

THE **VOTER**

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A Special Issue on Immigration • October 2007

LWVUS has asked that local and state leagues report consensus on immigration by January 2008. Kathy Byrd has been organizing our response to this. In this special issue of *The Voter*, Kathy has prepared a general overview of the national League of Women Voter's Immigration Consensus Study, Issues to Consider for the Immigration Consensus Study, and the summary of an important book on the subject, *Immigration and America's Future: A New Chapter*, which gives excellent food for thought when considering the specific issues addressed by the consensus questions.

We are sending this issue out now so that members can read about the immigration issue and can discuss it at the membership party at Celeste Burnum's on October 30, and at the luncheons in November, December, and January.

Introduction to the LWVUS Immigration Study

Why are we studying immigration now?

Immigration is a highly complex and volatile issue, with emotions running high. At present, the LWVUS does not have a position on immigration and, as a result, has not been able to speak to the recent immigration bills before Congress. It was decided to complete a two-year national study and (hopefully) come to consensus before more congressional legislation appears.

How does the consensus process work?

According to the LWVUS's website, it is easier to say what consensus is not, than what it is. Consensus is not a vote—rather, consensus is a mutual agreement of League members arrived at through discussion. During discussion, members have the opportunity to express their viewpoints, and the issue is examined from all sides. Consensus questions, created by the appropriate study committee and approved by the Board, provide structure for the meeting; members discuss the pros and cons until it becomes apparent whether or not consensus has been reached on each question. The study committee analyzes the consensus responses and, using this information, creates a position statement. Once approved by the Board, the statement immediately becomes the League's position and is the basis for action on the issue. This type of member involvement in the organization and its consensus process tends to ensure member commitment to the resulting positions. In addition, members have the opportunity at each Annual Meeting or Convention to decide whether or not to re-adopt these positions.

What is the local time table for the study?

We began our study last spring, when attorney Wendy Padilla-Madden spoke on the growth of the Hispanic population in Alabama. In October 2007, immigration attorney Danny Lemley addressed the League about immigration law—a topic that sparked such interest that it was hard to cut off the discussion. Danny has offered to come back again. In November, Kathy Byrd will discuss the background of some of the issues the LWVGT will discuss in December and January, when we take consensus. Results of our consensus must be submitted electronically to the LWVUS by February 1, 2008. Between February 1, 2008, to March 20, 2008, the LWVUS Immigration Study Committee will use the consensus responses from the local leagues to formulate the national position. In late March or early April 2008, the LWVUS Board will officially adopt the position.

What is the scope of the study?

The LWVUS identified the scope of the study as follows:

- Underlying values and principles regarding immigration
- Reasons for migration from other countries, including but not limited to
 - Effects of global interdependence on migration
 - Motivation of refugees and asylum seekers
 - Motivation of other immigrants
- Current federal immigration policy, including but not limited to
 - Overview
 - Effectiveness in uniting families
 - Effectiveness in meeting needs of businesses
 - Effectiveness of enforcement
 - Human rights concerns
- Impact of immigration, including but not limited to
 - Economic effects of authorized and unauthorized immigration
 - Diversity
 - Inclusion of immigrants in American society

What is the format of the consensus questions?

There are seven questions, the Questions 1 through 4 have multiple sections that ask for priority ranking. Questions 5 and 6 are broad, single-statement questions asking for “Consensus” or “No consensus.” Question 7 allows for additional brief comments.

A summary of the question is provided in a separate section of this newsletter. An actual copy of the consensus questions will be distributed at the December and January LWVGT meetings for discussion.

Issues to Consider for Immigration Study

The following discussion presents the issues being considered by the LWVUS Immigration study. Because of their length and complexity, the questions are summarized here. The questions are listed verbatim on the LWVUS website (www.lwv.org) under “Immigration.” The website also presents eight Background Papers and four Immigration Study Briefs, plus one background article from the *National Voter*. The actual consensus form will be distributed and discussed at the December and January meetings. The results of the LWVGT’s consensus-taking will be submitted through a secure website whose password is provided to the president/spokesperson.

What is causing the current influx of immigrants—both legal and unauthorized?

