

# IMMIGRATION REPORT



## Biden's "Big Success" at the Border is a Big Lie FAIR Exposes How Drop in Border Apprehensions is Shady Bookkeeping

For the first time in a long time, the Biden administration did not wait until late at night on a weekend to release the monthly data on border encounters. They couldn't wait to tell the world about the January border numbers: 156,274 illegal migrant encounters, down from an all-time monthly record of 251,487 in December. Mind you, 156,274 was still the highest number for any January on record, but it's a pretty impressive reduction when compared to the previous month.

The White House wasted no time in taking a victory lap (or two). "Since we launched our new border plan last month, unlawful migration from Cuba, Haiti, Nicaragua, and Venezuela has come down 97 percent," President Biden boasted in his State of the Union Address in early February. This would be good news except that the president's claim, which has been repeated by other key members of his administration, was patently false.

From the moment the January figures were released, FAIR (and others) began exposing how the dramatic

month-over-month drop in border encounters were nothing more than a shady bookkeeping ploy designed to convince the American public that the administration is hard at work taming the border crisis, as the president begins gearing up for his reelection bid next year. Moreover, the mechanism the Biden administration used to mask the true number of illegal aliens entering the country was itself illegal.

The "new border plan" the president spoke of is a scheme to admit as many as 360,000 Cuban, Haitian, Nicaraguan and Venezuelan migrants a year into the United States under an unprecedented abuse of parole authority. Rather than crossing the border illegally, 30,000 otherwise inadmissible migrants a month are granted permission to fly into the United States and are therefore not encountered at the southern border.

In addition, the Department of Homeland Security (DHS) began rolling out its new mobile phone app, dubbed CBP One. According to a department fact sheet,

# Shady Bookkeeping

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CBP One allows migrants who upload biographical information and a photo to request an appointment at one of eight ports of entry in Texas, Arizona and California. After a brief interview, those who clear the very low bar for making a “credible fear” claim (the initial step in the asylum process) are permitted to enter the United States while they wait (a long time) for their day in court. They, too, are not counted in the monthly illegal border encounter tally because they are encountered at ports of entry, which are staffed by officers from the Office of Field Operations, not the

Border Patrol. These crossings, therefore, fall into a different statistical category.

And just like that, tens of thousands of illegal entries a month are moved off-the-books.

FAIR has detailed why the claimed reduction in illegal entries is false, but also a clear violation of the statute granting the president authority to allow otherwise inadmissible foreign nationals to the United States under parole.

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## Section 1182(d)(5)(A) of the Immigration and Nationality Act explicitly states the conditions under which parole may be exercised:

1. It may be granted for “urgent humanitarian reasons” such as a time-sensitive need to attend to a relative in the U.S. with a serious or terminal medical condition.
  2. It may be granted in cases where there is “significant public benefit” such as testifying in a legal proceeding or participating in experimental medical treatment that could result in broad public benefit.
  3. It must be determined on a “case-by-case” basis. In other words, it cannot be granted based on membership in a particular class of people, such as being a citizen of a particular nation.
  4. It must be temporary. When the circumstances that triggered parole, such as attending to a family member who is at an end-of-life stage, or participating in a legal proceeding no longer pertain, parole is to be revoked and the foreign national must depart.
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In response to the administration’s efforts to deceive the American public – and a compliant news media’s willingness to accept the claims at face value – FAIR launched a broad effort to push back against the elaborate shell game. In published op-eds, talk

radio appearances, social media and discussions with members of Congress, FAIR continues to expose the administration’s lie that they are effectively combatting the illegal immigration crisis. The truth is, they’re just covering it up.

