

Immigration REPORT

FAIR Helps Secure Two Massive Victories Amid Health Crisis

EMERGENCY STIMULUS BILL

The House of Representatives passed the Senate's \$2 trillion stimulus package in late March, which President Trump quickly signed. The bill was the product of a marathon three-way negotiation between Senate Majority Leader Mitch McConnell (R-Ky.), Minority Leader Chuck Schumer (D-N.Y.), and Treasury Secretary Steven Mnuchin, resulting in a 880-page bill meant to bolster the American economy as it grapples with the fallout from the COVID-19 pandemic.

Multiple versions of text arose throughout the week, and the Democrat-controlled House of Representatives even introduced its own 1,000+ page bill that included numerous immigration-related poison pills, but not an amnesty as some lawmakers were requesting. Alarming, House Speaker Nancy Pelosi's (D-Calif.) bill included \$1 billion in potential grant funding for sanctuary cities, restrictions on U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) unrelated to the virus, and automatic work reauthorizations for all aliens whose work permits or visas expire, including reauthorizations for DACA status. This bill was not a serious attempt at legislation but rather served as a messaging bill to influence the Senate's legislation. Minority Leader

Schumer and Minority Whip Dick Durbin (D-Ill.) fought to include some of the House's language in the final Senate bill. FAIR's government relations team helped make sure that this did not happen.

McConnell and other senior GOP senators kept the worst of the House's immigration proposals out of this bill. There are no restrictions on CBP or ICE, and nonresident aliens are not eligible for any economic stimulus items, such as the \$1,200 personal checks to individual Americans. That said, there are a few immigration-related provisions that made it into the final bill passed by Congress. First, the bill gives \$350 million to the State Department for migration and

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Health Crisis

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refugee assistance, but not resettlement. The Trump administration's refugee ceiling is already the lowest in recent history, and the administration suspended asylum processing to contain the virus. The bill gives \$850 million in additional funding to the Justice Department for state and local law enforcement assistance. While this inclusion is disappointing, it applies only to this supplemental funding and does not affect or alter any existing statutes. It is also entirely possible that the Justice Department will de facto choose to not award grants from this supplementary funding to sanctuary cities.

Despite these very minor funding-related shortcomings, the \$2 trillion, 800+ page stimulus bill is free of significant immigration poison pills. This is a huge victory for advocates of immigration reform.



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Too often, massive packages like this contain clauses and provisions that further degrade border security efforts and expand immigration levels. This bill does neither of those things and successfully addresses the

task at hand – stimulating our economy and helping American citizens in need.

FAIR worked with multiple congressional offices, the White House, and media personalities to highlight the importance of keeping big immigration out of this must-pass stimulus package. Our efforts stopped this bill from including amnesty, direct payments to illegal aliens, and automatic visa extensions -- all efforts supported by Democrats in control of an entire chamber.

DHS CANCELS GUEST WORKER INCREASE

In early March, the acting secretary of the Department of Homeland Security (DHS) announced that he was using his authority to issue 35,000 additional H-2B visas above the statutory cap of 66,000. On April 2, facing intense pushback from FAIR in public and behind the scenes, DHS announced that it was suspending this action due to the economic fallout from the COVID-19 pandemic.

With millions of American workers getting laid off every week, this is not the time to import foreign guest workers to work in H-2B industries. DHS is starting to understand this and took the right action to avoid hurting American workers further. FAIR continues to advocate for a complete moratorium on all guest worker admissions during this crisis, in order to give Americans a fighting chance at meaningful employment during these troubling economic times. ■

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Supreme Court Green Lights “Remain in Mexico” Policy

From the perspective of the mass immigration/open-borders lobby, there is a huge problem with the Trump administration’s Migrant Protection Protocols (MPP), commonly known as “Remain in Mexico”: They work! Since peaking last May at 144,000, border apprehensions and illegal border crossings have declined dramatically, owing to MPP and other policies implemented to discourage people from exploiting our asylum policies and court-imposed limits on family detention.

