

116th Congress Voting Report



By the FAIR Government Relations Department

Introduction and Methodology

The primary function of the Federation for American Immigration Reform’s (FAIR) prominent government relations team is fighting for needed changes to our immigration system – placing a premium on what is best for the American people. In addition to lobbying individual lawmakers directly, generating grassroots activism, and ensuring media coverage, the team sends out “Key Vote” alerts to each office, informing them of FAIR’s position on legislation under consideration.

We then track the votes so that our members and supporters can see how often their lawmakers vote either alongside or against FAIR’s position. This helps educate the American people on who supports increasing enforcement and lowering overall levels of immigration. After all, their lawmakers represent them. Members of Congress must be made aware that their actions on immigration are being closely monitored by constituents back home.

The methodology for this report is quite simple. Each piece of legislation has either a value of + or -. A value of + means that the member of Congress voted in favor of FAIR’s position, whereas a value of - means that the member of Congress voted against FAIR’s position. Members of Congress who were not present for the individual vote receive a “N/A” value, which does not positively or negatively affect their final percentage. The tables indicate how often members of Congress voted in favor of FAIR’s position.

The 116th Congress saw the Democratic “blue wave” overtake the Republican majority in the House of Representatives – the momentum of which was reversed in the 2020 election, with Republicans over performing in the House races and winning crucial Senate elections, despite President Trump losing re-election. The Democrats netted 41 seats in the House in 2018, passing the Speaker’s gavel back to Nancy Pelosi (D-Calif.) and giving the Democratic Party a strong check on President Trump and the Republican-controlled Senate. In the Senate elections, Republicans actually gained two seats. Perhaps the defining moment of this particular Congress was the House Democrats’ impeachment proceedings against President Trump. The House voted to send articles of impeachment to the Senate, charging that President Trump abused his power and obstructed Congress. The Senate acquitted President Trump of all charges in February 2020. Then, due to the COVID-19 pandemic, the focus for lawmakers became stimulus checks, small business assistance, and increased public health funding.

Throughout the 116th Congress (2019-2021), there were 10 “Key Vote” alerts on pending immigration legislation, all of which were negative. Below is an interactive list detailing how often each member of the House voted with FAIR, as well detailed descriptions of what they voted on. In the 116th Congress, FAIR did not “Key Vote” any bills in the Senate, owing to the fact that the Senate did not consider any standalone immigration bill.

Key Takeaways

- 51 representatives voted with FAIR 100% of the time – all Republicans
- 119 representatives voted with FAIR 0% of the time – all Democrats
- The average Republican voted with FAIR 90% of the time
- The average Democrat voted with FAIR just 2% of the time

116th Report

The scorecard component listing all representatives and their votes is available at [this link](#). You can then locate your Member of Congress by state.

H.R. 6 – The American Dream and Promise Act

H.R.6 is the largest amnesty proposed in Congress during the 116th session. For that reason, FAIR **OPPOSED** this reckless legislation. When Speaker Pelosi brought this bill to the House floor, FAIR issued a statement saying:

“This mass amnesty bill is guaranteed to spur additional illegal immigration to the United States. Instead of maintaining the status quo of lawlessness, Congress should reject this legislation and begin to prioritize the interests of American citizens. Integrity and credibility of U.S. immigration law requires strong enforcement efforts and the enactment of legislation that focuses on protecting both the American worker and overall public safety. Mass amnesty bills – such as H.R. 6 – only reward lawless behavior while jeopardizing employment and education opportunities for Americans.”

The bill amnesties well over 2 million illegal aliens, going well beyond the 700,000 or so active DACA recipients that the bill’s supporters claimed to target. Further, the bill contained no enforcement provisions to address the current crisis on the southern border. The eligibility requirements are extremely broad. To qualify for amnesty under H.R.6, an illegal alien had to:

- have entered the US four years before the date of enactment (~2015)
- Be pursuing education, or at least earned a high school degree or GED
- Be younger than 18 when they entered the U.S. and has resided in U.S. since then

Aliens are ineligible for amnesty under H.R.6 if they have 1 felony, 3 or more misdemeanor offenses, or 1 misdemeanor offense related to domestic violence. Incredibly, this bill allows for illegal alien gang members to receive amnesty through the SEC. 101(c)(3)(A): under “authority to conduct secondary review,” the Secretary of Homeland Security cannot delegate his or her

authority to deny applications based on gang membership. The bill also banned DHS from removing any aliens who met the requirements, meaning that even aliens who did not bother to apply for protections under H.R.6 would still benefit from the amnesty!

