



Immigration REPORT

FAIR Launches Major Digital Campaign Calling on Companies to Reinvest in U.S. Workers

Despite a growing economy and a falling unemployment rate, there are still thousands of Americans looking for an opportunity to put their talents to use. Unfortunately, many well-known companies are leaving them on the sidelines as they choose to hire foreign workers through the H-1B visa program. That cannot stand, so FAIR is standing up for them with a massive digital advertising campaign.

The digital campaign will run for the next six weeks on Twitter and will target those U.S. companies who are growing reliant upon the H-1B program for their hiring needs. FAIR has highlighted some of the major companies, including Microsoft, Nike, Netflix, Uber and Starbucks, who are pushing hard to increase visa caps because it benefits their bottom line and not the American worker. For example, we reported recently that Uber fired more than 1,000 employees over a ten-week period, but simultaneously was doubling the number of H-1B visa workers it was hiring for management, marketing, and tech positions. In FY19, Uber had over 1,160 initial and continuing H-1B approvals.

Uber is not alone. In fact, Microsoft too laid off 18,000 U.S. employees in 2014 while also pushing for more H-1B visa workers. Their preference for foreign workers, however, has not impeded their ability to keep

landing top government contracts. In October 2019, the U.S. Department of Defense picked Microsoft for a JEDI cloud computing contract worth \$10 billion.

Many of these companies have a significant social media presence and use that presence to communicate with and influence their customers. So, what better way to get the message across to them – and millions of their followers on Twitter – that abusing the visa process to get cheap foreign labor is not okay with the American public? FAIR will not stand by while the American middle class is ignored or sold out by self-interested companies. We will continue to stand up and speak out – wherever we can – on behalf of the American worker.

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Proposed FY 2021 Budget Affirms that Border Wall Construction Remains a Priority



Image Credit: U.S. Customs and Border Protection

At first glance, President Trump's FY 2021 budget request appears to be a retreat from his efforts to secure adequate funding for additional construction of a wall along stretches of the southern border. The budget proposal seeks a mere \$2 billion, significantly less than the \$5 billion the White House sought last year.

But what is not immediately evident is that the reduced funding request for the border wall – a signature promise of President Trump's 2016 campaign and almost certain to be a feature of his reelection bid – does not mean that the administration is walking away from its commitment to border security. Rather, the 2021 funding request reflects two realities: first that government funding measures originate in the House of Representatives, where Speaker Nancy Pelosi left no doubt about her disdain for the president and his agenda by tearing up a copy of his State of the Union Address before a national audience. And second, that the administration has successfully maneu-

vered around the political gridlock in Congress and secured significant additional funding for wall construction by other means.

The administration has managed to amass \$18 billion for the project by tapping other Homeland Security and Defense Department monies that were available to protect the southern border. The use of these funds has been upheld by several court rulings. The \$18 billion represents nearly three-fourths of the estimated \$25 billion cost of completing the entire amount of wall construction the president promised.

In the section of the budget request titled, "Ensures Security to Promote Prosperity," the White House says that "by the end of 2020, the Administration expects approximately 400 miles of new border wall to be completed on the southern border; an additional 600 miles of new border wall will be completed in the

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coming years with funding made available from 2017 to 2020. In the meantime, the Administration has released a plan for updating immigration and asylum laws to encourage legal migration, promote application based on merit, and support refugees in need of protection from persecution."

The ability to secure additional funding for border security and administration efforts to discourage asylum abuse have already borne fruit. Since peaking at 144,000 last May, border apprehensions have declined steadily each month, as fewer migrants attempt to exploit our asylum policies. In January, just 29,200 apprehensions were reported.

FAIR has strongly backed construction of a secure border wall, along with reforms to our asylum and de-

tention policies, and interior policies such as abolishing sanctuary policies and mandating use of E-Verify by all employers. All of these components are essen-

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tial to ending mass illegal immigration. In several recent fact-finding missions to the border, FAIR has been able to report through talk radio and social media the effectiveness of the border wall in preventing illegal entry in the areas where it is in place.

FAIR Applauds Trump Crackdown on Sanctuary Cities

President Trump sent a strong message in his State of the Union Address that his patience is wearing thin with the increasing number and the increasing audacity of state and local sanctuary policies. Within a few days of his address to Congress and the nation, his administration began to make it clear that defying and impeding federal immigration enforcement will come with a price.

On February 10, U.S. Attorney General William Barr announced that the Department of Justice is bringing lawsuits against the state of New Jersey and King County, Washington, for their obstruction of federal immigration enforcement efforts. These lawsuits follow on the heels of a suit filed against California for its efforts to prevent Immigration and Customs Enforcement (ICE) from contracting detention space with private companies.