As usual, border chaos proponents went to court in an attempt to prevent the government from carrying out MPP, which requires migrants seeking asylum in the U.S. to remain in Mexico until their claims can be heard. As per their longstanding strategy, these advocacy groups, led by the American Civil Liberties Union (ACLU), found sympathetic judges to block implementation of MPP. These judicial rulings were upheld by the activist (and oft-overturned) Ninth Circuit Court of Appeals.

The Department of Justice (DOJ) immediately appealed the Ninth Circuit’s ruling, and on March 11, the U.S. Supreme Court reversed the appellate court’s ruling. The unsigned one-paragraph Supreme Court order cleared the way for MPP to be fully implemented. It is also not clear how each individual justice ruled, other than Sonia Sotomayor who expressed her dissent.

The MPP ruling is the latest in a series of judicial wins for the Trump administration’s efforts to enforce immigration laws and protect the interests and security of the nation. In January, the Supreme Court similarly cleared the way for the administration to implement policies aimed at preventing people who are likely to become public charges from immigrating.

The stampede of mostly Central Americans during the first half of 2019 was fueled by the near certainty that entering the U.S. illegally and entering an asylum claim would result in release into the United States, pending a hearing that most had no intention of showing up for. The vast majority of asylum claims being entered lacked merit, but once released into the country, it becomes much more difficult to locate and deport these migrants.

Under MPP, some 60,000 migrants have been returned to Mexico, and many of those who lacked valid asylum claims have decided to return to their homelands. Moreover, knowing that they would not be released into the interior of the United States, many



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“Remain in Mexico”

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fewer migrants are attempting to exploit our asylum policies.

Nearly half a million migrants who crossed the southern border in FY 2019, were released into the United States. Without MPP in place, it is a near certainty that a renewed surge would further paralyze the already overwhelmed immigration courts.

MPP and an administration policy requiring migrants to seek asylum in the first safe country they come to, i.e. one that puts them beyond the reach of the government they claim is persecuting them, are stop gap measures for restoring order to the border. They can be reversed by a future administration that abjures immigration enforcement.

FAIR has advocated for congressional action to close

loopholes in our asylum laws that will protect the rights of legitimate asylum seekers, and deter those who would abuse our humanitarian policies to gain entry to the United States under false pretenses. FAIR has also urged Congress to overrule a 2015 judicial decision that bars the detention of families with children from being detained for more than 20 days.

Both of these essential statutory changes are essential to curb future asylum abuse and border surges. In the current highly partisan atmosphere in Washington, and with a hotly contested election looming, bipartisan cooperation is highly unlikely this year. However, these legislative fixes will remain a high priority for FAIR beyond 2020. ■

News from our State and Local Operations

VIRGINIA

The Virginia Legislature wrapped up its legislative session on March 8, but before heading home, lawmakers enacted a host of new benefits and privileges for illegal aliens. Topping the list of accommodations to illegal aliens, is a new “driving privilege” card for illegal aliens. Illegal aliens who file a Virginia tax return will be eligible for these important documents that make it easier for them to live and work in violation of federal law. These documents will be issued even though Virginia authorities have no reliable way of knowing who they are being issued to. And, as a further protection for illegal aliens in the commonwealth, their personal information will be shielded from federal authorities except under extenuating circumstances.

But wait, there’s more. Virginia taxpayers will now be required to subsidize the education of illegal aliens attending public colleges and universities. These subsidies amount to about two-thirds of the actual tuition cost. But why stop there? The Legislature didn’t. Also



approved were measures that allow local jurisdictions discretion not to contact immigration authorities when they book someone into custody for a misdemeanor; eliminate ID requirements for voting; and create a new state “Office of New Americans” to assist immigrants regardless of immigration status in pursuing public benefits.

As of completion of this edition of the newsletter these bills had not been signed into law, but Gov. Ralph Northam is expected to do so.

