration raids or operations except in emergencies. State or local agencies also cannot hold a person arrested for a minor criminal offense at the request of Immigration and Customs Enforcement (ICE). They can notify ICE in cases of serious or violent offenses or if the person has a final deportation order, but they can detain the individual only until 11:59 p.m. on the day of release. In response, ICE has warned that if the intent of local officials is to protect illegal aliens, they are going about it the wrong way. "As a result of limited cooperation with local and state authorities, ICE will have no choice but to conduct at-large arrests in local neighborhoods and at work sites, which will inevitably result in additional collateral arrests, instead of focusing on arrests at jails and prisons where transfers are safer for ICE officers and the community," responded ICE.

NEBRASKA

Countering increasingly bold moves by sanctuary jurisdictions to thwart immigration enforcement, other jurisdictions continue to take steps to protect local communities. Voters in Scribner, Nebraska, overwhelmingly approved a new ordinance against renting to or employing illegal aliens. It passed with more than 69 percent support and is also very likely to withstand any court challenges. The ordinance is modeled word-for-word on the nearby city of Fremont's Ordinance 5165, which was upheld as constitutional by the U.S. Court of Appeals for the Eighth Circuit in 2013. The Immigration Reform Law Institute (IRLI), FAIR's legal affiliate, was instrumental in crafting the language for that ordinance. As a result of the voter-approved measure, landlords will be barred from renting apartments to illegal aliens (and thereby obligating impacted communities to fund public education and other subsidized benefits). It will also make the bestowing of businesses licenses, city contracts, and city grants or loans in Scribner contingent on the use of E-Verify.

NORTH CAROLINA

Since 2006, Mecklenburg County, North Carolina, has used the federal 287(g) program to remove some 15,000 deportable aliens from their community. However, on his first day in office, newly-elected Mecklenburg Sheriff Garry McFadden notified Immigration and Customs Enforcement (ICE) that his department is withdrawing from the program. The 287(g) program was established by an act of Congress in 1996 and allows participating law enforcement agencies to identify and detain suspected illegal aliens on behalf of ICE. Mecklenburg County, which includes the state's largest city, Charlotte, has been the target of illegal alien activist efforts to end its cooperation with ICE. In terminating the department's participation in 287(g), Sheriff McFadden claimed falsely that cooperation with ICE discourages immigrants from coming forward to report crimes or provide information to law enforcement. Data indicate no difference in immigrant cooperation with law enforcement based on whether the jurisdiction works with federal immigration enforcement, or has sanctuary policies in place.

■

Presidential Proclamation to Address Deficiencies in Asylum Process Blocked by Activist Judge

With the migrant caravan bearing down on the U.S. border in November, and record numbers of “non-caravan” migrants entering the United States illegally and claiming asylum, President Trump issued a presidential proclamation aimed at curbing the widespread abuse of U.S. asylum policies. The proclamation, and an interim final rule laying out how it is to be implemented, require that individuals wishing to file an asylum claim will be required to present themselves at legal ports of entry, where a determination can be made about whether they have a “credible fear” of persecution in their homelands.

Despite a plethora of Supreme Court rulings (most recently as last June in *Trump v. Hawaii*) upholding the authority of the president to regulate entry of foreign nationals to the United States, Jon S. Tigar, an activist federal judge in San Francisco, blocked its implementation. However, due to stepped up border enforcement, the migrants seeking to crash the border en masse have been unable to enter the country illegally, and those who want to pursue asylum claims are doing so from the Mexican side of the border. The Trump administration is appealing Judge Tigar’s ruling.

While the administration is temporarily blocked from implementing the president’s proclamation, the need to curb the abuse of the asylum process remains clear. Between 2010 and 2018, the number of people crossing our borders illegally and then entering a claim for asylum jumped an

astounding 1,700 percent. The use of coached credible fear claims have become a free pass into the United States that allow people to remain here for years before their cases ever come before a court (if they bother to show up at all). As a result of this rampant abuse, there are nearly a million cases backlogged in the immigration court system.

The extent of the abuse is evident in some stark new data. Among the growing number of Central Americans who have claimed credible fear of returning home after entering the United States in recent years, 89 percent have been allowed to enter the country. However, among that group 31 percent fail to show up for their hearings after being released into the United States. Another 40 percent who pass the initial credible fear interview do not even file an asylum claim. Ultimately only 9 percent have been granted asylum. Nearly all of the remaining 91 percent stay in the country illegally.

Most of the caravan migrants have been effectively blocked from entering the United States illegally. As a result, those who wish to file asylum claims remain temporarily sheltered in Tijuana, Mexico, while they wait their opportunity to present a credible fear claim at a legal port of entry. Many who do not have valid asylum claims (but, rather, are economic migrants), have begun to accept offers from the Mexican government for free transportation back to their countries of origin.

