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### **Proposed FY 2009 Budget Includes Good and Bad News on Immigration**

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### **Rosanna Pulido: Immigration Reform Activist Turned FAIR Field Representative**

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### **Book Review: *The Immigration Solution***

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### **Key Findings in Gray v. Valley Park**

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### **100,000 Illegal Aliens Estimated to Have Left Oklahoma as a Result of Local Enforcement Measure**

We've all heard the same line from Republicans and Democrats pushing a massive amnesty for illegal aliens: We have to find a way to "legalize" the illegal aliens already here, because we cannot deport 12 or 15 million people. That false choice between mass amnesty and mass deportation has been the basis for the pro-amnesty advocates' argument, and was designed to deliberately preclude effective alternatives that the majority of Americans support.

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### **Donor Spotlight: The Raymond and Charlotte Kiser Trust**

FAIR would like to thank the Raymond and Charlotte Kiser Charitable Trust for their

generous bequest. Mr. and Mrs. Kiser were members of FAIR since 1983. Mr. Kiser was a water chemist for the United States Geological Survey and he and his family lived many years outside the United States in Pakistan, Nigeria and Puerto Rico. Mr. and Mrs. Kiser felt strongly about voluntary population stabilization in the United States and around the world. To that end, they supported immigration and population policies that would further that goal.

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## American Public Rejects Tax Rebates for Illegal Aliens

With the economy apparently headed toward recession and elections looming, the House of Representatives acted swiftly in late January to approve President Bush's economic stimulus package. The crown jewel of the package is a tax rebate that the White House and congressional leaders hope Americans will spend and stimulate economic expansion.

However, the House version of the economic stimulus package included loopholes that would have allowed illegal aliens to receive tax rebates from the federal government. First, the House version allowed resident aliens who file using Individual Taxpayer Identification Numbers (ITINs) to receive a rebate. Because the IRS does not take immigration status into account when issuing ITINs or determining resident alien status, illegal aliens who file returns using ITINs would have been able to receive refund checks from the IRS. In addition, the House economic stimulus package did not require the IRS to weed out false and fraudulent social security numbers in its system before issuing rebate checks.

Upon discovering this loophole, FAIR immediately began informing the American public of the plan to hand government checks to people who are living and working in the country illegally. As a result of our legislative alert bulletins that reach thousands of FAIR members and supporters and our outreach to talk radio, pressure began to mount on Congress to amend the legislation, barring illegal aliens from benefiting from the rebates.

During the first week of February, FAIR spokespeople appeared on dozens of talk radio programs across the country. Much like talk radio's impact on amnesty legislation in 2007, discussion of tax rebates for illegal aliens generated thousands of phone calls and emails to members of Congress demanding that illegal aliens be barred from receiving these government checks.

Similar to the way the Senate leadership attempted to get the illegal alien amnesty bill passed last year, they attempted to rush the economic stimulus package through with the loophole benefiting illegal aliens still in the language. When that effort failed, the Senate adopted an amendment authored by Sen. John Ensign (R-Nev.) closing the loophole. With the approval of the Senate Finance Committee Chairman Max Baucus (D-Mont.) and Senate Minority Leader Mitch McConnell (R-Ky.), the final version of the economic stimulus package bars rebates to ITIN tax filers. The amendment was approved by a vote of 91-6.

In finalizing the deal that puts money back in the pockets of legal U.S. taxpayers, Senate leaders who closed the illegal alien loophole credited the work of FAIR in drawing the public's attention to this attempt to give government checks to people who are in the country illegally.

In addition to the obvious objections to granting tax rebate benefits to people living in the United States illegally, such a policy would have also been poor fiscal policy. Granting rebates to illegal aliens at a time when the government is running significant deficits would have only added to the national debt. It would have not served the bill's purpose of providing economic

stimulus because much of the money earned by illegal aliens working in the United States is sent to their homelands in the form of remittances. Billions of dollars intended to stimulate the U.S. economy would instead have ended up in other countries.

### **The Power of the Public's Response**

As was demonstrated in 2007 when the public spoke in a powerful and unified voice against the illegal alien amnesty bill, the public outcry over the possibility of illegal aliens receiving tax rebates forced Congress to amend the legislation. Your responses to FAIR's Legislative Alerts and the public response to the information FAIR disseminated through the media proved, once again, that we have the power to change this nation's immigration policies for the better.

