

## **NEBRASKA TAXPAYERS FOR FREEDOM ISSUE PAPER: SUPPORT PRESIDENT TRUMP CENSUS REFORM.**

**BACKGROUND.** Millions of illegal aliens reside in the U.S., thousands in Nebraska. Because census rules mandate counting the entire population in the census, counting illegal aliens skews the apportionment of congressional seats and other offices. This deviation wrongfully assigns a disproportionate number of local offices and legislative seats to Socialist Democrats. A state share of the national population determines its number of seats in the House of Representatives and its number of electoral votes in presidential elections. The census also dictates how much federal funding states will receive for federal academic research and other education programs, road building, emergency services, and natural disaster relief. The Commerce Dept. uses census data to advocate for causes, prevent diseases, research markets, and locate pools of skilled workers. It also forms the basis of many government and academic studies that determine public policy decisions and legislation from Washington, D.C. affecting statehouses and city halls. The Census Bureau says on its website that information about the distribution of citizens and noncitizens is of interest to policymakers, researchers, and advocacy groups.

Is this person a citizen of the United States?

- Yes, born in the United States
- Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas
- Yes, born abroad of U.S. citizen parent or parents
- Yes, U.S. citizen by naturalization – *Print year of naturalization* →
- No, not a U.S. citizen

**THE CHANGE.** The Trump Justice Dept. (DOJ), at the urging of Wilbur Ross, the Sec. of Commerce, which oversees the Census Bureau, made a formal request for a revision. The DOJ wants this change, because it uses data about eligible voters to help enforce protections for minority voters under the federal Voting Rights Act and seeks increased confidence in election results. However, the Trump Administration stands alarmed about large numbers of noncitizens voting. The DOJ quotes a court decision that says “the

dignity and very concept of citizenship are diluted if noncitizens are allowed to vote.” A Justice Department spokesman stated that Census Bureau data currently is not precise enough to use in redistricting. This dept. relies on data from the Census Bureau American Community Survey (ACS), a sample survey that involves only 2.6% of the population, but now wants more scope that only a full census can provide. The revised form would use the exact wording as used now in the sample survey, which asks respondents to check 1 of 5 boxes to show their citizenship status. Three categories apply to those who are citizens at birth. Those who declare that they are naturalized citizens state their year of naturalization. The 5th box is for non-citizens, but it does not ask if they are illegally in the U.S.

**CURATIVE BILL.** Conservative Rep. Steve King (IA.) has introduced [HR 1320](#) to require census questionnaires used to determine the 2020 census of population to contain a place for respondent to indicate citizenship status or lawful presence in the U.S. Congress must approve every census question. His concern is that states with large illegal alien populations have disproportionate representation in Congress and in federal funding dispensation. This bill now resides in the House Committee on Oversight & Reform, awaiting further action. This question would return to all census forms for the first time since 1950. King also has promoted a constitutional amendment to create congressional districts based on the number of U.S. citizens instead of total population.

**OUR REASONING.** Demographers studying the ACS data continue to notice that people often wrongly mark themselves as citizens; they have lived in the U.S. for only a year, for example. Census Bureau analyses prove that among noncitizens whose responses to census questions about their status match with other government records, about 30% lied that they were citizens. According to Jennifer Van Hook, a professor of sociology and demography at Penn State University, demographic groups that have large shares of illegal immigrants are the ones most likely to wrongly mark themselves as citizens, e.g., Mexican men of working age. The argument against the citizenship question rests on two trivial and unsupported claims but also upon 2 crucial and controversial arguments. One trivial claim is that the citizenship question should not appear, because it is unrelated to an accurate enumeration of the U.S. population. However, a federal judge in NYC stated the census from the beginning has included various items unrelated to a simple enumeration of the population as required in Article I, Section 2 of the Constitution. Examples: questions about race,

