



U.S. Immigration Policy on Permanent Admissions

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Summary

Four major principles underlie current U.S. policy on permanent immigration: the reunification of families, the admission of immigrants with needed skills, the protection of refugees, and the diversity of admissions by country of origin. These principles are embodied in the Immigration and Nationality Act (INA). The INA specifies a complex set of numerical limits and preference categories that give priorities for permanent immigration reflecting these principles. Legal permanent residents (LPRs) refer to foreign nationals who live permanently in the United States.

During FY2007, a total of 1.1 million aliens became LPRs in the United States. Of this total, 65.5% entered on the basis of family ties. Other major categories in FY2007 were employment-based LPRs (including spouses and children) at 15.4%, and refugees/asylees adjusting to LPR status at 12.9%. Over 10% of all LPRs come from Mexico, which sent 148,640 LPRs in FY2007.

Substantial efforts to reform legal immigration have failed in the recent past, prompting some to characterize the issue as a “zero-sum game” or a “third rail.” The challenge inherent in reforming legal immigration is balancing employers’ hopes to increase the supply of legally present foreign workers, families’ longing to re-unite and live together, and a widely shared wish among the various stakeholders to improve the policies governing legal immigration into the country. Whether the Congress will act to alter immigration policies—either in the form of comprehensive immigration reform or in the form of incremental revisions aimed at strategic changes—is at the crux of the debate. Addressing these contentious policy reforms against the backdrop of economic crisis sharpens the social and business cleavages and may narrow the range of options.

Even as U.S. unemployment levels rise, employers assert that they continue to need the “best and the brightest” workers, regardless of their country of birth, to remain competitive in a worldwide market and to keep their firms in the United States. While support for the option of increasing employment based immigration may be dampened by the economic recession, proponents argue it is an essential ingredient for economic growth.

Proponents of family-based migration alternatively point to the significant backlogs in family based immigration due to the sheer volume of aliens eligible to immigrate to the United States and maintain that any proposal to increase immigration levels should also include the option of family-based backlog reduction. Citizens and LPRs often wait years for their relatives’ petitions to be processed and visa numbers to become available.

Against these competing priorities for increased immigration are those who offer options to scale back immigration levels, with options ranging from limiting family-based LPRs to the immediate relatives of U.S. citizens to confining employment-based LPRs exceptional, extraordinary, or outstanding individuals.

This report will be updated to reflect major legislative action.

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Overview

Four major principles currently underlie U.S. policy on legal permanent immigration: the reunification of families, the admission of immigrants with needed skills, the protection of refugees, and the diversity of admissions by country of origin. These principles are embodied in federal law, the Immigration and Nationality Act (INA) first codified in 1952. The Immigration Amendments of 1965 replaced the national origins quota system (enacted after World War I) with per-country ceilings, and the statutory provisions regulating permanent immigration to the United States were last revised significantly by the Immigration Act of 1990.¹

The two basic types of legal aliens are *immigrants* and *nonimmigrants*. As defined in the INA, immigrants are synonymous with legal permanent residents (LPRs) and refer to foreign nationals who come to live lawfully and permanently in the United States. The other major class of legal aliens are nonimmigrants—such as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, or intracompany business personnel—who are admitted for a specific purpose and a temporary period of time. Nonimmigrants are required to leave the country when their visas expire, though certain classes of nonimmigrants may adjust to LPR status if they otherwise qualify.²

The conditions for the admission of immigrants are much more stringent than nonimmigrants, and many fewer immigrants than nonimmigrants are admitted. Once admitted, however, immigrants are subject to few restrictions; for example, they may accept and change employment, and may apply for U.S. citizenship through the naturalization process, generally after five years.

Petitions for immigrant (i.e., LPR) status are first filed with U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS) by the sponsoring relative or employer in the United States. If the prospective immigrant is already residing in the United States, the USCIS handles the entire process, which is called “adjustment of status” because the alien is moving from a temporary category to LPR status. If the prospective LPR does not have legal residence in the United States, the petition is forwarded to the Department of State’s (DOS) Bureau of Consular Affairs in their home country after USCIS has reviewed it. The Consular Affairs officer (when the alien is coming from abroad) and USCIS adjudicator (when the alien is adjusting status in the United States) must be satisfied that the alien is entitled to the immigrant status. These reviews are intended to ensure that they are not ineligible for visas or admission under the grounds for inadmissibility spelled out in INA.³

Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs.⁴ As discussed more fully below, 59.0% of all LPRs adjusted to LPR status in the United States rather than abroad in FY2007.

¹ Congress has significantly amended the INA numerous times since 1952. Other major laws amending the INA are the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and Illegal Immigration Reform and Immigrant Responsibility Act of 1996. 8 U.S.C. §1101 et seq.

² Nonimmigrants are often referred to by the letter that denotes their specific provision in the statute, such as H-2A agricultural workers, F-1 foreign students, or J-1 cultural exchange visitors. CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by Chad C. Haddal and Ruth Ellen Wasem.

³ These include criminal, national security, health, and indigence grounds as well as past violations of immigration law. § 212(a) of INA.

⁴ For background and analysis of visa issuance and admissions policy, see CRS Report RL31512, *Visa Issuances*: (continued...)

The INA specifies that each year countries are held to a numerical limit of 7% of the worldwide level of U.S. immigrant admissions, known as per-country limits. The actual number of immigrants that may be approved from a given country, however, is not a simple percentage calculation. Immigrant admissions and adjustments to LPR status are subject to a complex set of numerical limits and preference categories that give priority for admission on the basis of family relationships, needed skills, and geographic diversity, as discussed below.⁵

Current Law and Policy

Worldwide Immigration Levels

The INA provides for a permanent annual worldwide level of 675,000 legal permanent residents (LPRs), but this level is flexible and certain categories of LPRs are permitted to exceed the limits, as described below.⁶ The permanent worldwide immigrant level consists of the following components: family-sponsored immigrants, including immediate relatives of U.S. citizens and family-sponsored preference immigrants (480,000 plus certain unused employment-based preference numbers from the prior year); employment-based preference immigrants (140,000 plus certain unused family preference numbers from the prior year); and diversity immigrants (55,000). Immediate relatives⁷ of U.S. citizens as well as refugees and asylees who are adjusting status are exempt from direct numerical limits.⁸

The annual level of family-sponsored preference immigrants is determined by subtracting the number of immediate relative visas issued in the previous year and the number of aliens paroled⁹ into the United States for at least a year from 480,000 (the total family-sponsored level) and—when available—adding employment preference immigrant numbers unused during the previous year. By law, the family-sponsored preference level may not fall below 226,000. In recent years, the 480,000 level has been exceeded to maintain the 226,000 floor on family-sponsored preference visas after subtraction of the immediate relative visas.

Within each family and employment preference, the INA further allocates the number of LPRs issued visas each year. As **Table 1** summarizes the legal immigration preference system, the complexity of the allocations becomes apparent. Note that in most instances unused visa numbers are allowed to roll down to the next preference category.¹⁰

(...continued)

Policy, Issues, and Legislation, by Ruth Ellen Wasem.

⁵ Immigrants are aliens who are admitted as LPRs or who adjust to LPR status within the United States.

⁶ § 201 of INA; 8 U.S.C. § 1151.

⁷ “Immediate relatives” are defined by the INA to include the spouses and unmarried minor children of U.S. citizens, and the parents of adult U.S. citizens.

⁸ CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno.

⁹ “Parole” is a term in immigration law which means that the alien has been granted temporary permission to be present in the United States. Parole does not constitute formal admission to the United States and parolees are required to leave when the terms of their parole expire, or if otherwise eligible, to be admitted in a lawful status.

¹⁰ Employment-based allocations are further affected by § 203(e) of the Nicaraguan and Central American Relief Act (NACARA), as amended by § 1(e) of P.L. 105-139. This provision states that when the employment 3rd preference “other worker” (OW) cut-off date reached the priority date of the latest OW petition approved prior to November 19, (continued...)

Table I. Legal Immigration Preference System

Category		Numerical limit
Total Family-Sponsored Immigrants		480,000
<i>Immediate relatives</i>	Aliens who are the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens	Unlimited
Family-sponsored Preference Immigrants		Worldwide Level 226,000
<i>1st preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 th preference
<i>2nd preference</i>	(A) Spouses and children of LPRs (B) Unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 st preference
<i>3rd preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 st or 2 nd preference
<i>4th preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 st , 2 nd , or 3 rd preference
Employment-Based Preference Immigrants		Worldwide Level 140,000
<i>1st preference</i>	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers	28.6% of worldwide limit plus unused 4 th and 5 th preference
<i>2nd preference</i>	Members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business	28.6% of worldwide limit plus unused 1 st preference
<i>3rd preference—skilled</i>	Skilled shortage workers with at least two years training or experience, professionals with baccalaureate degrees	28.6% of worldwide limit plus unused 1 st or 2 nd preference
<i>3rd preference—“other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 rd preference)
<i>4th preference</i>	“Special immigrants,” including ministers of religion, religious workers other than ministers, certain employees of the U.S. government abroad, and others	7.1% of worldwide limit; religious workers limited to 5,000
<i>5th preference</i>	Employment creation investors who invest at least \$1 million (amount may vary in rural areas or areas of high unemployment) which will create at least 10 new jobs	7.1% of worldwide limit; 3,000 <i>minimum</i> reserved for investors in rural or high unemployment areas

Source: CRS summary of §§ 203(a), 203(b), and 204 of INA; 8 U.S.C. § 1153.

Employers who seek to hire prospective employment-based immigrants through the second and third preference categories also must petition the U.S. Department of Labor (DOL) on behalf of the alien. The prospective immigrant must demonstrate that he or she meets the qualifications for the particular job as well as the preference category. If DOL determines that a labor shortage exists in the occupation for which the petition is filed, labor certification will be issued. If there is

(...continued)

1997, the 10,000 OW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under NACARA. Since the OW cut-off date reached November 19, 1997 during FY2001, the reduction in the OW limit to 5,000 began in FY2002.

not a labor shortage in the given occupation, the employer must submit evidence of extensive recruitment efforts in order to obtain certification.¹¹

As part of the Immigration Act of 1990, Congress added a fifth preference category for foreign investors to become LPRs. The INA allocates up to 10,000 admissions annually and generally requires a minimum \$1 million investment and employment of at least 10 U.S. workers. Less capital is required for aliens who participate in the immigrant investor pilot program, in which they invest in targeted regions and existing enterprises that are financially troubled.¹²

Per-Country Ceilings

As stated earlier, the INA establishes per-country levels at 7% of the worldwide level.¹³ For a dependent foreign state, the per-country ceiling is 2%. The per-country level is not a “quota” set aside for individual countries, as each country in the world, of course, could not receive 7% of the overall limit. As the State Department describes, the per-country level “is not an entitlement but a barrier against monopolization.”

Two important exceptions to the per-country ceilings have been enacted in the past decade. Foremost is an exception for certain family-sponsored immigrants. More specifically, the INA states that 75% of the visas allocated to spouses and children of LPRs (2nd A family preference) are not subject to the per-country ceiling.¹⁴ Prior to FY2001, employment-based preference immigrants were also held to per-country ceilings. The American Competitiveness in the Twenty-First Century Act of 2000 (P.L. 106-313) enabled the per-country ceilings for employment-based immigrants to be surpassed for individual countries that are oversubscribed as long as visas are available within the worldwide limit for employment-based preferences. The impact of these revisions to the per-country ceilings is discussed later in this report. The actual per-country ceiling varies from year to year according to the prior year’s immediate relative and parolee admissions and unused visas that roll over.

