



Immigration REPORT

As Border Crisis Rages, House Democrats Prioritize Amnesty

Immigration was cited as one of the top two concerns on the minds of American voters in a recent poll (dysfunctional government being the other). The reason for that concern is self-evident. Our borders are out of control, our asylum laws are being abused on a grand scale, and the government has run out of detention space and is releasing virtually everyone they apprehend coming across the border.

As the immigration crisis at the border raged on — 144,000 border apprehensions in May — the new Democratic majority in the House of Representatives got to work on immigration “reform” legislation. If you guessed that the legislation had anything to do with getting the border under control or ending asylum abuse, you’d be sorely mistaken. Instead, the first order of immigration business for House Democrats was a massive amnesty bill for illegal aliens.

In early June, the House approved The American Dream and Promise Act of 2019, H.R. 6, which would grant amnesty to illegal aliens who arrived (or claimed to have arrived) in the United States as minors. That was the “dream” part of the bill. The “promise” part entails amnesty for people who were granted Temporary Protected Status (TPS) or Deferred Enforced Departure — programs that allowed them to remain in the United

States temporarily owing to some natural disaster or political upheaval in their homelands. The fact that they were never promised anything other than a temporary extension of their presence in the United States was seemingly ignored by the bill’s authors.

H.R. 6 was approved by a 237-187 vote, with all House Democrats and seven House Republicans voting in favor. The bill, in its current form, has little chance of passage in the Republican-controlled Senate, and would face an almost certain presidential veto even if it did. What H.R. 6 does make clear is that amnesty and virtually unchecked migration have become the priority of the Democratic party on immigration, and

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Dream Act

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that enforcement — in almost any form — has become an anathema for Democrats.

Unlike previous versions of the Dream Act (which have been introduced in every Congress since 2000 and did not include TPS beneficiaries), the American Dream and Promise Act of 2019 does not even carve out exclusions for criminal aliens. In fact, even when this glaring loophole that would allow criminals to benefit, House Democrats rejected a motion that would have ensured gang members do not receive amnesty. Under the bill that passed, gang members, illegal aliens who committed serious crimes as juveniles, and those with multiple DUI convictions or misdemeanor firearm convictions, are still eligible.

Passage of H.R. 6, without a single dissenting Democratic vote, is perhaps the clearest indication that the party's only immigration priority is amnesty for illegal aliens. As Rep. Pramila Jayapal (D-Wash.), one of the bill's authors noted, "This is a first step, not a last...We must pass 'comprehensive immigration reform' that provides a roadmap to citizenship" [for all illegal aliens]. ■



Image: istock/FAIR staff

Mexico Opts to Cooperate on Immigration Enforcement Rather Than Face Tariffs

In what can only be described as a major foreign policy breakthrough, the White House announced in June that it had reached an agreement under which Mexico would do significantly more to restrict the unprecedented wave of migration from Central America, heading to the U.S. border. That agreement was confirmed by major news outlets, including The Washington Post.

Under the reported details of the agreement, Mexico consented to steps that would significantly deter migrants from transiting Mexico on their way to the United States.

Among The Key Provisions:

- Mexico would commit 6,000 troops to its own southern border to prevent Central American migrants from entering Mexico illegally.



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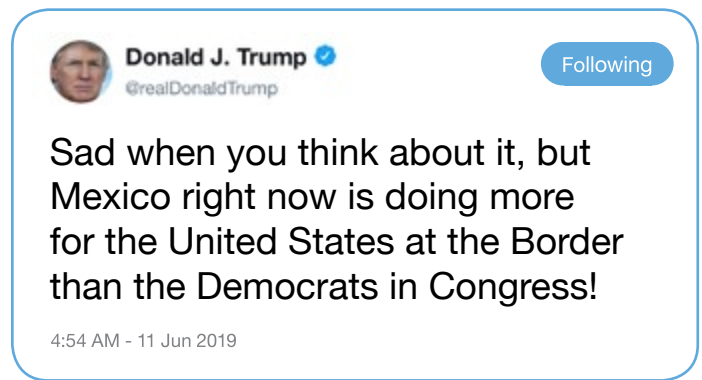
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- The Mexican government would implement more checkpoints, more detention facilities, and accelerated deportation of migrants who manage to enter their country illegally.
- Mexico would agree to an expansion of the Trump administration's Migrant Protection Protocol. Under the protocol, also known as the "Remain in Mexico" policy, the United States has been returning third country migrants back to Mexico to await an asylum hearing.
- And, most importantly, Mexico has agreed to a modified version of a "safe third country" accord that requires migrants to seek asylum in the first country where they are beyond the reach of their own government and would allow the United States to return third country migrants who have passed through Mexico back to Mexico.
- For its part, the United States would assist Mexico with the financial burdens associated with additional efforts to deter mass illegal migration, and (if the Mexican government honors its commitments) will suspend threatened tariffs on goods imported from Mexico.

