



# An Immigration Reform Agenda for the 111<sup>th</sup> Congress



FEDERATION FOR AMERICAN IMMIGRATION REFORM

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## THE FEDERATION FOR AMERICAN IMMIGRATION REFORM

FAIR is the nation's largest and most experienced public interest organization of concerned individuals who believe that our immigration laws must be reformed to better serve the needs of current and future generations. Founded in 1979, FAIR works for policies that put the interests of American citizens and our environment ahead of big business and special interest demands. For 30 years we have offered and advocated for solutions that help reduce the harmful impact of uncontrolled immigration on national security, jobs, health care, education, the environment, and the rule of law.

With the help of Americans across the country, we have been very successful in our efforts to secure immigration policies that protect our quality of life and stop those that do not. FAIR presents the facts and offers concerned citizens the opportunity to get involved and shape the outcome of this debate.

FAIR has always fought against invidious discrimination of any kind and our membership is non-partisan and diverse, representing people from all communities, all political persuasions, and at all socio-economic levels. Nearly 50 private foundations and over 200,000 members and activists support FAIR.

FAIR is a highly respected voice on the challenging immigration issue and presents a reliable source of information on this subject. Representatives of our organization are routinely interviewed by the major news networks, radio talk shows and the print media about all aspects of the immigration debate. In addition, FAIR's research and publications are relied on by academics and government officials involved in formulating immigration policy. We testify regularly before Congress on immigration-related legislation.

Over the years, FAIR has played a significant role in virtually all major immigration policy changes. We fought for policy improvements in the landmark 1986 Immigration Reform Control Act and have been instrumental in fashioning legislative and policy reforms since that time. In all we do, FAIR's goal is to educate and increase public awareness of immigration issues, present solutions, and ensure the public's voice is heard.

FAIR presents this *Immigration Reform Agenda for the 111th Congress* as a guideline for ending illegal immigration, reducing legal immigration to a more sustainable level, and improving national security- thereby lifting the burden on the American taxpayer, contributing to national security, and improving our quality of life.

We look forward to working with you through the 111th Congress.



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## INTRODUCTION

The evidence that illegal immigration and mass immigration are harming our country is overwhelming and irrefutable. The American family is increasingly bearing the costs of traffic congestion, urban sprawl, environmental degradation, increased crime, overburdened health care, overwhelmed public schools, and debt-ridden state and municipal governments. The fiscal cost of immigration – both legal and illegal – has always been substantial, but with the recent economic downturn, these costs have become even more burdensome to the American taxpayer. The 111<sup>th</sup> Congress has both the opportunity and the obligation to address these problems by enforcing existing laws that would stem the tide of illegal immigration and also passing new legislation that will curtail legal immigration and improve national security and quality of life.

The first summer of the 110<sup>th</sup> Congress saw two attempts by the Bush Administration and a handful of senators to pass a comprehensive immigration reform bill – legislation that included amnesty for illegal aliens, expansion of guest worker programs, and an increase of green cards. The debates lasted for days with senators from both sides of the aisle proposing amendments to strip the legislation of its controversial amnesty and visa expansion programs. Throughout the debate, citizens across the country were vocal in their opposition, fighting tooth and nail to defeat the bill and going so far as to shut down the Senate switchboard with a large volume of calls. In the end, the bill twice failed to pass a cloture vote, leaving the coalition that drafted the bill fractured and grassroots activists across the country engaged and invigorated after their efforts to defeat the bill were ultimately realized.

Following defeat of the 2007 amnesty bill, a stalemate arose in the 110<sup>th</sup> Congress between those who wanted to increase immigration and impose a mass amnesty program upon our nation and those who wanted to fix our broken borders and implement reforms to protect American workers, national security and the environment. Perhaps the single greatest illustration of the deadlock was Congress's inability to reauthorize the popular E-Verify program for more than six months. The voluntary program is overwhelmingly supported by the American people, but after passing the House with only two dissenting votes, E-Verify reauthorization stalled when one Senator attempted to condition its passage with an addition of more than 550,000 extra employment and family based visas.