Other Permanent Immigration Categories

There are several other major categories of legal permanent immigration in addition to the family-sponsored and employment-based preference categories. These classes of LPRs cover a variety of cases, ranging from aliens who win the Diversity Visa Lottery to aliens in removal (i.e., deportation) proceedings granted LPR status by an immigration judge because of exceptional and extremely unusual hardship. **Table 2** summarizes these major classes and identifies whether they are numerically limited.

¹¹ See CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem.

¹² CRS Report RL33844, *Foreign Investor Visas: Policies and Issues*, by Chad C. Haddal.

¹³ § 202(a)(2) of the INA; 8 U.S.C. § 1151.

¹⁴ § 202(a)(4) of the INA; 8 U.S.C. § 1151.

Table 2. Other Major Legal Immigration Categories

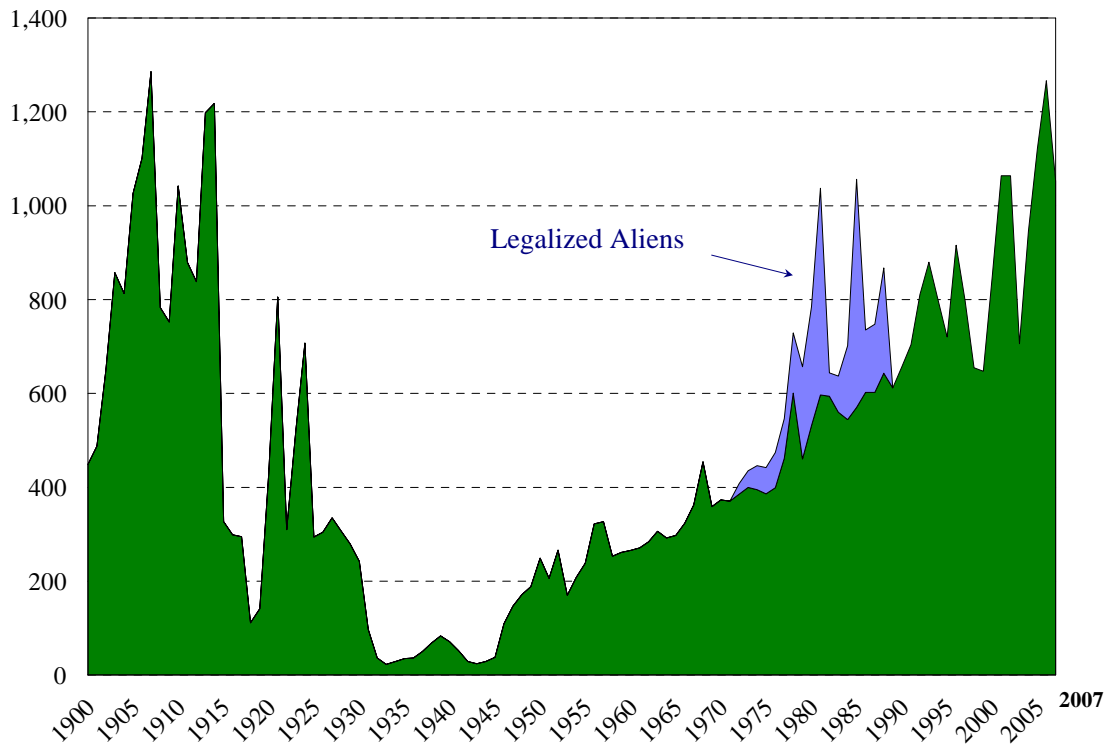
	Nonpreference Immigrants	Numerical Limit
<i>Asylees</i>	Aliens in the United States who have been granted asylum due to persecution or a well-founded fear of persecution and who must wait one year before petitioning for LPR status	No limits on LPR adjustments as of FY2005. (Previously limited to 10,000)
<i>Cancellation of Removal</i>	Aliens in removal proceedings granted LPR status by an immigration judge because of exceptional and extremely unusual hardship	4,000 (with certain exceptions)
<i>Diversity Lottery</i>	Aliens from foreign nations with low admission levels; must have high school education or equivalent or minimum two years work experience in a profession requiring two years training or experience	55,000
<i>Refugees</i>	Aliens abroad who have been granted refugee status due to persecution or a well-founded fear of persecution and who must wait one year before petitioning for LPR status	Presidential Determination for refugee status, no limits on LPR adjustments
<i>Other</i>	Various classes of immigrants, such as Amerasians, parolees, and certain Central Americans, Cubans, and Haitians who are adjusting to LPR status	Dependent on specific adjustment authority

Source: CRS summary of §§ 203(a), 203(b), 204, 207, 208, and 240A of INA; 8 U.S.C. § 1153.

Admissions Trends

Immigration Patterns, 1900-2007

Immigration to the United States is not totally determined by shifts in flow that occur as a result of lawmakers revising the allocations. Immigration to the United States plummeted in the middle of the 20th Century largely as a result of factors brought on by the Great Depression and World War II. There are a variety of “push-pull” factors that drive immigration. Push factors from the immigrant-sending countries include such circumstances as civil wars and political unrest, economic deprivation and limited job opportunities, and catastrophic natural disasters. Pull factors in the United States include such features as strong employment conditions, reunion with family, and quality of life considerations. A corollary factor is the extent that aliens may be able to migrate to other “desirable” countries that offer circumstances and opportunities comparable to the United States.

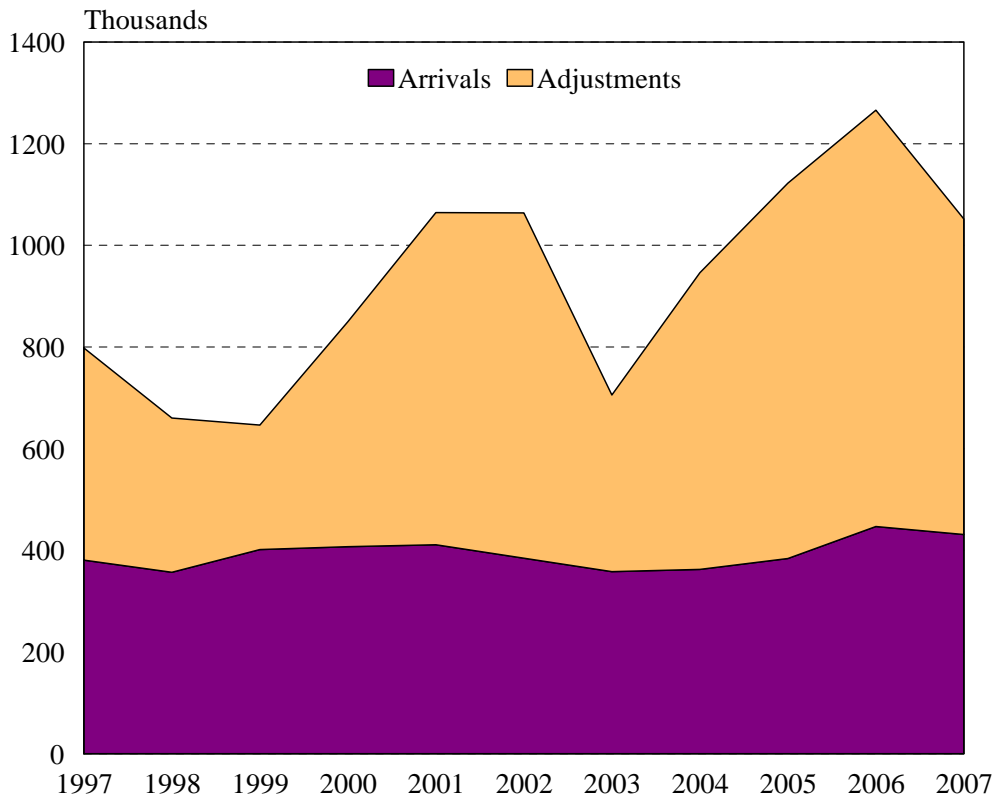
Figure 1. Annual LPR Admissions and Status Adjustments, 1900-2007

Source: *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act of 1986 are depicted by year of arrival rather than year of adjustment.

The annual number of LPRs admitted or adjusted in the United States rose gradually after World War II, as **Figure 1** illustrates. However, the annual admissions have not reached the peaks of the early 20th century. The DHS Office of Immigration Statistics (OIS) data present those admitted as LPRs or those adjusting to LPR status. The growth in immigration after 1980 is partly attributable to the total number of admissions under the basic system, consisting of immigrants entering through a preference system as well as immediate relatives of U.S. citizens, that was augmented considerably by legalized aliens.¹⁵ The Immigration Act of 1990 increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration. In addition, the number of refugees admitted increased from 718,000 in the period 1966-1980 to 1.6 million during the period 1981-1995, after the enactment of the Refugee Act of 1980.

¹⁵ The Immigration Reform and Control Act of 1986 legalized several million aliens residing in the United States without authorization.

Figure 2. Legal Permanent Residents, New Arrivals and Adjustments of Status, FY1997-FY2007



Source: *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, (multiple years).

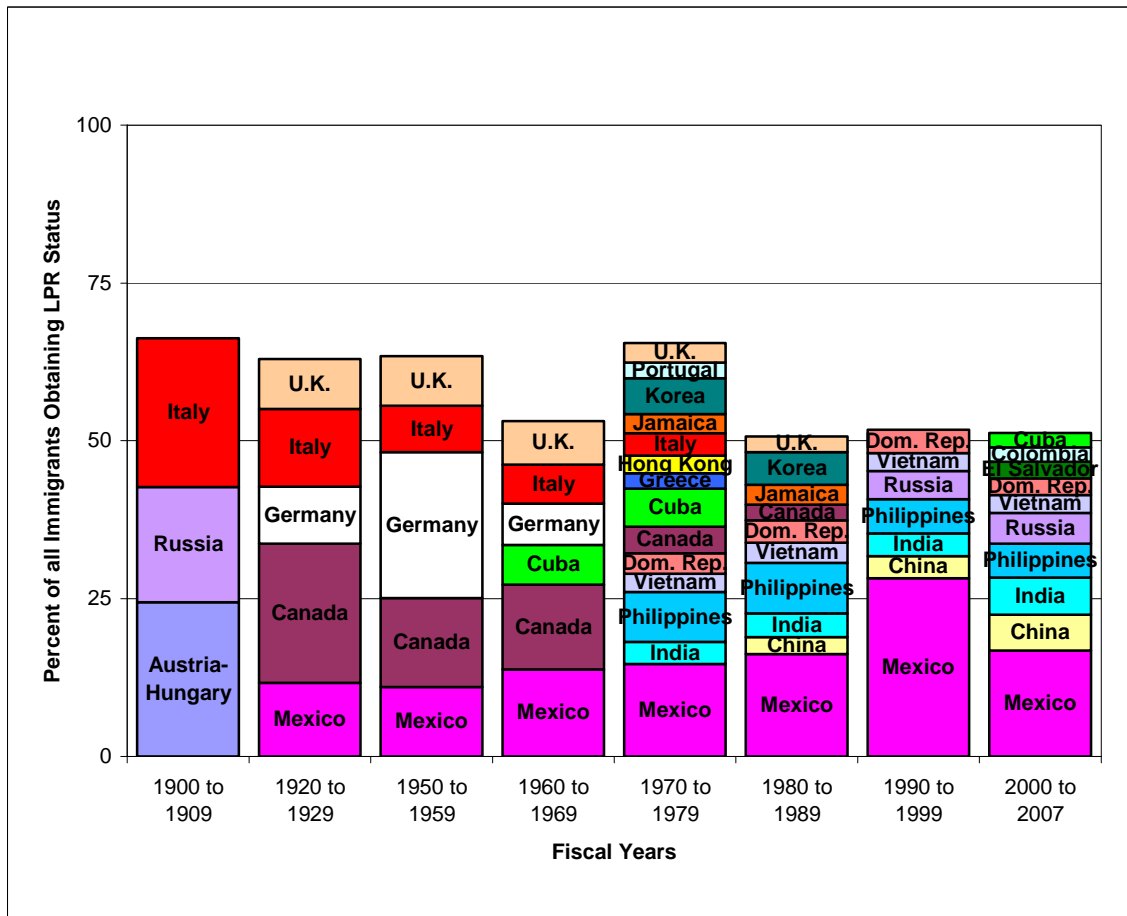
Many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs before they arrive in the United States. In the past decade, the number of LPRs arriving from abroad has remained somewhat steady, hovering between a high of 421,405 in FY1996 and a low of 358,411 in FY2003. Adjustments to LPR status in the United States has fluctuated over the same period, from a low of 244,793 in FY1999 to a high of 819,248 in FY2006. As **Figure 2** shows, most of the variation in total number of aliens granted LPR status over the past decade is due to the number of adjustments processed in the United States rather than visas issued abroad. In FY2007, USCIS adjusted 621,047 foreign nationals to LPR status.