If fully implemented (and that is a big if), the agreement with Mexico represents the most important step to date for dealing with a migration crisis that is now in its fifth year. Negotiations with foreign governments, and the decision to implement tariffs rests primarily with the Executive Branch of government.

This is not a substitute for legislative action by Congress to correct the glaring loopholes in our immigration, asylum, and detention laws, or adequate funding for border security.

This significant accomplishment on the part of the Trump administration in its dealings with Mexico, however, is not a substitute for legislative action by Congress to correct the glaring loopholes in our immigration, asylum, and detention laws, or adequate funding for border security. As President Trump noted harshly in a tweet following the announcement of the



deal, "Mexico is doing more for the United States right now than Congress." It is a point of view that is shared by the Mexican government, which asserted (justifiably) that the United States needs to add immigration judges and process asylum claims more quickly. According to *The Washington Post*, "Mexican officials noted that the legal and administrative dysfunction of the U.S. immigration system was not Mexico's responsibility."

At the same time as the administration announced that they had reached a deal with Mexico, Vice President Mike Pence indicated that a provisional "safe third country" deal was also reached with Guatemala, which shares a border with Mexico. According to Pence, if it becomes necessary, migrants from the other two primary sending countries in Central America, Honduras and El Salvador, could be required to file their asylum claims in Guatemala. These agreements, according to Pence, would "essentially say that if people are looking for asylum, that they ought to be willing to apply for asylum in the first safe country in which they arrive."

Collectively these deals, if fully implemented, amount to what administration officials describe as a "tipping point" in the crisis. Since most of the migrants who have been requesting asylum are in reality economic migrants whose goal is to get to the United States, policies that require them to enter their asylum claims before they set foot on U.S. soil represents a significant deterrent to the rampant asylum abuse that we have been dealing with.

Only time will tell if Mexico and other countries in the region live up to the agreement. But the threat of tariffs on goods entering the U.S. has proven to be viable leverage to gain cooperation from these governments, and the Trump administration has made it clear that the use of tariffs is still on the table if these agreements are not honored.

Federal Court Finds that Citizens Have Legal Standing to Challenge Inclusion of Illegal Aliens for Apportioning Representation

Immigration already figures prominently in the run-up to the 2020 Census. The U.S. Supreme Court is expected to render a ruling shortly over whether a question about citizenship may be included on the 2020 Census form.

But perhaps an even more important judicial decision may be in the offing. A federal district court in Alabama handed down a decision in June granting legal standing to the representatives of U.S. citizens who assert they are being harmed by the inclusion of illegal aliens for the purposes of apportioning representation in Congress and other legislative bodies. Establishing legal standing is the threshold for being allowed into court to challenge a law or a policy.

While the Constitution requires that all persons (which would include illegal aliens) be counted in the decennial census, there is nothing that explicitly says they must be afforded representation based on their (illegal) presence in the United States. In fact, logic would dictate that they should not. However, illegal aliens have been included for the purpose of divvying up the 435 seats in Congress once every decade. In effect, what this practice has meant is that states with large illegal alien populations gain representation at the expense of states with small illegal alien populations.

In California, where there are estimated to be about 2.65 million illegal aliens, the inclusion of illegal aliens in the 2010 Census resulted in the state being given at least three extra seats in the House of Representatives. Those are three seats in Congress that came at the expense of representation for U.S. citizens in other states.

FAIR has been at the forefront of challenging this absurd practice since 1980. In each instance, the merits of the challenge were never considered because judges determined that those bringing the suits did not meet the legal standing test. Until now. In June, Judge R. David Proctor ruled on a legal challenge brought by

Alabama Congressman Mo Brooks that smaller states are being seriously injured by the inclusion of illegal aliens for reapportionment purposes, and that constitutes sufficient legal grounds to challenge the practice.

Once again, FAIR and its legal arm, the Immigration Reform Law Institute (IRLI), were instrumental in bringing the challenge. IRLI filed an *amicus* brief in support of Rep. Brooks' challenge laying out legal arguments for why illegal aliens should



This decision comes from the United States District Court for the Northern District of Alabama located in the Hugo L. Black Courthouse (above) in Birmingham, Alabama.

not influence the apportionment of legislative seats and why citizens should have the right to challenge the practice.

