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BACKGROUNDER

Legal Immigration and the U.S. Economy: How Congress Should Reform the System

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Abstract

The proposed Reforming American Immigration for Strong Employment (RAISE) Act is helping to bring about a much-needed discussion about reforming the country's immigration system. Legal immigration is a complex issue that deserves a great deal of focus from Congress. This Heritage Foundation Backgrounder *examines America's current immigration system, diagnoses its key problems, and identifies which reforms Congress should implement, including some that are included in the RAISE Act.*

Last year, Senators David Perdue (R–GA) and Tom Cotton (R–AR) proposed legislation to reform the U.S. immigration system—the Reforming American Immigration for Strong Employment (or Economy) Act (RAISE Act).[1] There are several significant proposed changes, including reducing family-based immigration, creating a points-based immigration category to replace the current employment-based categories, ending the diversity visa lottery, and reducing the number of refugees the President may admit every year. Other pieces of legislation, such as the Securing America's Future Act[2] and the SECURE Act,[3] include similar policies.

The RAISE Act is helping to bring about a much-needed discussion about reforming the country's immigration system, widely considered to be "broken." Indeed, legal immigration is a complex issue that deserves a great deal of focus from Congress. This *Backgrounder* does not address the issue of temporary workers, as that issue itself is deserving of its own careful analysis. As such, legal immigration issues should not be drawn into larger debates on *illegal* immigration. Conflating legal immigration with illegal immi-

KEY POINTS

- The RAISE Act is helping to bring about a much-needed discussion about reforming the country's immigration system.

- America's current system allocates these much-desired immigration opportunities in a manner that does not serve the interests of the United States.

- The U.S. issued 68 percent of green cards in 2016 for family reasons. Employment-based green cards are the next-largest category, with only 140,000 a year. In 2016, less than 12 percent of green cards went to immigrants for employment reasons.

- While there is a moral interest in family reunification that warrants a preference for immediate family members, any moral obligation ends there. The family reunification preference has become a means to extend green cards well beyond the nuclear family.

- The U.S. should embrace the positive economic and fiscal benefits that can come from an immigration system that is refocused on supporting the American economy.

TABLE 1

Breakdown of Lawful Permanent Residence Admissions, FY 2016

Type and Class of Admission	Number	Percentage
TOTAL	**1,183,505**	**100.00%**
Family-Sponsored Preferences	**238,087**	**20.12%**
First: Unmarried sons/daughters of U.S. citizens and their children	22,072	1.86%
Second: Spouses, children, and unmarried sons/daughters of alien residents	121,267	10.25%
Third: Married sons/daughters of U.S. citizens and their spouses and children	27,392	2.31%
Fourth: Brothers/sisters of U.S. citizens (at least 21 years of age) and their spouses and children	67,356	5.69%
Immediate Relatives of U.S. Citizens	**566,706**	**47.88%**
Spouses	304,358	25.72%
Children	88,494	7.48%
Parents	173,854	14.69%
FAMILY AND RELATIVES SUBTOTAL	**804,793**	**68.00%**
Employment-Based Preferences	**137,893**	**11.65%**
First: Priority workers	42,862	3.62%
Second: Professionals with advanced degrees or aliens of exceptional ability	38,858	3.28%
Third: Skilled workers, professionals, and unskilled workers	35,933	3.04%
Fourth: Certain special immigrants	10,377	0.88%
Fifth: Employment creation (investors)	9,863	0.83%
Diversity	49,865	4.21%
Refugees	120,216	10.16%
Asylees	37,209	3.14%
Other	33,529	2.83%

SOURCE: U.S. Department of Homeland Security, *2016 Yearbook of Immigration Statistics*, "Table 6. Persons Obtaining Lawful Permanent Resident Status by Type and Major Class of Admission: Fiscal Years 2014 to 2016," https://www.dhs.gov/immigration-statistics/yearbook/2016/table6 (accessed January 24, 2018).

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gration does a disservice to developing thoughtful reforms for each issue.

This *Backgrounder* examines America's current immigration system, diagnoses its key problems, and identifies what reforms Congress should implement, including some that are included in the RAISE Act.

The Current Legal Immigration System

Since 2000, the U.S has provided legal permanent residence (LPR)—a "green card"—to around one mil-lion foreigners a year. In 2016, for instance, the U.S. awarded 1.18 million green cards. After five years of U.S. residence, legal permanent residents (LPRs) are able to apply for U.S. citizenship. The number of green cards that can be awarded are generally lim-ited by law, and are split into various categories and preferences. (See Table 1.)

