

IMMIGRATION REPORT



FAIR Leads the Effort to Include Border Security in Foreign Aid Package

During the first three months of the new fiscal year, which began on Oct. 1, the crisis at our border grew worse, while the dangers posed by the crisis grew exponentially greater. Against the backdrop of explicit threats by our enemies to attack the United States and dire warnings by numerous national security officials, FAIR and allies in Congress recognized an opportunity to enact meaningful legislation to address the border crisis in the aftermath of Hamas' Oct. 7 attack on Israel.

H.R. 2, the Secure the Border Act, which was passed by the House of Representatives in May, provides the blueprint for ending the Biden Border Crisis. Among other things, the bill adds manpower, infrastructure and technology needed to secure the border, and also legislative language to curb massive asylum fraud, ensure illegal aliens are detained and removed, and end the Biden administration's flagrant abuse of parole authority. That bill has languished in the Democratic controlled Senate, even as encounters of illegal aliens at the border soared to unprecedented levels of more than 300,000 a month, and set a single-day record of more than 12,000 in December.

FAIR twice led efforts to include H.R. 2, or significant

portions of it, in the two Continuing Resolutions (CR) that have been funding the federal government since Oct. 1. In both cases, Congress opted not to risk a government shutdown and omitted border security from the CRs.

In October, President Biden requested supplemental funding to assist Israel, Ukraine and Taiwan in protecting their own security. Included in that request was \$13.6 billion he claimed would be used for U.S. border security. Analysis by FAIR quickly revealed that the administration's request was not for border security, but for additional resources to process and release illegal aliens more quickly. However, the administration's tacit admission that the border is out of control presented an opportunity to include actual security measures, such as those spelled out in H.R. 2.

FAIR immediately called for H.R. 2 to be included in the foreign aid package that the White House and a bipartisan majority in Congress want to see passed. Working with a coalition of public interest groups and immigration policy experts, FAIR built support for making approval of the foreign aid bill contingent on

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Border Security, Foreign Aid Package

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the inclusion of strong border security and immigration enforcement language.

Leading up to a crucial vote in the Senate, FAIR's Senior Government Relations Manager, Joe Chatham, briefed key congressional staffers about the urgency and the logic of using the foreign aid bill as the legislative vehicle to force President Biden to reassert control of our borders.

Specifically, Joe laid out the stark realities of the Biden Border Crisis:

- More than 8 million border encounters and 1.7 million 'gotaways' since January 20, 2021, millions of whom were released into the U.S.
- Record encounters of people on the terror watchlist, at a time of heightened terror threats.
- Record seizures of narcotics, along with untold amounts of lethal fentanyl that successfully entered the country illegally, contributing to more than 100,000 U.S. deaths.
- The Biden administration's abuse of our asylum system, parole authority, and grants of work authorization to illegal aliens.

During the briefing, Joe warned high-level Republican Senate staffers not to fall for President Biden's promises to negotiate policy changes after the foreign aid package was approved. Past history indicates that those negotiations would lead nowhere or, at best, result in only cosmetic changes to the Biden administration policies that are driving the border and national security crisis.

In the first real test of their resolve, every Republican member of the Senate voted against proceeding to debate on a bill offered by Senate Majority Leader Chuck Schumer. That bill did not include meaningful policy changes to secure our borders. The Motion to Proceed, which required 60 votes to pass, failed 49-51.

The following day, a group of seven GOP senators held a Capitol Hill press conference reiterating their demand for substantive policy changes in the foreign aid package. The seven senators, Lindsey Graham (S.C.), Chuck Grassley (Iowa), John Thune (S.D.), John Cornyn (Texas), Tom Cotton (Ark.), Katie Britt (Ala.) and Thom Tillis (N.C.), emphasized many of the same points that were brought up during FAIR's briefing. Most encouragingly, Sen. Graham,

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emphatically rejected the idea of including amnesty provisions to the bill in exchange for reforms to border security and immigration enforcement policies to stop asylum abuse, mass catch-and-release, and unlimited parole authority.

As of the completion of this edition of the newsletter, the negotiations on the foreign aid bill were still ongoing.



FAIR Brings State and Local Lawmakers/Law Enforcement to Washington to Demand Real Reform from Congress



Arizona State Senator David Gowan

Thanks to the long-term efforts of FAIR's State and Local Engagement Department, many state and local legislators and law enforcement officials turn to FAIR as they search for ways to cope with problems created by mass illegal immigration. In November, FAIR organized an event that brought 34 local

leaders and activists to Washington, D.C., to address their concerns directly to members of Congress. The 34 attendees, from 18 states, met with dozens of members of Congress, urging them to support legislation that would force the Biden administration to secure our borders.