While the actions of the administration are having some effect at



Judge Jon. S. Tigar

curbing the abuse of our asylum policies, congressional action remains imperative. Among the vital steps that Congress must take include:

- More clearly defining the “credible fear” standard as fear of persecution at the hands of one’s government, rather than a generalized breakdown of social order in one’s homeland.
- Allowing for extended detention of family units and increased detention space. Court-imposed limits of detention of families with children to just 20 days have resulted in record numbers of adults arriving at the border in the company of children. Congress must also appropriate funding for adequate detention space.
- Closing loopholes in the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA), which allows minors from non-contiguous countries to enter the country and pursue a lengthy legal process to remain here. This automatic presumption that all minors (from countries other than Canada and Mexico) are victims of human trafficking is directly responsible for the surge in unaccompanied minors.

New Census Data Indicate that 63 Percent of Immigrant Households Rely on Public Assistance

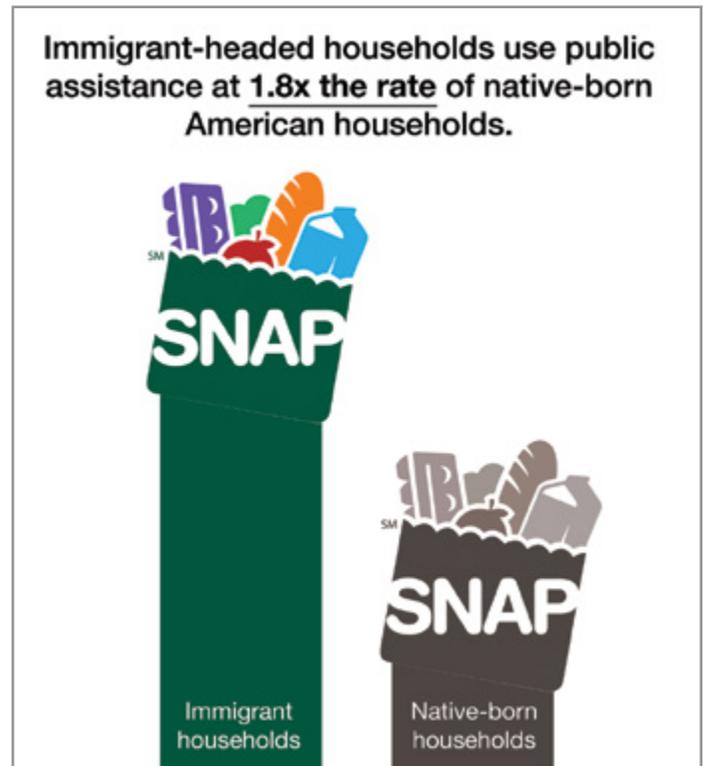
A comprehensive analysis of the Census Bureau's Survey of Income and Program Participation (SIPP) by the Center for Immigration Studies (CIS) shows that welfare usage by immigrant-headed households in the United States is extremely high. Nearly two-thirds of immigrant households, 63 percent, depend on some form of public assistance to meet their basic needs. This figure compares with about 35 percent of households headed by native-born Americans.

CIS's analysis of SIPP data comes as the Trump administration has proposed a rule change that would expand the list of programs that are considered welfare. Under the rule change, accessing these public assistance programs could prevent a prospective immigrant from receiving lawful permanent residence (a green card).

While legal immigrants who have been in the country for less than five years and illegal aliens are generally excluded from most forms of public assistance, many are able to access the public welfare system by virtue of having U.S.-born children. Many low-income immigrant-headed households also qualify for the Earned Income Tax Credit (EITC), which results in direct cash payments being made directly to them. Additionally, a growing number of states are offering public assistance to immigrants – legal and illegal – who cannot qualify for federal benefits.

The analysis of the SIFF data not only offers substantive support for the Trump administration's efforts to adopt a more realistic definition of a public charge, but strengthens the case for moving toward a merit-based immigration system. Among the most disturbing findings of CIS's analysis is that welfare dependency tends to increase the longer immigrants are in the United States. Among households headed by immigrants who have been here for ten years or less, about half access public assistance programs. That figure increases dramatically, to 70 percent, for those who have been in the country for more than ten years.

Not surprisingly, education seems to be a critical factor in determining the likelihood of immigrants to become public charges. More than four out of five households headed by immigrants with a high school education or less (81 percent) depend on public welfare.



On the other hand, among immigrants who arrive here better educated and more skilled, only 28 percent access public assistance programs. Adopting a merit-based immigration selection process that favors immigrants who are better educated have marketable skills could dramatically decrease reliance on welfare among the foreign born.

Welfare usage by immigrants is also dramatically higher in states with the highest concentration of immigrants. In California, 72 percent of non-citizen-headed households use one or more welfare programs compared with 35 percent for native-headed households. Similar disparities exist in Texas, New York, and Florida – other states with large immigrant populations.

Congress has, of course, repeatedly failed to scrap our failed family chain migration policy and replace it with a rational merit-based system. Given the make-up of the new Congress there is little reason to believe they will do so in the coming two years. However, the public charge rule changes proposed by the administration can play an important role in limiting the fiscal impact of our failed immigration system on American taxpayers.

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