If you are not already receiving FAIR's Legislative Alerts, please sign up to receive them at [www.fairus.org](http://www.fairus.org).

## Proposed FY 2009 Budget Includes Good and Bad News on Immigration

The proposed \$3.1 trillion FY09 federal budget sent by President Bush to Congress in early February includes some modest spending increases to improve some aspects of immigration enforcement, but also cuts funding for critical programs in other areas. In addition, President Bush's final budget includes language aimed at increasing the number of guest workers who could be admitted to the country.

- The proposed FY 2009 budget adds funding in the following areas:
- More border patrol agents. The budget increases funding by \$500 million for Customs and Border Protection, including funds to hire 2,200 additional border agents in 2009, raising the total number to 20,000 agents.
- More detention beds. Detention beds are increased by 1,000, raising the total number to 33,000 beds.
- Funding for the 287(g) program. The funds for the 287(g) program are \$5.4 million, the same amount as the previous fiscal year.
- Targeted financial incentives to use E-Verify. \$100 million is specifically set aside to assist businesses to use the E-Verify program.
- Funding to assist states to comply with REAL ID. The administration seeks \$50 million specifically for REAL ID grants to the states.

The budget reduces or eliminates funding for other important immigration enforcement programs:

- Potentially decreases funding for border security fence below completion levels. As reported in the February edition of the Immigration Report, amendments to the 2008 Omnibus Appropriations measure, signed by President Bush in January, effectively curtail further construction of the border security fence Congress approved in late 2006. The proposed budget reduces the construction budget for the fence by 36 percent from \$1.25 billion allocated in fiscal year 2008 to \$775 million for fiscal year 2009.
- Eliminates funding for state criminal alien assistance program grants. The 2009 budget entirely cuts funding for state criminal alien assistance program (SCAAP) grants, leaving states that incarcerate illegal aliens holding the bag for the federal government's failures. Bush made a similar proposal in past budgets, but Congress continued to fund the program.

The budget would make it easier for businesses to bring in additional agricultural foreign guest workers. Also, precisely at a time when the economy appears headed toward recession and unemployment is on the rise, it would also permit the Department of Labor (DOL) to pursue regulations that would facilitate bringing in H-2B guest workers. By rewarding the DOL with revenues for issuing certifications that American workers are unavailable, it is given an incentive to issue those certification to remain financially flush.

## **Rosanna Pulido:**

### *Immigration Reform Activist Turned FAIR Field Representative*

As it became increasingly evident that the federal government was not prepared to address the concerns of the American public and institute sensible immigration reform, FAIR made a strategic decision to promote immigration reform from the grassroots up. Over the past several years, FAIR increased its outreach to activist groups around the country that work to promote immigration enforcement at the local level. Within the past six months, we have been fortunate to be able to add two new field representatives who are busy full-time working for real immigration enforcement all across the country.

Rosanna Pulido began working for immigration reform as a citizen activist in Chicago. Living in a sanctuary city, it was easy for her to see the impact of mass immigration. As a police dispatcher Rosanna saw first hand the dangers false identification poses for law enforcement officers. In 2003 she drove six hours to a FAIR summit in Indianapolis, Indiana, where she learned that there were many things that ordinary citizens could do to bring about common sense changes in our immigration policies.

As a field representative for FAIR, Rosanna's goal is to help form and support activists groups in eleven states, engage thousands more citizens to win back America's immigration policies, and to build on the groundswell of momentum resulting from the defeat of last year's amnesty bill.

In 2008, Rosanna is planning legislative workshops across the country that will educate immigration reform activists and make them effective in their quest to bring about policy changes at the local and national level.

## Book Review

### *The Immigration Solution*

If there is one thing in the immigration debate that everyone can agree on it is that our nation's immigration system is broken and is badly in need of fixing. The problem, of course, is that the solutions that have been offered by the White House, many congressional leaders, and many opinion elites would only make things worse.

While the majority of Americans are pretty clear about what they believe needs to be done to fix our immigration system, their voices have been drowned out by a cacophony of well-funded business and ethnic interest groups that place their own narrow concerns ahead of the public good. A new book, *The Immigration Solution: A Better Plan Than Today's*, compiles some of the best writings on the issue of immigration from some of the most noted scholars on the subject, Heather MacDonald, Victor Davis Hanson, Steven Malanga and Myron Magnet.