In FY2007, 59.0% of all LPRs were adjusting status within the United States (**Figure 2**). Most (82.1%) of the employment-based immigrants adjusted to LPR status within the United States in FY2007. Many (56.0%) of the immediate relatives of U.S. citizens also did so that year. Only 26.7% of the other family-preference immigrants adjusted to LPR status within the United States in FY2007.

In any given period of United States history, a handful of countries have dominated the flow of immigrants, but the dominant countries have varied over time. **Figure 3** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades and illustrates that immigration at the close of the 20th century is not as

dominated by a few countries as it was earlier in the century. These data suggest that the per-country ceilings established in 1965 had some effect. As **Figure 3** illustrates, immigrants from only three or four countries made up more than half of all LPRs prior to 1960. By the last two decades of the 20th century, immigrants from seven to eight countries comprised about half of all LPRs and this patterns has continued into the 21st century.

Figure 3. Top Sending Countries (Comprising More Than Half of All LPRs): Selected Periods



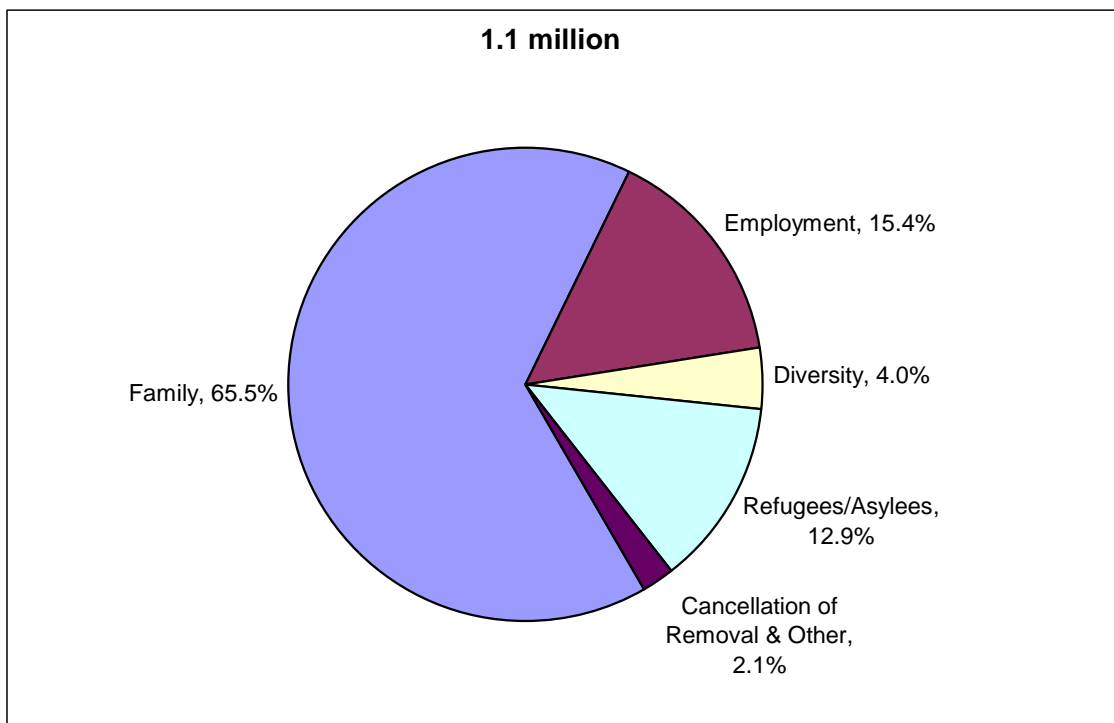
Source: CRS analysis of Table 2, *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, FY2007.

Although Europe was home to the countries sending the most immigrants during the early 20th century (e.g., Germany, Italy, Austria-Hungary, and the United Kingdom), Mexico has been a top sending country for most of the 20th century and into the 21st Century. Other top sending countries from FY2000 through FY2007 are the Dominican Republic El Salvador, Colombia and Cuba (Western Hemisphere) and the Philippines, India, China, Korea, and Vietnam (Asia) Russia is the only European country that has emerged as top sending country today.

FY2007 Admissions

During FY2007, a total of 1,052,415 foreign nationals became LPRs in the United States. The largest number of immigrants were admitted because of a family relationship with a U.S. citizen or legal resident, as **Figure 4** illustrates. Of the total LPRs in FY2007, 65.5% entered on the basis of family ties. Immediate relatives of U.S. citizens made up the single largest group of immigrants—494,920 as **Table 3** indicates. Family preference immigrants—the spouses and children of LPRs, the adult children of U.S. citizens, and the siblings of adult U.S. citizens—were the second largest group. Additional major immigrant groups in FY2007 were employment-based preference immigrants (including spouses and children) at 15.4%, and refugees and asylees adjusting to LPR status at 12.9%.¹⁶

Figure 4. Legal Permanent Residents by Major Category, FY2007



Source: CRS presentation of FY2007 data from the DHS Office of Immigration Statistics.

¹⁶ The largest group in the “other category” are aliens who adjusted to LPR status through cancellation of removal and through §202 and §203 of the Nicaraguan and Central American Relief Act of 1997.

Table 3. FY2007 Immigrants, by Category

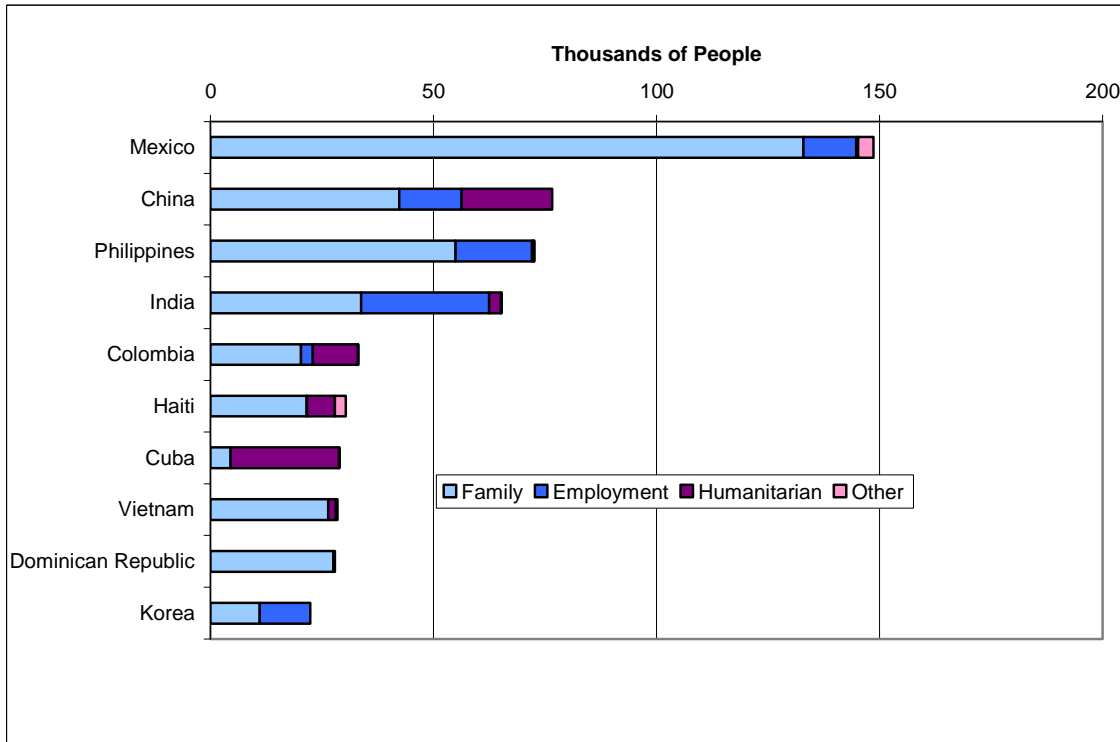
	Total
Immediate relatives of citizens	494,920
Family preference	194,900
Employment preference	162,176
Refugee and asylee adjustments	136,125
Diversity	42,127
Other	22,167

Source: *Statistical Yearbook of Immigration*, FY2007, DHS Office of Immigration Statistics.

Note: For a more detailed summary of FY2007 immigration by category, see **Appendix C**.

As **Figure 5** presents, Mexico led all countries with 148,640 foreign nationals who became LPRs in FY2007. The People Republic of China followed at a distant second with 76,655 LPRs. The Philippines came in third with 72,596 LPRs. India followed with 65,353 LPRs. These top countries exceeded the per-country ceiling for preference immigrants because they benefitted from special exceptions to the per-country ceilings. Mexico did so as a result of the provision in INA that allows 75% of family second preference (i.e., spouses and children of LPRs) to exceed the per-country ceiling, while India and China exceeded the ceiling through the exception to the employment-based per-country limits.

Figure 5. Top Ten LPR-Sending Countries, FY2007



Source: CRS presentation of FY2007 data from the DHS Office of Immigration Statistics.

The top 10 immigrant-sending countries depicted in **Figure 5** accounted for one-half (51%) of all LPRs in FY2007. The top 50 immigrant-sending countries contributed 80% of all LPRs in FY2007. **Appendix A** provides detailed data on the top 50 immigrant-sending countries by major category of legal immigration.

Backlogs and Waiting Times

Visa Processing Dates

According to the INA, family-sponsored and employment-based preference visas are issued to eligible immigrants in the order in which a petition has been filed. Spouses and children of prospective LPRs are entitled to the same status, and the same order of consideration as the person qualifying as principal LPR, if accompanying or following to join (referred to as derivative status). When visa demand exceeds the per-country limit, visas are prorated according to the preference system allocations (detailed in **Table 1**) for the oversubscribed foreign state or dependent area. These provisions apply at present to the following countries oversubscribed in the family-sponsored categories: China, Mexico, the Philippines, and India.