Despite deadlocks in the 110<sup>th</sup> Congress over unpopular visa expansion programs and popular programs such as E-Verify, immigration reformers scored some legislative victories. For example, the FY

2009 Homeland Security Appropriations bill included \$14.81 billion for Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), which exceeded the President's request for the two departments by \$588 million. The funding increase allows for an additional 2,200 border patrol agents and \$775 million for border security, fencing, infrastructure and technology. While these funding measures are meaningful and necessary, they are by themselves inadequate without an underlying legislative plan.

The close of the 110<sup>th</sup> Congress coincided with an economic downturn that left much of the nation shocked, national leadership scrambling for a rescue plan, and multiple states and municipalities announcing large budget deficits and hiring freezes. The 111<sup>th</sup> Congress must pick up where the 110<sup>th</sup> Congress left off, continuing enforcement of the nation's existing immigration laws and making passage of true immigration reform legislation a top priority.

Within FAIR's legislative agenda for the 111<sup>th</sup> Congress, there are three major areas of immigration reform: illegal immigration reform, national security reform, and legal immigration reform. These reforms often overlap and many of the suggested policy solutions for one area will prove to address all three areas of immigration policy. The lists of suggested reforms are by no means exhaustive, but do represent reforms FAIR considers to be top priorities and the most effective solutions for solving the immigration crisis in the United States.

## ILLEGAL IMMIGRATION REFORM

The illegal alien population in the United States – estimated by FAIR to be around 13 million – is comprised of people illegally crossing the border and overstaying their visas. As this number has expanded rapidly in the last few decades, the immigration reform debate has understandably become centered on stopping illegal immigration. Securing the borders, implementing a proper entry and exit system for visa holders, and denying jobs to illegal aliens are key components for ending illegal immigration – each of which must be properly addressed. In addition to opposing all efforts to grant amnesty to illegal aliens, the 111<sup>th</sup> Congress should seek to end illegal immigration by implementing the following illegal immigration reforms.

### ***Worksite Enforcement***

There is overwhelming consensus that most illegal aliens come to the United States for economic reasons, which makes worksite enforcement programs a vital step toward true immigration reform. Recently, ICE officials have stepped up their efforts to enforce employment laws across the country, and FAIR applauds their efforts as the presence of illegal aliens in the workforce serves to depress normal wages and take jobs from U.S. citizens. These worksite enforcement operations must be continued and expanded in order to guarantee a legal workforce and protect American workers. To ensure a legal workforce, Congress should implement the following measures:

- Permanently authorize the E-Verify program and provide adequate funding to guarantee the future of the program
- Make the E-Verify program mandatory for all existing and new hires
- Support ICE worksite enforcement operations with more agents and increased funding to allow for more detention beds
- Permit U.S. citizens and legal permanent residents to file unfair employment practices under the Immigration and Nationality Act (INA)
- Permit civil actions by employees against other employers who intentionally fail to verify work eligibility of their employees
- Increase and consistently apply civil and criminal penalties against employers of illegal aliens

### ***Ensure a Secure Identification System***

Document fraud is one of the primary ways illegal aliens manipulate the system to stay in the United States and gain employment. Fraudulent birth certificates, driver's licenses, and immigration documents enable illegal aliens to obtain employment and, in some instances, claim benefits for which they would otherwise be ineligible. Moreover, hundreds of thousands of fraudulent or stolen Social Security numbers (SSN) are submitted to the Social Security Administration (SSA) each year, which severely impacts the lives of the U.S. citizens and legal aliens whose numbers are stolen. To create secure and tamper proof identification documents, FAIR advocates the following measures:

- Secure the Social Security card by making it counterfeit proof and tamper-resistant
- Increase and implement use of biometrics for all immigration documents

- Appropriate sufficient funds and enforce state deadlines for the implementation of REAL ID
- Encourage states to require proof of legal presence for the issuance of driver's licenses by denying federal transportation dollars to states that fail to do so
- Authorize and fund increased training for federal, state, and local law enforcement officers on the detection of fraudulent documents
- Bar the use of Matricula Consular cards for purposes of establishing identity, especially for illegal aliens opening bank accounts and applying for access to government benefits

