

ONE HUNDREDTH LEGISLATURE  
SECOND SESSION  
LEGISLATIVE RESOLUTION 362

Introduced by Ashford, 20.

PURPOSE: The purpose of this interim study is to:

(1) Access and utilize all available resources in our state to develop a response to the issues surrounding the increasing population of undocumented persons in Nebraska;

(2) Consult with Nebraska businesses, educational institutions, law enforcement agencies, and faith-based organizations to identify pragmatic solutions to the problems facing Nebraskans as a result of illegal immigration;

(3) Research what governmental and nongovernmental organizations are doing at the local level to address the growing immigrant population;

(4) Explore the lack of federal response to immigration issues and its impact upon state policy;

(5) Research what other states are doing to address illegal immigration and the impact of such laws; and

(6) Research the naturalization process.

Issues to be examined include, but are not limited to: Public benefits; law enforcement; employment; health care; identification; licensure; human trafficking; legal services; guest workers; and educational opportunities for children of undocumented persons.

Until the 1880s, the federal government maintained a relatively open immigration policy that encouraged migration from Europe. The Naturalization Act of 1790 provided, "Any alien, being a free white person, may be admitted to become a citizen of the United States." The law required the person applying for citizenship to establish residency in the country for two years and one year in the state of residence prior to being naturalized.

The law also provided that children of citizens shall be considered natural born citizens of the United States.

The open border policy was maintained through the 1880s when the United States Government began to enact laws to control the flow of immigration. The Chinese Exclusion Act of 1882, prohibiting Chinese laborers from immigrating to the United States, was the first significant restriction enacted in the wake of a period of mass immigration starting in the 1840s.

The flow of immigrants to the United States reached a peak between the 1890s and the 1920s, which led to the Immigration Act of 1924, limiting the number of visas granted each year and allocating them based on the number of people from that country already living in the United States in 1890. The 1924 law also placed a ban on all immigration from the Asia-Pacific Triangle. The national quotas established in the 1924 law did not apply to the Western Hemisphere, a policy which allowed the United States Government to recruit thousands of temporary workers from Mexico under the Bracero Program to meet farm labor shortages brought about by World War II. These workers were not eligible for citizenship, but were given temporary work permits which had to be turned in upon their return to Mexico after their contracts

expired. The 1942 Bracero Program lasted for twenty years and brought more than three million workers to the United States. However, temporary workers continued to cross our southern border and this program is widely believed to have been the foundation for illegal immigration from Mexico.

The Immigration and Nationality Act of 1965 created the fundamental structure of today's immigration system. It was enacted shortly after the 1964 Civil Rights Act which prohibited discrimination based on "national origin." Accordingly, the national origin quotas were replaced by hemispheric quotas including the first quotas on immigration from the Western Hemisphere. The 1965 law limited the annual maximum of Eastern Hemisphere immigrants to 170,000, and no more than 20,000 per country. The Western Hemisphere limit was set at 120,000 per year with no per-country limit. Another provision established that visas would be granted on a first-come, first-served basis with priority given to family reunification, attracting needed skills to the United States and refugees.

Since 1965, sources of immigration to this country have shifted from Europe to Latin America and Asia.

The last comprehensive immigration reform was passed over twenty years ago when President Reagan supported and signed the Immigration Reform and Control Act of 1986 in an effort to address illegal immigration. The law provided for amnesty to immigrants who entered the United States illegally prior to January 1, 1982, and resided here continuously. The law also made it illegal for employers to knowingly hire or recruit undocumented immigrants. The 1986 law did little to solve the illegal immigration problem due

to extensive document fraud and the number of people applying for amnesty far exceeding projections. Furthermore, enforcement of the employer sanction policy proved difficult due to the prevalence of document fraud and a lack of political will to enforce the sanctions. As a result, it is estimated that there are anywhere from eight million to twenty million undocumented persons living in the United States today.