The reasons that individuals and families immigrate to the U.S. related to a number of strong forces. According to Tamar Jacoby,

Immigrant influx is the product of changing U.S. demographics, global development and increasingly easy international communications. Pressures to emigrate from developing countries will remain intense, fueled by poverty, lack of jobs, population growth and political instability. At the same time, globalization increases access to information about lifestyles and opportunities in industrialized countries. The global integration of the labor market for both highly skilled and unskilled workers is also a continuing trend.¹

Why has immigration become such a critical and controversial issue?

First of all, there are numerous problems with current immigration law. U.S. author and researcher Michele Wucker indicates what she considers to be the crux of the problem.

“America’s problem is not immigration itself, but how immigration occurs—that is, whether people come desperately across the border or give up in disgust at the failure of our bureaucracy and laws, or whether they can reasonably expect that the United States will make it feasible for the workers we need to comply with its immigration laws and to welcome them into our society as they work hard and

participate in the civic life of their adopted communities.

The current immigration system is inefficient, with little accountability, and contradicts itself at every turn. Many businesses are forced to choose between breaking the law and closing down. Congress can pass laws that take months or years for immigration authorities to put into effect. The body of law is so big that even few immigrants fully understand it, so it is almost impossible to apply without running afoul of some technicality. As a result, too many applicants have to file repeatedly, wasting everyone's time and energy. Furthermore, decisions made by harried, overworked consular officers may be capricious yet are not subject to review . . .

. . . the only way to end illegal immigration is to implement a system that allows the people our economy needs to come here legally. An increase in legal immigration—not indiscriminate, but based on a carefully thought-out approach to matching legal immigration with our country's needs—will reduce the number of people coming illegally. By taking business away from clandestine traffickers and eliminating the tremendous waste of energy that undocumented workers put into getting around obstacles, such a policy would rechannel labor and resources into productive economic activities here and in immigrants' home countries." ²

DISCUSSION OF THE CONSENSUS QUESTIONS

Question 1: Which criteria should be included in federal immigration laws?

Question 1 for the Consensus presents 11 factors the LWVGT and subsequently the LWVUS will consider as priorities in federal immigration law. These factors are related both to the motivation/needs of potential immigrants and their impact on the U.S., particularly in the economic sector. The LWVGT will rank order each of the 11 factors as "high priority," "lower priority," "disagree," or "no consensus." Then we will be asked to select what we consider to be the three most important criteria and to rank order them.

The 11 factors include: (a) ethnic and cultural diversity; (b) economic, business and service employment needs; (c) environmental impact/sustainability; (d) family reunification of authorized immigrants and citizens with spouses and minor children; (e) history of criminal activity; (f) humanitarian crises/political persecution in home countries; (g) immigrant characteristics (health and age); (h) rights of all workers to safe working conditions and livable wage; (i) rights of families to remain together; (j) rights of all individuals in U.S. to fair treatment under the law (fair hearing, right to counsel, right of appeal, and humane treatment); (k) education and training.

The U.S. cannot be all things to all people in our country, much less to the whole world. Nor can we even decide what "being all things to all people" would mean globally. Yet, what do we do when immigrants are in our country? Do we allow them the same protections under the law as citizens? If not, where do we draw the line? Are children to be treated differently than their parents?

Question 2: How should legislation treat unauthorized immigrants?

Approximately 12 million immigrants live in the U.S. without authorization at all, or else they have overstayed their visa. (Remember Danny Lemley's talk about the three kinds of immigrants—legal, those overstaying their visas, and unauthorized?) Some feel deportation is the appropriate way of reversing the process. Others contend that many of the unauthorized immigrants come because the U.S. government failed to issue sufficient visas to meet labor demands. If they have broken the law, should they be deported and not granted legal status in the U.S. or should the government be more pragmatic in realizing that our economy depends on their work? What about children born in the United States, for whom neither parent is a U.S. citizen or permanent resident? Should we amend the 14th Amendment to the Constitution to prevent such "anchor children" from becoming U.S. citizens solely because of the location of their birth?