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State and Local

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FLORIDA

The Florida Legislature, under extreme pressure from cheap labor business interests, approved what amounts to a toothless E-Verify bill in early March. Mandating the use of this highly successful federal employment eligibility verification system had been one of the signature campaign promises of Republican Gov. Ron DeSantis. The bill that was sent to his desk is far cry from what he asked for or what the people of Florida demand, and much of the sabotaging of the bill came at the hands of Republicans. Key provisions, such as authorizing the state's Department of Economic Opportunity (DEO) to audit employers for employment-verification compliance and to relay suspicions about businesses hiring illegal workers to federal Immigration and Customs Enforcement (ICE) were gutted. Only government entities and government contractors will be required to screen out illegal aliens through the use of E-Verify.

As of completion of this edition of the newsletter, Gov. DeSantis had not indicated whether he would sign or veto this watered down E-Verify bill.

FAIR ON THE GROUND IN MARYLAND



FAIR's State and Local Engagement attend a press conference with Maryland sheriffs and Angel Families to fight sanctuary policies in Annapolis.

TEXAS

Because apparently there are no pressing needs or problems that need to be addressed by Texas' largest cities and counties, local lawmakers have decided to channel local tax dollars into funds dedicated to providing legal assistance to illegal aliens fighting deportation. Dallas, Austin, and San Antonio have already established legal defense funds for illegal aliens, and in late February, Harris County officials (the state's largest, which includes Houston) decided to dive in. According to SmartAsset.com, Harris County already "has some of the highest property taxes not just in Texas, but in the entire country. The average effective property tax rate in Harris County is 2.09 percent, significantly higher than the national average." In addition, Harris County imposes the maximum local sales tax of 2 percent, on top of the 6.25 percent state sales tax, for a total of 8.25 percent, well above the combined statewide average of 7.613 percent. But what the heck, right?



FAIR's state and local engagement joined a coalition of over 40 activists to testify in Annapolis against Maryland's sanctuary state bills.

Commonsense Immigration Policies Enjoy Broad Voter Support

In case you haven't noticed, 2020 is an election year and immigration figures to again weigh heavily on voters' minds when they go to the polls. According to a Harvard/Harris poll, which issues a comprehensive snapshot of public opinion on a wide range of public policy issues each month, support for commonsense immigration policies enjoy overwhelming voter support.

In contrast to some of the radical open borders and anti-enforcement positions staked out by candidates seeking to oppose President Trump in November, American voters stand squarely in favor of enforcing immigration laws and adopting merit-based legal immigration policies. Voters also overwhelmingly oppose sanctuary policies or other policies that grant illegal aliens new benefits. The poll was conducted in February and the results were released in March.

The latest Harvard/Harris poll demonstrates that FAIR stands in the mainstream of American public opinion on immigration. The polling results also highlight the distorted picture of the immigration policy debate that is presented by the elitist corporate media. The attention and exposure that the media give to the mass immigration/open-borders advocates is vastly disproportionate to the constituencies they represent.

The poll indicates that as the views of mass immigration advocacy groups (and the politicians who pander to them) become ever more radical -- abolishing ICE, granting unconditional mass amnesty, decriminalizing illegal immigration, granting health care and other social benefits to illegal aliens, and more -- politicians who represent and protect the interests of the American people in the immigration debate will be rewarded on Election Day. ■

Among the key immigration findings of the Harvard/Harris poll were:

- 60 percent of voters approve of a new administration rule aimed at denying green cards to immigrants who are likely to wind up as public charges.
- 76 percent support policies that would crack down on illegal aliens who commit crimes or are arrested by requiring local governments to turn them over to immigration authorities or face the loss of law enforcement funding. 55 percent support sanctions against sanctuary jurisdictions.
- 79 percent said they would support an “immigration halt” if the COVID-19 virus became a pandemic. (The poll was conducted before the World Health Organization declared it a pandemic.)
- 61 percent support “comprehensive immigration reform that includes strengthened borders, a wall along the southern border, eliminates chain immigration and visa lotteries and replaces the system with one based on merit.” The question also included a trade-off of amnesty for current illegal aliens. It is not possible to determine how much the inclusion of amnesty influenced support or opposition.
- Only about one-third of voters support the idea of granting driver's licenses to illegal aliens.
- As we approach a national election, 67 percent of voters support “Requiring National ID cards for voting.”