gender, marital status, age, and other demographic factors. Historically, the census has included questions about running water, indoor plumbing, monthly rent, number of radios in a household, type of heating equipment and fuel, occupation, and education. Our Founding Fathers viewed the census as an opportunity not only to count the population but also to gather economic and demographic information useful in monitoring national progress. The Constitution neither requires nor prevents these additional items from inclusion. A second dubious argument is that the citizenship question will cause an undercount of the population, because illegal aliens will not respond. This assumption is that they would otherwise respond to the census. Illegals with reason to remain in the shadows unlikely will reveal themselves by assurances that the census will not ask about citizenship status. Illegal aliens already have reasons to suspect government information collectors. The paranoia about the citizenship questions in immigrant circles will only reinforce those suspicions and discourage cooperation with the census. The question asks only if the respondent is a citizen, not legal status. The census short form contains questions regarding personal finances and other aspects of lives that are far more invasive and likely to cause recipients to not respond. Neither the Census Bureau nor anyone opposed to this change could provide the Commerce Department with evidence that the response rate would decline, if the citizenship question returned to the regular form. A former deputy director of the census who is now at the Nielsen polling firm told Commerce that there is no empirical data to support that claim. “Looking at the Census Bureau’s monthly Current Population Surveys shows no drop in the number of people identified as foreign-born between January 2014 and January of 2018,” noted Steven Camarota, research director at the Center for Immigration Studies. “The months in which Trump announced his presidency, won the nomination or was elected president do not coincide with a falloff in the number of immigrants who took part in the survey.” There exist no definitive evidence or study to support the bogus claim that adding a citizenship question would reduce response rates. Adding a citizenship question to the 2020 Census could shift the national balance of political power from cities to more rural communities over the next decade and give Republicans a new advantage in drawing electoral boundaries. Texas Republicans would collect about 7 state



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Why Democrats love illegal aliens...



Why Dems love illegals.

House seats and 1 Senate seat. If the same system became adopted in Florida, California, or New York, Republicans would gain legislative seats. Such alarms Democrats, primarily because census data helps determine the distribution of over \$675 billion a year in federal funding. Because of how the states and federal government use the census, it is absurd to suggest that the count should not consider the number of U.S. citizens and non-citizens in the country.

**LEGAL PRECEDENTS.** Federal courts never have ruled if illegal aliens must become included in the census. The Supreme Court has ruled that states cannot use sampling results for purposes of legislative and congressional districting. States must rely on actual counts from the decennial census. But in one apportionment case, *Burns v. Richardson* (1966), the Court clarified this point by permitting the state of Hawaii to use a districting formula based on registered voters rather than total population. In giving Hawaii leeway to experiment with different districting formulas, the Court wrote, “Neither in *Reynolds v. Sims* nor in any other decision has this Court suggested that the States are required to include aliens, transients, short-term or temporary residents, or persons denied the vote for conviction of crime, in the apportionment base by which their legislators are distributed and against which compliance with the Equal Protection Clause is to be measured.” The ruling added in a footnote that states may exclude for the purposes of apportionment persons who fail to meet their legal residency requirements. There is thus no precedent in these cases for the claim that states must apportion legislative districts by population. In *Evenwel v. Abbott*, the Court ruled that the state of Texas could use population as the basis for legislative districts, partly because, as the state maintained, detailed information on citizenship and registered voters was unavailable or too unreliable to use for legislative districting, and the proposed alternatives to population were unworkable. 2 voter plaintiffs sought to require Texas to draw its Senate districts based on citizenship rather than the present method of total population. They challenged the apportionment on the basis of total population according to the 2010 census. The plaintiffs claimed that such apportionment violated the Equal Protection Clause of the 14th Amendment, because voters in districts with higher numbers of illegal aliens had greater weight than voters in districts with smaller numbers. In their brief, the plaintiffs showed that some state senate districts had more than 500,000 registered voters while others had slightly fewer than 300,000; voters in the smaller districts had 1.6 times the voting power of those in the districts with larger numbers of registered voters. The justices, following the precedents established in *Reynolds* and *Burns*, did not rule that states *must* use population as the standard, thus leaving the way open for states in the future to use another metric, such as citizenship, as the basis for representation. Justice Samuel Alito wrote in a concurring opinion, “Whether a state is permitted to use some measure other than total population is an important and sensitive question that we can consider if and when we have before us a state districting plan that, unlike the current Texas plan, uses something other than total population as the basis for equalizing the size of districts.” Justice Clarence Thomas elaborated on this theme, writing in a separate concurrence that states should have ability to experiment with other metrics, such as “total population, eligible voters, or any other nondiscriminatory voter base.” The legality of districting

based on the count of citizens or eligible voters remains unsettled after the Supreme Court declined to address it specifically.

