

# IMMIGRATION REPORT



## FAIR-Led Coalition Gains Concrete Proposals for Restoring Border and Immigration Control If GOP Regains Control of Congress

The Biden administration's sabotage of border and immigration enforcement have produced an unprecedented crisis. But they have also produced unprecedented public alarm, and a broad coalition of public interest groups, former DHS officials, and local government officials demanding an end to the chaos the administration's policies have created.

The Republican Party – that has long talked a good game when it comes to border and immigration enforcement, but often failed to produce results – has taken notice of the intense opposition to the Biden Border and Immigration Crisis. The party's American Security Task Force spent months meeting with stakeholder, including a coalition of leading public policy groups spearheaded by FAIR, to craft a framework for legislation should they regain control of Congress in the November elections. The framework constitutes a written promissory note to the American public that will come due on January 3, 2023.

The legislation that House Republican leadership promises will be ready to go on the first day of the 118th

Congress includes many of the obvious fixes to the border crisis. Among the provisions:

- It would mandate completion of the border wall, halted by President Biden.
- Reinstatement of Migrant Protection Protocols (MPP), also known as Remain in Mexico.
- A requirement that Title 42 remain in place until 120 days after the CDC declares that COVID no longer poses a public health threat.
- Addressing the flow of dangerous narcotics, especially fentanyl, crossing our border.
- Reforms our asylum system, aimed at ending massive fraud and abuse.
- Mandatory use of E-Verify by all U.S. employers.

Combined, these and other concrete legislative promises would make it clear that crossing our borders illegally will likely result in removal and not rewarded with a bus or plane ticket to your preferred destination within the United States. Equally as important, the framework categorically rejects

# FAIR Led-Coalition

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the idea of amnesty for illegal aliens.

The document also pledges to limit President Biden's and future presidents' ability to nullify existing immigration laws through executive orders, policy memos, or by simply refusing to enforce them. It would demand accountability from public officials who refuse to carry out immigration laws already on the books, including impeachment of officials who do not uphold their sworn oaths of office.

No longer would Secretary Mayorkas be able to come before congressional committees and assert, under oath, that our borders are secure while a quarter of a million people are breaching them every month. And, with the power of the

purse, the 118th Congress could prevent funds designated for immigration enforcement from being co-opted for transparent schemes, such as handing illegal aliens newly-minted ID cards in lieu of statutorily mandated detention.

Of course, until recently, both parties routinely promised to secure our borders and enforce immigration laws only to forget those promises as soon as Election Day was in the rearview mirror. That is why the broad FAIR-led coalition, representing the interests of American voters, will be there come January to make sure that the new congressional leadership makes good on its commitments.



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## Immigration REPORT

The FAIR Immigration Report  
(ISSN 1067-3337)

Published 10 times a year by the Federation for American Immigration Reform, a non profit membership organization.

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### Federation for American Immigration Reform

25 Massachusetts Avenue NW  
Suite 330  
Washington, DC 20001  
(202) 328-7004  
[info@fairus.org](mailto:info@fairus.org)  
[www.FAIRus.org](http://www.FAIRus.org)



## “Inflation Reduction Act” More than Doubles IRS Enforcement, But Starves the Border Patrol

In mid-August, Congress approved the so-called Inflation Reduction Act (a claim that even the Congressional Budget Office disputes) in a straight party-line vote in both chambers. The measure passed in the Senate by a simple majority under a procedure known as Budget Reconciliation, which allows legislation to advance to the floor with just 51 votes, rather than the customary 60 votes needed. The 50-50 tie was broken by Vice President Kamala Harris.

Among the provisions of the massive \$740 billion bill is a \$45.6 billion provision to beef-up the IRS’s enforcement division with the hiring of 87,000 new agents – over and above the 78,000 already on the job. But tellingly, the Democratic majority in the Senate rejected amendment after amendment aimed at helping the beleaguered 19,000-member Border Patrol cope with an unprecedented surge of illegal immigration.

In July – the latest month for which data are available – Customs and Border Patrol encountered 199,976 illegal border-crossers, the majority of whom were processed and released into the United States. The July apprehension figures represent a 325 percent increase over the average number of

July apprehensions under the Trump administration.