While rejecting the discredited options of mass amnesty for millions of illegal aliens or merely relaxing our immigration standards so that millions more would-be illegal aliens could come legally, *The Immigration Solution* (Ivan R. Dee, 2007) offers a "radical" alternative: An immigration policy that serves the national interest. To begin with, the authors suggest that we enforce the laws we already have on the books securing our borders and cracking down on employers who hire illegal aliens.

In terms of moving forward to a new and better legal immigration policy, the authors call for an end to family chain migration, and to replace those policies with ones that emphasizes the individual qualifications of the people who seek to come here. These would include job skills, English proficiency and other objective measurements that are likely to determine whether an immigrant will be a net benefit to the American society and economy.

To most Americans such a policy is just plain common sense. In the highly politicized debate taking place today, an immigration policy based on the national interest remains as elusive as ever.



# Immigration Reform Law Institute Wins Precedent-Setting Decision

## *Federal Judge Upholds Valley Park, Missouri's Local Immigration Ordinance*

While Congress continues to defy the public's demands for enactment and enforcement of sensible immigration reform, progress continues to be made at the state and local levels. In recent years, FAIR has been active in supporting grassroots immigration reform groups working for immigration reform at the local level. FAIR's legal affiliate, the Immigration Reform Law Institute (IRLI) has worked with states and cities to draft legislation and ordinances that allow these jurisdictions to do what the federal government refuses to do.

Among the cities that IRLI assisted in drafting local ordinances is the St. Louis suburb of Valley Park, Missouri. In February 2007, Valley Park enacted ordinances authorizing the suspension of licenses of businesses that knowingly hire illegal aliens. As in the case of other cities that enacted similar ordinances, illegal alien advocacy groups, including the American Civil Liberties Union (ACLU) and the Mexican American Legal Defense and Educational Fund (MALDEF), immediately filed suit on behalf of local plaintiffs to prevent the city from implementing those policies.

On January 31, U.S. District Judge E. Richard Webber decisively rejected each of the plaintiffs' arguments. In a 57-page opinion, Judge Webber, a Clinton appointee, dismissed claims that Valley Park's ordinances pre-empt federal authority over immigration policy. The ruling also rejected other challenges including claims that the ordinances deny equal protection and due process. In addition, Judge Webber ruled that the assortment of illegal aliens and business owners named as plaintiffs in the case lacked standing to sue the city.

Valley Park's legal defense was headed up by Prof. Kris Kobach of counsel with IRLI. Reacting to the decision, Kobach declared that Judge Webber's ruling represents an "across the board victory" for the City of Valley Park and for millions of Americans who believe that our immigration laws need to be enforced. IRLI's general counsel, Michael Hethmon, called the ruling "a clear green light from the bench to cities around the country to enact local ordinances." Well-financed advocacy groups like the ACLU and MALDEF have consistently used the threat of expensive legal actions to intimidate smaller cities considering implementing local ordinances.

Judge Webber's ruling highlights the importance of IRLI's legal expertise in drafting local immigration enforcement ordinances. The decision demonstrates that carefully written ordinances can bear close judicial scrutiny and will make it possible for jurisdictions all across the country to enact similar ordinances with confidence.

Related Article: [Key Findings in Gray v. Valley Park](#)

## Key Findings in Gray v. Valley Park

Well-funded illegal alien advocacy groups like the ACLU and MALDEF have adopted a shot gun approach in their effort to find legal grounds to thwart local efforts to enforce immigration laws. If they miss on one claim, they may get lucky with another. Judge E. Richard Webber, in his January 31 decision to uphold the City of Valley Park, Missouri's, immigration enforcement ordinances, decisively rejected each of the challenges to local enforcement. Each aspect of his ruling provides important legal precedent for other cases.

The rejection of each of the ACLU's and MALDEF's challenges vindicates the important work that IRLI has done in making sure that communities that adopt its model ordinances can be confident that they will stand up to legal challenges.

### Preemption

The central challenge to all state and local efforts to enforce immigration laws has been the issue of federal preemption. Opponents of immigration enforcement argue that such state and local actions infringe upon the federal government's exclusive authority over immigration policy. In his ruling, Judge Webber categorically rejected the preemption argument, asserting that the Valley Park ordinance regulates local business practices, not immigration.