New Jersey law drastically constrains the information law enforcement bureaus within the state are permitted to share with ICE. That law, like many of the more than 500 similar sanctuary laws and poli-

cies in place around the country, clearly violates federal law. Federal law, defined in 8 U.S. Code § 1373, states that, "Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [federal immigration authorities] regarding the citizenship or immigration status, lawful or unlawful, of any individual."

King County, Washington, which includes Seattle, the state's largest city (and its staunchest sanctuary jurisdiction), is being sued because it has banned ICE from using a county-run airport to fly deportable aliens back to their countries of origin. The King County airport is located a short drive from a major detention facility in Tacoma, where ICE houses aliens scheduled for deportation. Aside from impeding ICE's enforcement efforts and incurring additional costs as-

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sociated with having to bus deportees 150 miles to an airport in Yakima, King County's policy violates an explicit agreement with the federal government. The federal government deeded the airport to the county in the 1940s with the stipulation that it would continue to provide service for federal agencies.

"Unfortunately, in various jurisdictions, so-called progressive politicians are jeopardizing the public's safety by putting the interests of criminal aliens be-



Image Credit: U.S. Immigration and Customs Enforcement

fore those of law-abiding citizens...Their express purpose is to shelter aliens whom local law enforcement has already arrested for other crimes. This is neither lawful nor sensible," Barr said in an address to the National Sheriffs' Association. Sheriffs, who are elected directly by the people they serve, have been at the vanguard of law enforcement resistance to sanctuary policies. Many work closely with FAIR to promote closer local-federal cooperation in the area of immigration enforcement.

In the New Jersey lawsuit, the Justice Department is seeking a judicial ruling that will compel local governments to turn over information requested by ICE. Such a ruling would be consistent with the statutory language of 8 U.S. Code § 1373 and would be applicable to other jurisdictions that similarly refuse to cooperate.

The lawsuits represent a sea change in how the federal government responds to sanctuary policies. For years, including under the Obama administration, the federal government has complained about these impediments to immigration enforcement. But there has been no cost to state and local government that defy federal law. The unmistakable message from the DOJ is that the days of getting a free pass on illegal sanctuary policies may be coming to an end. ■

Striking Back at the Empire State: Ordinary New Yorkers Will Pay a Price for State's Radical Plan to License Illegal Alien Drivers

Last year, after Democrats wrested full control of the New York Legislature, lawmakers approved a radical plan to grant driver's licenses to illegal aliens. That bill was signed into law by Gov. Andrew Cuomo.

New York is not the first state to grant driver's licenses to illegal aliens, nor is it particularly surprising that the Empire State joined the list of states that do so. But provisions built into the law aimed at protecting illegal aliens who apply for licenses are so radical that ordinary New Yorkers will face significant inconveniences as a result. In addition to rewarding ille-

gal aliens with licenses, the so-called Green Light law bars federal agencies from gaining access to information stored in the state's DMV records. The law even goes so far as to prevent ICE from accessing license plate data that might assist them in tracking down criminal aliens on their own. It will make it more difficult for New Yorkers to ship vehicles abroad because federal authorities will not be able to verify registra-

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tion information.

In February, the Department of Homeland Security (DHS) announced that it will bar New Yorkers from enrollment and reenrollment in trusted travel programs like Global Entry, and the Nexus program that many upstate residents use to facilitate easy travel back and forth across the Canadian border.

While random acts of violence perpetrated by criminal aliens that New York laws put back on the street have failed to rally fierce public protest (precisely because they are random and no one expects that it will happen to them), the certainty of greater inconvenience every time a New York resident attempts to board a flight or cross the border seems to have done the trick. Gov. Cuomo, feeling the heat, immediately sought a meeting with fellow Queens native, President Trump.

In advance of the meeting, Cuomo offered a token concession, agreeing to allow federal immigration authorities limited access to New York DMV records if DHS would agree to reverse its policy barring New Yorkers from participating in federal travel programs. By "limited," the governor meant access to the DMV records of law abiding New Yorkers who apply for one of the trusted traveler programs. "If they think they're going to extort New York into giving them a database of undocumented people, they're wrong. I will never do that," vowed Cuomo.

