



# CRS Issue Statement on Legal Immigration

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**T**he challenge inherent in this policy issue is balancing employers' hopes to have access to a supply of legally present foreign workers, families' longing to reunite and live together, others' concerns about population growth, and a widely-shared wish among all of the stakeholders to improve the policies governing legal immigration into the country. Addressing these contentious policy reforms against the backdrop of economic crisis sharpens the social and business cleavages and may well narrow the range of options. The scope of this issue includes temporary admissions (e.g., guest workers, foreign students) and permanent admissions (e.g. employment-based, family-based), as well as proposals for the legalization and status adjustment of aliens not currently eligible for legal status.

## **Permanent Residence**

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. The Immigration and Nationality Act, as amended (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 lawfully and permanently in the United States. During FY2008, a total of 1.1 million aliens became LPRs in the United States. Of this total, 64.7% entered on the basis of family ties. Other major categories in FY2008 were employment-based LPRs (including spouses and children) at 15.0%, and refugees/asylees adjusting to LPR status at 15.0%. Over 17% of all LPRs come from Mexico, which sent 189,989 LPRs in FY2008.

A variety of constituencies are advocating a significant reallocation from the family-based to the employment-based visa categories or a substantial increase in legal immigration to meet a growing demand in the United States for visas. 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 the 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.

## **Temporary Admissions**

The INA provides for the temporary admission of various categories of foreign nationals, who are known as nonimmigrants. Nonimmigrants are admitted for a temporary period of time and for a specific purpose. They include a wide range of visitors, including tourists, students, and temporary workers. Among the temporary worker provisions are the H-1B visa for professional specialty workers, the H-2A visa for agricultural workers, and the H-2B visa for nonagricultural workers. Foreign nationals also may be temporarily admitted to the United States for employment-related purposes under other categories, including the B-1 visa for business visitors, the E visa for treaty traders and investors, and the L-1 visa for intracompany transfers.

Many business people express concern that a scarcity of labor in certain sectors may curtail the pace of economic growth at a time when encouraging economic growth is paramount. A leading legislative response to skills mismatches is to increase the supply of temporary foreign workers (rather than permanent workers). While the demand for more skilled and highly-trained foreign workers garners much of the attention (e.g., lifting the ceiling on H-1B visas or set-asides of visas for foreign graduates of U.S. universities), pressure to increase unskilled temporary foreign workers, commonly referred to as guest workers, also remains. Opponents argue that some employers prefer guest workers because they are less demanding in terms of wages and working conditions and that temporary foreign workers visa programs should improve the safeguards for the salaries, compensation, and working conditions of U.S. workers. Most recently, some are suggesting that temporary foreign workers visas should be scaled back or placed in moratorium during the economic recession.

## **Legalization**

The debate over legal immigration reform is further complicated by proposals to enable unauthorized aliens residing in the United States to become LPRs, (commonly termed “amnesty” by opponents and “earned legalization” by supporters). There are a range of options being offered, and these alternatives generally require the unauthorized aliens to meet specified conditions and terms as well as pay penalty fees to legalize their status. Examples would include documenting physical presence in the United States over a specified period; demonstrating employment for specified periods; showing payment of income taxes; or leaving the United States to obtain the legal status. Using a point system that credits aliens with equities in the United States (e.g., work history, tax records, and family ties) would be another possible option. Other avenues for legalization would be guest worker visas tailored for unauthorized aliens in the United States or a legalization program that would replace guest worker visas. There are also options (commonly referred to as the DREAM Act) that would enable some unauthorized alien students to become LPRs through an immigration procedure known as cancellation of removal.

Advocates for these legalization avenues maintain that unauthorized residents are working, paying taxes, and contributing to the community. Some also point out that legalization would provide employers with a substantially increased legal workforce without importing additional foreign workers. Opponents maintain that legalization rewards illegal actions at the expense of potential immigrants who are waiting to come legally. They further argue that it would serve as a magnet for future flows of unauthorized migrants.

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