The Biden Border Crisis is not only causing headaches for states and communities right along our southern border. The crisis is being felt nationally, as the millions of illegal aliens who are being released or paroled into the country filter their way to destinations far from the border. The arrival of these new illegal aliens is straining local resources, disrupting communities and challenging local law enforcement.

FAIR Demands Real Reform

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Sheriff Thad Cleveland, Terrell County, Texas

As part of FAIR's long-term strategy of building networks of state and local officials grappling with the same immigration issues the connections are essential to FAIR's strategy of countering failed federal policies

with effective policies at the state and local level that deter illegal aliens from settling in these states and communities.

Participants met with some 50 congressional offices, addressing their concerns directly with the members of Congress and key staffers. In particular, the state and local legislators and law enforcement urged the federal lawmakers to include real border enforcement policies in any spending bill that is being considered.

The Capitol Hill blitz also featured a press conference where key attendees laid out their reasons for coming to Washington and shared how their communities were impacted by illegal immigration. The press conference was covered by key media outlets and reinforced in local media outlets the work local leaders were committed to in the halls of Congress. FAIR – working for you.

FAIR Exposes the Biden Administration's Shameful Record of Losing Unaccompanied Children

FAIR has challenged the Biden administration's new regulations that appear to accelerate the dangerous release of unaccompanied minors into the country, a process that was initiated in law by then-Senator Biden early this century and now substantially broadened in this administration. Legislation pertaining to important issues tends to grab headlines. However, what often goes unnoticed is the policy making undertaken by nameless bureaucrats and political appointees who make laws through executive action. Laws are also created by activist judges – through settlements and court orders – binding an agency to their desires. This lawmaking is so obvious in the recent regulation published by the Biden administration that impacts unaccompanied alien children (UAC) who are encountered in the country or along the border

and cannot be returned to their home country. FAIR weighed in and urged the bureaucracy to reconsider it.

In October 2023, the Biden administration published a proposed rule change related to processing, housing, and caring for unaccompanied alien children who come across the border without a parent or legal guardian. In early December, after a thorough analysis of the proposed rule, FAIR submitted a comment to the Department of Health and Human Services (HHS) strongly urging that it be substantially revised. *FAIR argued that the regulation implements ill-advised policies that would seriously jeopardize the safety of unaccompanied alien children by aiming to process and release as many as possible, as quickly as possible.*

FAIR's comments noted that, "The Biden border crisis has led to a dramatic spike in the number of UACs arriving at our southern border since January 2021. During each month of the Trump administration, an average of 3,966 UACs were apprehended by Border Patrol between ports of entry. By contrast, under President Biden, the number of UACs encountered at the border has skyrocketed to more than four times the total of Fiscal Year (FY) 2020. From FY21-FY23, nearly 440,000 UACs were encountered by Customs and Border Protection (CBP)." Alarming, a New York Times investigation last March found that the Departments of Homeland Security (DHS) and HHS had lost track of roughly 85,000 unaccompanied alien children post-release. It is highly likely that many of these children were trafficked for cheap labor, sex, and other exploitative reasons. The proposed rule change would do nothing to rectify these problems, FAIR argued.

FAIR especially took issue with policies that release UACs to sponsors who are not their parents. The proposed rule does nothing to prevent UACs from being released to strangers and potential criminals, traffickers, and abusers. FAIR said the biggest error in this rule is the refusal by agencies charged with the children's welfare to collect immigration information on sponsors, including for law enforcement purposes.



FAIR also recommended the use of rapid DNA testing, not only for determining a person's age (to stop adults from posing as minors) but also to verify familial relationships and help prevent human trafficking.

In addition to monitoring rule changes to ensure that UACs are not abused after they arrive in the United States, FAIR has long advocated for changes to the federal statutes and legal settlements that triggered the surge of UACs. These laws and legal settlements have had the perverse effect of endangering, rather than protecting, children, and have encouraged parents in other countries to put the safety and lives of their children in the hands of the criminal cartels that smuggle them into the United States. This is not the immigration policy of a nation that seeks one which it can be proud of and the rest of the world will respect.

Nearly 3 Million Backlogged Cases in Immigration Courts Driven By a Surge in Bogus Asylum Claims

One of the key Republican demands that has held up approval of President Biden's foreign aid request is an overhaul of our widely abused asylum system. The urgency of reforming that broken system is illustrated by an eye-popping number: 2,930,000. That's the number of cases pending in our nation's beleaguered immigration courts – a tenfold increase in just the

last decade, and double the number of backlogged cases since President Biden took office three years ago. This surge in pending cases that is crippling the immigration courts has been driven by huge increases in new asylum claims.