The largest category is family-based, which is divided into capped and uncapped portions. Imme-diate relatives of U.S. citizens (defined as spouses,

children, and parents) have no numerical limit, and the U.S. awarded 566,706 green cards to this group in 2016. Other family categories are capped at various levels. Overall, the U.S. awarded 68 percent of its green cards in 2016 for family-based reasons. Employment-based green cards are the next-largest category, with only 140,000 statutorily allowed every year. In 2016, only 11.65 percent of green cards went to immigrants for employment reasons. In addition to these categories, no more than 7 percent of green cards can be awarded to citizens of any one country.[4]

Problems with the Status Quo. While there is a moral interest in family reunification that warrants a preference given to *immediate* family members, any moral obligation ends with the reunification of spouses and children (the nuclear family). Unfortunately, the family reunification preference has become a means to extend green cards well beyond the nuclear family. In essence, once a family member legally immigrates to the U.S., it can start a chain that extends out to the furthest reaches of a family.

The problem of family-based immigration is that it is inherently not concerned with advancing America's economic or fiscal health. For example, according to Pew calculations from the American Community Survey, currently 51 percent of working-age immigrants to the U.S. have an education level of high school or less, while 62 percent of American-born individuals have at least some college. This finding is similar to Heritage Foundation calculations based on other government reports and surveys.[5] Heritage research based on a National Academy of Sciences framework and estimates shows that households headed by persons with a high school education or less will end up consuming more in government benefits over their lifetimes than they pay in taxes due to the redistributional nature of the U.S. welfare, entitlement, and tax systems.[6] Even staunch critics of this research would agree that more-educated immigrants provide greater fiscal benefits.[7] Indeed, most research agrees that lower-skilled or less-educated immigrants will, on the whole, result in a net loss to public finances.[8] As a result, the current immigration system based on family ties puts existing taxpayers on the hook.

Similarly, while family-based immigrants will surely contribute to the U.S. economy in some ways, the current system does not consider their skills or productivity, but merely their relation to someone already living in the United States. A review of the economic literature from scholars of various ideological and academic leanings finds that higher-skilled and more-educated immigrants bring greater economic benefits from entrepreneurship and innovation than lower-skilled or less-educated immigrants.[9] Given that there is a finite number of available slots for entering this country, family migration is not merely coming at the expense of the U.S. and its citizens, but also of other people who want to come to the U.S. legally.

The U.S.'s strong emphasis on family (68 percent of green cards in 2016) is also unlike other immigration systems around the world. For example, in 2016, Canada gave out 26 percent of its permanent resident visas on the basis of family, while 52 percent were given on an economic basis.[10] Australia gave out 67.3 percent of its permanent residence visas through its "skill stream" or economic-based immigration while the "family stream" and child visas totaled around 32.5 percent of all visas in the 2016–2017 program year.[11] These other nations rightfully recognize that a legal immigration system should serve a country's national interests.

Another significant problem with the status quo is the 7 percent per country limit on green cards. The per country limit has led to significant backlogs for immigrants from large immigrant-sending countries, such as India, Mexico, the Philippines, and China. This policy ignores the value of or the justification for individual immigrants coming to the U.S. exclusively because of their country of origin. This ends up in a discriminatory result similar to that of the diversity lottery. By valuing individuals' country of origin over their individual merits, the diversity lottery fails to serve U.S. economic, and even family reunification, interests. Indeed, a lottery can hardly be said to be a smart design for determining who can become an LPR—and eventually a citizen—in the United States.

A Better Legal Immigration System

There are millions of people around the world who want to enter the United States and become legal residents. Yet, the current system allocates these much-desired slots in a manner that does not serve the best interests of the United States. The national interest should be the first and foremost priority. A system based on this priority would:

- **Continue to reunite nuclear families and end chain migration.** Congress should cut all or almost all of the current family preferences for extended family. Congress should allow immediate relatives to remain uncapped—while restricting the definition of immediate relatives to one's spouse and minor children. The RAISE Act would accomplish both of these recommendations. It is also worth noting that these extended family members generally have other legal means for entering the U.S.

- **Expand and reform employment-based immigration.** For every green card cut from the family-based visa category, Congress should add an employment-based green card. This shift from family-based to employment-based immigration will prioritize economically and fiscally beneficial immigration and better serve the national interest. Such a system should be designed in a way that recognizes that the market is the best and most objective way to identify those who will meet the needs of the economy. This starts with requiring immigrants to have an offer of employment before entering the country. The government would not be picking winners and losers among industries, job categories, or immigrants. The offer of employment is an objective market signal.

  If, and only if, there are more requests for green cards than are available, a limited points system would come into play that again would place emphasis on the market. For example, a company's offered compensation to the immigrant would have significant priority (compensation provides objective evidence of market demand). Other heavily weighted factors would include income and wealth of the immigrant, and to a lesser extent age and education level. These factors, while not perfect or objective measures by any means, are designed to focus on reasonable measures of economic impact that avoid government micromanagement. A lesser factor would be family ties. (For instance, this would help to bring in extended family members who have offers of employment.) Finally, this new program would also maintain an investor category to incentivize immigration of those who want to build businesses in the U.S. The RAISE Act does not place as much of an emphasis on employment immigra-

tion nor does it select immigrants as recommended. Some versions of the bill have a points system.