Adding in the number of “gotaways” (illegal border-crossers who elude apprehension), for the first 18 months of President Biden’s administration, about 4.9 million people entered the country illegally. That is a figure roughly equal to the entire population of Ireland.

July also saw alarming amounts of lethal narcotics seized at the border. For the month, 2,071 pounds of fentanyl and 12,989 pounds of methamphetamine were seized, with much more getting through because Border Patrol agents are busy processing illegal aliens. Yet, not a single new Border Patrol agent, nor any additional border security fencing was funded in the budget reconciliation measure.

Amendments that were offered in the Senate to improve border security and protect public health and safety, but **rejected** by the majority party, include:

**Funding for an additional 18,000 Border Patrol agents.** This amendment, offered by Sen. Rick Scott (R-Fla.)

# Inflation Reduction Act

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would have conditioned the hiring of 87,000 new tax enforcement personnel on roughly doubling the size of the Border Patrol.

**Funding to extend Title 42 until 120 days after the CDC declares an end to the COVID crisis.** An amendment offered by Sen. James Lankford (R-Okla.) included \$1 million in funding for the Centers for Disease Control and Prevention to continue expelling illegal border-crossers in an effort to protect public health. Democrats unanimously rejected the Lankford amendment and then cynically introduced their own, without a funding mechanism knowing that it violated a Senate rule requiring provisions in reconciliation bills to be strictly budgetary in nature, and would therefore be disallowed by the Senate parliamentarian.

**\$440 million to detain and remove aliens convicted of criminal offenses.** This amendment,

proposed by Sen. Bill Hagerty (R-Tenn.) would have allocated 1/100th of the amount dedicated to hiring new IRS agents to removing foreign felons. Enough said.

**\$500 million for additional border security fencing.** This amendment, offered by Sen. Dan Sullivan (R-Alaska), would have authorized funding “for necessary expenses relating to the construction or improvement of primary pedestrian fencing and barriers along the southwest border.”

FAIR’s Government Relations department worked with pro-immigration-enforcement members on the Hill to craft amendments that could have helped address the border crisis. While these important amendments failed, they served the important purpose of putting every member of the Senate on record about where he or she stands on border and immigration enforcement.

## “The Swamp” Couldn’t Abolish ICE, So It Abolished Its Union Instead

During the 2020 presidential campaign, Joe Biden was one of the few Democrats who would not outright commit to abolishing the Immigration and Customs Enforcement (ICE) agency, as demanded by the party’s radical left flank. Instead, after being elected, President Biden and his Homeland Security Secretary, Alejandro Mayorkas, moved to abolish most of the agency’s duties, making it next to impossible for ICE agents to arrest, detain and remove any of the estimated 15.5 million illegal aliens residing in the U.S.

But ICE agents, through their union, the National ICE Council, refused to remain silent as the Biden administration prevented them from doing their jobs and moved to protect nearly every illegal alien in the country. So, on August 11, The Swamp struck back.

In a nearly unprecedented move, the Federal Labor

Relations Authority (FLRA) – an agency that governs labor relations between the federal government and its employees – abolished the National ICE Council. In doing so, FLRA leaves 7,600 ICE employees with no labor representation, no collective bargaining agreement, and no whistle-blower protection. Chris Crane, the president of the National ICE Council, charges that the action was instigated by the American Federation of Government Employees (AFGE), the umbrella organization representing unionized federal government employees. AFGE, in turn, falls under the umbrella of the AFL-CIO, which has increasingly supported open borders and sweeping amnesties for illegal aliens.

“There is no doubt that ICE and DHS leadership worked in unison with corrupt union bosses to make this happen,” Crane charged. “DHS and AFGE leadership both wanted desperately to silence ICE Council whistleblowers. Without a

union, it's doubtful those whistleblowers will have jobs much longer."

The decertification of the National ICE Council was a clear case of political retaliation. The council has repeatedly butted heads with Secretary Mayorkas over his attempts to do away with immigration enforcement under the guise of setting priorities. And AFGE is clearly aligned with the Democratic Party, including support of politicians who openly call for abolishing ICE.