Table 4. Priority Dates for Family Preference Visas

Category	Worldwide	China	India	Mexico	Philippines
Unmarried sons and daughters of citizens	July 22, 2002	July 22, 2002	July 22, 2002	October 8, 1992	July 15, 1993
Spouses and children of LPRs	July 1, 2004	July 1, 2004	July 1, 2004	October 15, 2001	July 1, 2004
Unmarried sons and daughters of LPRs	June 22, 2000	June 22, 2000	June 22, 2000	May 1, 1992	Dec. 1, 1997
Married sons and daughters of citizens	August 8, 2000	August 8, 2000	August 8, 2000	October 15, 1992	June 8, 1991
Siblings of citizens age 21 and over	March 1, 1998	Nov. 15, 1997	March 1, 1998	April 8, 1995	May 15, 1986

Source: U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin* for March 2009.

Family-Based Visa Priority Dates

As **Table 4** evidences, relatives of U.S. citizens and LPRs are waiting in backlogs for a visa to become available, with the brothers and sisters of U.S. citizens now waiting about 11 years. “Priority date” means that unmarried adult sons and daughters of U.S. citizens who filed petitions

on July 22, 2002, are now being processed for visas. Married adult sons and daughters of U.S. citizens who filed petitions eight years ago (August 8, 2000) are now being processed for visas. Prospective family-sponsored immigrants from the Philippines have the most substantial waiting times before a visa is scheduled to become available to them; consular officers are now considering the petitions of the brothers and sisters of U.S. citizens from the Philippines who filed more than 22 years ago.

Employment-Based Visa Retrogression

After P.L. 106-313's easing of the employment-based per-country limits, few countries and categories were oversubscribed in the employment-based preferences. For the past several years, however, "accounting problems" have arisen between USCIS's processing of LPR adjustments of status with the United States and Consular Affairs' processing of LPR visas abroad. As most (89% in 2005) of employment-based LPRs are adjusting from within the United States, Consular Affairs is dependent on USCIS for current processing data on which to base the employment-based visa priority dates. The *Visa Bulletin for September 2005* offered this explanation: "The backlog reduction efforts of both Citizenship and Immigration Services, and the Department of Labor continue to result in very heavy demand for Employment-based numbers. It is anticipated that the amount of such cases will be sufficient to use all available numbers in many categories ... demand in the Employment categories is expected to be far in excess of the annual limits, and once established, cut-off date movements are likely to be slow."¹⁷ The visa waiting times eased somewhat in FY2006 and in early FY2007.

"Visa retrogression" occurred most dramatically in July 2007. The *Visa Bulletin for July 2007* listed the visa priority dates as current for the employment-based preferences (except for the unskilled other worker category).¹⁸ On July 2, 2007, however, the State Department issued an *Update to July Visa Availability* that retrogressed the dates to the point of being "unavailable." The State Department offered the following explanation: "The sudden backlog reduction efforts by Citizenship and Immigration Services Offices during the past month have resulted in the use of almost 60,000 Employment numbers.... Effective Monday July 2, 2007 there will be no further authorizations in response to requests for Employment-based preference cases."¹⁹ The employment-based visa categories remained unavailable until the FY2008 numerical ceilings opened.

Now, priority workers (i.e., extraordinary ability) and advanced degree categories are current. Visas for professional, skilled, and unskilled workers are available for petitions filed from 2001 through 2005, depending on the category and country, as **Table 5** presents.

¹⁷ U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin*, is available at http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html.

¹⁸ U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin*, No. 107, is available at http://travel.state.gov/visa/frvi/bulletin/bulletin_3258.html.

¹⁹ U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin*, No. 108, is available at http://travel.state.gov/visa/frvi/bulletin/bulletin_3266.html.

Table 5. Priority Dates for Employment Preference Visas

Category	Worldwide	China	India	Mexico	Philippines
Priority workers	current	current	current	current	current
Advanced degrees/ exceptional ability	current	Feb. 15, 2005	Feb. 15, 2004	current	current
Skilled and professional	May 1, 2005	Oct. 22, 2002	Oct. 15, 2001	August 15, 2003	May 1, 2005
Unskilled	March 15, 2003	Oct. 22, 2002	Oct. 15, 2001	March 15, 2003	March 15, 2003
Schedule A ^a	Nov. 1, 2002	Nov. 15, 2001	May 8, 2001	Apr. 22, 2001	Nov. 1, 2002
Special immigrants	current	current	current	current	current
Investors	current	current	current	current	current

Source: U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin* for March 2009.

- a. Schedule A refers to §502 of Division B, Title V of P.L. 109-13, which makes up to 50,000 permanent employment-based visas available for foreign nationals coming to work as nurses.

Petition Processing Backlogs

Distinct from the visa priority dates that result from the various numerical limits in the law, there are significant backlogs due to the sheer volume of aliens eligible to immigrate to the United States. Over 3 million immigration and naturalization petitions were filed with the USCIS during the three-month period of June, July, and August 2007. The USCIS acknowledged the agency was overwhelmed by the volume of petitions and were unable to record the receipt of all of these petitions upon arrival. In October 2007, the agency secured many of the I-130 petitions for alien relatives in a “lockbox” and indicated that they hoped to record all of those “lockbox” petitions by the end of February 2008.²⁰

The latest spike in immigrant petitions has occurred amidst controversies over processing backlogs dating back to the establishment of USCIS in March 2003. Processing backlogs also inadvertently reduced the number of LPRs in FY2003. Only 705,827 people became LPRs in FY2003. USCIS was only able to process 161,579 of the potential 226,000 family-sponsored LPRs in FY2003, and thus 64,421 LPR visas rolled over to the FY2004 employment-based categories.²¹ In December 2003, USCIS reported 5.3 million immigrant petitions pending.²² USCIS decreased the number of immigrant petitions pending by 24% by the end of FY2004, but still had 4.1 million petitions pending. As FY2005 drew to a close there were over 3.1 million immigration petitions pending.²³ USCIS has altered its definition of what constitutes a backlog,

²⁰ U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on Naturalization Delays: Causes, Consequences and Solutions*, January 17, 2008.

²¹ Telephone conversation with DOS Bureau of Consular Affairs, February 13, 2004.

²² According to USCIS, other immigration-related petitions, such as applications for work authorizations or change of nonimmigrant status, filed bring the total cases pending to over 6 million. Telephone conversation with USCIS Congressional Affairs, February 12, 2004.

²³ DHS Office of Immigration Statistics. For USCIS workload statistics, see <http://www.dhs.gov/ximgt/statistics/publications/index.shtm#6>. The FY2006 data are not available.

and as a result, comparable data on the current backlogs are not available.²⁴ The latest processing dates for immediate relative, family preference, and employment-based LPR petitions are presented in **Appendix B** for each of the four USCIS Regional Service Centers, but may regress as the surge in petitions from 2007 are recorded as “received.”

Even though there are no numerical limits on the admission of aliens who are immediate relatives of U.S. citizens, such citizens petitioning for their relatives are waiting at least a year and in some parts of the country, more than two years for the paperwork to be processed. Citizens and LPRs petitioning for relatives under the family preferences are often waiting several years for the petitions to be processed. **Appendix B** is illustrative, but not comprehensive because some immigration petitions may be filed at USCIS District offices and at the National Benefits Center.

Aliens with LPR petitions pending cannot visit the United States. Since the INA presumes that all aliens seeking admission to the United States are coming to live permanently, nonimmigrants must demonstrate that they are coming for a temporary period or they will be denied a visa. Aliens with LPR petitions pending are clearly intending to live in the United States permanently and thus are denied nonimmigrant visas to come temporarily.²⁵

Legislative Issues in the 111th Congress

As has often been said, there is a broad-based consensus that the U.S. immigration system is broken. This consensus erodes, however, as soon as the options to reform the U.S. immigration system are debated. Substantial efforts to reform legal immigration have failed in the recent past, prompting some to characterize the issue as a “zero-sum game” or a “third rail.” The challenge inherent in reforming legal immigration is balancing employers’ hopes to increase the supply of legally present foreign workers, families’ longing to re-unite and live together, and a widely shared wish among the various stakeholders to improve the policies governing legal immigration into the country. Whether the Congress will act to alter immigration policies—either in the form of comprehensive immigration reform or in the form of incremental revisions aimed at strategic changes—is at the crux of the debate. Addressing these contentious policy reforms against the backdrop of economic crisis sharpens the social and business cleavages and may narrow the range of options.

Effects of the Current Recession on Legal Immigration

That the economy is in a recession further complicates efforts to reform immigration law. Historically, international migration ebbs during economic crises (e.g., immigration to the United States was at its lowest levels during the Great Depression). While preliminary statistical trends suggest a slowing of migration pressures, it remains unclear how the current economic recession will effect immigration to the United States.²⁶

²⁴ For a full analysis of this issue, see Citizenship and Immigration Services Ombudsman, *2007 Annual Report to Congress*, June 11, 2007, available online at http://www.dhs.gov/xabout/structure/gc_1188255274471.shtm.

²⁵ §214(b) of INA. Only the H-1 workers, L intracompany transfers, and V family members are exempted from the requirement that they prove that they are not coming to live permanently.

²⁶ “While immigrants on average share the demographic characteristics of the workers who are most vulnerable during recessions (including relative youth, lower levels of education and recent entry into the labor force), they also may be (continued...)”

Even as U.S. unemployment levels rise, employers assert that they continue to need the “best and the brightest” workers, regardless of their country of birth, to remain competitive in a worldwide market and to keep their firms in the United States. While support for the option of increasing employment based immigration may be dampened by the economic recession, proponents argue it is an essential ingredient for economic growth.

Those opposing increases in employment-based LPRs in particular assert that there is no compelling evidence of labor shortages and cite the growing rate of unemployment.²⁷ They argue that recruiting foreign workers during an economic recession would have a deleterious effect on salaries, compensation, and working conditions of U.S. workers.²⁸ Some would limit employment-based LPRs to the top two preference categories of priority workers and those who are deemed exceptional, extraordinary or outstanding individuals.

Family-Based Issues of Debate

Proponents of family-based migration alternatively point to the significant backlogs in family based immigration due to the sheer volume of aliens eligible to immigrate to the United States and maintain that any proposal to reform immigration levels should also include the option of family-based backlog reduction. Citizens and LPRs often wait years for their relatives’ petitions to be processed and visa numbers to become available.

Against these competing priorities for increased immigration are those who would shift the family-based allocations toward the first and second preferences by eliminating categories for the brothers and sisters of U.S. citizens and the adult children of U.S. citizens. Other options would scale back family-based immigration levels, including the option of limiting family-based LPRs to the immediate relatives of U.S. citizens.

Preference System versus Point System²⁹

Replacing or supplementing the current preference system (discussed earlier in this report) with a point system is garnering considerable interest for the first time in over a decade. Briefly, point systems such as those of Australia, Canada, Great Britain, and New Zealand assign prospective immigrants with credits if they have specified attributes, most often based upon educational attainment, shortage occupations, extent of work experience, language proficiency, and desirable age range.

(...continued)

able to adjust more quickly than native-born workers to fluctuating labor market conditions because they are more amenable to moving and changing job sectors.” Demetrios Papademetriou and Aaron Terrazas, *Immigrants and the Current Economic Crisis*, Migration Policy Institute, January 2009.

²⁷ For further discussion, see CRS Report R40080, *Job Loss and Infrastructure Job Creation During the Recession*, by Linda Levine.

²⁸ For further discussion, see CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem; and CRS Report 95-408, *Immigration: The Effects on Low-Skilled and High-Skilled Native-Born Workers*, by Linda Levine.

²⁹ A point system approach is also being offered for the adjustment of status of unauthorized aliens in the United States. For example, see the Immigrant Accountability Act of 2007 (S. 1225).