**LAWSUITS.** Several liberal lawsuits challenge this Trump census alteration in court, alleging that it would cause many illegal aliens to avoid the census for fear that information provided from surveys and focus groups would cause their deportation, though it is illegal for the census to share responses with law enforcement or immigration agencies. One lawsuit by the leftist California Att.-Gen. argues that if the census undercounts immigrants, it would violate the U.S. Constitution that requires counting the entire population. California would lose federal funds and House seats if illegal aliens not counted. This state is home to more illegal aliens than any other state. New York Att.-Gen. Eric Schneiderman leads a multi-state lawsuit to prevent alteration. Plaintiffs in the New York trial include 18 states, several sanctuary cities and jurisdictions, and militant civil rights groups. An adverse ruling would reduce the number of electoral votes and congressional districts in such states. Socialist Democrat leaders and elected officials dominate the complaining states. Several militant immigrant groups also have filed suit. The U.S. Supreme Court will hear a case about a citizenship question for the 2020 census, agreeing to decide the case before the court term ends in late June, bypassing the normal process of allowing a federal appeals court ruling first. Hopefully, the Supreme Court will rule that the need for accurate citizenship data and the limited burden that the reinstatement of the citizenship question would impose outweigh fears about a potentially lower response rate. If the Trump Administration wanted to round up all illegals and engage in wholesale violation of federal law to do so, it would have begun with the tens of thousands of people who have filled out the short form already. The much more real and imminent concern among Democrats and illegal advocates is that many Hispanics will worry so much that the Census Bureau will send their information to ICE that their community response rate to the census will decrease substantially. But fear of deportation only driven by politicians who hope to gain votes by creating a culture of fear and distrust among illegal aliens. It is reckless and irresponsible of liberal leaders in our country for the sake of political gain to give illegals the mistaken impression that they should fear the census. The citizenship question does not ask about personal legal status; it asks citizenship status and thus has no relation to immigration enforcement. In July, 2018, a federal judge in New York City allowed the lawsuits to go forward, though he expressed doubts about their likelihood of success. Congress, he noted, delegated broad responsibility to the Sec. of Commerce to administer the census and to devise appropriate questions for it. The judge narrowed the case to the bogus claim that the Trump Administration inserted the citizenship question on the basis of biased motives, a catchall argument according to which measures that are otherwise perfectly legal and constitutional ruled irrelevant if adopted for politically questionable purposes. The NAACP Legal Defense and Educational Fund and the nonprofit ethics group American Oversight filed suit against the Justice Department to enforce an earlier Freedom of Information Act request for release of records related to the Justice Dept. role in reinstating the citizenship census question.

**HISTORICAL REALITY.** A question about citizenship first appeared in 1800 from Thomas Jefferson, who advocated for an inquiry into “the respective numbers of native citizens, citizens of foreign birth, and of aliens.” His reason for wanting such a question was “for the purpose of more exactly distinguishing the increase of population by birth and immigration.” Though liberals squawk about adding this question, a citizenship question appeared in every census from 1890 to 1950. The 1820, 1830, and 1870 census questionnaires included a form of the citizenship questions. Until 1920, only adult men required to respond. Beginning in 1880, the Census asked the place of birth not only of the enumerated person but of the parents also. The census asked about citizenship during the great migrations of the 19th and 20th Centuries, because the government had a legitimate reason to want to know from where people came. Only in 2010 did the Obama Regime remove this question entirely, because it courted illegal aliens and feared they would not respond. We now have a large illegal immigrant population, so it is legitimate to want to determine this population. A 2010 survey conducted by the Pew Research Center found foreign-born Latinos enthusiastic about the census and extremely confident that it would not use its data against them. The Trump Administration rejected the idea that asking about citizenship is likely to create a substantial undercount that did not exist before. “While there is widespread belief among many parties that adding a citizenship question could reduce response rates, the Census Bureau’s analysis did not provide definitive, empirical support for that belief,” a memo from Commerce Secretary Ross says. The citizenship question is not a new concept; it is the restoration of common sense. Our Constitution requires a census every 10 years, and it is essential that each reflects an accurate count of legal and illegal populations.