The bill provided a pathway to citizenship for over 400,000 aliens in the Temporary Protected Status (TPS) program.

This bill passed the House of Representatives by a vote of 237-187. All 230 Democrats voted for the legislation, joined by seven Republicans. All 187 “no” votes came from the minority Republicans, with no Democrats joining them. Only nine members of Congress missed this vote.

A link to FAIR’s resource page on H.R.6 is [available here](#):

H.R. 549 – Venezuela TPS Act of 2019

Rep. Darren Soto (D-Fla.) introduced the Venezuela TPS Act, which allows Venezuelan nationals to apply for the Temporary Protected Status (TPS) program. TPS status protects aliens with expired visas – legally, they are illegal aliens - from deportation to their home country. The original TPS designations went to countries ravaged by natural disasters, but later came to include countries engulfed in civil war or other internal conflict. While the measure is often billed as a temporary solution - hence the “Temporary” in Temporary Protected Status - Presidents frequently rubber stamp the program, allowing thousands of otherwise unlawfully present aliens to remain in the United States. Currently, there are 10 countries with TPS status: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen.

H.R.549 passed the Democrat-controlled House by a vote of 272-158, with 39 Republicans joining 232 Democrats in the “Yes” column. No Democrats voted against the bill.

FAIR **OPPOSED** this legislation. The TPS program has grown too large, and once a country receives TPS status it becomes politically difficult to end it. Consider President Trump’s early efforts to remove TPS status for Haiti, El Salvador, and Honduras, citing that conditions in the three respective countries had clearly improved. Democrats attacked him as a xenophobic bigot intent on deporting Hondurans, Salvadorans, and Haitians from the United States.

Although situations in Venezuela are clearly terrible, it’s poor public policy to simply give illegal aliens a free pass for their “luck” that they were in the United States when Venezuela’s socialist government destroyed their economy. If and when the Venezuelan economy improves, it would be politically difficult to subsequently end TPS for Venezuelan nationals in the United States. For this reason, citing decades of similar failures in the TPS program for other nations, FAIR opposes extending TPS to any new countries.

We already have a functioning refugee program – we do not need TPS.

H.R. 1044 – Fairness for High-Skilled Immigrants Act

Rep. Zoe Lofgren (D-Calif.) introduced this bill with a whopping 311 co-sponsors made up of 202 Democrats and 109 Republicans. Senator Mike Lee (R-Utah) introduced a Senate companion to this bill, but opposition from both Democratic and Republican senators has prevented this bill from going to the President's desk.

FAIR **OPPOSED** this legislation.

H.R.1044 alters how employment-based immigration works in this country by removing per-country caps. Currently, no country's nationals can comprise more than 7 percent of any visa category. The existing caps increase diversity in employment-based immigration, which reflects the long-standing American priority of welcoming talented immigrants from across the globe. This bill removes these caps entirely for employment-based immigrant visas, while also raising the cap on family-preference visas from 7 percent to 15 percent.

Under H.R. 1044, Indian and Chinese nationals applying for employment visas would not face caps. Before, nationals from other countries could receive employment visas because no country could fill more than 7 percent of any employment visa category. H.R. 1044 erases that boundary, thereby allowing the hundreds of thousands of applicants from India and China to dominate the employment categories and limiting applicants from other nations.

This bill would profoundly change legal immigration to the United States for generations to come; and few, if any, individuals from countries other than India or China would be able to immigrate to the United States on an employment-based visa. Our immigration system is not designed to benefit only one or two countries.

The bill passed overwhelmingly by a vote of 365-65, with 224 Democrats and 140 Republicans voting in favor of the legislation. Only 8 Democrats and 57 Republicans opposed it. Notably, after FAIR's analysis of the bill, some original co-sponsors of the legislation pulled their support from the bill and actually voted *against* it.