- **Make employment-points green cards conditional.** One way to ensure that employment-based green card candidates are indeed working or otherwise providing significant benefit to the U.S. is to make their legal permanent residence conditional for the first several years. In order to transition from a conditional LPR to full LPR, immigrants would be required to maintain employment for most of the conditional period, though they would be allowed to switch jobs. The total period of time required to hold a green card before becoming a citizen—five years—would remain unchanged, though a requirement to not be a public charge before becoming a U.S. citizen could be added.

- **End the Diversity Visa program.** The United States should evaluate immigrants as individuals and what they will bring to the country. The U.S. should not categorize people in terms of identity, such as by national origin. Yet, the current diversity lottery treats people not as individuals, but as the means to artificially create representation from various countries. Congress should end this system that not only does not serve the national interest, but also discriminates based on national origin. The RAISE Act would end this program.

- **End the per country cap.** The 7 percent per country restriction has similar problems to the Diversity Visa program in that it is discriminatory in nature and fails to evaluate people as individuals. The system also introduces inefficient anomalies into the immigration system: A relatively skilled Indian computer professional often has to wait a decade or more before he is able to become an LPR, while a less-skilled professional from most other countries can become an LPR almost immediately.[12]

- **Set floors and ceilings for refugees.** The U.S. has foreign policy interests in resettling some refugees to the U.S. In determining how many refugees to admit, the President should have flexibility, but Congress must play a significant role—after all, Congress has power under the U.S. Constitution to set immigration policy and therefore should not delegate all of this power.

Specifically, Congress should allow the President to determine the number of refugees, between a ceiling and a floor based on historical refugee levels. For example, over the past 20 years, the 20th percentile of refugee admissions was 49,837 refugees, and the 80th percentile was 73,983. Other time frames, such as 10 years, 15 years, or 25 years, would also be appropriate, and Congress could base the ceiling and floor on another percentile range, such as the 15th to the 85th or the 25th to the 75th. If the President chose a refugee-admission level outside this band, he would need approval from Congress.[13] Congress should also consider private refugee resettlement as the available evidence indicates that these programs improve refugee economic and social outcomes.[14] The RAISE Act would set a ceiling of 50,000 which places too much of a restriction on the executive branch to respond to foreign crises.

A Nation of Immigrants

The U.S. has a proud history of welcoming immigrants and assimilating them into American society. But the current family-based system does not best advance U.S. interests. In a competitive global economy, the U.S. should embrace the positive economic and fiscal benefits that can come from an immigration system that is refocused on supporting the American economy.

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Endnotes

1. There have been at least two versions of the bill with slightly different names and some policy differences. See RAISE Act, 115th Cong., 1st Sess., https://www.cotton.senate.gov/files/documents/170802_New_RAISE_Act_Bill_Text.pdf (accessed January 24, 2018), and RAISE Act, S. 354, 115th Cong., 1st Sess., https://www.congress.gov/bill/115th-congress/senate-bill/354/text (accessed January 24, 2018).

2. Securing America's Future Act of 2018, H.R. 4760, 115th Cong., 2nd Sess., https://www.congress.gov/bill/115th-congress/house-bill/4760/text (accessed January 24, 2018), and S. 2192, 115th Cong., 1st Sess., https://www.congress.gov/115/bills/s2192/BILLS-115s2192pcs.pdf (accessed January 24, 2018).

3. Security, Enforcement, and Compassion United in Reform Efforts Act, S. 2192, 115th Congress, 2017, https://www.congress.gov/bill/115th-congress/senate-bill/2192 (accessed January 24, 2018).

4. United States Code, Title 8, § 1152, "Numerical Limitations on Individual Foreign States," http://uscode.house.gov/view.xhtml?req=(title:8%20section:1152%20edition:prelim)%20OR%20(granuleid:USC-prelim-title8-section1152)&f=treesort&edition=prelim&num=0&jumpTo=true (accessed January 24, 2018).

5. Robert Rector and Jamie Hall, "National Academy of Sciences Report Indicates Amnesty for Unlawful Immigrants Would Cost Trillions of Dollars," Heritage Foundation *Backgrounder* No. 3175, December 22, 2016, https://www.heritage.org/immigration/report/national-academy-sciences-report-indicates-amnesty-unlawful-immigrants-would.

6. Robert Rector and Jamie Bryan Hall, "Trump-Endorsed Immigration Bill Would Save Taxpayers Trillions," August 14, 2017, The Daily Signal, http://dailysignal.com/2017/08/14/trump-endorsed-immigration-bill-save-taxpayers-trillions/.

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