**PRIVACY SAFEGUARDS.** A "72-Year Rule" prevents the public disclosure of personally identifiable census information to another individual or agency until 72 years after its collection. After that, records released to the public by the U.S. National Archives and Records Administration. Census officials have taken great effort to inform immigrant

communities that census takers are not connected to immigration-enforcement authorities and that participation would pose no danger of deportation to community members. Such is also true for inter-agency communication. The FBI and other government entities have no legal right to access this information. When these protections challenged, judges always have upheld the confidentiality guarantee.

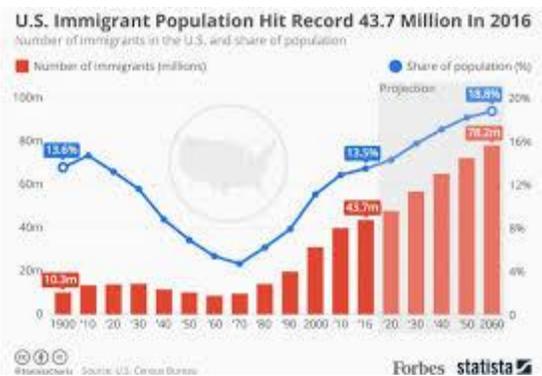
**PREVENTS FRAUD.** Knowing the number of citizens in a voting district will help reduce voter fraud by providing more precise data of the eligible voters in a district. If there are 300,000 U.S. citizens in a district, and 350,000 vote in an election, fraud definitely exists and warrants federal expunging.

**SUPPORTERS.** Indiana Attorney- General Curtis Hill joined a multistate legal brief supporting plans by the Trump Administration to reinstate a citizenship question to the 2020 census questionnaire. This brief filed in opposition to a lawsuit by 18 other states against the Department of Commerce. “The federal government is well within its rightful authority to ask census respondents whether they are citizens,” he said. “In fact, a negative response does not necessarily mean that the respondent is here illegally. Those with work or student visas are not U.S. citizens but are here lawfully.”

**STATE INITIATIVES.** Several states already have begun to apportion legislative districts on the basis of citizenship. Missouri recently approved a constitutional amendment to accomplish this goal. Conservative senators also attempted to pass a bill in the NE Legislature. If the citizenship question appears, state governments will have the information they need to apportion legislative and congressional districts on a basis other than total population. Inclusion of the citizenship question also will grant legitimacy to the distinction among state citizens, legal immigrants, and illegal immigrants, distinctions that liberals wish to abolish.

**DISTORTS REPRESENTATION.** The illegal alien population is not distributed evenly around the country, instead concentrated in a few states and, within those states, in a small number of cities and counties. The Federation for

American Immigration Reform estimates that more than 2.6 million reside in California, 1.9 million in Texas, almost 1 million in Florida, and about 900,000 in New York. Thus, more than 50% of the illegal population resides in those 4 states, and within those states, mostly in LA and Orange Counties, South Florida, the border areas of Texas and the Houston and Dallas–Fort Worth metropolitan areas, and the NYC metropolitan area. Examining the current allocation of congressional seats, the statistics regarding illegal aliens add up to about 4 additional questionable seats for California, 3 in Texas, and 1 or 2 each for Florida and New York.



**LIBERAL AIM.** The American Left wants our nation to evolve into a new and different kind of state, a universal state in which there are no

distinctions among citizens and noncitizens, where the government represents everyone without regard to citizenship, where all are welcome and have equal rights, with those residing elsewhere having rights to enter without restriction. They want to erase our national identity and sovereignty, replaced by a socialist world order.

**TAKE ACTION NOW.** The current boiling debate about illegal immigration is not abating. This census question has posed no similar controversy in Australia or Germany. After the Census Bureau conducts the 2020 census, the public has a right to expect that the government will do everything in its power to gain an accurate picture of the American population. That includes, as Thomas Jefferson recommended, knowing how many citizens and noncitizens reside in our republic. To give states with a large population of illegal aliens political power at the expense of others like NE is a perversion of constitutionality. Contact your congressman and senator to publicly support the Trump Administration and his Commerce Dept. in adding this question to the census, using the talking points above. Email [netaxpayers@gmail.com](mailto:netaxpayers@gmail.com) to join the NE Taxpayers *Congress Watch Project*.

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