H.R. 2203 – Homeland Security Improvement Act

Rep. Veronica Escobar (D-Texas) introduced H.R.2203, the Homeland Security Improvement Act. This bill called for the creation of an ombudsman of border and immigration issues at DHS. The ombudsman would create a 30-person panel including experts in immigration, civil rights, international trade, and border residents. The panel would focus on reducing deaths of aliens in DHS custody and investigate the safety of CBP and ICE agents at the border. The ombudsman would also review the training of CBP and ICE agents and make recommendations to improve or change that process. Further, the bill requires the use of electronic tracking of all alien children and requires all CBP and ICE agents to wear body cameras.

FAIR **OPPOSED** this legislation due to the wide-ranging restrictions that it placed on DHS, and specifically CBP and ICE.

The House passed the bill by a vote of 230-194. No Republicans voted in favor of H.R.2203. Only one Democrat – Colin Allred (Minn.) voted against the legislation. The Senate refused to consider the legislation.

H.R. 2474 – Protecting the Right to Organize (PRO) Act

Rep. Bobby Scott (D-Va.) introduced H.R.2474, which addressed various labor union concerns. This bill was not restricted to immigration alone, although it included one immigration provision troubling enough that FAIR **OPPOSED** the bill.

The National Labor Relations Act (NLRA) currently allows illegal aliens to allege employer violation of their collective bargaining rights before the NLRB. However, unlike legal workers and American citizens, illegal aliens cannot receive back pay from the National Labor Relations Board (NLRB) as a remedy – something that the Supreme Court affirmed in *Hoffman Plastics Compounds, Inc. v. NLRB*. The PRO Act would allow them to receive back pay, further entrenching illegal labor and displacing more American workers. Worse, illegal aliens could now sue their employers in court if the NLRB does not act fast enough.

This bill passed by a vote of 224-194, with 219 Democrats and five Republicans supporting the bill's passage. Seven Democrats and 186 Republicans voted against this bill.

H.R. 2486 – Vehicle for Travel Ban and Drug Patent Legislation

This bill actually included two bills that FAIR **OPPOSED** – the NO BAN Act and the Access to Counsel Act. The Democrats included both as amendments to H.R. 2486.

NO BAN Act

The NO BAN Act makes several disturbing changes to the President's 212(f) authority. This includes stripping the President's ability to determine if classes of aliens represent a threat to the United States.

If the NO BAN Act were to become law, the President would have been unable to quickly restrict travel from China and Europe at the onset of the COVID-19 pandemic, endangering Americans. The bill instead transfers this authority to the State Department, which must consult with Congress before taking any action.

Most egregiously, Section 4 of the bill reverses some of the most effective travel restrictions issued by President Trump during his term. These executive orders and proclamations targeted countries identified as state sponsors of terrorism or failed states by both the Bush and Obama administrations. The orders affected are Presidential Proclamations 9645, 9822, and 9983 and Executive Orders 13769, 13780, and 13815.

This bill also represents politics at its worst, particularly in the midst of a global health pandemic. Democrats originally debated it on March 11, at the onset of the COVID-19 crisis in the United States. That very same day, President Trump used his 212(f) authority to protect Americans by banning travel from Europe, the epicenter of the virus at that time. Democratic leadership – realizing their bill would have *prevented* the President from ever doing this or his original ban of travel from China – quickly pulled the bill from consideration later that day. Yet now, in the heat of election season as COVID-19 still rages, they plan to vote on this partisan messaging bill to appease radicals in their caucus. How so? By attaching it as an amendment to unrelated legislation to provide political cover.

The House passed this amendment by a vote of 233-183, with the support of 231 Democrats and just two Republicans. No Democrats voted against the NO BAN Act.

Access to Counsel Act

Under the Immigration and Nationality Act (INA) that governs immigration law, illegal aliens cannot receive taxpayer-funded legal counsel. While the Access to Counsel Act does not overturn that provision, it creeps up to the precipice.

The Access to Counsel Act would drastically increase wait times at ports of entry by guaranteeing those selected for additional screening access to counsel. Often, U.S. Customs and Border Protection (CBP) sends travelers to a second screening because they have reason to believe they are smuggling drugs or human beings.