Proponents of point systems maintain that such merit-based approaches are clearly defined and based upon the nation's economic needs and labor market objectives. A point system, supporters argue, would be more acceptable to the public because the government (rather than employers or families) would be selecting new immigrants and this selection would be based upon national economic priorities. Opponents of point systems state that the judgement of individual employers are the best indicator of labor market needs and an immigrant's success.

Opponents warn that the number of people who wish to immigrate to the United States would overwhelm a point system comparable to Australia, Canada, Great Britain, and New Zealand. In turn, this predicted high volume of prospective immigrants, some say, would likely lead to selection criteria so rigorous that it would be indistinguishable from what is now the first preference category of employment-based admissions (persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers) and ultimately would not result in meaningful reform.

Interaction with Legalization Options

Whether the LPR adjustments of guest workers and other temporary foreign workers are channeled through the numerically limited, employment-based preferences or are exempt from numerical limits will affect the future flow of LPRs. Whether the legislation also contains the controversial provisions that would permit aliens currently residing in the United States without legal status to adjust to LPR status, to acquire "earned legalization," or to obtain a guest worker visa also has affects on future legal permanent admissions.³⁰ Although guest workers and other temporary foreign workers options, as well as legalization proposals, are not topics of this report, the issues have become inextricably linked to the debate on legal permanent admissions. Two concerns at the crux of this issue are (1) whether a large-scale legalization program would disadvantage persons currently waiting in the backlogs for LPR visas and (2) whether such a legalization would prompt an increase in LPR petitions from family members of the legalized. For an analysis of this interaction in the recent comprehensive immigration reform efforts, see **Appendix D**.

Oversight and Backlog Issues

Many in Congress have expressed concern and frustration about the backlogs and pending caseload, and Congress has already enacted statutory requirements for backlog elimination.³¹ Former USCIS Director Eduardo Aguirre acknowledged the challenges his agency faces in testimony before the House Judiciary Subcommittee on Immigration, Border Security and Claims in 2004.

We fully realize that the increased funding requested in the budget alone will not enable us to realize our goals. We must fundamentally change the way we conduct our business. We are aggressively working to modernize our systems and increase our capacity through the

³⁰ An estimated 60% of the 11 to 12 million unauthorized aliens residing in the United States have been here for at least five years, according to calculations based upon analysis by demographer Jeffrey Passel. "The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey," by Jeffrey S. Passel, Senior Research Associate, Pew Hispanic Center, available at <http://pewhispanic.org/files/reports/61.pdf>.

³¹ For example, see §§ 451-461 of the Homeland Security Act of 2002 (P.L. 107-296).

reengineering of processes, the development and implementation of new information technology systems, and the development of mechanisms to interact with customers in a more forward-reaching manner.³²

Pending caseloads and processing backlogs continue to plague USCIS. The U.S. Government Accountability Office (GAO) concluded in 2005 that it was unlikely that USCIS would completely eliminate the backlog of pending adjudications by the 2006 deadline.³³ Despite progress in cutting the backlog of pending cases from 3.8 million in January 2004 to 1.2 million in June 2005, GAO speculated that USCIS may have difficulty eliminating its backlog for the more complex application types that constitute nearly three-quarters of the backlog.³⁴

The agency's redefinition of what constitutes a backlog has emerged as an issue. The June 2006 report of the USCIS Ombudsman stated "... in July 2004, USCIS reported 1.5 million backlogged cases, which was an apparent reduction from the 3.5 million backlogged cases in March 2003. However, the agency also reclassified 1.1 million of the 2 million cases eliminated..." The Ombudsman went on to disclose that USCIS had again redefined the backlog in April 2006: "After the redefinition, the backlog supposedly declined from 1.08 million cases to 914,864 cases at the end of FY 05. Yet, individuals whose cases were factored out of the backlog still awaited adjudication of their applications and petitions."³⁵ This reclassification of pending cases arose at a recent oversight hearing of the House Committee on the Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.³⁶

The DHS Inspector General found problems in the background checks for which USCIS is now responsible. Among other findings, the report concluded that USCIS' security checks are overly reliant on the integrity of names and documents that applicants submit and that "USCIS has not developed a measurable, risk-based plan to define how USCIS will improve the scope of security checks." It further stated that "USCIS' management controls are not comprehensive enough to provide assurance that background checks are correctly completed."³⁷ GAO expanded on the concerns of the DHS Inspector General detailed in their report on USCIS.³⁸ The USCIS Ombudsman further concluded "FBI name checks, one of the security screening tools used by

³² U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Border Security and Claims, *Hearing on Backlog Reduction Plan for Immigration Applications*, June 17, 2004.

³³ The Immigration Services and Infrastructure Improvements Act of 2000 (§ 205(a) of P.L. 106-313, 8 U.S.C. § 1574(a)) defines backlog as the period of time in excess of 180 days that an immigration benefit application has been pending before the agency. USCIS defines backlog as the number of pending applications (i.e., the number of applications awaiting adjudication) in excess of the number of applications received in the most recent six months.

³⁴ U.S. Government Accountability Office, *Immigration Benefits: Improvements Needed to Address Backlogs and Ensure Quality of Adjudications*, GAO-06-20, November 2005.

³⁵ U.S. Citizenship and Immigration Services Ombudsman, *2006 Annual Report to Congress*, June 2006; and *2007 Annual Report to Congress*, June 11, 2007, available at http://www.dhs.gov/xabout/structure/gc_1188255274471.shtm.

³⁶ U.S. House Committee on the Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on Proposal to Adjust the Immigration Benefit Application and Petition Fee Schedule*, February 14, 2007.

³⁷ U.S. Department of Homeland Security, Office of Inspector General, *A Review of U.S. Citizenship and Immigration Services' Alien Security Checks*, OIG 06-06, November 2005, p. 2.

³⁸ U.S. Government Accountability Office, *Immigration Benefits: Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud*, GAO-06-259, March 2006, p. 5.

USCIS, significantly delay adjudication of immigration benefits for many customers, hinder backlog reductions efforts, and may not achieve their intended national security objectives.”³⁹

³⁹ U.S. Citizenship and Immigration Services Ombudsman, *2006 Annual Report to Congress*, June 2006. Available at http://www.dhs.gov/xabout/structure/editorial_0890.shtm.

Appendix A. Top 50 Sending Countries in FY2007, by Category of LPR

Region and Country of Birth	Total	Family-Sponsored Preferences	Employment-Based Preferences	Immediate Relatives of U.S. Citizens	Diversity	Refugees and Asylees	Cancellation of Removal and Other
Mexico	148,640	45,422	11,900	87,466	10	396	3,446
China, People's Republic	76,655	15,261	13,886	27,115	22	20,352	19
Philippines	72,596	13,535	17,182	41,416	4	372	87
India	65,353	15,551	28,703	18,205	57	2,680	157
Colombia	33,187	3,177	2,641	17,174	11	10,091	93
Haiti	30,405	8,028	102	13,569	-	6,261	2,445
Cuba	29,104	1,794	14	2,737	229	24,261	69
Vietnam	28,691	12,430	D	13,974	D	1,768	317
Dominican Republic	28,024	13,250	308	14,360	D	D	44
Korea	22,405	2,222	11,308	8,848	D	D	15
El Salvador	21,127	6,145	1,276	6,240	-	493	6,973
Jamaica	19,375	4,988	732	13,602	D	D	41
Guatemala	17,908	2,641	801	8,972	7	1,061	4,426
Peru	17,699	2,676	1,688	10,841	1,482	919	93
Canada	15,495	602	6,674	7,891	56	42	230
United Kingdom	14,545	647	5,821	7,913	96	22	46
Brazil	14,295	372	4,142	9,255	255	220	51
Pakistan	13,492	3,209	3,257	5,868	3	1,087	68
Ethiopia	12,786	442	120	4,940	3,419	3,851	14
Nigeria	12,448	963	916	7,462	2,726	345	36
Ecuador	12,248	2,657	2,429	6,848	107	128	79
Bangladesh	12,074	3,015	1,165	4,108	3,254	475	57
Ukraine	11,001	197	753	4,101	2,798	2,322	830
Venezuela	10,692	618	2,352	5,469	167	2,056	30
Iran	10,460	2,260	720	4,257	639	2,570	14
Poland	10,355	2,345	2,095	5,545	280	34	56
Russia	9,426	135	1,466	4,502	182	3,065	76
Egypt	9,267	778	731	2,648	3,826	1,245	39
Taiwan	8,990	3,052	2,598	3,065	258	8	9

Region and Country of Birth	Total	Family-Sponsored Preferences	Employment-Based Preferences	Immediate Relatives of U.S. Citizens	Diversity	Refugees and Asylees	Cancellation of Removal and Other
Thailand	8,751	356	639	4,066	38	3,631	21
Honduras	7,646	2,303	599	4,308	11	219	206
Ghana	7,610	771	365	5,227	1,135	93	19
Germany	7,582	218	2,288	4,370	580	99	27
Kenya	7,030	212	501	2,330	1,787	2,187	13
Trinidad and Tobago	6,829	1,477	590	4,659	57	17	29
Japan	6,748	137	2,285	4,088	201	15	22
Somalia	6,251	27	14	467	21	5,721	1
Romania	5,802	296	1,234	3,115	962	175	20
Albania	5,737	150	78	2,078	1,174	2,255	2
Guyana	5,726	2,868	241	2,577	5	32	3
Argentina	5,645	222	1,837	3,208	54	305	19
Soviet Union (former)	5,090	65	134	4,151	17	476	247
Uzbekistan	4,665	39	112	688	964	2,792	70
Morocco	4,513	229	212	2,160	1,869	35	8
Israel	4,496	188	1,256	2,885	100	50	17
Turkey	4,425	248	1,383	1,907	724	153	10
Armenia	4,351	113	153	820	593	2,637	35
Lebanon	4,267	929	642	2,492	43	154	7
Cambodia	4,246	471	53	3,324	56	281	61
Liberia	4,102	288	47	1,259	550	1,949	9
Totals	910,255	180,019	140,443	428,570	30,829	109,400	20,706

Source: CRS analysis of data from the U.S. Department of Homeland Security, *FY2006 Statistical Yearbook of Immigration, 2006*.

Notes: “D” means that data disclosure standards are not met; “—” represents zero. Table prepared by LaVonne Mangan, CRS Knowledge Services Group.