It took 40 years, but it has finally been acknowledged that the American people have a right to sue for the full representation in Congress promised to them in the Constitution and to prevent states that encourage illegal immigration from gaining political power at the expense of those that uphold the law.



News from our State and Local Operations

CALIFORNIA

You already know it's going to be bad. Or expensive. Or both. It's both! In June, the California Legislature agreed to a plan to extend Medi-Cal (California's version of Medicaid) coverage to low-income illegal aliens between the ages of 19 and 25. Illegal aliens 18 and under already qualify for Medi-Cal benefits. The move fulfills a campaign pledge made by Gov. Gavin Newsom.

The state estimates that about 90,000 illegal aliens will meet the age and income requirements for coverage, and that it will come with a price tag of \$98 million a year. To cover the cost of insuring this population, legislators agreed on a plan to impose an ad-

ditional tax on people in California who don't have health insurance. In essence, California has decided to tax people who, in many cases, earn too much to qualify for Medi-Cal themselves but not enough to afford health insurance, in order to provide health insurance to adults who are in the country illegally.

Some legislators were not satisfied with extending benefits just to the 19 to 25 cohort, but wanted coverage for all illegal aliens. That plan was nixed by Gov. Newsom for its estimated \$3.4 billion price tag. But if history is any guide, those illegal aliens will be added to Medi-Cal incrementally over time.

WASHINGTON

Moving up the coast, the pandering to illegal aliens continues. On May 21, Gov. Jay Inslee (one of 24 Democrats seeking his party's presidential nomination) signed Senate Bill 5497, billed as "the strongest and most comprehensive state law on sanctuary in the country." (The criteria for making that claim are not clear, but they want you to know they're going all-out on protecting illegal aliens.)

Here's What The New Law Does:

- Prohibits honoring immigration detainers;
- Prohibits providing "nonpublic available personal information about an individual" to Immigration and Customs Enforcement (ICE) and other federal immigration authorities;
- Prohibits responding to official requests for notification from ICE;
- Prohibits granting access to people in their custody to immigration authorities for interviews;
- Prohibits asking about anyone's immigration status or birthplace "unless there is a connection between such information and an investigation into a violation of state or local criminal law";
- Prohibits entering into agreements with the federal government to assist or cooperate in enforcing immigration law, specifically including but not limited to the 287(g) program;
- Requires warning people in custody that they do not have to answer questions about their immigration status or birthplace and that any statements could be used against them;
- Prohibits any public benefit or service from being restricted based on immigration status; and
- Directs the state's attorney general to develop and model policies within a year for attempting to keep federal immigration authorities out of schools, hospitals, shelters and courthouses.

House Bill Starves Immigration Enforcement

The first order of immigration business for the Democratic House was to pass amnesty for millions of illegal aliens. The second order of business was to make it clear that their failure to address the ongoing border crisis wasn't an oversight; it was a calculated policy choice.

On the same day that the full House passed the American Dream and Promise Act amnesty bill, the House Appropriations Committee sent an unmistakable signal that accommodation, rather than enforcement, is their response to the raging border crisis. The Appropriations Homeland Security Subcommittee released its FY 2020 funding bill for the Department of Homeland Security (DHS), where the two key agencies charged with immigration enforcement – Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE) – are housed.



Image: YouTube/Nita Lowey

If the DHS funding bill unveiled by the subcommittee were to be enacted as is, the immigration enforcement agencies would have significantly less money for the construction of border barriers that prevent people from entering the country illegally, and considerably fewer resources and options for detaining and removing people who are apprehended after crossing the border. In effect, the Democratic budget bill endorses the current catch-and-release policies that are fueling the ongoing border crisis.

At a time when the border and the people assigned to control the border are overwhelmed, the Democrats'

2020 budget proposal explicitly starves immigration enforcement agencies of the human and physical resources they need to get a handle on the situation.

The Appropriations measure would not only bar any spending on a secure border barrier but would claw back \$601 million that the president, exercising legitimate executive discretionary authority, has already tapped from the Treasury Forfeiture Fund for construction. This is money that the government confiscated from criminal enterprises that prey upon our porous border.

The House funding bill also maintains a tight cap of 34,000 detention beds to be filled by "single adults" at a time when the Border Patrol apprehended 144,258 migrants in May alone. Moreover, as families with children account for an ever-increasing share of illegal entries, the bill calls for the complete elimination of family detention by the end of 2019.

The bill does not just take direct aim at the border security fence and the department's ability to detain illegal aliens. Appropriations Committee Chairwoman, Nita Lowey (D-N.Y.) and Homeland Security Subcommittee Chairwoman Lucille Roybal-Allard (D-Calif.), seek to limit manpower for border enforcement. In a joint press release, Lowey and Roybal-Allard boast, in bold type, that the bill "Provides no funding for additional Border Patrol Agents, Border Patrol checkpoints, or border barriers."

