



30 Years FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration

REPORT

JULY/AUGUST 2009

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President Committed to Amnesty but Chief of Staff says “The Votes Aren’t There”

The much anticipated and oft-delayed White House summit on immigration reform finally took place on June 25. President Obama hosted about 20 members of Congress for a closed door meeting about how to deal with an “immigration system that is broken and needs fixing.”

For the president and top Democratic congressional leaders who attended the White House meeting, the cornerstone of immigration reform remains a massive amnesty for millions of illegal aliens. However, White House chief of staff, Rahm Emanuel, made a

point of dampening expectations that amnesty legislation is imminent. “The votes aren’t there,” Emanuel admitted in an interview with the *Christian Science Monitor*. President Obama reiterated that point in a post-summit



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FAIR, IRLI Win Important Legal Victory Supporting Local Immigration Enforcement Ordinances

Because of the ongoing failure of the federal government to enforce immigration laws, states and communities all across the country are increasingly enacting local policies to protect themselves from the consequences of large-scale illegal immigration. Many of

these local governments have turned to FAIR and the Immigration Reform Law Institute (IRLI) to help them craft local ordinances that both discourage illegal immigration and conform with federal laws.

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Amnesty continued

statement, saying, “there is not by any means consensus across the table.”

The president also acknowledged widespread skepticism about the government’s ability and commitment to control our borders and enforce immigration laws in a manner that protects the security and vital interests of the American people. “The American people still don’t have enough confidence that Con-

istration has curtailed worksite enforcement, repeatedly delayed implementing a requirement that federal contractors use E-Verify, scaled back cooperation with local law enforcement, and made it easier for illegal aliens to remain in the country.

President Obama appointed Homeland Security Secretary Janet Napolitano as the White House point person who will

press. Thanks to members of FAIR and other immigration reform activists all across the country, both the administration and Congress understand that any attempt to enact an illegal alien amnesty will be met by withering public opposition.

FAIR will continue to lead the effort to block any sort of immigration reform legislation that betrays the interests of the

FAIR WILL NOT BE SATISFIED WITH MERELY BLOCKING ATTEMPTS TO ENACT AMNESTY. WE INTEND TO PRESS FORWARD WITH A PUBLIC INTEREST IMMIGRATION AGENDA THAT EMPHASIZES THE NEED TO RESTORE CONTROL OF OUR BORDERS, PROTECTS AMERICAN JOBS, AND AVOIDS DEVASTATING RUNAWAY POPULATION GROWTH.

gress and any administration is going to get serious about border security, and so they’re concerned that any immigration reform simply will be a short-term legalization of undocumented workers with no long-term solution with respect to future flows of illegal immigration,” President Obama stated.

Since taking office, President Obama has reinforced the public’s skepticism. His admin-

work with congressional leaders to formulate an immigration reform package. Secretary Napolitano is tasked with “systematically working through [the] issues” and trying to reach a consensus that would be politically saleable.

A further indication of how unpopular the idea of an illegal alien amnesty is with the American people was House Speaker Nancy Pelosi’s (D-Calif.) revealing post-summit statement. While reaffirming her “absolute commitment” to an illegal alien amnesty, Speaker Pelosi made it clear that it would be up to the Senate to pass a bill before the House would act.

No Time to Let Down Our Guard

The reluctance on the part of the Obama administration and many congressional leaders to dive into a battle over amnesty is a testament to the unwavering opposition that the American public continues to ex-

American people. Given the views of the president and congressional leaders, we must be sure that the American people remain informed and prepared to oppose any efforts to grant amnesty to illegal aliens.

Equally important, FAIR and immigration reform activists must confront attempts by the Obama administration to weaken immigration enforcement by executive decision. Based on the administration’s track record, we are likely to be confronted with repeated attempts to chip away at all aspects of immigration enforcement.

FAIR will not be satisfied with merely blocking attempts to enact amnesty. We intend to press forward with a public interest immigration agenda that emphasizes the need to restore control of our borders, protects American jobs, and avoids devastating runaway population growth.

