



# Immigration REPORT

## House Passes Largest Illegal Alien Amnesty in History

We live in an age of superlatives. Pretty much every time Congress acts, adjectives such as “biggest” or “most expensive” are applied. Therefore, it hardly came as a surprise when the Democratic controlled House of Representatives voted to include the biggest and most expensive illegal alien amnesty in their so-called Build Back Better (BBB) bill (H.R. 5376) – a \$1.75 trillion social spending package that, according to Wharton Business School, will actually cost \$4.25 trillion. The Congressional Budget Office (CBO), which looks at the fiscal impact of legislation during the first ten years after enactment, estimates that the immigration provisions of the bill would increase the federal deficit by about \$115 billion. Longer term, as amnestied aliens qualify for a host of federal, state and local entitlements, the price tag could run into the trillions.

The “transformative” (a term used by President Biden and Democratic congressional leaders) BBB was narrowly approved by the House in a straight party line vote, 220-213, on Nov. 19, without the support of a single Republican member. Among the bill’s many costly provisions are several that would grant de facto amnesty to an estimated 7 million illegal aliens and

increase the already high numbers of green cards being issued. Unlike other recent amnesty legislation, the BBB bill does not even make the pretense of future border or immigration enforcement, even amid a full-blown border crisis.

Among the key immigration provisions of the BBB:

**Expanded use of parole.** The legislation requires the Secretary of Homeland Security the authority to allow an estimated 7 million illegal aliens to remain in the United States, under parole status. In the context of immigration, parole is a limited power afforded to the Executive Branch to allow otherwise

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# Illegal Alien Amnesty

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unqualified aliens to enter or remain in the country on a case-by-case basis due to urgent humanitarian or significant public interests. Under the Section 60001 of the BBB, all illegal aliens who entered the country prior to January 1, 2011 would be granted parole, subject to minimal eligibility criteria. Disproving a claim that someone settled illegally more than 11 years ago would be a virtual impossibility. Additionally, it requires DHS to issue work authorization and advanced parole (permission to leave the U.S. and return without immigration consequences) to all aliens paroled under this section, removing officers' discretionary authority to determine whether a paroled alien's case merits such grants.

The bill allows parolees to remain in the country until September 30, 2031, although realistically, once quasi-legal presence is granted it will never be revoked. In other words it is amnesty.

**Expanded issuance of green cards.** Having satisfied a key demand of their illegal alien advocacy constituency, congressional Democrats added some goodies for their big money Silicon Valley supporters. Section 60002 aims to recapture all "unused" immigration visas between 1992 and 2021. An estimated 222,000 such visas would go to reduce the prodigious backlog of family chain migration applicants, while 157,000 would be allocated to employment-based visas. The recaptured visas would primarily benefit countries

that already dominate the flow of legal immigrants – particularly China and India. Moreover, because neither this, nor any other current legislation, aims to change our deeply flawed family chain migration policies, these added immigration visas would add to future backlogs as more relatives apply for immigration benefits based on kinship rather than merit.

**Turning guestworkers into immigrants and expediting immigration benefits.** Sec. 60005 of BBB also allows for a large-scale status adjustment for nonimmigrant guestworkers and their families in the United States to apply for green cards. Upon paying a fee, a person eligible for status adjustment receives a work permit even if visas are not available. This provision of the bill further reinforces the lie that guestworker programs are a mechanism to provide temporary foreign workers to address temporary labor market needs.

The bill also seeks to ensure that the anticipated influx of applications that would occur from the changes in this bill, including amnesty for illegal aliens, are processed quickly. H.R. 5376 appropriates (as opposed to merely authorizes) \$2.8 billion to the U.S. Citizenship and Immigration Services (USCIS) agency to ramp up operations and add personnel to make sure that immigration benefits are expedited. Not surprisingly, the bill includes exactly zero dollars for enhanced border security, immigration enforcement, or removal of anyone here illegally. The upfront appropriations also deviates from standard operating procedures for USCIS, which is a user-funded agency that covers its operating costs from fees charged to people applying for immigration benefits. ■

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## Biden Administration Proposes Seven-Figure Payouts to Illegal Aliens Separated from Family at the Border

Under a proposed settlement to a lawsuit brought by advocacy groups on behalf of adults and children who were separated while attempting to enter the country illegally, thousands of migrants could collect as much as \$450,000 for an individual or up to \$1 million per family in “damages.” In total, the cost to taxpayers could reach \$1 billion. Amid a surge of illegal migration in 2019, the Trump administration implemented a “zero tolerance” policy that included removing minors from the custody of adults who accompanied them when they were apprehended.

The Trump zero tolerance policy did not violate any laws. In fact, separation of children and adults occurs routinely until it can be determined that the adults are the parents of legal guardians of

the minors and that the children are not being trafficked for illicit purposes. Moreover, separating adults and children attempting to enter the country illegally as a deterrent occurred in 2015, under the Obama-Biden administration, albeit on a smaller scale.