### ***Support State and Local Efforts***

State and local law enforcement and government agencies play a crucial role in ending illegal immigration, and it is important they be assured they have the proper support from the federal government to arrest, detain, and transfer illegal aliens. To improve the enforcement of immigration laws at the state and local level, FAIR advocates the following measures:

- Support the 287(g) program by ensuring adequate funding and training for all interested local law enforcement agencies
- Fully reimburse state and local law enforcement expenses directly related to illegal immigration (except where local sanctuary policies encourage illegal immigration)

### ***Federal Agency Reform***

The federal agencies responsible for overseeing immigration programs and enforcement efforts do not have sufficient permission or resources to share information and cooperate with each other, which substantially hinders their ability to perform their respective tasks. To improve their effectiveness, FAIR advocates the following reforms:

- Require the SSA to share information with the Department of Homeland Security (DHS) on issuance of no-match letters to employers and of suspicious employment use of legitimate SSNs
- Restrict use of Individual Tax Identification Numbers (ITIN) to tax-related purposes only
- Require the Internal Revenue Service (IRS) to investigate and apply sanctions for fraudulent tax documents submitted by employers and aliens
- Reform tax laws to penalize employers who use the employment of illegal aliens to their advantage (i.e. deduction of wages and benefits)

- Ensure that work performed by illegal aliens will not count toward Social Security regardless of future changes in that alien's immigration status
- Increase the number of immigration judges employed by the Department of Justice (DOJ) and set standards for training that specifically includes identity fraud
- Increase the number of asylum officers employed by DHS and set standards for training that specifically includes identity fraud

### ***Oppose Efforts to Give Benefits to Illegal Aliens***

Benefits to illegal aliens amount to nothing more than taxpayer subsidies of criminal behavior and serve only to encourage more illegal immigration. With the exception of emergency medical care, illegal aliens are ineligible for most federally administered benefits. However, many states have not adopted similar provisions barring illegal aliens from state and local benefits. The 111<sup>th</sup> Congress should refuse to allow federal taxpayer dollars to subsidize state policies that encourage illegal immigration. To limit taxpayer-funded benefits to illegal aliens, FAIR advocates enacting the following measures:

- Support efforts to eliminate sanctuary cities by withholding federal funding from localities that enact such policies or practices
- Protect legal students and taxpayers by opposing Congressional efforts to permit states to give illegal aliens in-state tuition at public universities and community colleges
- Withhold federal grants to public universities that enroll aliens who have neither legal residence nor a valid visa
- Require employers to reimburse states for education, healthcare, and other services used by legal temporary workers
- Oppose amnesty for illegal aliens

## NATIONAL SECURITY REFORM

The undetected presence of the 19 foreign nationals in the United States who carried out the 9/11 attacks demonstrated that immigration law – the regulation of who enters our country under what conditions and for what length of time – is an integral aspect of national security policy. 9/11 affirmed



what FAIR had been warning for years: if the country is to remain secure and sovereign, immigration and customs officers and U.S. law enforcement officials must be able to quickly and efficiently ascertain which aliens are in the country legally. The 111<sup>th</sup> Congress must work with enforcement agencies using infrastructure and technology to further secure U.S. borders and develop new methods for screening and admitting aliens to the country.