The framework for the current United States immigration quota system stems from the 1986 law and is divided into three primary quota categories: Immediate relative immigrants; family-based immigrants; and employment-based immigrants. Immediate relatives are not numerically limited and are defined as the spouse of an adult United States citizen, unmarried minor child (under 21) of an adult United States citizen, or the parent of a United States citizen. Current law provides for 226,000 lawful admittances into the United States for persons in the family-based category. The family-based category allows for up to 23,400 unmarried sons and daughters of United States citizens, 114,200 dependents of green card holders (includes spouses, minor children, and unmarried adult children), 23,400 married sons and daughters of United States citizens, and 65,000 brothers and sisters of United States citizens. Finally, 195,000 immigrants receive green cards pursuant to the employment quota category.

Although the quota numbers are modestly adjusted annually, the number of green cards issued as part of the employment category over the past two decades has not kept pace with the demand for immigrant labor within the United States economy. There are 40,000 green cards available for

unskilled workers each year. There are 66,000 temporary work visas available for nonagricultural workers each year. Because of the large demand for unskilled labor in the American economy, the overall lack of available unskilled laborers among those in the United States legally, and the enormous demand for unskilled employment by foreign nationals in countries lacking adequate employment opportunities, the number of available visas are grossly inadequate. Furthermore, the number of temporary work visas available for agricultural workers is unlimited and many temporary workers who get into the country on temporary work visas stay here beyond their legal status, adding to the eight to twenty million undocumented people in the United States.

In 2006, Congress considered the Comprehensive Immigration Reform Act to address the enormous population of undocumented persons living and working in this country. The version of the legislation passed by the United States Senate provided for increased border security, a citizenship path for undocumented persons who have been in the United States for a length of time, and expansion of the number of guest workers allowed to enter the United States. The version advanced by the United States House of Representatives solely focused on United States-Mexican border security and penalties for employers, smugglers, and those providing assistance to illegal immigrants, such as churches and charity workers. Further, the House version sought to change illegal presence in the United States from a civil offense to a felony. The varying versions of this legislation were both ultimately stymied as the House and Senate were unable to come to an agreement in conference.

Due to the failure of the federal government to enforce current immigration policies or enact comprehensive immigration reform, states are attempting to address immigration-related issues on their own. In 2007, at least 1,562 immigration bills were introduced among the fifty state legislatures, a three-fold increase from the previous year. Of the 1,562 immigration bills introduced in 2007, 240 bills became law in forty-six states.

Nebraska is a state populated by immigrants. Our history is marked by two significant waves of immigration. The first wave came from Europe in the second half of the Nineteenth century when German, Swedes, Irish, Bohemians from the modern-day Czech Republic, and Mexicans came to this state in search of economic opportunity. The Homestead Act of 1862 promoted early immigration to Nebraska with the availability of cheap land. Additional immigrants were drawn to the state when the Union Pacific Railroad triggered expansion of Nebraska's agricultural and meatpacking industries. In the last twenty years, a new wave of immigrants has come to Nebraska from Latin America, some documented and some undocumented. According to the Pew Hispanic Center, the undocumented immigrant population in Nebraska grew from 6,000 in 1990 to 24,000 in 2000, faster than any other Midwestern state.

While Nebraska has been economically and culturally enriched throughout its history by immigration, the current influx of undocumented persons has presented the state with a variety of challenges. According to the Pew Hispanic Center, there were between 35,000 and 55,000 undocumented persons in Nebraska in 2005. Because undocumented immigrants typically lack strong English language skills and live on a low income, many communities

that have recently experienced a rapid increase in immigrant population find it increasingly difficult to provide access to education, health care, and housing to all residents. The lack of documentation, language barriers, and cultural differences cause many undocumented persons in our state to face a daily struggle for health, safety, and security. Despite the high demand for manual labor, some Nebraskans have expressed concerns regarding the potential unavailability of some employment opportunities for lawful Nebraska residents resulting from the hiring of undocumented persons by some employers. Finally, while state government has experienced increased costs associated with providing undocumented persons with certain public benefits such as health care and public education, there are economic benefits to the state associated with having a large immigrant population, including meeting workforce needs, increased tax revenue, and significant entrepreneurial activity.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall access community leaders from businesses, educational institutions, law enforcement agencies, and faith-based organizations across the state to carry out the purposes of this resolution.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.