The exponential growth in asylum claims has little to

Immigration Court Backlog

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do with worsening human rights or political conditions in other countries. Rather, it has everything to do with growing recognition around the world that arriving in the United States illegally and filing an asylum claim – no matter how specious – all but guarantees that you will be allowed to enter the country, be granted multi-year work authorization within months of filing, and remain here for many years before you ever have your day in front of an immigration judge. It is also driven by the knowledge that if you do not show up for your court date there will likely be no repercussions and, even if you show up and your asylum claim is denied, there is little chance you will be removed from the country.

Swamping the immigration courts is also a strategy of the open-borders advocacy network. The bigger the backlogs, the longer bogus asylum claimants get to remain here. The longer they remain here, the more likely they are to be able to establish other claims to be allowed to stay based on “having put down roots” in this country, such as having U.S.-born kids. An immigration court system collapsing under its own weight also provides new arguments for the need to wipe the slate clean by granting mass amnesty to just about everyone who is here illegally.

Rather than take decisive steps to end the abuses that have created a court docket nearly 3 million cases long, the Biden administration is doing precisely the opposite. They are facilitating more abuse with actions

such as extending the validity of work authorization from two to five years for asylum applicants, which only makes a frivolous application more attractive to an alien whose true motivation for entering the U.S. is economic, not to flee persecution. The administration is also encouraging the use of a phone app, known as CBP One, that allows migrants who do not have visas to enter the United States to schedule appointments at legal ports of entry. More often than not, these illegal aliens are allowed to cross the border where they join the ever-growing number of people pursuing frivolous asylum claims. Additionally, the administration has created new country-specific parole programs – without any statutory authority to do so – that allows citizens of these countries to fly directly to the United States, where they can join the ever-expanding backlog of people filing claims to remain permanently.

For years, FAIR has warned of the dangers of large-scale asylum abuse and called for reforms. In the last few years we have moved from large-scale abuse to industrial-scale abuse that now imperils the integrity of the judicial system and the security of the nation. It is a key reason why FAIR is pushing for policy changes such as those in the House-approved H.R. 2, the Secure the Border Act, which would raise the “credible fear” standard for claiming asylum, and FAIR has strongly backed efforts to include the language of that bill in the president’s foreign aid package, or in legislation to fund the federal government.

President Biden's Coalition Fractures Because of Those Opposing Any Effort to Stop the Crisis



Advocates in Congress for urgent border security changes are united in support of the positions endorsed by FAIR, while supporters of President Biden's policies are in disarray. The fissures in the president's political coalition were made apparent during debate over inclusion of language aimed at curbing the raging border crisis in the supplemental foreign aid package requested by the White House. FAIR is insisting that *both* asylum and parole law changes be included in any foreign aid (or other must-pass) bill.

Republicans, like South Carolina Senator Lindsey Graham, who in the past has been willing to pair enforcement enhancements with amnesty for illegal aliens has made it clear: Not this time. Every Republican senator voted against moving forward with a foreign aid package that did not include, without any trade-offs on amnesty, strong legislative language on border enforcement, deterring asylum fraud, and ending the Biden administration's abuse of parole authority.

This time it is congressional Democrats who are divided. Some on the party's far left flank are reported to be livid with the president for even suggesting that he'd be willing to consider meaningful border security provisions in the foreign aid bill. President Biden opened the door by asking for \$13.6 billion for what he termed border security in the bill. In reality, what he wanted was more money to process and release illegal aliens more quickly. FAIR and allies on Capitol Hill recognized that President Biden's request for more

funding for the border was an admission that more is needed and seized the opportunity to demand strong border security measures, like those in H.R. 2, the Secure the Border Act.

Typical of Democrat comments were: "We are deeply concerned that the president would consider advancing Trump-era immigration policies that Democrats fought so hard against — and that he himself campaigned against — in exchange for aid to our allies that Republicans already support," wrote Rep. Nanette Díaz Barragán (D-Calif.), who chairs the Congressional Hispanic Caucus, and Sen. Alex Padilla (D-Calif.) in a joint statement. In other words, any return to common sense enforcement is a "Trump-era policy."

Vox News confirmed the split within President Biden's coalition over any effort to stop a border crisis of invasion proportions. The "politics of immigration have also changed for Democrats," *Vox* notes. "[M]ore and more Democrats have grown uncomfortable with the border and asylum situation in the Biden years, which have featured a dramatic surge in border crossings and asylum requests."

2023 ended without approval of a foreign aid package for Israel, Ukraine and Taiwan, which enjoys rare bipartisan support in Congress and is a priority for President Biden. In January, FAIR is front and center, urging allies in Congress to stand firm on the need to include language to detain and remove illegal aliens, curb asylum fraud, and end unlimited parole authority in the foreign aid package. Strong, vetted language to do that already exists in H.R. 2, the House-passed Secure the Border Act. Developments on this issue will be featured in upcoming editions of the FAIR newsletter.

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