Appendix B. Processing Dates for Immigrant Petitions

Immigrant Category	Regional Service Centers			
	California	Nebraska	Texas	Vermont
Immediate relatives	6 Months	N/A	N/A	6 Months
Unmarried sons and daughters of citizens	July 8, 2003	N/A	N/A	July 2, 2006
Spouses and children of LPRs	June 1, 2005	N/A	N/A	Jan. 18, 2006
Unmarried sons and daughters of LPRs	May 8, 2001	N/A	N/A	June 4, 2006
Married sons and daughters of citizens	August 1, 2001	N/A	N/A	June 4, 2006
Siblings of citizens age 21 and over	Feb. 15, 1999	N/A	N/A	Feb. 25, 2001
Priority workers—extraordinary	N/A	March 1, 2008	March 10, 2008	N/A
Priority workers—outstanding	N/A	March 1, 2008	March 10, 2008	N/A
Priority workers—executives	N/A	July 1, 2008	March 10, 2008	N/A
Persons with advanced degrees or exceptional abilities	N/A	June 1, 2008	March 10, 2008	N/A
Skilled workers (at least two years experience) or professionals (B.A.)	N/A	August 27, 2007	March 10, 2008	N/A
Unskilled shortage workers	N/A	4 Months	March 10, 2008	N/A

Source: CRS presentation of USCIS information dated February 25, 2009; available at <https://egov.uscis.gov/cris/processTimesDisplay.do>

Appendix C. FY2001-FY2007 Immigrants, by Preference Category

Type and Class of Admission		FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007
Immediate relatives of U.S. citizens		439,972	483,676	331,286	417,815	436,115	580,348	494,920
	Spouses	268,294	293,219	183,796	252,193	259,144	339,843	274,358
	Children	91,275	96,941	77,948	88,088	94,858	120,064	103,828
	Parents	80,403	93,516	69,542	77,534	82,113	120,441	116,734
	Percent of total	41.5%	45.7%	47.1%	43.6%	38.9%	45.8%	47.0%
Family-sponsored preferences		231,699	186,880	158,796	214,355	212,970	222,229	194,900
First	Unmarried sons/daughters of U.S. citizens and their children	27,003	23,517	21,471	26,380	24,729	25,432	22,858
Second	Spouses, children, and unmarried sons/daughters of alien residents	112,015	84,785	53,195	93,609	100,139	112,051	86,151
Third	Married sons/daughters of U.S. citizens and their spouses and children	24,830	21,041	27,287	28,695	22,953	21,491	20,611
Fourth	Brothers/sisters of U.S. citizens (at least 21 years of age) and their spouses and children	67,851	57,537	56,843	65,671	65,149	63,255	65,280
	Percent of total	21.9%	17.6%	22.6%	22.4%	19.0%	17.6%	18.5%
Employment-based preferences		178,702	173,814	81,727	155,330	246,877	159,081	162,176
First	Priority workers and their spouses and children	41,672	34,168	14,453	31,291	64,731	36,960	26,697
Second	Professionals with advanced degrees or aliens of exceptional ability and their spouses and children	42,550	44,316	15,406	32,534	42,597	21,911	44,162
Third	Skilled workers, professionals, and unskilled workers and their spouses and children	85,847	88,002	46,415	85,969	129,070	89,922	85,030
Fourth	Special immigrants and their spouses and children	8,442	7,186	5,389	5,407	10,133	9,539	5,481
Fifth	Employment creation (investors and their spouses and children)	191	142	64	129	346	749	806

Type and Class of Admission	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007
Percent of total	16.9%	16.4%	11.6%	16.2%	22.0%	12.6%	15.4%
Diversity	41,989	42,820	46,335	50,084	46,234	44,471	42,127
Refugees	96,870	115,601	34,362	61,013	112,676	99,609	54,942
Percent of total	22.0%	23.9%	10.4%	14.6%	25.8%	17.2%	11.1%
Asylees	11,111	10,197	10,402	10,217	30,286	116,845	81,183
Percent of total	2.5%	2.1%	3.1%	2.4%	6.9%	20.1%	16.4%
Parolees	5,349	6,018	4,196	7,121	7,715	4,569	1,999
Children born abroad to alien residents	899	783	743	707	571	623	597
Nicaraguan Adjustment and Central American Relief Act (NACARA)	18,663	9,307	2,498	2,292	1,155	661	340
Cancellation of removal	22,188	23,642	28,990	32,702	20,785	29,516	14,927
Haitian Refugee Immigration Fairness Act (HRIFA)	10,064	5,345	1,406	2,451	2,820	3,375	2,448
Other	1,396	1,273	2,801	3,796	4,053	4,802	1,856
Total	1,058,902	1,059,356	703,542	957,883	1,122,257	1,266,129	1,052,415

Source: CRS presentation of data from U.S. Department of Homeland Security, FY2007 Statistical Yearbook of Immigration, September 2008, Table 6.

Source: CRS analysis of data from the U.S. Department of Homeland Security, *FY2006 Statistical Yearbook of Immigration*, 2007.

Appendix D. Recent Legislative History

Issues in the 108th Congress

Legislation reforming permanent immigration came from a variety of divergent perspectives in the 108th Congress. The sheer complexity of the current set of provisions makes revising the law on permanent immigration a daunting task. This discussion focuses only on those bills that would have revised the permanent immigration categories and the numerical limits as defined in §201-§203 of the INA.⁴⁰

On January 21, 2004, Senators Chuck Hagel and Thomas Daschle introduced legislation (S. 2010) that would, if enacted, potentially yield significant increases in legal permanent admissions. The Immigration Reform Act of 2004 (S. 2010), would have among other provisions: no longer deduct immediate relatives from the overall family-sponsored numerical limits; treat spouses and minor children of LPRs the same as immediate relatives of U.S. citizens (exempt from numerical limits); and reallocate the 226,000 family preference numbers to the remaining family preference categories. In addition, many aliens who would have benefited from S. 2010's proposed temporary worker provisions would be able to adjust to LPR status outside the numerical limits of the per country ceiling and the worldwide levels.

Several bills that would offer more targeted revisions to permanent immigration were offered in the House. Representative Robert Andrews introduced H.R. 539, which would have exempted spouses of LPRs from the family preference limits and thus treated them similar to immediate relatives of U.S. citizens. Representative Richard Gephardt likewise included a provision that would have treated spouses of LPRs outside of the numerical limits in his "Earned Legalization and Family Unity Act" (H.R. 3271). Representative Jerrold Nadler introduced legislation (H.R. 832) that would have amended the INA to add "permanent partners" after "spouses" and thus would have enabled aliens defined as permanent partners to become LPRs through the family-based immigration categories as well as to become derivative relatives of qualifying immigrants.

Legislation that would have reduced legal permanent immigration was introduced early in the 108th Congress by Representative Thomas Tancredo. The "Mass Immigration Reduction Act" (H.R. 946) would have zeroed out family sponsored immigrants (except children and spouses of U.S. citizens), employment-based immigrants (except certain priority workers) and diversity lottery immigrants through FY2008. It also would have set a numerical limit of 25,000 on refugee admissions and asylum adjustments. Representative J. Gresham Barrett introduced an extensive revision of immigration law (H.R. 3522) that also included a significant scaling back of permanent immigration.

⁴⁰ For discussion of other major immigration legislation, see CRS Report RL32169, *Immigration Legislation and Issues in the 108th Congress*, by Andorra Bruno et al. Other CRS reports on the reform of other immigration provisions are available at http://apps.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=676&from=3&fromId=20.

Legislation Passed in the 109th Congress

Recaptured Visa Numbers for Nurses

Section 502 of Division B, Title V of P.L. 109-13 (H.R. 1268, the emergency FY2005 supplemental appropriation) amended the American Competitiveness in the Twenty-first Century Act of 2000 (P.L. 106-313) to modify the formula for recapturing unused employment-based immigrant visas for employment-based immigrants “whose immigrant worker petitions were approved based on schedule A.” In other words, it makes up to 50,000 permanent employment-based visas available for foreign nationals coming to work as nurses. This provision was added to H.R. 1268 as an amendment in the Senate and was accepted by the conferees.

Recaptured Employment-Based Visa Numbers

On October 20, 2005, the Senate Committee on the Judiciary approved compromise language that, among other things, would have recaptured up to 90,000 employment-based visas that had not been issued in prior years (when the statutory ceiling of 140,000 visas was not met). An additional fee of \$500 would have been charged to obtain these recaptured visas. This language was forwarded to the Senate Budget Committee for inclusion in the budget reconciliation legislation. On November 18, 2005, the Senate passed S. 1932, the Deficit Reduction Omnibus Reconciliation Act of 2005, with these provisions as Title VIII. These provisions, however, were not included in the House-passed Deficit Reduction Act of 2005 (H.R. 4241).

The conference report (H.Rept. 109-362) on the Deficit Reduction Act of 2005 (S. 1932) was reported during the legislative day of December 18, 2005. It did not include the Senate provisions that would have recaptured employment-based visas unused in prior years. On December 19, the House agreed to the conference report by a vote of 212-206. On December 21, the Senate removed extraneous matter from the legislation pursuant to a point of order raised under the “Byrd rule” and then, by a vote of 51-50 (with Vice President Cheney breaking a tie vote), returned the amended measure to the House for further action.

Major Issues in the 109th Congress

President Bush’s Immigration Reform Proposal

When President George W. Bush announced his principles for immigration reform in January 2004, he included an increase in permanent legal immigration as a key component. The fact sheet that accompanied his remarks referred to a “reasonable increase in the annual limit of legal immigrants.”⁴¹ When President Bush spoke, he characterized his policy recommendation as follows:

The citizenship line, however, is too long, and our current limits on legal immigration are too low. My administration will work with the Congress to increase the annual number of green cards that can lead to citizenship. Those willing to take the difficult path of citizenship—the

⁴¹ The White House, *Fact Sheet: Fair and Secure Immigration Reform*, January 7, 2004, available at <http://www.whitehouse.gov/news/releases/2004/01/20040107-1.html>.

path of work, and patience, and assimilation—should be welcome in America, like generations of immigrants before them.⁴²

Some commentators speculated that the President was promoting increases in the employment-based categories of permanent immigration, but the Bush Administration did not provide specific information on what categories of legal permanent admissions it advocated should be increased.

The President featured his immigration reform proposal in the 2004 State of the Union address, and a lively debate has ensued. Most of the attention has focused on the new temporary worker component of his proposal and whether the overall proposal constitutes an “amnesty” for aliens living in the United States without legal authorization.

President Bush continued to state that immigration reform was a top priority. In an interview with the *Washington Times*, the President responded to a question about where immigration reform ranks in his second term agenda by saying, “I think it’s high. I think it’s a big issue.” The President posited that the situation was a “bureaucratic nightmare” that must be solved.⁴³

Securing America’s Borders Act (S. 2454)/Chairman’s Mark

Title IV of S. 2454, the Securing America’s Borders Act, which Senate Majority Leader Bill Frist introduced on March 16, 2006, as well as Title V in the draft of Senate Judiciary Chairman Arlen Specter’s mark circulated March 6, 2006 (Chairman’s mark) would have substantially increased legal immigration and would have restructured the allocation of these visas. The particular provisions in S. 2454 and the Chairman’s mark were essentially equivalent.

Foremost, Title IV of S. 2454 and Title V of the Chairman’s mark would have no longer deducted immediate relatives of U.S. citizens from the overall family-sponsored numerical limit of 480,000. This change would have likely added at least 226,000 more family-based admissions annually (based upon the current floor of 226,000 family-sponsored visas). The bills would have increased the annual number of employment-based LPRs from 140,000 to 290,000. They also would have no longer counted the derivative family members of employment-based LPRs as part of the numerical ceiling. If each employment-based LPR would be accompanied by 1.2 family members (as is currently the ratio), then an estimated 348,000 additional LPRs might have been admitted. The bills would have “recaptured” visa numbers from FY2001 through FY2005 in those cases when the family-based and employment-based ceilings were not reached.

Title IV of S. 2454 and Title V of the Chairman’s mark would have raised the current per-country limit on LPR visas from an allocation of 7% of the total preference allocation to 10% of the total preference allocation (which would have been 480,000 for family-based and 290,000 for employment-based under this bill). Coupled with the proposed increases in the worldwide ceilings, these provisions would have eased the visa wait times that oversubscribed countries (i.e., China, India, Mexico, and the Philippines) currently have by substantially increasing their share of the overall ceiling.

⁴² President George W. Bush, “Remarks by the President on Immigration Policy,” January 7, 2004, available at <http://www.whitehouse.gov/news/releases/2004/01/20040107-3.html>.