Immigration
REPORT

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FAIR 33 Massachusetts Ave., NW • Ste. 200 • Washington, DC 20001
(202) 338-7004 • info@fairus.org • www.fairus.org

Obama Administration Handcuffs Local Immigration Enforcement

As more local police and sheriffs departments around the country have taken an interest in enforcing laws against illegal immigration, the Obama administration has moved to minimize their effectiveness. A Memorandum of Agreement (MOA) issued by Homeland Security Secretary Janet Napolitano on July 10, effectively limits law enforcement departments participating in the federal 287(g) program to removal of criminal illegal aliens.

The 287(g) program was established as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996, and signed into law by President Clinton. The provision provides local police departments the opportunity to have officers trained to identify and detain people who

are in the country illegally. Until the latest MOA was issued, local departments could decide when, and under what circumstance, to detain suspected illegal aliens. Sixty-six police and sheriffs departments across the country have received 287(g) training for their officers.

The Napolitano MOA defines the terms of participating in the 287(g) partnership as “specifically, the identification and removal of criminal aliens.” The new 287(g) agreement was drafted in response to objections from advocacy groups who oppose the apprehension and removal of illegal aliens from

the country. A DHS press release explaining the MOA states that the new policy was formulated “To address concerns that individuals may be arrested for minor offenses as a guise to initiate removal proceedings.”

The MOA forces the 66 departments already participating in the program to accept



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Schumer Promises Immigration Bill by Labor Day

Senator Charles Schumer (D-N.Y.), expects to have an immigration bill written by Labor Day. The chairman of the Senate Judiciary Subcommittee on Immigration, Border Security and Refugees told the Associated Press that the bill could come to the floor for a vote by late 2009 or early 2010.

The centerpiece of Schumer's bill is certain to be a massive amnesty for most or all of the estimated 13 million illegal aliens living in the U.S. Amnesty for illegal aliens is widely opposed by Americans. A similar proposal was rejected by the American people in 2007, despite support from congressional leaders and President Bush.

In an effort to gain support from congressional Republicans for the next amnesty push, Schumer suggested that the legislation would

call for the admission of more skilled immigrants. “We have a shortage maybe of engineers here or Ph.D's in physics, but we probably don't have a shortage of people who can do construction work,” Schumer said.

If, as expected, the Schumer bill includes amnesty for illegal aliens and increases in new foreign workers (at a time when the nation is dealing with a 9.5 percent unemployment rate), FAIR will once again lead the effort to defeat such legislation. As we have in the past, FAIR will use all of its resources to educate the American public about the costs of an unjustified amnesty, and the impact it would have on workers, the environment and other issues that Americans care about.

NEWFROMFAIR

Illegal Immigration Costs Virginians at Least \$1.7 Billion Annually

A new study detailing the costs of illegal immigration at the state and local level finds that Virginians pay nearly \$1.7 billion a year to provide education and health care to illegal aliens and their children, and to incarcerate illegal aliens who have committed other crimes in the state. *The Costs of Illegal Immigration to Virginians* is the latest in a series of reports issued by FAIR examining the impact of illegal immigration on local taxpayers.

According to the report, Virginia's illegal alien population has tripled since 2000 and now numbers 295,000. As the size of the illegal alien population has grown, so too have the costs to Virginians. *The Costs of Illegal Immigration to Virginians* finds that the state spends about \$1.56 billion a year to provide K-12 education to the children of illegal aliens. An additional \$100 million a year of taxpayer money is spent on unreimbursed health care costs for illegal aliens residing in Virginia. Incarcerating illegal alien criminals adds another \$45 million onto the price tag. The nearly \$1.7 billion public burden for illegal immigration works out to about \$625 a year per Virginia household headed by a native-born resident.

The release of *The Costs of Illegal Immigration to Virginians* in late June coincided with news of

Virginia's growing fiscal crisis. Virginia ended the fiscal year on June 30 with a \$300 million budget shortfall, while the state's finance secretary projects that revenues will decline by 9 percent. Thus, the costs of providing service to illegal aliens and their families far exceeds the amount of money the state will have to raise to close the budget gap.