### ***Secure the Borders and Ports of Entry***

A fundamental step to solving our illegal immigration problem and ensuring our national security is to secure the borders and ports of entry. More than one million illegal aliens have been apprehended annually at the border in recent years, and the problem of gang violence and drug and weapon trafficking continues to plague the Southern border. Until sufficient resources, infrastructure, and manpower are placed at the border, these problems will persist. FAIR advocates the following border security measures:

- Appropriate sufficient funds to realize border security efforts
- Complete the physical fence on the Southern border
- Increase the number of border patrol agents, customs agents, etc. along the border
- Equip border states and local law enforcement to manage border-related issues
- Increase detention space to prevent resumption of catch-and-release policies
- Increase manpower at all ports of entry to provide for thorough screening of all entrants
- Oppose all efforts to implement the Cross Border Trucking program with Mexico

### ***Implement a Secure and Efficient Admission and Removal Process***

Despite recent advances in obtaining, checking and retaining biometric and other information on arriving foreign travelers, a major gap in a comprehensive entry-exit system persists. Currently, the processes and procedures for determining who is ineligible for admission and removing aliens who are present in the U.S. is inefficient and contains many loopholes, including wide judicial discretion. To help create a secure admissions and removal system, FAIR advocates the following measures:

- Fully implement US-VISIT to provide for a comprehensive entry-exit system

- Prohibit the granting of immigration benefits until all background checks of applicants are completed to the satisfaction of DHS
- Repeal the Visa Waiver Program
- Require all immigrant visa applicants to go through complete background checks
- Deny visas to nationals of countries which deny repatriation of their citizens
- Streamline processes for immigration litigation
- Restrict temporary protected status (TPS) to persons legally present in the U.S. when the event occurs that leads to the requested temporary protection
- Reform the TPS, asylum, and refugee programs to prohibit granting such status to gang members
- Authorize the detention of dangerous aliens
- Implement biometric screening for all aliens at all ports of entry

## LEGAL IMMIGRATION REFORM

The population of the United States has dramatically increased over the past few decades, and with that increase has come rises in petroleum, food, and other commodity prices and shortages of such natural resources as fresh air and water. This population growth is integrally connected to the nation's current immigration policies- policies which, if not dramatically reformed, will continue to result in unsustainable population growth. In fact, a recent report released by the U.S. Census Bureau warns that the United States will have 135 million more people in 2050 than it does today if current population and immigration trends continue. These drastic population increases affect the quality of life for every American and, in addition to environmental impacts, raise serious concerns about school systems, infrastructure needs, state budgets, and health care costs. Fortunately, it is not too late to curb population growth and prevent irreparable environmental degradation. To help stem population growth, the 111<sup>th</sup> Congress should prevent growth of guest worker programs, end the chain migration policies that give preferential treatment to adult family members, and categorically oppose efforts to give amnesty to illegal aliens.

### ***Cut the Numbers***

The United States currently admits over one million legal permanent residents every year – the equivalent of annually adding a city the size of Detroit. FAIR believes that a sustainable level of immigra-

tion is no more than 300,000 annually. To cut the numbers while allowing for the maintenance of nuclear families, FAIR advocates the following measures:

- Eliminate birthright citizenship legislatively
- Repeal the visa lottery
- Grant immigrant visas to skilled workers and deny visas to unskilled workers
- Restrict family preference visas to nuclear family members (spouse and minor children)
- Oppose any efforts to reauthorize INA § 245(i)

### ***Stop Legal Immigration Fraud***

The United States has a rich history of immigration that is unfortunately undermined by high levels of fraud within the refugee, asylum, and visa systems. The U.S. must maintain the credibility of its immigration laws by exercising greater discretion in admitting immigrants and ensuring that the asylum program serves the population for which it was intended. To restore integrity to the immigration system, FAIR recommends the following measures:

- Impose stricter standards for the admission and removal of guest workers
- Reform or eliminate immigration programs with notably high rates of fraud (i.e. TPS and asylum, H-1B visas, religious worker visas, etc.)

### ***Protect the American Worker***

U.S. immigration laws already contain a multitude of guest worker programs, including programs for unskilled workers, agricultural workers, high-tech workers, and nurses. Given the current economic situation, the 111<sup>th</sup> Congress should take special care to protect the American worker by restricting the amount of cheap, foreign labor that is allowed to compete with U.S. workers. To ensure a legal workforce, FAIR advocates the following measures:

- Require that U.S. workers be given absolute preference in hiring and against lay-offs
- Oppose all visa expansion programs
- Reform existing guest worker programs by cutting the numbers and oppose new programs

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