

IMMIGRATION REPORT



Senate Shirks Its Constitutional Duty by Refusing to Hold a Trial on Mayorkas' Impeachment

On April 17, the U.S. Senate took the unprecedented step of dismissing the articles of impeachment against Homeland Security Secretary Alejandro Mayorkas that were passed by the House of Representatives in February. Never in the history of our republic has the Senate refused to carry out its constitutional obligation to adjudicate lawfully approved articles of impeachment against a government official.

The purpose of this unprecedented move was unmistakable: Senate Majority Leader Chuck Schumer wanted to hide the mountain of evidence detailing Mayorkas' dereliction of duty as DHS secretary. After all, burying the impeachment trial was not needed to prevent the Secretary's ouster. Senate Majority Leader knew the Democratic-led Senate would not reach the two-thirds majority necessary to convict Mayorkas of the charges set forth in the articles of impeachment. Nevertheless, Schumer used procedural maneuvers to prevent the trial from taking place because he knew exactly how badly the

evidence would sit in the court of public opinion.

The articles of impeachment laid out seven specific provisions of the Immigration and Nationality Act that Mayorkas has violated, and detailed the numerous times the secretary has knowingly lied to Congress and the American people to hide the results of his disastrous policies. These charges were clearly sufficient to warrant a Senate trial to determine if Secretary Mayorkas should be removed from office.

After all 100 senators were sworn-in as jurors, pledging to fairly evaluate the evidence against Mayorkas, Sen. Schumer introduced a point of order calling for the dismissal of the first of the two articles of impeachment, calling it unconstitutional. Schumer argued that that the article did not allege conduct that rises to the level of a high crime or misdemeanor. Of course, the purpose of a trial is to make that determination, but the trial never got underway.

Senate Shirks Its Duty

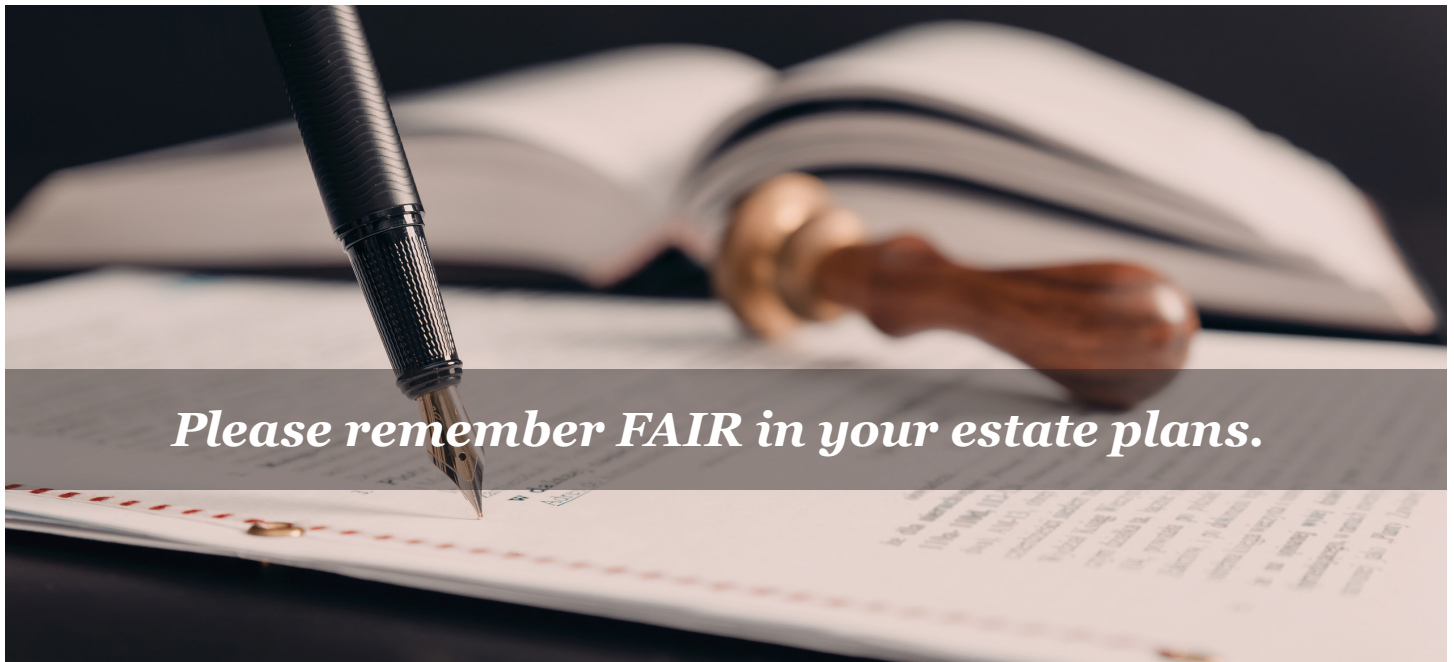
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The first point of order was approved by a 51-48 vote. All Democrat Senators voted in favor, while 48 Republican Senators voted against, and Alaska Republican Lisa Murkowski voted present. The procedure was quickly repeated with the second article of impeachment, with a majority of Senators ruling it unconstitutional before even a single piece of evidence was presented. This time the vote was 51-49, with Sen. Murkowski joining her Republican colleagues in opposing it.