In addition to the direct costs of illegal immigration, the Virginia economy loses about \$1.1 billion annually in the form of remittances sent to Latin America. As the report notes, had this money been earned by U.S. workers, most of it would have been spent locally, creating new jobs and providing additional tax revenues to the cash-strapped state.

The release of *The Costs of Illegal Immigration to Virginians* received widespread coverage in the Virginia and Washington, D.C., media. In conjunction with its release, FAIR media spokespeople appeared on several of the top-rated talk radio programs in the state, television news programs, and met with the editorial board of Virginia's leading newspapers.

The report, *The Costs of Illegal Immigration to Virginians*, along with 13 other state impact cost studies can be found at FAIR's web site.



As Costs Mount, Virginians Seek Immigration Enforcement, Finds Poll

In conjunction with the release of FAIR's report, *The Costs of Illegal Immigration to Virginians*, a public poll was commissioned to gauge the opinions of Virginians about illegal immigration. A statewide poll conducted by Zogby International of 606 likely voters found that, by large margins, Virginians believe that illegal immigration is harmful to their state, and support enforcement of laws against illegal immigration by both federal and local authorities.

With the state facing significant budget shortfalls, some 78 percent of Virginians believe that illegal immigration has a negative impact on the state budget, compared with only 8 percent who see it as beneficial to Virginia. By wide margins, Virginians support enforcement over amnesty as a way to deal with illegal immigration. More than 55 percent of Virginians favor

MORE THAN 90 PERCENT WANT CONGRESS TO REAUTHORIZE E-VERIFY, WHILE 84 PERCENT WANT VIRGINIA TO JOIN OTHER STATES IN MAKING USE OF E-VERIFY MANDATORY BY ALL EMPLOYERS STATEWIDE.

strengthening and enforcing laws designed to prevent illegal aliens from living and working in the U.S., while only 35 percent support granting amnesty to illegal aliens.

Voters would welcome state and local efforts to discourage illegal immigration. More than 90 percent want Congress to reauthorize E-Verify, while 84 percent want Virginia to join other states in making use of E-Verify mandatory by all employers statewide.

Complete results of Zogby International poll of Virginia voters can be found at FAIR's web site.



Preparations are well underway for Hold Their Feet to the Fire 2009. Hold Their Feet to the Fire is an annual event organized by FAIR that brings talk radio hosts from all across the United States to Washington, D.C., to discuss immigration policy. This year's event, scheduled for September 15 and 16, is on track to be the largest Hold Their Feet to the Fire to date.

Working with San Diego radio talk host Roger Hedgecock who originated the Hold Their Feet to the Fire concept, the 2009 event is scheduled to coincide with congressional efforts to enact an illegal alien amnesty bill. The 2007 event occurred just three weeks prior to the introduction of the McCain-Kennedy amnesty bill, and helped galvanize the critical role played by talk radio in defeating that measure.

With Sen. Charles Schumer (D-N.Y.) promising to have an immigration reform bill written by Labor Day, Hold Their Feet to the Fire 2009 will be well-timed to inform the American people about what will likely be another massive amnesty bill. Over the two days of the event, talk radio will have the opportunity to engage audiences in a national dialogue about immigration reform and highlight the interests of the American people. It is a discussion that congressional leaders and the Obama administration would prefer not to have, but one that is critical to ensuring that the voices of the American people are heard.

In conjunction with Hold Their Feet to the Fire, FAIR is organizing an activist component, known as National Lobby Days. Each year, FAIR hosts immigration reform activists from across the country who come to Washington to meet with elected representatives to discuss their concerns and their ideas about immigration reform. We encourage anyone who is interested in being part of National Lobby Days 2009 to contact FAIR's national field director Susan Tully at stully@fairus.org.

We also encourage members and activists to get in touch with talk radio hosts in their areas and urge them to be part of this important national dialogue by dedicating all or part of their broadcasts on September 15 and 16 to a discussion of immigration policy.