"The Ordinance in question does not address the question of who may or may not enter the United States, and therefore the Court concludes that the Ordinance is a regulation on business licenses, an area historically occupied by the states."

### Equal Protection

The attorneys who routinely file suits challenging local efforts to enforce immigration laws argue that such ordinances violate constitutional guarantees of equal protection under the law. In the Valley Park case, it was an argument that the judge flatly rejected.

"Plaintiffs' assertion that compliance with the Ordinance places a burden on them sufficient to constitute injury is inadequate. Firstly, the Court notes that compliance with any statute, law, or ordinance, places some cost of compliance upon the subject of the law." Judge Webber also notes that equal protection applies only to "persons similarly circumstanced." Therefore, "Implicit in this dictate is the requirement that legislatures make distinctions between those who are not similarly circumstanced." In other words, the law should treat illegal aliens differently from others.

### Due Process

The plaintiffs in this and other cases argued that businesses caught hiring illegal aliens could lose their licenses without the government "providing standards or guidance for compliance." Judge Webber dismissed this contention, stating that the terms for compliance are clearly

stated in the ordinance itself. Moreover, he points out, local governments are merely holding employers accountable for what they are already required to do by the federal government.

“Furthermore, all employers are required to determine the work status of an employee under Federal law, therefore, the Court does not see this as a valid complaint by the Plaintiffs.”

## Use of E-Verify Law Upheld by Arizona Judge

Just one week after a federal judge in Missouri upheld the right of local governments to suspend or revoke the business licenses of employers who knowingly hire illegal aliens, the decision was supported by a second federal judge. On February 7, U.S. District Judge, Neil V. Wake rendered an unequivocal ruling in favor of Arizona's law requiring employers in the state to check the work eligibility of their employees using the E-Verify system. Judge Wake concluded, as did Judge Webber in Missouri, that state and local enforcement policies based on punishing businesses that hire illegal aliens do not preempt the federal government's authority over immigration policy.

In his ruling, Judge Wake noted that the clear intent of the Immigration Reform and Control Act of 1986 (IRCA) was to prevent illegal aliens from working in the United States. However, the intent of the law "has been thoroughly defeated by document and identity fraud." The 2007 Arizona law requiring employers to use an electronic verification system "is a conscious attempt to address this problem at the State level by imposing sanctions 'by licensing and similar laws' upon those who employ unauthorized aliens, as expressly permitted by IRCA."

The judicial decisions in Missouri and Arizona validate the work that FAIR and IRLI have been doing with local governments to enact immigration enforcement policies that stand up to judicial scrutiny. Policies that protect the interests of cities, counties and states are only effective if they withstand legal challenges.

Ultimately, the issue of local enforcement will have to be decided by the U.S. Supreme Court. The victories that IRLI and others working for local enforcement scored in the lower courts will provide valuable legal precedent when attorneys for IRLI argue the issue before the Supreme Court.

## Around the Country

### Florida

As the Florida legislature kicked off its 2008 session, a series of immigration enforcement measures were introduced by members of the State House at a February 6 news conference in Tallahassee.

The Florida bills, similar to those in many other states, are aimed at penalizing employers who hire illegal aliens denying non-essential government benefits and services to people who are not legally present in the United States, and preempting local sanctuary policies.

Representatives Gayle Harrell and Don Brown are leading the way in the Florida legislature.

Late in 2007, Joyce Mucci, FAIR's southern region field representative, held a statewide meeting with Florida immigration reform activists as they prepared to move forward with state-based immigration reform initiatives. The Florida lawmakers who introduced the legislation have received support from activists groups, particularly Floridians for Immigration Enforcement, [www.flimen.org](http://www.flimen.org).

### Indiana

A bill introduced in the Indiana legislature, SB 335, by State Senator Mike Delph would add the Hoosier State to the growing list of states that enforce immigration laws by penalizing employers who knowingly hire illegal aliens. The bill was approved by the Indiana Senate and is awaiting consideration in the House. SB 335 received a shot in the arm when it picked up the endorsement of Lt. Colonel Ray Mejia, a naturalized U.S. citizen and a decorated war hero. Col. Mejia affirmed that, like most Americans, legal immigrants to the United States support immigration enforcement because they are directly harmed by illegal aliens who undercut their wages and job opportunities. Sen. Delph's efforts are receiving strong backing from IFIRE, [www.ifire.org](http://www.ifire.org), a strong state-based grassroots group that works closely with FAIR.