With Border Patrol agents being pulled away from their primary border enforcement duties and reassigned to processing the ever-growing influx of migrants, more manpower is essential. The primary beneficiaries of the committee's efforts to choke-off funding for more border agents and the elimination of interior checkpoints are likely to be a boon to criminal cartels that are running drugs and other contraband across the fenceless stretches of the border.

Passing a massive amnesty bill in the midst of a full-blown border crisis might charitably be written off as a case of grossly misplaced priorities. Starving the agencies charged with controlling the crisis of desperately needed resources and manpower can only be described as sabotage of immigration enforcement. ■

Swing State Voters Overwhelmingly Support Immigration Enforcement and Merit-Based Immigration

Good public policy and good politics generally go hand in hand. The outline of an immigration overhaul package laid out by President Trump in the Rose Garden in May is no exception. Zogby Analytics polls of likely voters in six battleground states in next year’s elections, conducted on behalf of FAIR, found that the key points of the president’s plan enjoy broad public support.

The six swing states included Arizona, Florida, Michigan, Ohio, Pennsylvania, and Wisconsin. Additionally, voters in South Carolina, the home state of Senate Judiciary Committee Chairman Lindsey Graham, were also polled. Voters were questioned about key points of the White House immigration plan dealing with border security, deterring illegal immigration, asylum abuse, reforms to our legal immigration process, and whether candidates’ views on these issues would affect their voting decisions.

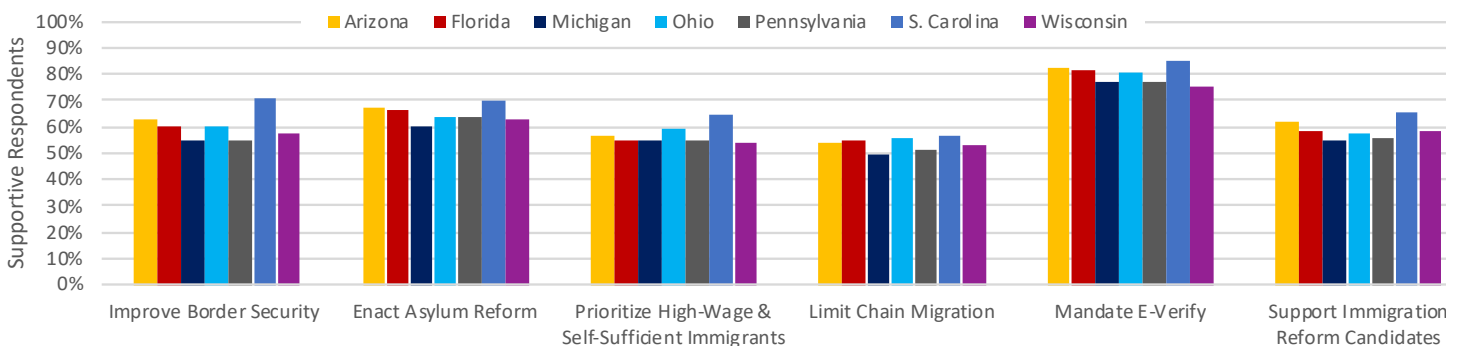
Among the key findings of the polls:

- A clear majority of voters in all seven states support construction of secure border fencing as part of an effort to halt illegal immigration and other illegal activity.
- Upwards of 60 percent of likely voters in all seven states support efforts that would “prevent migrants from making fraudulent [asylum] claims and being released into the country.”

- A majority of voters in all seven states support reforms to our legal immigration system that “gives priority to higher-wage workers who are self-sufficient.”
- Likewise, clear majorities approve of reforms to the legal immigration process that “give greater preference to immigrants with needed skills, and limit family-based immigration to spouses and minor children.”
- Although it was not explicitly called for in the White House plan, three-quarters, or more, of voters in each of these battleground states support mandatory use of E-Verify by all employers to prevent illegal aliens from taking jobs in the U.S.
- Immigration is an issue that is likely to sway voters’ decisions. Clear majorities of voters in these swing states indicated that candidates’ views on these immigration issues would affect how they vote.

Far from being “controversial,” as proposals to control illegal immigration and adopt rational legal immigration policies are often branded by the mainstream media, such reforms enjoy broad popular support. The full results of polls for all seven states surveyed can be found on FAIR’s website, www.fairus.org.

Swing State Voters' Support for Immigration Enforcement Reforms



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Thank you.