The National ICE Council has also been a thorn in the side of AFGE, accusing the federation's leadership of placing their own political agendas ahead of the interests of the workers it purports to represent. The final straw may have been when the National ICE Council blew the whistle on AFGE itself. "We reported to the Department of Labor that union bosses at AFGE were allegedly spending dues money on prostitutes and strippers, sexually assaulting their own employees, engaging in payoffs and cover-ups, and other unlawful and egregious acts. It was supposed to be investigated. We were supposed to be protected," said Crane.

The 7,600 ICE employees had sought independence from their hostile AFGE overlords. Instead, the retaliatory action certified by FLRA means that the already dispirited workers are left with no representation at all, and will have to form an entirely new union and start collective bargaining with the federal government from square one.

Ironically, as a candidate, Biden vowed to be "the most pro-union president." His still-active [joebiden.com](http://joebiden.com) website asserts that he supports "instituting financial penalties on companies that interfere with workers' organizing efforts, including firing or otherwise retaliating against workers. Biden will... hold company executives personally liable when they interfere with organizing efforts, including criminally liable when their interference is intentional." The website further asserts that his guarantee includes the right of "public sector workers to organize."

But like everything else the Biden administration has done over the past year and a half, all promises take a back seat to the relentless pursuit of open borders and unchecked immigration.

## Department of Justice Purges Immigration Judges Who Uphold the Law

The federal Immigration Court system falls under the auspices of the Department of Justice (DOJ). Like all courts, they are supposed to be independent, impartial and not subject to politics. Theory and reality are, of course, very different things – especially when it comes to the Biden administration's pursuit of non-enforcement of immigration laws.

In July, DOJ moved to oust immigration judges who were appointed to the bench under the previous administration. Not surprisingly, the judges who were fired ruled against petitions by aliens seeking to remain in the country at higher rates than the Biden administration would have liked, by adhering to the letter of the law instead of the political goals of DOJ.

Under guidelines issued by DOJ, orders of removal from the United States have dropped precipitously. During the first

three months of the current fiscal year, just 23.2 percent of respondents in removal proceedings in which a decision has been issued were ordered removed or granted voluntary departure, while 76.8 percent were allowed to stay. (Moreover, there is no guarantee that under this administration those orders of removal will even be executed.) By contrast, in FY 2019, 72.1 percent of respondents were ordered removed or granted voluntary departure, while fewer than 28 percent were granted relief or otherwise allowed to remain in the United States. Throughout most of the Obama era the rates at which cases before immigration courts resulted in orders of removal was generally about 50 percent, and never dipped below 43 percent.

Though DOJ refuses to disclose how many judges were axed, it is believed that 10 were shown the door, which may not sound like a lot except that there are only 590 judges



## The Biden Border Crisis Opens on Broadway and New York’s Sanctuary City Mayor Pans It

For the last 18 months, border states like Texas and Arizona have been attempting to cope with unprecedented numbers of illegal aliens and narcotics pouring across the southern border, and overwhelming local communities. Efforts by Gov. Greg Abbott (Texas) and Doug Ducey (Ariz.) to invoke state and local laws in an effort to protect their citizens have been met with condemnation from the Biden administration and progressive politicians far from the border.

Finally, these border state governors – led by Gov. Abbott – decided they have had enough and have begun busing migrants released by Customs and Border Protection (CBP) in border communities to self-declared sanctuary cities in the interior of the country. Abbott has primarily targeted New York City and Washington, D.C., and has chartered buses to transport the migrants who indicate that those cities are their desired destinations.

The buses began arriving in these east coast sanctuary cities in July and, almost immediately, the mayors of these two burgs began protesting. Washington Mayor Muriel Bowser demanded that the National Guard be called in to help her city cope with the influx of migrants. And, as some 4,000 migrants arrived in the Big Apple, Mayor Eric Adams engaged in an all-out war of words with the Texas governor, going so far as threatening to bus progressive New Yorkers down to Texas to campaign against him in the upcoming election – a threat Gov. Abbott enthusiastically welcomed.

According to Mayor Adams, the influx of migrants, arriving without a place to stay or much money to meet basic necessities, is placing an enormous strain on already overcrowded homeless shelters and social service agencies.

Using adjectives like “reprehensible,” Mayor Adams demanded that Abbott stop the buses. Notably, the mayor has had little to say about the Biden administration’s late-night migrant flights that have been arriving for more than a year at a small municipal airport in nearby Westchester County.