## Immigration REPORT

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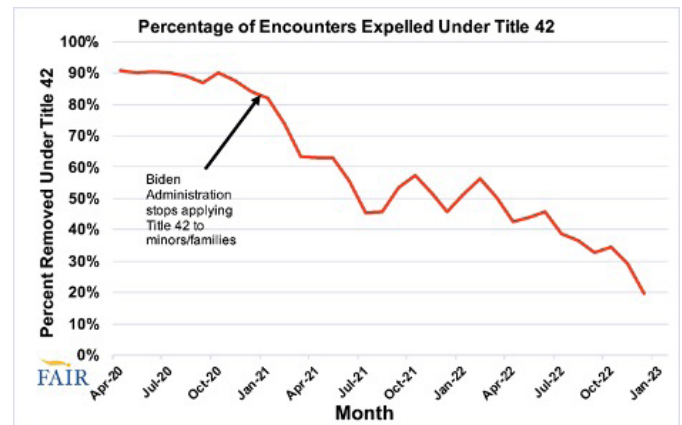
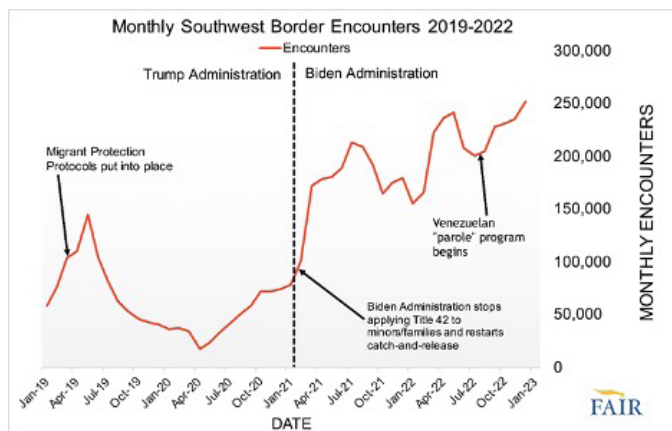
# FAIR Produces Graphic Illustration of Illegal Migration Under Biden

In February, FAIR released an informative, illustrated report showing the exponential growth in illegal immigration since January 2021. The report, which received wide media attention, graphically illustrates how Biden administration policies have created a humanitarian, national security, and public health crisis at the border dwarfing anything that came before.

*The State of the Border: an Illustrated Analysis of Biden's Failure to Secure the Southwest Border*, shows the staggering increase in the numbers of people encountered entering the country illegally; the number

of people encountered who are listed on the federal Terrorist Screening Database; the number of “gotaways” who were detected but eluded apprehension; and the volume of lethal fentanyl seized at the border. At the same time, the report shows the precipitous decrease in the number of illegal aliens who were expelled under Title 42, or detained after being encountered.

A few of the key charts and graphs are below. The full issue brief, showing the Biden Border Crisis by the numbers, is published on FAIR's website, [www.fairus.org](http://www.fairus.org).



## Biden Administration Considers “Rules” to Transform Temporary Work Visa Into Green Cards

The way our constitutional form of government is supposed to work: The Legislative Branch, Congress, writes and passes legislation. The president signs bills into law. The Executive Branch, i.e. the relevant cabinet departments, promulgate

rules that faithfully implement the laws as intended by Congress.

The way our constitutional form of government actually works nowadays: A new president comes to office and decides he does not like

laws enacted in the past, and cannot convince Congress to rewrite them, so he assigns the relevant cabinet departments to write rules that blatantly ignore or flout the intent of our laws.

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The latter model is exactly how the Biden administration has been subverting our immigration laws. The latest example is a plan to use the rulemaking process to turn temporary H-2A and H-2B workers into green card holders. H-2A workers are admitted for seasonal agricultural work, while H-2B visas cover other low-skill seasonal workers, such as landscapers, tourist industry workers and the like.

The laws establishing these two visa categories explicitly bar the admission of “dual intent” workers, i.e. foreign nationals seeking to use a temporary work visa to gain a permanent foothold in the United States. Now, under the rubric of “modern[izing] and reform[ing]” the H-2A and H-2B visa programs, the Biden administration seeks to ignore the clear intent of the law. Temporary worker visa programs were created in a way that is supposed to protect the jobs and wages of American workers and discourage employers from

bypassing them in favor of lower wage guestworkers, or using these programs to tamp down wages.

“The [rulemaking process] also proposes to provide increased flexibility for H-2 workers by extending grace periods, and allowing H-2 workers to take steps toward becoming permanent residents of the United States without being deemed to have abandoned their nonimmigrant intent or their foreign residence solely on that basis,” states a U.S. Citizenship and Immigration Services (USCIS) summary of the rulemaking proposal. In response to an inquiry by Fox News, USCIS characterizes the rulemaking effort as part of the agency’s commitment “to promoting policies and procedures that break down barriers in the immigration system, increase access to eligible immigration benefits [that] uphold America’s promise as a nation of welcome and possibility with fairness, integrity, and respect for all we serve.” Never mind that the

very intent of our immigration laws are intended to serve as barriers.

The proposed changes through the regulatory process is just the latest Biden administration efforts to create extra-legal immigration processes. In recent months, the administration has created what amounts to a parallel immigration system for 360,000 Cubans, Haitians, Nicaraguans, and Venezuelans each year, through the blatant abuse of the president’s parole authority.