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Sanctuary Policies Cost Lives. Now They Can Cost Sanctuary Jurisdictions Money

Countless lives have been unnecessarily lost and countless avoidable crimes have been perpetrated because of sanctuary policies in place in an estimated 562 jurisdictions around the country. Politicians in these jurisdictions seem unmoved by the needless suffering imposed by their defiance and obstruction of immigration enforcement. What they do seem to care about is federal dollars flowing to their states, counties, and cities.

Now, some of those federal funds may be at risk owing to a ruling by the Second Circuit Court of Appeals, which is based in New York City. In late February, the Second Circuit ruled that the U.S. Department of Justice (DOJ) can deny federal grant funds to cities, counties and states that impede federal immigration enforcement through sanctuary policies.

There is something disquieting in the idea of States and localities seeking federal funds to enforce their own laws while themselves hampering the enforcement of federal laws or worse violating those laws.

- Judge Reena Raggi

The appellate court ruling was handed down in response to a legal challenge brought by seven states, Connecticut, Massachusetts, New Jersey, New York, Rhode Island, Virginia, and Washington, as well New York City, which stood to lose federal law enforcement grants as a result of their policies that protect criminal aliens.

In July 2017, then-US Attorney General Jeff Sessions required applicants for Byrne-JAG grants to certify they met three conditions in order to be considered for funding: 1) compliance with the federal statute that requires information-sharing with immigration authorities (the “certification condition”); 2) that they notify federal authorities on request of the scheduled

release dates of aliens in their custody (the “notice condition”); and 3) that they allow federal authorities access to aliens in their custody (the “access condition”). The Byrne-JAG grant program provides federal funds to states and local governments to use in law enforcement, and is administered by DOJ.

In November 2018, US District Judge Edgardo Ramos declared the DOJ conditions invalid and granted an injunction blocking DOJ from requiring the conditions, and ordered the funds to be released to the plaintiffs. The DOJ appealed.

In a unanimous opinion the Second Circuit held:

- DOJ had statutory authority to impose the conditions, under multiple federal statutes enacted by Congress;
- neither the conditions nor the statutory authority for them violated the “anti-commandeering principle” of the Tenth Amendment; and
- the conditions were not imposed in an “arbitrary and capricious” manner in violation of the federal Administrative Procedure Act (APA).

In the opinion, Judge Reena Raggi, who was appointed by President George W. Bush, noted that, “there is something disquieting in the idea of States and localities seeking federal funds to enforce their own laws while themselves hampering the enforcement of federal laws, or worse, violating those laws.” Judges Ralph Winter, a Reagan appointee, and Jose Cabranes, a Clinton appointee, joined the opinion without dissent.

The Second Circuit Court ruling, which differs from other circuit court rulings on the matter, means that the case will likely have to be resolved by the Supreme Court. Again, most of the legal wrangling could be short circuited by congressional action. Congress outlawed sanctuary policies in 1996 and has unquestioned authority to withhold federal funding to scoff-law jurisdictions. ■

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Charity Navigator has awarded FAIR four out of a possible four stars. In addition, FAIR continues its top-rated status with Charity Watch. FAIR has demonstrated exceptional financial health, outperforming most of our peers in our efforts to manage and grow our finances in the most fiscally responsible way possible.



FAIR's Fund for the Future is made up of visionary supporters like you who want make sure FAIR is here to fulfill our mission well into the future. Jeannette Bromley was one such supporter. She cared about America's working families and appreciated what we do on their behalf. Jeanette had non-cash assets in her estate plans to make a meaningful six-figure legacy gift to FAIR after her passing. Establishment of a gift is all that is required to earn recognition as a FAIR Fund for the Future legacy member.

You have multiple planned giving options:

- Bequest a gift to FAIR in your will.
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- Make a charitable donation to FAIR through your retirement plan.
- Name FAIR as a full partial beneficiary of your life policy using our taxpayer ID.

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**CONTACT OUR ADVANCEMENT TEAM
FOR MORE INFORMATION**

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