With no articles of impeachment left to consider, Schumer immediately called for a vote to end the trial which, again, was approved by a 51-49 vote. The trial of Secretary Mayorkas on impeachment

charges, constitutionally approved by the House of Representatives, was over before it began.

The Senate's actions may have prevented a public hearing of the evidence that led to Mayorkas' impeachment in the House, but it cannot hide the impact that the unprecedented flood of illegal immigration is having on their lives and communities, and the dangers it poses to the security of the country. Americans all across the country will continue to live with the impact of Mayorkas' refusal to faithfully carry out the duties of his office.



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Afghani Illegal Alien on Terror Watchlist was Released into the U.S.—Twice

Just days before the U.S. Senate buried the impeachment trial for Homeland Security Secretary Alejandro Mayorkas, startling new evidence came to light that Secretary Mayorkas has indeed “presided over a reckless abandonment of border security and immigration enforcement.”

The latest example was a report that an Afghani illegal alien who should have been detained by DHS was released from custody, not once, but *twice*. Mohammad Kharwin was first encountered by Customs and Border Protection (CBP) when he crossed the border illegally at San Ysidro, CA, on March 10, 2023. The Border Patrol referred him to Immigration and Customs Enforcement (ICE), which released him on a special Alternatives to Detention (ATD) program that required him to wear a mobile tracking device. It’s not clear how intensive the program was, but it certainly wasn’t extensive. Inexplicably, 16 days later he was removed from that program and was allowed to roam freely about the country and was not required to check in with ICE or report his whereabouts.

Kharwin remained at large until February 2024. It was then that the FBI became aware of his presence and informed ICE that Kharwin had ties to Hezb-e-

Islami (HIG). According to the Director of National Intelligence, the Afghani-based HIG is a “virulently anti-Western insurgent group” that was responsible for killing nine America soldiers and civilians between 2013 and 2015. Better late than never, ICE arrested him in San Antonio, Texas, and held him in detention until his deportation hearing scheduled for March 28.

However, when Kharwin appeared in immigration court in late March, ICE lawyers neglected to inform the judge of his ties to HIG, and that he was a threat to national security. Instead they merely portrayed him as a flight risk when they requested that he be held without bail. The judge ordered that Kharwin be released on bail. Two days later, Kharwin managed to post the \$12,000 bail and he, once again, was released until his next court date, scheduled for 2025. Once the media reported that DHS had managed to release the same suspected terrorist twice, Kharwin was finally taken back into custody while he awaits his 2025 hearing.

This case is illustrative of Mayorkas’ tenure as Secretary of the Department of Homeland Security (DHS) and why his continued presence in that job makes him a threat to national security. Under his watch, DHS has

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neglected or subverted countless laws, leading directly to record levels of illegal immigration, including record numbers of people who are known to be on the terror watchlist, and an unknown number who may be among the 1.8 million ‘gotaways,’ who eluded apprehension.

The fact that an Afghani, who crossed illegally, was not immediately detained at the time he entered unlawfully is alarming, considering that there were beds available, but intentionally *not* used. In FY 2023, there were 34,000 detention beds provided by Congress per day. In the month that Kharwin was briefly placed on ISAP, the detention facilities’ occupancy rate hovered around 27,000, meaning that there were around 7,000

available beds to detain and remove a questionable alien from a terror hotbed.

The refusal of the Senate to hold a trial on the Articles of Impeachment passed by the House makes that body complicit in Mayorkas’ endangerment of homeland security. As the first article charged, “Secretary Mayorkas admitted during testimony before [a Senate committee] that U.S. Customs and Border Protection was releasing inadmissible aliens, whom the Department of Homeland Security is required to detain, into the interior of the United States.” The case of Mohammad Kharwin makes it clear that that practice includes suspected terrorists.

Mexico Renews Demand for \$20 Billion to Slow the Flow of Migrants. Biden Thinks They Should Get It.

In January, Mexican President Andrés Manuel Lopez Obrador (AMLO) first floated the idea of extorting \$20 billion in U.S. aid in return for vague promises that he would slow the unprecedented stream of migrants who are transiting his country on their way to our border. AMLO repeated that demand – along with the allocation of 10 million work visas for Hispanics living illegally in the United States – in a late-March interview on CBS’s *60 Minutes*.