⁴³ *Washington Times*, January 12, 2005.

Title IV of S. 2454 and Title V of the Chairman’s mark would have further reallocated family-sponsored immigrants and employment-based visas. The numerical limits on immediate relatives of LPRs would have increased from 114,200 (plus visas not used by first preference) to 240,000 annually. They would have shifted the allocation of visas from persons of “extraordinary” and “exceptional” abilities and persons having advanced professional degrees (i.e., first and second preferences), and increased the number of visas to unskilled workers 10,000 to 87,000—plus any unused visas that would roll down from the other employment-based preference categories. Employment-based visas for certain special immigrants would have no longer been numerically limited.⁴⁴

Comprehensive Immigration Reform (S. 2611)

As the Senate was locked in debate on S. 2454 and the Judiciary Chairman’s mark during the two-week period of March 28–April 7, 2006, an alternative was offered by Senators Chuck Hagel and Mel Martinez. Chairman Specter, along with Senators Hagel, Martinez, Graham, Brownback, Kennedy, and McCain introduced this compromise as S. 2611 on April 7, 2006, just prior to the recess. The identical language was introduced by Senator Hagel (S. 2612). Much like S. 2454 and S.Amdt. 3192, S. 2611 would have substantially increased legal permanent immigration and would have restructured the allocation of the family-sponsored and employment-based visas. After several days of debate and a series of amendments, the Senate passed S. 2611 as amended by a vote of 62-36 on May 25, 2006.

In its handling of family-based legal immigration, Title V of S. 2611 mirrored Title IV of S. 2454 and Title V of the Chairman’s mark. It would have no longer deducted immediate relatives of U.S. citizens from the overall family-sponsored numerical limit of 480,000. This change would have likely added at least 226,000 more family-based admissions annually (based upon the current floor of 226,000 family-sponsored visas). The numerical limits on immediate relatives of LPRs would have increased from 114,200 (plus visas not used by first preference) to 240,000 annually.

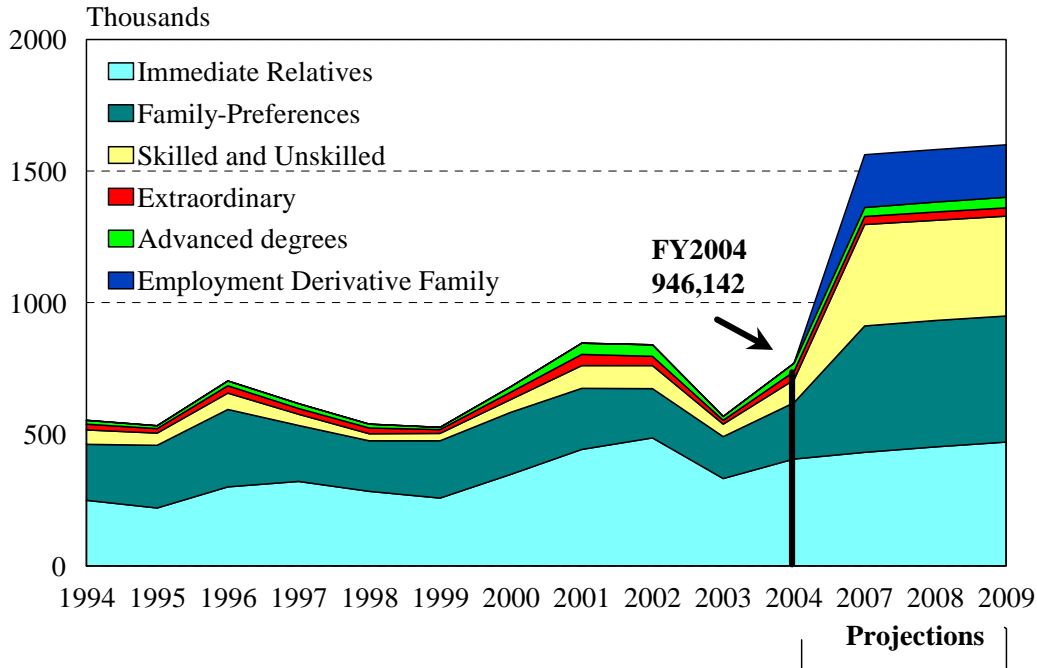
Assuming that the trend in the number of immediate relatives of U.S. citizens continued at the same upward rate, the projected number of immediate relatives would have been approximately 470,000 in 2008. Assuming that the demand for the numerically limited family preferences continued at the same level, the full 480,000 would have been allocated. If these assumptions held, the United States would have likely admitted or adjusted an estimated 950,000 family-sponsored LPRs by 2009, as **Figure D-1** projects.⁴⁵

⁴⁴ For analysis of immigration trends and projections under S. 2454, see CRS Congressional Distribution Memorandum, “Legal Immigration: Modeling the Principle Components of Permanent Admissions,” by Ruth Ellen Wasem, March 28, 2006.

⁴⁵ 20 CFR §656.

Figure D-1. Projected Flow of LPRs under S. 2611, FY2007-FY2009

Assuming "Demand" for Visas and Immediate Relatives Continue at Current Rates and Excluding Estimates of Temporary Worker Adjustments and Other LPRs Exempt from Preference Allocations



Source: CRS analysis of data from the DHS Office of Immigration Statistics and the former INS.

Note: Future Employment-based 4th preference special immigrants and 5th preference in have too many unknown factors to estimate.

In terms of employment-based immigration, S. 2611 would have increased the annual number of employment-based LPRs from 140,000 to 450,000 from FY2007 through FY2016, and set the limit at 290,000 thereafter. S. 2611/S. 2612 also would have no longer counted the derivative family members of employment-based LPRs as part of the numerical ceiling. As in S. 2454, S. 2611 would have reallocated employment-based visas as follows: up to 15% to “priority workers”; up to 15% to professionals holding advanced degrees and certain persons of exceptional ability; up to 35% to skilled shortage workers with two years training or experience and certain professionals; up to 5% to employment creation investors; and up to 30% (135,000) to unskilled shortage workers.

Employment-based visas for certain special immigrants would have no longer been numerically limited. S. 2611 also would have no longer counted the derivative family members of employment-based LPRs as part of the numerical ceiling. If each employment-based LPR would be accompanied by 1.2 family members (as is currently the ratio), then an estimated 540,000 additional LPRs might have been admitted. However, the Senate passed an amendment on the

floor that placed an overall limit of 650,000 on employment-based LPRs and their accompanying family annually FY2007-FY2016, as **Figure D-1** projects.⁴⁶

In addition, special exemptions from numerical limits would have also been made for aliens who have worked in the United States for three years and who have earned an advanced degree in science, technology, engineering, or math. Certain widows and orphan who meet specified risk factors would have also been exempted from numerical limits. The bills would have further increased overall levels of immigration by reclaiming family and employment-based LPR visas when the annual ceilings were not met, FY2001-FY2005. As noted earlier, unused visas from one preference category in one fiscal year roll over to the other preference category the following year.

S. 2611 would have significantly expanded the number of guest worker and other temporary foreign worker visas available each year and would have coupled these increases with eased opportunities for these temporary workers to ultimately adjust to LPR status.⁴⁷ Whether the LPR adjustments of guest workers and other temporary foreign workers were channeled through the numerically limited, employment-based preferences or were exempt from numerical limits (as were the proposed F-4 foreign student fourth preference adjustments) obviously would have affected the projections and the future flows.⁴⁸

S. 2611 included a provision that would have exempted from direct numerical limits those LPRs who are being admitted for employment in occupations that the Secretary of Labor has deemed there are insufficient U.S. workers “able, willing and qualified” to work. Such occupations are commonly referred to as Schedule A because of the subsection of the code where the Secretary’s authority derives. Currently, nurses and physical therapists are listed on Schedule A, as are certain aliens deemed of exceptional ability in the sciences or arts (excluding those in the performing arts).

Title V of S. 2611 would have raised the current per-country limit on LPR visas from an allocation of 7% of the total preference allocation to 10% of the total preference allocation (which would be 480,000 for family-based and 450,000/290,000 for employment-based under this bill).⁴⁹ Coupled with the proposed increases in the worldwide ceilings, these provisions would have eased the visa wait times that oversubscribed countries (i.e., China, India, Mexico, and the Philippines) currently have by substantially increasing their share of the overall ceiling. The bill

⁴⁶ 20 CFR §656.

⁴⁷ For an analysis of guest worker and other temporary foreign worker visas legislation, see CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno; and, CRS Report RL30498, *Immigration: Legislative Issues on Nonimmigrant Specialty (H-1B) Workers*, by Ruth Ellen Wasem.

⁴⁸ In S. 2611/S. 2612, unauthorized aliens who have been residing in the United States prior to April 5, 2001, and meet specified requirements would be eligible to adjust to LPR status outside of the numerical limits of INA. An estimated 60% of the 11 to 12 million unauthorized aliens residing in the United States may be eligible to adjust through this provision, according to calculations based upon analysis by demographer Jeffrey Passel. “The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey,” by Jeffrey S. Passel, Senior Research Associate, Pew Hispanic Center, available at <http://pewhispanic.org/files/reports/61.pdf>.

⁴⁹ The per-country ceiling for dependent states are raised from 2% to 7%.

would have also eliminated the exceptions to the per-country ceilings for certain family-based and employment-based LPRs, which are discussed above.⁵⁰

Secure America and Orderly Immigration Act (S. 1033/H.R. 2330)

On May 12, 2005, a bipartisan group of Senators and Congressmen⁵¹ introduced an expansive immigration bill known as the Secure America and Orderly Immigration Act (S. 1033/H.R. 2330). Among other things, these bills would have made significant revisions to the permanent legal admissions sections of INA.⁵² Specifically Title VI of the legislation would have

- removed immediate relatives of U.S. citizens from the calculation of the 480,000 annual cap on family-based visas for LPR status, thereby providing additional visas to the family preference categories;
- lowered the income requirements for sponsoring a family member for LPR status from 125% of the federal poverty guidelines to 100%;
- recaptured for future allocations those LPR visas that were unused due to processing delays from FY2001 through FY2005;
- increased the annual limit on employment-based LPR visa categories from 140,000 to 290,000 visas; and
- raised the current per-country limit on LPR visas from an allocation of 7% of the total preference allocation to 10% of the total preference allocation (which would be 480,000 for family-based and 290,000 for employment-based under this bill).

Comprehensive Enforcement and Immigration Reform Act of 2005

The Comprehensive Enforcement and Immigration Reform Act of 2005 (S. 1438), introduced by Senators John Cornyn and Jon Kyl on July 20, 2005, had provisions that would have restructured the allocation of employment-based visas for LPRs. Among the various proposals, Title X of this legislation would have made the following specific changes to the INA provisions on permanent admissions:

- reduced the allocation of visas to persons of “extraordinary” and “exceptional” abilities and persons having advanced professional degrees (i.e., first and second preferences);
- increased the number of visas to unskilled workers from a statutory cap of 10,000 annually to a level of 36% of the 140,000 ceiling for employment-based admissions (plus any other unused employment-based visas);

⁵⁰ For analysis of immigration trends and projections under S. 2611/, see CRS Congressional Distribution Memorandum, “Legal Immigration: Modeling the Principle Components of Permanent Admissions, Part 2,” by Ruth Ellen Wasem, May 10, 2006.

⁵¹ In the Senate, the co-sponsors are Senators John McCain, Ted Kennedy, Sam Brownback, Ken Salazar, Lindsey Graham and Joe Lieberman. In the House, the co-sponsors are lead by Representatives Jim Kolbe, Jeff Flake, and Luis Gutierrez.