Cuomo also protested that DHS's edict affecting New Yorkers is political payback for numerous state and local policies that impede immigration enforcement. "I want to make sure the president knows that his Department of Homeland Security is extorting other governments," Cuomo charged. Without even a hint of acknowledgement of how New York's sanctuary policies subvert public interests and endanger public safety, Cuomo continued, "They're hurting hundreds of thousands of people who get kicked out of this trusted traveler program...Why would you jeopardize homeland security, hurt people gratuitously just to play politics?" ■



Image Credit: istock

Supreme Court Gives Administration Green Light to Bar Welfare-Dependent Immigrants

The U.S. Supreme Court removed major roadblocks to the Trump administration's efforts to enforce centuries-old laws designed to prevent people who are likely to rely on public benefit programs to meet their basic needs from entering the country or receiving green cards. By a 5-4 margin, in late January, the high court lifted lower court injunctions that prevented the administration from implementing its so-called "Public Charge Rule" anywhere in the country.

In 2019, the State Department denied more than 12,000 visa applications on public charge grounds, compared with just 1,033 such denials in FY 2016 under the Obama administration.

Bars against the admission of immigrants who are likely to become public charges date back to our colonial period and have been formally codified in law since 1882. These laws, intended to protect the interests of American taxpayers, have been periodically reaffirmed by Congress – most recently in major immigration legislation enacted in 1996. However, while the intent of Congress was clear in 1996, the Clinton administration promulgated rules that defined welfare dependence as reliance on only a handful of government assistance programs.

The Trump policy, unveiled in 2018, seeks to apply a more realistic definition of what it means to be a public charge. Prospective immigrants who are deemed likely to rely on expensive public assistance programs like Medicaid, food stamps, housing assistance, and similar programs could be denied green cards. The financial ability of sponsors to provide for those they have petitioned to bring to the United States would also factor into deciding whether or not a potential migrant is likely to become a public charge.

Enforcement of the public charge rule could have

significant benefit to American taxpayers. Due to our ill-conceived family chain migration policies – which admit the bulk of legal immigrants based on having relatives in the U.S. rather than on objective criteria such as education and job skills – about two-thirds of all immigrant-headed households depend on at least one form of public welfare. In the absence of congressional action to revamp our legal immigration process and adopt merit-based admission criteria, the administration's executive action should provide some measure of relief to American taxpayers.

Even before the Supreme Court cleared the way for the Public Charge Rule to be implemented, the administration stepped up efforts to screen out green card and visa applicants who are likely to be heavily dependent on government assistance programs. In 2019, the State Department denied more than 12,000 visa applications on public charge grounds, compared with just 1,033 such denials in FY 2016 under the Obama administration. The Kaiser Family Foundation estimates that about 27 percent of current green card applications could be rejected under the administration's new rule.



The Supreme Court's January decision did not rule on the merits of the multiple lawsuits challenging the constitutionality of the Public Charge Rule. It merely removed the nationwide injunctions issued by lower court judges, permitting the administration to implement the rule while the lower courts rule on the merits of the challenges. Those lower court rulings are still pending and will almost certainly be appealed before federal circuit courts, and possibly before the Supreme Court.



Image Credit: istock

State Department Mounts Effort to Curb Birth Tourism

In late January, the State Department issued new rules to consular officers around the world aimed at curbing the longstanding practice known as birth tourism. An estimated 33,000 women each year arrive in the United States on temporary visas for the purpose of delivering their babies in the United States. Under the current (mis)interpretation of the 14th Amendment, these babies are automatically considered citizens who are entitled to all the benefits of citizenship, including, when they reach the age of majority, the ability to sponsor family members for green cards. Though mass immigration advocates object vehemently to the term "anchor babies," these children born to birth tourists fit that definition to a tee.

Lucrative businesses have sprung up to exploit this loophole in the citizenship clause of the 14th Amendment. Companies catering to women in places like China, Russia, Turkey, Nigeria, and others charge clients as much as \$60,000 to arrange for them to give birth on U.S. soil.

All foreign nationals, except those from 39 countries that are covered under the Visa Waiver Program, are required to obtain a visitor's visa to enter the United States by appearing in person before a foreign service officer at an embassy or consulate. As part of

the process, they must state their purpose for seeking entry to the United States. Giving birth is not a valid reason for obtaining a visa, and concealing the true purpose of seeking a visa is automatic grounds for denial.

The new State Department rule instructs consular officers to deny visa applications if they suspect that an applicant's true intention is to give birth. Consular officers are trained to question visa applicants and flag those whom they suspect are trying to gain entry to the U.S. fraudulently.

The issue of birth tourism, and the much larger abuse of our birthright citizenship policy by illegal aliens, could be remedied by Congress, which has the power to enact legislation clearly defining what it means to be "subject to the jurisdiction" of the United States, as stated in the 14th Amendment. FAIR has long supported enactment of such legislation, which would provide the Supreme Court the opportunity to issue a ruling on the true intent of the amendment's citizenship clause. However, both under Republican and Democratic control, Congress has failed to end what is a clear abuse and devaluation of U.S. citizenship.

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