### Michigan

FAIR's newest field representative, Chris Chojnowski, a Michigan resident, worked for years in his home state to promote immigration reform. Chris, along with other Michigan activists, has worked to end the state's practice of granting driver's licenses to illegal aliens. In January, their work paid off as Michigan joined most other states in barring illegal aliens from receiving licenses. New applicants for a Michigan driver's license are required to document legal and permanent residency in the U.S., as well as Michigan residency, through documents such as a birth certificates, passports and billing statements featuring name and address.

### Georgia

In 2006, FAIR worked closely with Georgia State Senator Chip Rogers to pass strong state-based immigration enforcement laws. In 2008, Sen. Rogers and other Georgia lawmakers are trying to strengthen those policies. One bill before the legislature this year would cut off state funding to local governments that institute sanctuary or non-cooperation policies. That bill was approved

by the Georgia Senate by a vote of 45-8. A second bill that would make the fourth offense for driving without a license a felony was approved by a 38-13 margin.

## 100,000 Illegal Aliens Estimated to Have Left Oklahoma as a Result of Local Enforcement Measure

We've all heard the same line from Republicans and Democrats pushing a massive amnesty for illegal aliens: We have to find a way to "legalize" the illegal aliens already here, because we cannot deport 12 or 15 million people. That false choice between mass amnesty and mass deportation has been the basis for the pro-amnesty advocates' argument, and was designed to deliberately preclude effective alternatives that the majority of Americans support.

The most viable strategy for the reduction of the millions of illegal aliens that amnesty advocates do not want the American people to know about is attrition through enforcement. FAIR has long argued that if we prosecute employers who knowingly hire illegal aliens, bar illegal aliens from receiving non-essential government benefits and services, and empower local police to enforce immigration laws, many illegal aliens would voluntarily leave the United States.

Much to the consternation of amnesty lobbyists, that is exactly what is happening in places where local governments have instituted local enforcement policies. On November 1, 2007, Oklahoma began implementing a state-based enforcement policy, known as Oklahoma Taxpayer and Citizen Protection Act of 2007 (H.B. 1804). This policy makes it very difficult for illegal aliens to work and access government benefits and services, and empowers local law enforcement to act when they encounter people who are in the country illegally.

These policies have worked even more effectively than FAIR could have predicted. Since taking effect, an estimated 100,000 illegal aliens have moved out of Oklahoma. It is unclear how many simply relocated to other areas of the country, but many have given up and returned to their homelands. As stated by the author of the Oklahoma law, State Representative Randy Terrell:

"HB 1804 proves that attrition through enforcement works. All you have to do is enforce the law, deny them the jobs, deny them the public benefits, give state and local law enforcement the ability to enforce federal immigration law, and the illegal aliens will simply self-deport. And it will solve the problem."

FAIR and the Immigration Reform Law Institute (IRLI) worked closely with Rep. Terrill to draft H.B. 1804, which has withstood legal challenges from the pro-illegal alien advocacy network. Immigration reform activists in other states are now looking at the Oklahoma law as a model for what can be achieved in their own states. As more state and local governments adopt their own enforcement policies, there will be fewer places where illegal aliens will be able to find jobs and access to benefits. We are likely to see many follow the lead of illegal aliens in Oklahoma and simply return home.

## Donor Spotlight

### *The Raymond and Charlotte Kiser Trust*

FAIR would like to thank the Raymond and Charlotte Kiser Charitable Trust for their generous bequest. Mr. and Mrs. Kiser were members of FAIR since 1983. Mr. Kiser was a water chemist for the United States Geological Survey and he and his family lived many years outside the United States in Pakistan, Nigeria and Puerto Rico. Mr. and Mrs. Kiser felt strongly about voluntary population stabilization in the United States and around the world. To that end, they supported immigration and population policies that would further that goal.

We are honored that Mr. and Mrs. Kiser thought so highly of FAIR and are very grateful for their commitment to our mission. Their support of FAIR's work is vital to the country we hope to bequeath to future generations.