Obama Administration Reluctantly Extends E-Verify Protections, but Scraps No-Match Rule

On September 8, the day after Labor Day, some American workers will have a little more job security. After months of delay, the Department of Homeland Security (DHS) in July finally agreed to implement a Bush-era regulation requiring federal contractors to use the E-Verify system to ensure that workers paid with taxpayer dollars are legally eligible to hold jobs in the U.S.

The DHS decision, though welcome news for workers and taxpayers, came about only because Congress was about to force the administration's hand. The DHS announcement came the same day the Senate adopted an amendment that would

statutorily impose the same mandate. The Senate approved an amendment to the Homeland Security Appropriations bill, offered by Sen. Jeff Sessions (R-Ala.), requiring all federal contractors to use E-Verify to check the eligibility of both new and existing employees.

The Sessions amendment would also make E-Verify a permanent program. However, the House version of the Homeland Security Appropriations bill includes only a two-year extension of E-Verify, which would otherwise expire on Sept. 30. (As of the completion of this issue of the FAIR *Immigration Report*, a conference committee has not yet worked out the difference between the two versions. We will report the outcome of the conference committee in the September issue.)

Underscoring the Obama administration's reluctance to enforce laws against illegal aliens working in the U.S., DHS simultaneously announced plans to rescind the No-Match rule, aimed at protecting

CONTINUED on next page



FAIR/IRLI Victory continued

One such town is Valley Park, Missouri, which enacted local ordinances that require businesses to sign up for a worker verification program known as E-Verify to keep a business license. City officials worked closely with FAIR and IRLI in drafting the ordinances.

Predictably, the Valley Park law was challenged in court by the American Civil Liberties Union (ACLU) and the Mexican American Legal Defense and Education Fund (MALDEF) on behalf of a coalition of plaintiffs they assembled. In a precedent setting decision in June, a three-judge panel of the 8th Circuit Court of Appeals dismissed the challenge to the Valley Park ordinances and reaffirmed the right of local jurisdictions to pass laws that discourage illegal immigra-

tion. This ruling follows a 2008 decision by the 9th Circuit Court of Appeals upholding statewide policies designed to discourage the hiring of illegal aliens.

The city of Valley Park was represented in court by Kris Kobach, who serves of counsel to IRLI. In addition to the unequivocal ruling in support of local ordinances aimed at discouraging illegal immigration, the appellate court said it was "puzzled" as to why the ACLU even brought the case without any evidence that the law had caused any harm to their clients.

The Valley Park decision is a vindication of FAIR's efforts to work with state and local governments to address the problems of illegal immigration. The mounting case law upholding the right of state and local

governments to enact laws that discourage illegal immigration also clears the way for other jurisdictions to adopt this approach. The court victories also demonstrate the value of the expertise that IRLI has developed in crafting local ordinances.

The growing number of state and local governments requiring the use of E-Verify increases political pressure on Congress and the Obama administration to reauthorize the program for the long-term. Even as many jurisdictions find that E-Verify is an invaluable tool in their efforts to discourage illegal immigration, the U.S. Senate has repeatedly balked at extending it beyond six months.

No-Match Rule continued

private sector workers from losing jobs to illegal aliens. The No-Match rule, finalized in 2007, requires employers who are notified by the Social Security Administration (SSA) that workers' social security numbers do not match data in SSA's database to take action to correct those discrepancies in order to ensure their workforce is legal.

By rescinding the No-Match rule, the administration is making it easier for employers to retain illegal workers. Abandoning the No-Match rule will help illegal aliens keep the jobs they currently hold despite the fact their employment violates U.S. law, instead of freeing those jobs for legal American workers.

These announcements by DHS occurred just days before President Obama issued a personal plea to the American people for patience as he attempts to get the economy back on track and reduce unemployment. Even as the federal government has pumped hundreds of billions of dollars in an effort to stimulate the economy, June unemployment reached 9.5 percent, a 26-year high. Yet, with some 14 million Americans out of work, the administration had to be pressured into preventing illegal aliens from working at jobs created with federal tax dollars, while simultaneously making it easier for illegal aliens to remain in private sector jobs.