Centuries of immigration law have been designed to limit the number of people who can settle in the United States based on the understanding that the nation has an obligation to protect the interests of the American people. Every action taken by the Biden administration in its first two years in office is designed to eliminate limits on immigration, regardless of the damage inflicted on the American people.

## Washington, D.C., Law Grants Noncitizens Voting Rights

Last October, the Washington, D.C., City Council approved a measure that grants noncitizens the right to vote in local elections. The measure was too radical even for Mayor Muriel Bowser, who vetoed the bill when it came to her desk. But the mayor was outnumbered

by the sheer number of political radicals on the D.C. Council, who overrode her veto.

Under the 1973 Home Rule Act, Congress has the authority to block local D.C. laws from going into



effect with the passage of a resolution of disapproval by both chambers and sign-off by the president. On February 9, the Republican controlled House of Representatives did just that. The lower chamber approved a resolution, introduced by House Oversight Committee Chairman James Comer (R-Ky.), opposing the District's noncitizen voting law by a vote of 260-162. Forty-two Democrats joined a unanimous Republican caucus in support of the resolution, with 164 Democrats opposing it.

Under the law passed by the D.C. City Council, any person over the age of 18 who has lived in the city for at least 30 days would be eligible to vote, regardless of citizenship status. The franchise would be extended not only to legal permanent residents, but also to illegal aliens and even citizens of other countries who serve in the 185 foreign embassies and missions in our nation's capital. Thus, even people working for foreign governments that are hostile to the United States, like China or Russia, would be able to vote in Washington, D.C.

A companion resolution was been introduced in the Democratic controlled Senate by Tom Cotton (R-Ark.). Predictably, Senate Majority Leader Chuck Schumer

(D-N.Y.) did not bring the resolution to the floor of the chamber within the prescribed 30-day period, thereby preventing many vulnerable Democrats who face re-election in 2024 from having to go on-record. As a result, the City Council law went into effect in March, making all foreign nationals eligible to vote in local elections. Adding insult to injury, city officials estimate that it will cost about \$1.6 million to register newly enfranchised foreign citizens to vote.

Prior to the vote in the House, the White House put out a statement opposing the resolution, but did not explicitly threaten a presidential veto (as the president faces reelection himself).

FAIR has long recognized the threats posed by noncitizen voting initiatives to national sovereignty, the concept of self-determination and the value of American citizenship, and has opposed these efforts when they have been raised around the country – in most cases successfully. FAIR continues to organize public opposition to these measures whenever they arise. And there are certain to be more of them, as mass immigration advocates, emboldened by the current administration, continue their efforts to erase any distinction between citizens and noncitizens.

## As Republicans Commence Hearings on the Border Crisis, Congressional Democrats and the White House Dig In their Heels

After two years of running roughshod over border and immigration enforcement policies with no meaningful oversight by Congress, the new Republican majority in the House of Representatives has begun fulfilling its promise to hold the Biden administration accountable. In February, a variety of House committees held hearings – in

Washington, D.C., and in the field near border hotspots – into a crisis that has seen some 6 million people enter the country illegally since President Biden took office.

The hearings kicked off in the House Oversight Committee and Accountability Committee, where Chairman James Comer (R-Ky.)

said the goal was “to gather facts about the border crisis from career law enforcement officials.” Other committees, including Judiciary and Homeland Security also held hearings to look into how the Biden administration is handling (or mishandling) immigration matters and the accompanying surge of lethal fentanyl crossing the border,

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and the damage these twin crises are inflicting on the American public.

Needless to say, neither the Biden administration nor congressional Democrats took kindly to this effort to apply the brakes to the unprecedented wave of illegal migration.

The Department of Homeland Security (DHS), which has primary responsibility for controlling our borders and enforcing immigration laws, refused to allow high level enforcement personnel to appear before the committees to testify. Instead, DHS insisted on sending their own carefully selected officials from Customs and Border Protection (CBP) to read pre-approved statements and mouth authorized responses to tough questions posed by committee members.

DHS Secretary Alejandro Mayorkas – the chief architect of the Biden immigration policy – also launched a preemptive public

rebuttal in which he attempted to shift the blame for the border crisis to Congress, primarily Republicans who have blocked efforts to grant amnesty to illegal aliens and vastly expand legal immigration. Ignoring the fact that illegal immigration was largely under control when President Biden assumed office, and immediately began spiraling out of control, Mayorkas insisted that it is Congress' failure to "fix [the] immigration system" that is at the root of the problem, in an interview on CNN. As calls for his impeachment increase on Capitol Hill, Mayorkas also made it clear that he has no intention of resigning.