⁵² For an analysis of other major elements of these bills, see CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno.

- eliminated the category of diversity visas; and
- recaptured for future allocations those employment-based visa numbers that were unused from FY2001 through FY2005.

Immigration Accountability Act of 2005

As part of a package of four immigration reform bills, Senator Chuck Hagel introduced the Immigration Accountability Act of 2005 (S. 1919), which would have provided for “earned adjustment of status” for certain unauthorized aliens who met specified conditions and would have expanded legal immigration. In terms of permanent legal admissions, S. 1919 would have among other provisions:

- no longer deducted immediate relatives from the overall family-sponsored numerical limits of 480,000;
- treated spouses and minor children of LPRs the same as immediate relatives of U.S. citizens (i.e., exempt from numerical limits); and
- reallocated the 226,000 family preference numbers to the remaining family preference categories.

The Hagel immigration reform proposal also included legislation that would have revised the temporary worker programs, border security efforts, and employment verification.

Enforcement First Immigration Reform Act of 2005

Title VI of the Enforcement First Immigration Reform Act of 2005 (H.R. 3938), introduced by Representative J.D. Hayworth, focused on revising permanent admissions. H.R. 3938 would have increased employment-based admissions and decreased family-based admissions. More specifically, it would have

- increased the worldwide ceiling for employment-based admissions by 120,000 to 260,000 annually;
- within the employment-based third preference category, doubled unskilled admission from 10,000 to 20,000;
- eliminated the family-based fourth preference category (i.e., adult sibling of U.S. citizens); and
- eliminated the diversity visa category.

H.R. 3938 also had two provisions aimed at legal immigration from Mexico: §604 would have placed a three-year moratorium on permanent family-preference (not counting immediate relatives of U.S. citizens) and employment-based admissions from Mexico; and §605 would have amended the INA to limit family-based immigration from Mexico to 50,000 annually.

Reducing Immigration to a Genuinely Healthy Total (RIGHT) Act of 2005

On September 8, 2005, Representative Thomas Tancredo introduced the “Reducing Immigration to a Genuinely Healthy Total (RIGHT) Act of 2005” (H.R. 3700), which would have substantially

overhauled permanent admissions to the United States. Among other provisions, H.R. 3700 would have

- reduced the worldwide level of employment-based immigrants from 140,000 to 5,200 annually;
- limited the 5,200 employment-based visas to persons of “extraordinary” and “exceptional” abilities and persons having advanced professional degrees (i.e., first and second preferences);
- eliminated the family preference visa categories; and
- eliminated the category of diversity visas.

Additional Immigration Reduction Legislation

Representative J. Gresham Barrett introduced an extensive revision of immigration law (H.R. 1912) that also included a significant scaling back of permanent immigration. This legislation was comparable to legislation he introduced in the 108th Congress.

Permanent Partners

Representative Jerrold Nadler introduced legislation (H.R. 3006) that would have amended the INA to add “permanent partners” after “spouses” and thus would have enabled aliens defined as permanent partners to become LPRs through the family-based immigration categories as well as to become derivative relatives of qualifying immigrants. This bill was comparable to legislation he introduced previously.

Major Legislation in the 110th Congress

Senate Majority Leader Harry Reid introduced S. 1348, the Comprehensive Immigration Reform Act of 2007, and floor debate on S. 1348 began the week of May 21, 2007. As introduced, S. 1348 was virtually identical to S. 2611, which the Senate passed in the 109th Congress.⁵³ The Senate bipartisan compromise proposal for comprehensive immigration reform, which was backed by the Bush Administration, was announced on May 17, 2007, and formally introduced on May 21, as S.Amdt. 1150. This substitute language differed from S. 1348 (and its predecessor S. 2611) in several key areas of legal immigration. The Senate Majority Leader and Minority Leader Mitch McConnell publicly affirmed their commitment to debate comprehensive immigration reform in June 2007. The Senate continued debate on the legislation as promised, but it did not pass cloture.⁵⁴

⁵³ *CQ Today*, “Senate Immigration Vote Turns Into a Gamble for Reid and His Caucus,” by Michael Sandler, May 10, 2007.

⁵⁴ *CQ Today*, “Senators Seek 60-Vote Test for Most Contentious Immigration Amendments,” by Michael Sandler, May 24, 2007. For earlier accounts, see *CQ Today*, “Senate Immigration Vote Turns Into a Gamble for Reid and His Caucus,” by Michael Sandler, May 10, 2007.

S. 1639, Comprehensive Immigration Reform Act of 2007

Senators Ted Kennedy and Arlen Specter introduced the bipartisan compromise proposal for comprehensive immigration reform on May 21, 2007, as S.Amdt. 1150. Among those publically associated with negotiating the compromise legislation were Homeland Security Secretary Michael Chertoff and USCIS Director Guteirrez. On June 18, 2007, Senators Kennedy and Specter introduced S. 1639, which was similar but not identical to S.Amdt. 1150. Title V of S. 1639 would have substantially revised legal permanent admissions. S. 1639 stalled in the Senate on June 28, 2007, when the key cloture vote failed.

In terms of family-based immigration, S. 1639 would have narrowed the types of family relationships that would make an alien eligible for a visa. Foremost, it would have eliminated the existing family-sponsored preference categories for the adult children and siblings of U.S. citizens (i.e., first, third, and fourth preferences). It would have also eliminated the existing category for the adult children of LPRs. The elimination of these categories would have been effective for cases filed after January 1, 2007. When visas became available for cases pending in the family-sponsored preference categories as of May 1, 2005, the worldwide level for family preferences would have been reduced to 127,000. The worldwide ceiling would have been set at 440,000 annually until these pending cases cleared.

Immediate relatives exempt from numerical limits would have been redefined to include only spouses and minor children of U.S. citizens. The parents of adult U.S. citizens would have no longer been treated as immediate relatives; instead, parents of citizens would have been capped at 40,000 annually. The spouses and minor children of LPRs would have remained capped at a level comparable to current levels—87,000 annually.

In terms of employment-based immigration, the first three preference categories⁵⁵ would have been eliminated and replaced with a point system. This proposed point system would have established a tier for “merit-based” immigrants. The point system for merit-based immigrants would have been based on a total of 100 points divided between four factors: employment, education, English and civics, and family relationships.⁵⁶ The fourth and fifth employment-based preference categories would have remained. (See **Table 1**.)

S. 1639 would also have enabled certain eligible aliens who were unauthorized to adjust to LPR status by means of a point system after they have worked in the United States on a newly proposed Z visa.⁵⁷ These Z-to-LPR adjustments would have been scored on the merit-based point system, plus four additional factors: recent agricultural work experience, U.S. employment experience, home ownership, and medical insurance.

⁵⁵ The employment-based preference categories proposed for elimination are: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers; members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business; and professional workers and skilled and unskilled shortage workers.

⁵⁶ S.Amdt. 1150, §502(b)(1)(A). The point system would include a maximum of 47 points, based upon occupation, employer endorsement, experience at a U.S. firm, age, and national interest criteria (all within the “employment” factor). Additionally, the proposal would emphasize education and skills, especially in the fields of science, technology, engineering, and mathematics (STEM). It also would credit points for language proficiency and for having family in the United States.

⁵⁷ CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno.

S. 1639 would have established three different worldwide ceiling levels for the “merit-based” point system. For the first five fiscal years post-enactment, the worldwide ceiling would have been set at the level made available during FY2005—a total of 246,878.⁵⁸ Of this number, 10,000 would have been set aside for exceptional Y visa holders to become LPRs, and 90,000 would have been allocated for reduction of the employment-based backlog existing on the date of enactment.

In the sixth year after enactment, the worldwide level for the merit point system LPRs would have dropped to 140,000, provided that priority dates on cases pending reached May 1, 2005. Of this number, 10,000 would have again been set aside for exceptional Y visa holders, and up to 90,000 would have been set aside for reduction of employment-based backlog existing on the date of enactment.

When the visa processing of the pending family-based and employment-based petitions would have reached those with May 1, 2005, priority dates, it would have triggered the provisions in S. 1639 that would have enabled the Z-to-LPR adjustments to go into effect (discussed below). At this time, the merit point system worldwide level would have become 380,000. The Z-to-LPR adjustments, however, would have occurred outside of this worldwide level. The proposal nonetheless would have continued to set aside 10,000 for exceptional Y visa holders to become LPRs.

SKIL (S. 1038/H.R. 1930)

S. 1038/H.R. 1930, the SKIL Act of 2007, would have expanded employment-based LPRs by exempting the following aliens from worldwide numerical limits: (1) those who have a master’s or higher degree from an accredited U.S. university; (2) those who have been awarded medical specialty certification based on postdoctoral training and experience in the United States; (3) those who will work in shortage occupations; (4) those who have a master’s degree or higher in science, technology, engineering, or math and have been working in a related field in the United States during the preceding three-year period; (5) those who have an extraordinary ability or who have received a national interest waiver. Moreover, S. 1038/H.R. 1930 would have no longer counted the derivative family members of employment-based LPRs as part of the numerical ceiling.

STRIVE (H.R. 1645)

Congressmen Luis Gutierrez and Jeff Flake introduced a bipartisan immigration reform bill, H.R. 1645, known as the Security Through Regularized Immigration and a Vibrant Economy Act of 2007 or STRIVE. This legislation was similar, but not identical, to S. 2611 of the 109th Congress. Specifically, H.R. 1645 would have no longer deducted immediate relatives of U.S. citizens from the overall family-sponsored numerical limit of 480,000. This change would have likely added at least 226,000 more family-based admissions annually (based upon the current floor of 226,000 family-sponsored visas). Family-sponsored immigrants would have been reallocated as follows: up to 10% to unmarried sons and daughters of U.S. citizens; up to 50% to spouses and unmarried sons and daughters of LPRs, (of which 77% would be allocated to spouses and minor children of

⁵⁸ U.S. Department of Homeland Security, Office of Immigration Statistics, *2005 Yearbook of Immigration Statistics*, table 6, 2006.

LPRs); up to 10% to the married sons and daughters of U.S. citizens; and, up to 30% to the brothers and sisters of U.S. citizens.

STRIVE would have increased the annual number of employment-based LPRs from 140,000 to 290,000 and would have no longer counted the derivative family members of employment-based LPRs as part of the numerical ceiling. It would, however, have capped the total employment-based LPRs and their derivatives at 800,000 annually. It would have reallocated employment-based visas as follows: up to 15% to “priority workers”; up to 15% to professionals holding advanced degrees and certain persons of exceptional ability; up to 35% to skilled shortage workers with two years training or experience and certain professionals; up to 5% to employment creation investors; and up to 30% (135,000) to unskilled shortage workers.

Save America Comprehensive Immigration Act

Congresswoman Sheila Jackson-Lee introduced H.R. 750, the Save America Comprehensive Immigration Act of 2007. Among its array of immigration provisions were those that would have doubled the number of family-sponsored LPRs from 480,000 to 960,000 annually and would have doubled the number of diversity visas from 55,000 to 110,000 annually.

Nuclear Family Priority Act

H.R. 938, the Nuclear Family Priority Act would have amended the INA to limit family sponsored LPRs the immediate relatives of U.S. citizens and LPRs. More specifically, it would have eliminated the existing family-sponsored preference categories for the adult children and siblings of U.S. citizens and replaced them with a single preference allocation for spouses and children of LPRs.

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