Further, under current law, applicants for entry to the United States do not have guaranteed access to counsel unless they become the subject of a criminal investigation. This bill gives every potential applicant for entry to the United States the guaranteed access to counsel, even nonimmigrant temporary visitors.

This bill reflects the Democrats' belief that everyone has a fundamental right to enter the United States, regardless of the strength of their claim. Lastly, it is a de facto monetary giveaway to partisan immigration lawyers who can now expect even more business at the border.

The House passed the Access to Counsel Act by a vote of 231-184. This was a strictly party-line vote, with no Democrats voting against the legislation and no Republicans voting in favor of it.

H.R. 3239 - Humanitarian Standards for Individuals in Customs and Border Protection Custody Act

Rep. Paul Ruiz (D-Calif.) introduced H.R.3239, which called for additional health screenings and procedures when Customs and Border Protection (CBP) apprehended and booked illegal aliens in detention. Supporters of the bill pointed to a number of high-profile detainee deaths in CBP custody. Opponents of the bill, such as Rep. Doug Collins (R-Ga.) argued that the bill imposed unreasonable requirements on CBP and would reduce their capacity to respond to surges of illegal aliens in the future.

FAIR **OPPOSED** this legislation, noting that this bill places undue burdens on CBP and on the Border Patrol while doing nothing to stop the flow of illegal immigration in the first place. This bill attempts to minimize the number of CBP sites in existence and force the agency to release even more people into the interior of the United States. H.R. 3239 would expand the long-standing definition of a ‘family unit’ from parents or legal guardians to any adult relative. This change will further aggravate the exploitation of Central American children, as bad actors look to abuse loopholes cemented by the Flores settlement agreement. The Department of Homeland Security (DHS) has already uncovered an influx of individuals fraudulently posing as a legal guardian to use a child as their ticket into the interior of the United States. Broadening that definition will only lead to an increase of child exploitation, trafficking, and even recycling. The House passed this legislation by a vote of 233-195.

H.R. 3525 - U.S. Border Patrol Medical Screening Standards Act

Rep. Lauren Underwood (D-Ill.) sponsored H.R.3525 alongside 21 Democratic co-sponsors. This bill called for the Department of Homeland Security to move to an electronic system for keeping health records of illegal aliens in detention. The bill also called for a comprehensive review of Border Patrol policies at the border pertaining to the health of apprehended illegal aliens.

FAIR **OPPOSED** this legislation for largely the same reasons as H.R.2203, in that it placed new burdensome restrictions on CBP. Further, the bill allocated no new funding for this proposal, instead requiring DHS and CBP to draw funding from immigration enforcement and other programs to pay for this review of existing policy.

The bill passed by a vote of 230-184. Two Republicans joined the majority of Democrats in voting for this legislation, and two Democrats joined the majority of Republicans who voted against the bill. Nineteen members of Congress skipped this vote.

H.R. 5038 - Farm Workforce Modernization Act of 2019

Rep. Zoe Lofgren (D-Calif.) introduced the Farm Workforce Modernization Act alongside 62 co-sponsors made up of 37 Democrats and 25 Republicans. This bill was one of the largest amnesty proposals made by the House of Representatives in this term, dwarfed only by the American Dream and Promise Act. Unfortunately, this bill attracted widespread support from Republican lawmakers as well who support the agriculture industry’s reliance on illegal farm labor.

FAIR vehemently **OPPOSED** this legislation, for the reasons listed below. FAIR lobbied multiple House offices as well as Senate offices to warn them against taking up this supposedly “bipartisan” legislation. Our lobbying efforts helped prevent the Senate’s leadership from considering the bill.

The bill consists of four main provisions – a massive farmworker amnesty, minor changes to the H-2A agricultural guestworker program, the expansion of EB-3 green cards, and the limited implementation of the E-Verify program.