The problem becomes complicated by economic realities. (See Carson's background paper, "Immigration and the Economy," listed below.) Carson offered the following statistics:

Between 2002 and 2012, 56 million jobs will be created in this country, while more than 75 million will retire in the face of declining native-born fertility rates.

Half the jobs will require no more than a high school education, but native Americans are becoming more highly educated. The shortfall of unskilled labor is showing up in sector after sector.

Immigrants are less likely to be unemployed than natives; the vast majority of immigrants came to America to work.

Not only low-skilled jobs are filled by a certain segments of the immigrant population, but also immigrants fill also highly skilled jobs, such as those in technology.

Do we favor mass roundups and deportations, or offering those already here the opportunity to gain legal status through paying taxes, learning English, studying civics, etc.? The answers need to focus on legal issues and consider the costs and benefits of an expanding economy. Of course, a much better situation is to develop federal immigration laws that provide ways to meet our country's needs without having unauthorized immigrants being an issue. Question 3 deals with that.

Question 3: To which groups should federal immigration law provide an efficient, expeditious system (with minimal or no backlogs) for legal entry?

According to McMillan's background paper "Overview: Federal Immigration Policy and Proposed Reforms," (listed at end of this article), the 1965 revision of immigration law set quotas for various groups. The four main groups are listed below, with the corresponding percentage of visas that were granted in 2005.

Employer need and employment-based preferences (22 percent)

Family reunification

For citizens (39 percent)

For other family-sponsored preferences (for permanent residents or other immigrant groups with legal status) (19 percent)

Human rights issues [needs for refuge, asylum or other protected status] (13 percent)

Diversity of country of origin (4 percent)

Other groups [unspecified] (3 percent).

The groups that the LWVUS consensus is considering includes (a) reunification of families, (b) granting entry to meet U.S. labor needs, (c) granting student visas (whose visas expire upon completion of their education), and (d) providing safety to those fleeing persecution. This paper alluded to the complicated issues related to family reunification and employment in Question 2. The issue of student visas involves whether it serves our country's best interests to send these students back to their home countries with the knowledge they gained here (which may be to our disadvantage competitively), or should we reduce the number of visas granted to foreign students because some overstay their visas, becoming unauthorized immigrants and because study in the U.S. contributes to a "brain drain" in developing countries, such as Mexico?

Question 4 addresses security issues.

Question 4a asks whether a Social Security card or other national identification card with secure identifiers be required for all persons residing in the U.S.

On May 11, 2005, the Real ID act, requires states to issue drivers licenses based on all of the following sources of verifiable information—a photo ID, documentation of birth and current address, and proof that a Social Security number is legitimate. An important question involves determination of what "secure identifiers" should be—for example, should they include biometric data? Should there be a true national identification card or would such a card infringe upon Americans' right to privacy or, in fact, facilitate identify theft?

Question 4b asks Leaguer members to rate the priority of instituting the several means of enforcing federal immigration law, each of which has its own set of issues.

- (i) Physical barriers (such as fences) and surveillance at borders. Examples are “Operation Hold the Line” in El Paso, TX, and “Operation Gatekeeper” in California, and the 700 miles of new fencing authorized by the Secure Fence Act of 2006. Issues concern whether fences are the most effective measure, and whether their presence increases the smuggling industry and also forces desperate individuals to cross in more remote and dangerous areas. Meanwhile, unauthorized immigrants enter from Canada, often with forged paperwork, without such fences
- (ii). Increased personnel at land, air and sea entry points. Will this really be effective?
- (iii). More effective tracking of persons with non-immigrant visas. By what means?
- (iv). Verification documents, such as green cards and work permits with secure identifiers. Without biometric identifiers, falsification of documents is relatively easy. Another issue is whether adding biometrics to the Social Security card would turn it into a so-called “national identification card,” which, in turn, raises issues of privacy and confidentiality.
- (v). Improved technology to facilitate employer verification of employee visa status. Currently, employers must maintain the I-9 form as a record of having asked for and examined one of more than two dozen documents providing employment eligibility. Because some of the verification process can take months, employers may go ahead and hire while waiting. Employers are not signing up for Basic Pilot, a voluntary federal online program. Should Basic Pilot become mandatory, regardless of the expense? Are employers the most effective group to identify unauthorized immigrants?
- (vi). Improved technology for sharing information among Federal agencies (Big Brother?)
- (vii). A program to allow immigrant workers to go in and out of the U.S. to meet seasonal and sporadic labor needs? Under current law, only 5,000 visas are available to meet sporadic labor needs for low-income workers, but two-thirds of the 500,000 that enter the country without authorization each year enter the work force. Should we establish an official Guest Worker system? If we have a Guest Worker program, should it include a permanent path to legalization for workers?
- (viii). Significant fines proportionate to revenue for employers who fail to take adequate steps to verify work authorization of employees? Would it work? Or would it just end up bogging down in the legal system.