When news of the large settlements was first reported by the Wall Street Journal, there was no denial from the Department of Justice (DOJ). However, a few days later, during an unscripted news conference, President Biden was asked directly about the size of the settlements. The president vehemently denied that illegal aliens could reap such a windfall, calling reports of the settlement “garbage.”

The president’s assertion was quickly rebuffed by the

American Civil Liberties Union (ACLU), which represents the illegal aliens and negotiated the proposed settlement with the DOJ. The lead ACLU attorney asserted that President Biden was ill-informed and not aware of the actions of his Justice Department. Meanwhile, the White House went into full “spin mode,” claiming that the president was “perfectly comfortable” with the payouts to illegal aliens he had just labeled as “garbage.” The DOJ confirmed that payments to illegal aliens were very much on the table, adding vaguely that the reported sums “are higher than anywhere that settlement can land.” They did not specify what they had in mind for a settlement landing area.

Aside from the fact that the

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policies in question were perfectly legal, in most cases the separations that occurred were brief and nearly all of the long-term separations resulted from adults choosing to leave their kids in the U.S. as unaccompanied minors when they were returned home.

Moreover, the proposed payouts to illegal aliens dwarf government compensation to Americans who have broken no laws. FAIR research uncovered numerous examples of how the low-end \$450,000 payments vastly exceed what is paid to U.S. citizens. For example:

- Illegal aliens would collect 4.5 times the \$100,000 paid to the survivors of a U.S. service member killed in action.

- Families of members of the U.S. military who pay into the Servicemember Group Life Insurance program are eligible for a maximum payout of \$400,000.

- Americans who are falsely convicted of crimes, and who have spent time in prison, are eligible for compensation of \$50,000, one-ninth of the payment being considered for foreign nationals who broke the law.

- It is infinitely greater than compensation paid to Angel families – those who have lost loved ones to criminal aliens that government policies allowed to enter and remain in the U.S., even after they have been identified as criminals. Those families receive zero compensation for their losses.

Given the lack of clear answers from the White House, Senate Minority Leader Mitch McConnell (R-Ky.) and the ranking minority member of the Senate Judiciary

Committee, Chuck Grassley (R-Iowa), addressed a letter to Attorney General Merrick Garland seeking clarification. When that letter did not elicit a timely response from the attorney general, Senators Tom Cotton (R-Ark.), Thom Tillis (R-N.C.) and John Cornyn (R-Texas), along with 18 cosponsors, introduced legislation that would bar any payments to illegal aliens. A companion House bill was introduced by Rep. Nicole Malliotakis (R-N.Y.)

Additionally, FAIR helped publicize the huge compensation to illegal aliens – ignored by many corporate media outlets – through dozens of radio and television appearances around the country.

As of completion of this newsletter, no definitive word on monetary compensation or the amount to be paid has been issued by the White House or DOJ. ■

## U.S., Mexico Agree to Restart Migrant Protection Protocols, that Biden Still Wants to Kill

The Migrant Protection Protocols (MPP), colloquially known as ‘Remain in Mexico,’ was a highly effective Trump-era policy that deterred fraudulent asylum seekers from attempting to reach the U.S. While it was in place, less than 1 percent of those who were returned to Mexico won their asylum cases – compelling

evidence of the scope of the abuse of our asylum laws.

Precisely because it was so effective at deterring illegal migration (deterrence being the most humane way to control the border), the open-borders Biden administration wasted no time in suspending it when they came to

office in January 2021 and later canceled it altogether. The results were immediately evident: An unprecedented surge of migrants crossing our borders illegally with the expectation that they would be released into the United States pending a hearing on their claims (if they showed up at all), rather than waiting in Mexico until a

hearing could be held.

However, the Biden administration's unilateral decision to cancel MPP ran afoul of the Administrative Procedures Act (the same law that tripped up Trump's effort to end Deferred Action for Childhood Arrivals, DACA), and in response to a lawsuit brought by the states of Texas and Missouri, federal courts ordered the administration to reinstate the program. In early December, the Biden administration announced that it had reached an agreement with the Mexican government to restart the program. But don't get too excited.

Every indication is that the Biden administration will use the program as sparingly as it can possibly get away with. A spokesman from the Department of Homeland Security, which will carry out the policy, even made clear Secretary Alejandro Mayorkas' disdain for the MPP. They noted that Mayorkas "has repeatedly stated that MPP has endemic flaws, imposed unjustifiable human costs, pulled resources and personnel away from

other priority efforts, and failed to address the root causes of irregular migration." Consistent with his fall edicts that exempt nearly every illegal alien in the United States from removal, it is a safe bet that the secretary will take steps to ensure that almost no asylum seeker, however specious the claim, will be subject to remaining in Mexico pending a hearing.