AMLO’s steep asking price for a vague set of deliverables is directly related to the latest polling on the Biden administration’s handling of border and immigration policy. Immigration now ranks as the top issue of concern for American voters, and polls consistently show that more than two-thirds of them disapprove of the administration’s policies. Worse yet for President Biden is that in seven swing states that will likely

determine the outcome of the November elections, 72 percent of respondents in a recent poll said that they see immigration and border issues getting worse.

Just two weeks after AMLO doubled-down on his demand for cash and visas, President Biden sat down for a lengthy interview with Univision. During that interview, President Biden was asked about AMLO’s request, one that was framed as money to “address the root causes” of mass migration. AMLO’s “idea is consistent with what I’ve been pushing. I think we should be doing something like that,” Biden responded. Back in 2021 he tapped Vice President Harris for the task of addressing the “root causes” of the crisis that has only gotten worse.

AMLO’s shakedown is a recognition that he has his American counterpart between a rock and a hard place.

Biden's open-borders policies are wildly unpopular with the broader electorate, but sacrosanct to his far-left base that is already angry with him over his handling of foreign policy. Thus, he needs AMLO to *slow the flow* for him. However, it is not even clear if AMLO has the ability to stanch the flow of migrants making their way through Mexico *en route* to the U.S. border. He would have to contend with some very powerful criminal cartels in Mexico that are reaping staggering profits smuggling and trafficking people (and drugs) across our border.

Others have held out the possibility that if AMLO's demands are not met, he might do precisely the opposite and open the valve of illegal migration even wider ahead of the U.S. elections. *Washington Post* columnist Eduardo Porter cautioned that there might be an "October surprise," in which Mexico facilitates as many as "400,000 migrants running into Border Patrol agents...which would be very bad for the Biden administration."

Even as President Biden was publicly contemplating accommodating AMLO's demands, his FBI director, Christopher Wray, was bemoaning Mexico's lack of cooperation on another key border issue: stemming the flow of lethal narcotics into the United States. In testimony before the House Appropriations Committee, Wray described Mexico's efforts as "uneven." While acknowledging some limited assistance, Wray said Mexico could be providing "much, much more" help in stemming the flow of fentanyl which was responsible for 76,000 U.S. deaths last year.

AMLO's blatant attempt to extort the United States is yet another in a long, long list of vulnerabilities that are a direct result of our own failures and refusals to secure our borders and enforce our laws. The president has all the authority he needs to secure our borders and enforce our immigration laws and the ability to restore effective policies that were in place when he came to office *if* he chooses to use it.

Mayorkas Admits that the Border is in Crisis and Sanctuary Cities are a Problem

It took more than three years of record-shattering illegal immigration for Homeland Security (DHS) Secretary Alejandro Mayorkas to acknowledge, under oath, that *there is a crisis at our borders*. At a hearing before the House Appropriations Committee on April 10, Rep. Ashley Hinson (R-Iowa) asked him if he would describe the situation at the border as a crisis, to which Mayorkas replied, "Yes, I would."

Notably, Mayorkas took no responsibility for the crisis he now concedes exists. Staying true to form, he blamed the situation on "a broken immigration system" and Congress' failure to pass a bill that was introduced and promptly voted down in the Senate. In reality, Mayorkas rolled back effective border enforcement measures that were in place when he assumed the helm of DHS,

and the Senate bill would *not* have solved the illegal immigration crisis, and, in fact, would have sanctioned illegal immigration at historically high levels. (FAIR has produced a summary called the *Top Ten Reasons to Oppose the Senate Border Bill*, detailing why the legislation would not have done what its authors claim, which is available on our website, FAIRUS.org.)

Stung by recent high profile cases in which violent criminal aliens were arrested and then released because of local sanctuary policies that obstruct cooperation with Immigration and Customs Enforcement (ICE), Mayorkas, during the same House hearing, seemed to criticize those policies. "I believe that when an individual poses a threat to public safety or national security, their local or state jurisdiction should cooperate with

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Immigration and Customs Enforcement for the swift detention and removal of that individual,” Mayorkas told the committee.

Mayorkas also talked-up the virtues of the 287(g) program during his congressional testimony, even though the Biden administration has tried to undermine it. The 287(g) program, established by Congress in 1996, authorizes state and local law enforcement agencies to partner with ICE to identify and remove deportable aliens. Apparently, Secretary Mayorkas had temporarily forgotten that in an August 2023 posting on its website, ICE noted that since 2021, the agency “placed a temporary hold or pause on onboarding any new partners to the 287(g) program.” Moreover, ICE recently acknowledged that 23 pending federal-local partnerships “are not operational” despite having

already been signed by both parties.

Nevertheless, during his appearance before the House Appropriations Committee, Mayorkas suddenly sounded like a true believer. “I continue to believe that 287(g), when executed properly, is a force multiplier for our enforcement efforts” he stated.