In response to the complaints lodged by the mayors of Washington and New York, Abbott correctly noted that their grievances should be addressed to 1600 Pennsylvania Avenue, and that the problems these very large cities were facing pale in comparison to what small Texas border communities have been dealing with for a year and half.

Gov. Abbott’s act of political theater even drew praise from former Democratic New York Gov. David Paterson. “Was it a political stunt? Yes. Was it effective? Yes. Sometimes, the stunt works,” Paterson said. “Sometimes you have to accept that your opponent has scored a point here,” Paterson continued, observing that Abbott had forced allies of President Biden’s immigration policies into an uncomfortable position. Abbott, for his part, has remained defiant and vows to keep the buses rolling until the Biden administration takes control of the border.

An interesting post-script is that the Biden Border Crisis finally did make it to Broadway. Literally. Running out of options to deal with arriving migrants, New York City officials leased space in a luxury Times Square hotel in order house migrant families (while homeless veterans continue to sleep on the streets). It is unclear if the high end lodging included tickets to see the Broadway production of *Hamilton*, but it would surprise no one if it did.

# Department of Justice Purge

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presiding over our immigration courts facing a backlog of almost 1.9 million cases. This imbalance affirms the adage, “Justice delayed is justice denied” – in this case, justice for the American people. Countless new cases are being added every day, as Biden policies have opened our borders.

Among the judges purged by DOJ is Matthew O’Brien, who had previously served as FAIR’s research director. “As soon as the Biden administration took over, we became subject to a coordinated attack campaign of filing complaints against us for all kinds of utterly baseless things,” said O’Brien. “I never said anything other than the immigration law should be enforced as written by Congress. We are a constitutional republic. It is the responsibility of the legislature to make the immigration laws, and it is the responsibility of the executive branch to enforce them as written, not to water them down in order to pander to political constituencies,” he added.

O’Brien’s charges amount to more than just a grievance of a disgruntled Trump appointee. They are backed up by

Tracy Short, who had served as the nation’s chief immigration judge until he quit in disgust in July. Judge Short accused the administration and the DOJ of imposing a political agenda on the immigration courts. Another unnamed DOJ official, who presumably wants to keep his or her job, made it clear that the politicization of the immigration courts emanates directly from Attorney General Merrick Garland. “Although the attorney general claimed he would not politicize DOJ, it has become a politicized, toxic and hostile environment due to these actions. Without congressional or [inspector general] oversight, employees are scared,” said the official.

Congressional oversight is being attempted by two senior Republican members of Congress. Sen. Chuck Grassley (Iowa) and Rep. Jim Jordan (Ohio) sent a letter to Attorney General Garland demanding justification for the firing of the purged judges. As of the completion of this newsletter, the attorney general had not responded.

## News from State and Local Operations

### Massachusetts

After approving driver’s licenses for illegal aliens, the clock ran out on the current session of the Massachusetts Legislature, killing, at least for now, a number of other pro-illegal alien bills. Among the bills that expired with the legislative session were ones to bar any law enforcement department in the state from cooperating with federal immigration enforcement authorities; in-state tuition benefits for illegal aliens attending public colleges and universities; COVID relief checks to illegal aliens amounting to \$1,800 for an individual, \$3,600 for married couples and an additional \$1,100 per child; and authorization for noncitizen voting in local elections.

On another positive note, a petition to put the issue of driver’s licenses for illegal aliens before voters in November appeared to be on track to gain the required number of signatures before Aug. 24. The initiative is spearheaded by Maureen

Maloney, an Angel Mom whose son was killed by an illegal alien drunk driver, and someone who works closely with FAIR.

### New York

In an important victory upholding the value of American citizenship, a judge struck down a law approved by the New York City Council earlier this year that would have allowed non-citizens to vote in local elections. In tossing the law, Richmond County (Staten Island) Supreme Court Justice Ralph Porzio, noted the obvious: New York City’s noncitizen voting law blatantly violated New York’s state constitution. Had the New York City Council taken the trouble to familiarize itself with the state constitution they might have noticed the section that reads, “[n]o person shall be qualified to register for and vote in any election unless he is a citizen of the United States.” Fortunately Judge Porzio has read the state constitution, and noncitizens will remain ineligible to vote in the Big Apple.

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