Vigorous enforcement of laws against employing illegal aliens will not magically solve America's unemployment crisis. But, freeing up millions of jobs now held by illegal aliens would offer at least some relief to unemployed Americans. FAIR will continue to educate the American people about the impact that illegal immigration has on workers in this country in an effort to get Congress and the administration to enforce all laws against the employment of illegal aliens.

The Census and Illegal Immigration

A national organization of Latino religious leaders is currently calling on illegal aliens to boycott the 2010 Census. They assert that the participation of illegal aliens in the Census may be used to identify them for deportation, and they argue that only if "legalization," i.e., amnesty, for illegal aliens is adopted this year can the fear of deportation be eliminated.

This intriguing twist on an old controversy reminds us that the Census counts all residents—including illegal residents. FAIR has

tried repeatedly to stop this practice. We challenged that interpretation with 30 members of Congress in a lawsuit in 1990—only to have the court toss the case on a technical argument that ignored mountains of evidence demonstrating adverse impacts on voters' right to a fair apportionment. When illegal aliens are included in the apportionment count, states with slower population growth and fewer illegal aliens lose House representation to those states with the fastest growth and the highest number of illegal residents.

In addition to the allocation of House seats, the Census is used by the federal government for distributing funding to the states, and it is used within a state for both redistricting state legislative seats and for distribution of state funding. Thus, the Census determines how and where federal and state tax dol-

lars are allocated for the coming decade.

It is too late in the 2010 Census preparations to change the current ground rules. There is no pending legislation in Congress on this issue. Nevertheless, FAIR continues to articulate that it is a serious distortion of our mode of governance to include illegal aliens in the Census-based formula for distribution of political representation in the House.

The composition of the House also influences the composition of the Electoral College that decides the presidency, so the count of illegal

aliens also may decide the presidency.

FAIR has advocated eliminating the illegal alien population from the Census count in allocating political power and federal funding. For 20 years, we have been urging the Census Bureau to ask about legal status. Alternatively, the Census Bureau could define a resident as someone who both resides in the U.S. as their "normal place of abode" and, if a non-citizen, is present in the U.S. with the consent of the federal government. So far, these suggestions have been rejected by the agency.

The decennial Census is one more example of how mass illegal immigration affects not just jobs and tax dollars, but ultimately the voice that American citizens have in determining their own future.



FAIR invites you to join a dedicated group of FAIR members who provide steady contributions that enable us to remain at the forefront of the fight for immigration reform that serves America's national interests. This special group is the *Cornerstone Contributors*, a fitting name given its foundational importance to FAIR's work.

Cornerstone Contributors provide FAIR with a reliable source of support and allows us to sustain our public policy efforts here in Washington, D.C. as well as in states nationwide. *Cornerstone Contributors* benefit too. Here's how:

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NL809

287(g) MOA continued

the newly defined parameters for 287(g) participation within 90 days or face termination. "[O]nly those agencies with newly signed agreements will be permitted to continue enforcing immigration law," states the DHS release.

AS PARTICIPATION IN THE PROGRAM HAS GROWN, 287(G) HAS ALSO PROVIDED A MEANINGFUL DETERRENT TO ILLEGAL ALIENS SETTLING IN JURISDICTIONS THAT HAVE IMPLEMENTED THE PROGRAM.

FAIR worked closely with members of Congress in 1996 to include the 287(g) provision in the law. The intent of the provision was to increase the effectiveness of immigration law enforcement by enlisting the aid of local police who encounter illegal aliens in the course of their daily duties. At the same time, it provided local governments with a means to protect the interests of their communities by empowering local police to act to remove people who have no legal right to be in the country.

While removal of criminal aliens is a high priority, it is not the only interest that states and local governments have in removing illegal aliens. As participation in the program has grown, 287(g) has also provided a meaningful deterrent to illegal aliens settling in jurisdictions that have implemented the program. However, as the record of the Obama administration clearly demonstrates, it opposes enforcement of laws against non-criminal aliens.



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