Having acknowledged the border crisis, the threats posed by sanctuary policies and the benefits of the 287(g) program, it is now incumbent upon the Department of Homeland Security to use the authority it already has to secure the border, hold sanctuary jurisdictions accountable, and maximize the “force multiplier” effects of state and local law enforcement departments.



Winning When You are Gone

Sometimes we can see a threat coming, but feel we do not know what to do. Fortunately, we are grateful for those of you who see what needs to be done. One example is American hero, Earl Hancock “Pete” Ellis. In the 1920s, he correctly saw danger on the horizon for America. In his role with the U.S. Marines, he believed that war was coming to the Pacific. He predicted the aggressor would attack American ships in a first strike, then use fortified islands to protect their gains. He dedicated much of the latter part of his life to studying this possibility. He sadly died in 1923. But what he left behind was critical.

When war finally came to the Pacific, thanks to his ability to look ahead, America was ready. His trips to Guam, Saipan, the Marshall Islands and the Mariana Islands all helped to make sure American forces knew exactly what was needed to win the war. While he never lived to see eventual victory, or even the

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Iowa Follows Texas' Lead Approving a Bill Allowing the State to Enforce Immigration Laws

Texas' landmark law allowing the state to arrest, detain and order illegal aliens to leave the U.S. may still be tied up in the courts, but that hasn't stopped other states from following the Lone Star State's lead. Iowa became the first state to follow suit, as the legislature passed S.F. 2340. Gov. Kim Reynolds signed the bill into law on April 10.

Governor Reynolds hailed the legislature's passage of the bill. "The Biden Administration has failed to enforce our nation's immigration laws, putting the protection and safety of Iowans at risk," Gov. Reynolds said as she signed S.F. 2340. "Those who come into our country illegally have broken the law, yet Biden refuses to deport them. This bill gives Iowa law enforcement the power to do what he is unwilling to do: enforce immigration laws already on the books."

Iowa is not the only state taking action to stem the ongoing illegal immigration crisis. Other states, including Idaho, Kansas, Louisiana, Missouri, and South Carolina are considering similar bills of their own. Earlier this year, the Arizona Legislature passed S.B. 1231, a bill that was almost identical to Texas' S.B. 4, but the bill was vetoed by Gov. Katie Hobbs when it reached her desk.

Although Iowa's law will not go into effect until July 1, and even then will likely face legal challenges, Iowa's

new law has already made an impact. CNN reported that some illegal aliens are contemplating leaving the state. A spokeswoman for the advocacy group, *Iowa Migrant Movement for Justice*, reported receiving calls from illegal aliens asking whether they should move out of state.

A young illegal alien interviewed by CNN told the news organization that she is already planning to leave Iowa. "I may not be eligible to vote, but I can vote with my feet," she said. That is, of course, precisely the objective of laws like S.F. 2340 and Texas' S.B. 4 law. States may not be able to prevent illegal aliens from entering the country – especially those that do not share a border with Mexico (or Canada) – but they can deter them from taking up residence within their jurisdictions as well as convince some who are already there to leave. Laws like S.F. 2340 and S.B. 4 at least alleviate some of the burdens associated with mass illegal immigration for the states that want to discourage illegal immigration.

FAIR's State and Local Engagement Department works with state legislators all across the country who want to take meaningful action to shield their constituents from the harmful effects of large-scale illegal immigration. Our State and Local department offers advice, research, testimony and helps state lawmakers craft legislation that can withstand the inevitable legal challenges brought by the open-borders advocacy network.

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outbreak of the war he knew was coming, his work was left behind for those he loved to help us win and remain free.

The same applies to many of you. As we watch the news, we see storm clouds on the horizon. We read of suspected terrorists being allowed to walk free into our country. We see our communities devastated by fentanyl and gang activity. We see waves of migrants storming our borders. We see the towns and cities we knew so well being transformed into something we no longer recognize. All the while, those tasked with solving the problem seem to be in denial about where this could all lead. Fortunately, you are not one of them.

By supporting FAIR you are already looking ahead. Like so many Americans in the past, you can see what is coming over the horizon. And you want those you love to be ready and equipped to win. Thanks to you, they will be. FAIR can also see ahead and is honored to be at the forefront of preparing those we love.

For those of us who are older, we know our children, grandchildren, great grandchildren, nephews and nieces are all going to face difficult challenges thanks to mass, uncontrolled immigration. Their cities will be more crowded. Their streets will be less safe. Their economy will be weaker, the gap between rich and poor will grow wider. Their society will be more divided. This is why supporting the work of FAIR is so vital. It allows us to fight the damaging policies that lead to these outcomes. Because of your ability to see ahead, together we can turn the tide and preserve our sovereignty, the rule of law, and freedoms for those we love for generations to come.

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