Question 5: Is there consensus on this question: “Federal law should address and balance the long-term financial benefit from immigrants with the financial costs borne by states and local governments with large immigrant populations”?

There is an inequitable distribution of financial costs and benefits for the federal vs. the state and local governments. The federal government benefits from Social Security revenues, federal income taxes, and Medicare taxes withheld from the wages of authorized and unauthorized immigrants, whereas some states and localities may not be reimbursed for the financial burden of providing education, health, and social services to this population. Should there be redistribution of financial resources?

Question 6: Is there consensus on this question: “Federal immigration law should be coordinated with U.S. foreign policy to proactively help improve economics, education, job opportunities, and living conditions in nations with large emigrating populations? Should we increase foreign aid to developing countries to reduce the pressure to leave the country in search of employment/higher wages? Is this a good idea, or should the other country take responsibility for reforms, etc.? To what extent can our economy afford such a measure?”

Question 7 allows for comments, up to 150 words.

For more information on reasons for immigration to the United States, League members are advised to read the following sources, all of which may be downloaded from the LWVUS website at www.lwv.org. For convenience, available materials have been grouped together and zipped for quicker download in a Consensus Kit, available in PDF. You can also download each of the following separately from the website:

Background Papers
Economic Aspects of Authorized and
Unauthorized Immigration
Immigration and the Economy
Overview: Federal Immigration Policy and
Proposed Reforms
Effects Of Global Interdependence On Migration
Immigration: Diversity and Inclusion
Federal Immigration Policy: Enforcement Issues
What Motivates Immigration to America?
Immigration Policy: Family Reunification

National Voter Articles
April 2007
Immigration: A Historical Perspective
June 2007
Immigration Study Brief #1
Immigration Study Brief #2
Immigration Study Brief #3
Immigration Study Brief #4

Summary of an Important Resource

Immigration and America's Future: A New Chapter

Report of the Independent Task Force on Immigration and America's Future.

Spencer Abraham and Lee H. Hamilton, Co-Chairs. Also includes others, such as Doris Meissner (former Commissioner of the U.S. Immigration and Naturalization Service (INS) and Senior Fellow of Migration Policy Institute) and others. Published September 2006 by Migration Policy Institute.

The following is a list of quotes and paraphrases of key points of this important book, which is an important resource in the study of immigration.

QUOTES AND PARAPHRASES OF KEY POINTS

Immigration has occurred throughout American history, but large-scale immigration occurred during three peak periods.

- The peopling of the original colonies,
- Westward expansion during the middle of the 19th century
- The rise of cities at the turn of the 20th century.

With the aging of our population, net increases of workers will come from only two sources: older workers and immigrants.

There will be fewer native-born workers available for low-skilled jobs due both to the demography of aging and higher educational levels among native-born workers.

Immigrants are more likely to be self-employed than native-born workers: three times higher for Hispanics and two times higher for Asians.

Science and engineering specialties are essential to national security and economic success, but the two largest fields chosen by native-born students are education and business. In 2004, graduate enrollments in engineering were 50 percent foreign-born and in physical sciences 41 percent.

The broad consensus among economists is that immigrants have very modest negative effects on the employment of less-educated American workers, but that immigration has other broad, positive economic effects, resulting in lower prices for goods such as food and housing, increased demand for U.S.-made products, increased capital investment, and higher wages and employment for U.S. workers.