Large exceptions to remaining in Mexico are already baked into the reinstatement agreement. Those include elderly migrants, those with physical or mental disabilities and lesbian, gay, bisexual and transgender migrants, who could face discrimination in Mexico. The administration has also made it clear that it will continue its efforts to terminate MPP, either by appealing the rulings that forced them to reinstate the program, or with a new repeal mandate that adheres to the requirements set forth in the APA.

The Mexican government, for its part, has added new conditions for accepting migrants who are turned back under MPP. For starters,

Mexico will only accept Spanish-speaking migrants who transited their country on their way to the border. That policy immediately exempts migrants from all non-Spanish-speaking countries. Even many Western Hemisphere migrants will be ineligible for return to Mexico, including many Central Americans who speak their indigenous languages, Creole-speaking Haitians, and the growing surge of Portuguese-speaking Brazilian migrants.

Nevertheless, reinstatement of MPP provides President Biden a valuable tool to regain control of the border if he chooses to overrule the open-borders ideologues he has put in charge of immigration policy. With plummeting approval ratings – driven in part by growing public alarm about our lawless borders – with the restoration of MPP the president has an opportunity to do what is right for the country and for his own political fortunes. ■



# Biden Meets with Mexican President, but Border Crisis is “Not a Real Focus” of Discussions

In November, President Biden hosted a meeting with his regional counterparts, Prime Minister Justin Trudeau of Canada and President Andres Manuel Lopez Obrador of Mexico. The meeting took place amid a raging crisis along the border the United States shares with Mexico, but oddly, according to a White House spokesperson, immigration and border security were not among the topics the three leaders discussed.

“There’s not a real focus, this time around, on our borders,” an unnamed administration official said leading up to the talks. When reporters asked about the Remain in Mexico policy, the official said that “it’s not actually one of the themes or focuses of [the meetings].”

While the concerns of 80 percent of the American public, who according to recent polling, believe the situation at the border constitutes a serious problem, were not raised by the president of the United States, President Lopez Obrador did bring up immigration matters that concern interests in his country – first and foremost, amnesty for millions of illegal aliens residing in the U.S. Lopez Obrador gave Biden kudos for



his efforts to enact a sweeping amnesty, including attempts to include a de facto amnesty in the \$1.75 trillion Build Back Better bill.

“President Biden, no president in the history of the United States has expressed as you have such a clear and certain commitment to improve the situation of the migrants and thus I wish to express my acknowledgment,” Lopez Obrador commended. “And I particularly refer to your proposal to regulate the migratory status of 11 million people who live and work honestly in this great nation. I hope that you have the support of Congress and the members of both Democrat and Republican parties.” In fact, Lopez Obrador wants our border

open even wider. “Why not study the workforce demands, the labor demands and open the migratory flow?” he added.

Conversely, President Biden made no public comments urging Lopez Obrador to do more to deter and prevent illegal aliens from transiting Mexico in order to reach the U.S. border. Nor were there any reports that Biden raised the issue in private meetings with his Mexican counterpart. In the meanwhile migrants continue to cross our borders illegally in historically high numbers, while the Biden administration does little to stop it. As the White House spokesperson said: It’s not really one of the things the administration is focusing on. ■



## News from our State and Local Operations

### California

Perpetuating the state leadership's never-ending quest to prove that rewarding bad behavior results in more of it, a number of sheriffs around California have taken it upon themselves to go beyond the state's already stringent sanctuary policies that protect criminal aliens. While the rest of the nation was aghast at the rash of organized smash-and-grab looting incidents targeting high end California retailers, sheriffs in the Bay Area, as well as in Los Angeles, declared they would cease honoring Immigration and Customs Enforcement (ICE) detainer requests, even in circumstances when California's SB 54 statewide sanctuary law allows their use. San Mateo County Sheriff Carlos Bolanos announced that his department would no longer honor detainers for anyone in his jail "without a judicial warrant," even though no such warrant actually exists under federal law. Several hundred miles to the south, the Los Angeles County Board of Supervisors made permanent a temporary ban that Sheriff Alex Villanueva instituted barring his department from honoring ICE detainer requests that are permissible under SB 54. These actions, along with ones that have decriminalized retail theft, have truly made California the Gold State...for criminals, foreign and domestic.

### Florida

As a result of a 2014 bill signed into law by then-Governor Rick Scott that permits in-state college tuition benefits to illegal aliens, Floridians are currently on the hook for \$45 million a year in subsidies to illegal aliens attending public institutions of higher education. That may all come to an end in the new session of the Florida Legislature. Before the 2022 session even began, State Rep. Anthony Sabatini pre-filed legislation (H.B. 6055) that would repeal this costly benefit for illegal aliens, as well as one that results in the loss of coveted seats at public universities for legal U.S. residents. No companion Senate bill has yet been filed. Gov. Ron DeSantis (who is up for re-election in 2022) has not yet indicated if he would sign such a bill if it reaches his desk, but given his strong public opposition to illegal immigration it is likely he would.

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