Congressional Democrats were equally combative in the face of Republican oversight initiatives. The ranking minority member of the Oversight Committee, Rep. Jamie Raskin (D-Md.), also attempted to deflect blame. "The political problem on Capitol Hill is that when it comes to working out balanced, common-sense immigration policy solutions, Republicans driven by the MAGA wing have been

systematically thwarting and derailing comprehensive efforts to improve America's immigration system and strengthen border enforcement for years," Raskin said in his opening statement. To be clear, the working Democratic leadership definition of "strengthen border enforcement," means more resources to process and release migrants faster.

What emerged from the initial round of hearings is a clear picture that neither the Biden administration, nor congressional Democrats will be backing down from the policies that have unleashed record illegal immigration and drug-smuggling along the border. If House Republicans are going to force any changes to the dangerous policies that have been put in place under the Biden administration, it will not be easy. Even though they have strong support from the American people, they can expect fierce resistance from Democrats in Washington.

## News from State and Local Operations

### North Carolina

Legislators in North Carolina are pushing back against a handful of local sheriffs who refuse to cooperate with federal immigration authorities or even honor Immigration and Customs Enforcement (ICE) requests to detain criminal aliens who are in their custody. The Require Sheriff Cooperation with

ICE Act (House Bill 10) would go the extra step and require sheriffs to determine if people booked into their local jails are legal U.S. residents and, if not, proactively inform ICE. Rep. Destin Hall, one of the sponsors of HB 10, argues that the legislation is a needed response to a "small number of 'woke' sheriffs" whose refusal to cooperate is endangering public



safety in North Carolina. “Cooperating with ICE about illegal aliens charged with serious crimes in our state should be common-sense. Their decision to cut off communication with immigration officials only puts more innocent people and officers in harm’s way.” Although Democratic Governor Roy Cooper vetoed similar legislation last year, sponsors of HB 10 have reason to be optimistic. This year, Republicans hold a supermajority in the State Senate, and are just one seat shy of a supermajority in the State House, meaning that an override of a veto is a strong possibility.

### **North Dakota**

The North Dakota Legislature began its session on January 3, and by January 16 the State House managed to pass a bill that bans sanctuary jurisdictions statewide. Spurred by the Biden Border Crisis, which is affecting every state in the nation, House Bill 1155 was approved by a lopsided 80-11 vote in the lower chamber. HB 1155 has not been immediately addressed in the North Dakota Senate, but it is expected that it will be addressed before the legislative session ends on April 28. It is highly likely that Gov. Doug Burgum (R) would sign the bill if it reaches his desk. Gov. Burgum is a member of the American Governors Border Strike Force and has been openly critical of the Biden administration’s handling of border and immigration enforcement.

### **Florida**

The Florida Legislature did not officially convene until March 7, but owing the severity of the border crisis, legislators called a special session to expedite the state’s response to the crisis. House Bill 5B and Senate Bill 6B (which were promptly passed in their respective chambers) formalize and significantly

expand the state’s efforts to transport illegal aliens throughout the country to sanctuary cities and states. Gov. Ron DeSantis signed the legislation into law on February 15. The legislation creates the Unauthorized Alien Transport Program, which will be administered by Florida’s Emergency Management Division. The legislation includes funding of \$10 million through June 30, 2025. As has been the case with the state’s high profile efforts to bus illegal migrants out-of-state, only migrants who consent to relocation are affected.

### **Indiana**

Indiana is not a state one would expect to be entertaining ideas about granting driver’s licenses to illegal aliens amid a national illegal immigration crisis. Nevertheless, legislation to do just that is making its way through the legislature in a state where Republicans control both chambers and the governor’s office. Senate Bill 248, sponsored by Republican Senator Blake Doriot would issue a “driving privilege card” to illegal aliens who show proof they have paid taxes for at least one year, submit fingerprints for a criminal background check, and have auto insurance. Senator Doriot claims the driving privileges cards are needed because these individuals “are participating in our economy, in our society. They are employed,” conveniently forgetting that, under federal law, it is illegal for them to be employed. SB 248 cleared its first legislative hurdle on February 7, passing the Homeland Security and Transportation Committee by a 5-4 vote. A companion House Bill, 1050, has been introduced by Republican Rep. Jim Pressell, which differs slightly from the Senate bill in that it inexplicably singles out the illegal aliens the Biden administration has illegally paroled into the United States for driving privileges. Adding to the irony, Indiana Attorney General Todd Rokita has been among the vanguard of state attorneys general suing the Biden administration over its immigration policies. Should the legislation be approved, it is unclear whether Republican Gov. Eric Holcomb would sign them.

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