The bill creates a pathway to citizenship for over 1.5 million illegal alien farmworkers. Anywhere from 1.5 to 2.1 million illegal aliens working in agriculture will become eligible for a new immigration status called Certified Agricultural Worker (CAW). The bill shields CAW and even CAW-eligible aliens from deportation. In a gross resemblance to indentured servitude, CAW aliens can eventually apply for green cards through an archaic system that resembles indentured servitude. Aliens who worked in agriculture for at least 10 year before the bill’s enactment must work under CAW status for at least 4 additional years before applying for a green card. Alternatively, aliens who worked for less than 10 years before enactment must work at least 8 more years under CAW status. It is unclear how aliens would prove their length of employment and presents the opportunity for widespread fraud.

Like all amnesties, this bill would encourage further illegal immigration into the United States. Further, it does not address agricultural labor needs in the future. A better bill would focus on expanding agriculture’s access to labor-saving technology. An amnesty today does not solve the labor needs of tomorrow, and we will face this same predicament down the road.

Within the H-2A program, the bill allocates 20,000 capped H-2A visas for use year-round, half of which must go to dairy farmers, a group currently excluded from accessing H-2A workers because it is not seasonal work. After 10 years, Congress could choose to eliminate the cap for year-round, making the H-2A visa a de facto year-round program. Second, the bill also allows 10,000 “portable” H-2A workers available for open employment among H-2A certified businesses. The program currently matches individual visa-holders to one employer.

The bill adds 40,000 additional EB-3 green cards, allowing H-2A workers to apply for legal permanent residency after 10 years of H-2A status. Generally, H-2A workers cannot adjust their status and apply for legal permanent residency, but with these visas, the H-2A program could become a new pipeline for unskilled migrants to become American citizens. Activist groups will try to expand the number of visas well beyond 40,000 annually in the future.

The bill claims that it will implement E-Verify (or a permanent, but different, electronic verification system) across the agricultural sector. However, use of the program will be phased in over a period of time and only applies to the agriculture industry. Instead of restricting its use to one industry, Congress must make E-Verify (or a permanent, but different, electronic verification system) mandatory for all private and public employers, with a phase-in period for agriculture.

The bill passed by a vote of 260-165, with one “Present” vote. 34 Republicans joined 226 Democrats in passing the bill. Only two Democrats joined the remaining 161 Republicans in voting against this legislation. Rep. Rashida Tlaib (D-Mich.) voted “Present.”

A link to FAIR’s resource page on H.R.5038 is [available here](#):

H.R. 6800 – HEROES Act

The HEROES Act is the House Democrats’ Phase IV coronavirus stimulus legislation. This FAIR-**OPPOSED** bill would grant a de facto amnesty to illegal aliens working in “essential” industries, give them stimulus checks, release nearly everyone detained by ICE, and expand some forms of legal immigration.

The HEROES Act provided a large amnesty for illegal aliens working in “critical” industries, a wide-ranging list of occupations including agriculture, food production, transportation, construction, and more. Even worse, it protects the employers who hire illegal aliens to do these jobs – encouraging them to hire more for lower wages, rather than hiring desperate American workers. With no end date, this is de facto amnesty for nearly every working illegal alien in the country.

Instead of requiring a Social Security Number, illegal aliens with Individual Taxpayer Identification Numbers (ITIN) would become eligible to receive recovery rebate checks. It would also give these illegal aliens the ability to receive \$1,200 checks retroactively from the CARES Act. The bill protects illegal aliens from eviction and gives them a slew of other taxpayer-funded provisions. The HEROES Act also provides hundreds of millions of dollars in Byrne Justice Assistance Grants, explicitly preventing the Justice Department from withholding any of the money from going to sanctuary jurisdictions. Finally, the bill allows for some forms of legal immigration to increase by allowing unused visas to “rollover” to the next fiscal year, which is not a normal feature of American immigration law.

The HEROES Act was hotly contested by both parties. The bill passed by a vote of 208-199, with 23 members not voting. One Republican – Rep. Peter King (R-N.Y.) – joined 207 Democrats voting in favor of the HEROES Act amnesty. 14 Democrats joined 184 Republicans in voting against this messaging bill, joined by Rep. Justin Amash (Mich.), an independent.

The House voted on the HEROES Act again on October 1 as a messaging bill to pressure Senate Republicans to take up stimulus legislation of their own. The bill passed by a 214-207 vote with no Republican support.