Immigration has almost certainly contributed to the wage gap, particularly in low-wage occupations. One-seventh of workers are foreign-born but one-fifth of low-wage workers are foreign-born. Illegal immigration in particular drives down wages at the bottom end of the pay scale.

Illegal immigration is meeting the nation's low-skilled demands, and temporary visa programs are meeting

the demands for mostly high-skilled immigration.

There are approximately 37 million foreign-born persons living in the country.

- About 11.5 million are naturalized citizens
- About 11.8 are law permanent residents
- About 1.3 million have temporary or other immigrant status
- More than 11 million are unauthorized

The purpose of the per-country caps (for legal immigration) is to prevent high-demand countries from dominating others. But it has led to unreasonable delays for employers and family unification applicants from countries such as Mexico, China, India, and the Philippines.

Visa supply is a poor fit with demand: Just 5,000 (yes, thousand) visas are available worldwide each year for low-skilled workers.

Federal failures (for integration of immigrants) have severely eroded public support for immigration, polarized public opinion, and placed burdens on state and local governments that they are ill-equipped to handle.

Border enforcement has four intertwined goals. Each requires different methods and techniques, but should be understood as part of an integrated strategy. They are

- security (protecting against terrorism and other threats)
- safety (protecting against criminals, violence, smuggling, drug trafficking, and threats to quality of life, including public health concerns)
- control (restricting the illegal entry of people and goods)
- regulation (facilitating the flows of people and goods the United States wishes to admit)

Border Control Issues

- Only personnel with comprehensive training in immigration law, ethics, and civil rights should be enforcing U.S. laws at the border
- Border Patrol officers face low pay relative to other law enforcement jobs, lack upward mobility, and suffer poor working conditions and low job satisfaction.
- Stepped-up enforcement has fostered far more smuggling, exposing migrants to additional dangers.
- Border fencing, high-tech equipment, and increased enforcement personnel contribute to environmental degradation and divided border communities.
- As much as 40 to 50 percent of the unauthorized population may have entered the U.S. through a port of entry where they passed through immigration inspection and then overstayed their visas.

Control of Terrorism

- All of the September 11 hijackers came through legal ports of entry and used visas obtained at overseas consulates, but legal channels of entry are often overlooked in the public debate and in Congressional appropriations.
- Terrorist tracking depends on vastly strengthened intelligence collection and analysis, information-sharing between agencies, upgraded travel documents and systems, and cooperation with foreign law enforcement and intelligence officials.

Police and Judicial Enforcement

- “Aggravated felonies,” which are potentially deportable offenses, were expanded from serious crimes like murder, rape, and drug trafficking to 50 classes of crimes, including shoplifting and many offenses classified as misdemeanors in criminal law.
- The REAL ID Act suspended immigrants’ access to district courts for writs of habeas corpus.
- The above act also allows deportation of immigrants while their appeals in federal courts are pending.
- Individuals in removal proceedings do not have the right to appointed counsel, but can be represented “at no expense to the Government.”

- Elevating the Board of Immigration Appeals (BIA) should be elevated from an executive agency to a legislative court. This would attract a higher caliber of judges and produce higher quality reviews of judges' decisions. Further, an Article I immigration court could capture the benefits of specialized courts and expertise, as well as intercourt dialogue and generalist review.

Issues in Immigrant Integration

- The unauthorized constitute one third of our total foreign-born population, compared to 15 percent only a decade ago.
- The share of low-income children who are children of immigrants has been on the rise from 22 percent to 26 percent between 1999 and 2002.
- The limited English proficient (LEP) student population has almost doubled between the 1993 and 2003 school years, with especially rapid growth in new gateway states like North Carolina (500 percent) and Nebraska (340 percent).
- Almost half of all immigrant workers are LEP.
- More than 44 percent of non-citizen immigrants do not have health insurance, which translates into lower rates of health care use and potentially poorer health outcomes for immigrants, and which translates into high levels of uncompensated care provided by public hospitals, clinics, and charitable organizations.

Economic Development

While there is no doubt that NAFTA spurred economic growth in Mexico, a decade later it is also clear that NAFTA was no panacea for solving illegal immigration. Enduring social networks and historical experiences, as well as demand in the U.S. for workers and a substantial supply of underemployed people in Mexico, remain at the root of illegal immigration.

RECOMMENDATIONS OF MIGRATION POLICY INSTITUTE

Note: These are not positions taken by the LWVUS, but are included in this book by the MPI, and are listed as points of departure for discussion and consideration.

Recommendation 1: The Task Force recommends the simplification and fundamental redesign of the immigration system of the United States. Immigration should take place through three new streams: temporary, provisional, and permanent. A redesigned system is the best way to meet the nation's current and future labor needs.

Recommendation 2: The Task Force recommends creating an independent federal agency to be called the Standing Commission on Immigration and Labor Markets. The Standing Commission would make regular recommendations to Congress for adjusting admissions levels in the temporary, provisional, and permanent immigration streams based on labor market needs, unemployment patterns, and changing economic and demographic trends.

Recommendation 3: The Task Force recommends that mandatory employer verification and workplace enforcement be at the center of more effective immigration enforcement reforms. DHS [Department of Homeland Defense] should create a Workplace Enforcement Advisory Board to help build support for new employer enforcement policies and monitor the progress of new measures.

Recommendation 4: The Task Force calls for a secure, biometric Social Security card and a plan for replacing existing cards. The secure Social Security card, "green" cards, and immigration work authorization cards should become the only documents that verify work eligibility. [Implementation should take three years.]

Recommendation 5: The Task Force recommends accelerated implementation of "smart border" measures that combine personnel, equipment, and technology to reduce illegal immigration and protect against terrorist entry. The Task Force calls upon the administration to submit an annual report to Congress and the American people that lays out measures of effectiveness for border enforcement and reports progress

in meeting them.

Recommendation 6: The Task Force recommends strengthening immigration enforcement in other areas of border security, especially legal ports of entry (air, land, and sea) and overseas visa issuance. Visa and legal immigration admissions procedures must not be the 'weak links' in border protection, and legitimate crossings must be facilitated to promote trade and travel.

Recommendation 7: The Task Force calls for systematic protection of the human and civil rights of immigrants and for including border community perspectives in border enforcement operations. Such efforts must include active steps by the government to disband vigilantism of any form along the border.

Recommendation 8: The Task Force recommends that detecting, disrupting, and dismantling terrorist travel and its supporting infrastructure be treated with the same depth and urgency as efforts devoted to terrorist communications and finance.

Recommendation 9: The Task Force recommends replacing the existing case-by-case labor certification system with one that provides for precertified employers, designates shortage occupations for blanket certifications, and uses a streamlined individual certification process for non-shortage occupations.

Recommendation 10: The Task Force recommends that temporary and provisional workers have the right to change employers without jeopardizing their immigration status and have worker protections that are comparable to those of similarly employed U.S. workers.

Recommendation 11: The Task Force recommends that the role of state and local police in immigration enforcement be limited to identifying, holding, and transporting removable aliens who are legitimately arrested for involvement in non-immigration offenses during normal police work. State and local police should be able to submit ID information to DHS officials qualified to make an independent determination regarding a person's legal status and any potential terrorist connections.

Recommendation 12: The Task Force recommends the creation of a National Office on Immigrant Integration to provide leadership, visibility, and a focal point at the federal level for integration policy as a critical national challenge.

Recommendation 13: The Task Force recommends an earned path to permanent legal status for unauthorized immigrants currently in the United States as an essential element of policies to address current illegal immigration.

Recommendation 14: The Task Force recommends that a policy for earning legal status include a state impact aid program administered by the federal government. Impact aid should be allotted as a block grant with strict accountability for state spending.

Recommendation 15: The Task Force recommends that the president: (1) name a White House coordinator for immigration policy, (2) issue an executive order establishing an interagency cabinet committee for immigration policy and (3) strengthen the capacity of executive branch agencies to implement major new immigration mandates.

Recommendation 16: The Task Force recommends that the United States engage Mexico and Canada in longer-term initiatives directed at management of labor flows in the context of regional economic interdependence, growth, and security.

