

Renewing America, Revamping Immigration

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The Hamilton Project seeks to advance America's promise of opportunity, prosperity, and growth.

We believe that today's increasingly competitive global economy demands public policy ideas commensurate with the challenges of the 21st Century. The Project's economic strategy reflects a judgment that long-term prosperity is best achieved by fostering economic growth and broad participation in that growth, by enhancing individual economic security, and by embracing a role for effective government in making needed public investments.

Our strategy calls for combining public investment, a secure social safety net, and fiscal discipline. In that framework, the Project puts forward innovative proposals from leading economic thinkers—based on credible evidence and experience, not ideology or doctrine—to introduce new and effective policy options into the national debate.

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This policy proposal is a proposal from the author(s). As emphasized in The Hamilton Project's original strategy paper, the Project was designed in part to provide a forum for leading thinkers across the nation to put forward innovative and potentially important economic policy ideas that share the Project's broad goals of promoting economic growth, broad-based participation in growth, and economic security. The author(s) are invited to express their own ideas in policy proposal, whether or not the Project's staff or advisory council agrees with the specific proposals. This policy proposal is offered in that spirit.

BROOKINGS

Abstract

I propose reforms to the U.S. immigration system that would increase its economic benefits to the native born, increase its fairness, and strengthen the application of its laws. New immigrant arrivals would initially increase by approximately 130,000 annually, with caps subsequently expanded in line with GDP growth. Inflows would shift from family-based immigration to employment-based and humanitarian immigration, while high-skill workers' share of employment-based inflows would increase. Inflows would increase in all categories except family-based immigration, where inflows would be reduced by ending the eligibility of most siblings of U.S. citizens. Facilitated entry for health and care workers of both medium and low skill would increase provision of crucial services while increasing women's access to work visas. The stock of immigrants would increase by more than the inflows as high-skill immigrants on temporary visas take advantage of uncapped transitions to a green card.

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Introduction

Neither the U.S. Constitution nor the Bill of Rights mentions immigration. Before 1868, when the 14th Amendment granted citizenship to formerly enslaved people of African descent, American citizenship was undefined in federal documents. By the late 19th century, however, geopolitical and economic events spurred an influx of newcomers. Over time, America's status as a safe harbor became an integral national characteristic. In keeping with its identity as a destination for people seeking safety and economic opportunity, America can modernize its immigration policy. In this paper, I suggest a 21st-century immigration policy that encourages economic growth and increases fairness and the rule of law, benefiting native-born Americans as well as immigrant families.

The foreign-born share of the U.S. population has climbed from a historic low of 4.7 percent in 1970 to 13.6 percent in 2021. The current share resembles the historically high level of approximately 15 percent between 1870 and 1910 (Migration Policy Institute n.d.; U.S. Census Bureau 2021; Moore 2021). While high by recent U.S. standards, the country's current foreign-born population share is merely average by international standards. Among 34 advanced economies, 16 had higher shares in 2019. These countries include traditional immigration recipients Australia (29 percent) and Canada (21 percent), small countries such as Switzerland (30 percent), and large countries such as Germany (16 percent) (Compare Your Country n.d.). Like foreign-born (or synonymously, "immigrant") shares, the characteristics of immigrants vary across countries due to geography and immigration policies. For example, 34 percent of adult immigrants in the United States have at least a bachelor's degree, similar to Switzerland, while the share is much higher in Canada and Australia yet is lower in Germany.¹ A striking difference between the United States and other advanced economies is the former's large share of unauthorized immigrants. Recent estimates indicate that 3.5 percent of the U.S. population has no legal right to reside in the country. A mere handful of similarly advanced countries have more than 1 percent of the population without any residency right. Greece's share of 1.5–1.9 percent is closest to the U.S. share (Organisation for Economic Co-operation and Development 2018).

The implications of these statistics for U.S. immigration policy are not immediately apparent, in part because immigration policy could have various objectives, not all of them

mutually compatible. The objectives could be economic, cultural, humanitarian, or geopolitical. Geopolitical considerations might imply maintaining large exchange programs to promote international understanding and admitting a large number of immigrants to boost the population. The larger population would in turn increase the size of the economy and tax base, enhancing military capability. Humanitarian considerations would imply admitting numerous immigrants fleeing conflict, persecution, and poverty. The humanitarian imperative to reunite families would also imply welcoming immigrants who have immediate relatives living in the United States. Cultural considerations might indicate maintaining low immigration rates, restricting immigration to traditional source countries, and encouraging the integration of immigrants in U.S. culture. Alternatively, they might imply seeking to increase diversity and enhance international understanding by doing the opposite.

Through its immigration policy, the United States could pursue various economic objectives, such as increasing GDP per capita for native-born Americans, increasing average wages, protecting the most vulnerable native-born workers, reducing wage inequality, or improving the economic assimilation of immigrants. These different economic objectives have different policy implications. There is a consensus among economists that immigration to the United States imparts significant economic benefits, raising GDP, GDP per capita, GDP per native-born American, and GDP growth. Native-born Americans benefit from higher GDP through the immigration of workers with skills different from their own. For example, immigrants with less than a high school education complement more educated native-born workers with certain skill sets, which increases productivity among native-born workers. More generally, immigrants also increase productivity by allowing greater specialization of workers in what they do best. High-skill immigrants spur technological innovations that, in turn, increase GDP growth (National Academies of Science 2017).

Increasing GDP per capita (for natives or all residents) is therefore the objective with the clearest policy implications. GDP per capita is maximized by allowing unrestricted immigration, which permits the market to decide how many and which types of immigrants arrive. Unrestricted immigration works less well in the presence of welfare systems, which distort market signals, but this can be mitigated by restricting immigrant access to benefits, as the United States does to some extent. However, in addition to implying high

immigration compared to current levels, unrestricted immigration creates winners and losers, thus conflicting with certain other possible economic objectives and complicating the design of an optimal immigration system.

There is a consensus among economists regarding many aspects of the trade-off between the aggregate GDP gains from immigration and costs: U.S. immigration does not affect native-born workers' employment rate or average wages but does reduce the wages of earlier immigrants and native-born individuals who have not completed a high-school education. In addition, immigrants are currently greater net fiscal beneficiaries of government than are natives, mainly due to the cost of public education for immigrant children. However, immigrants with at least a bachelor's degree are net contributors to the government. There is a lack of consensus on the degree to which wages of native-born individuals who have not completed a high-school education are reduced as well as uncertainty about the future evolution of immigrants' net fiscal contributions (National Academies of Science 2017).

These observations show that in seeking to improve immigration policy, a policymaker must balance different objectives while considering social science theory and empirical findings, ethical issues, public opinion, and associated political constraints. In what follows, I seek to do so. I have chosen to propose improvements within the existing framework for several reasons: the implications of relatively small departures from the existing system are better understood economically, smaller changes are easier to implement, I believe the current system has many good features, and proposals changing the system fundamentally have already been made by others. Any reform plan must reflect fundamentally subjective priorities, however, and even the most expert technocrat cannot prescribe the ideal immigration policy to the public.²

I begin by assessing contemporary challenges facing U.S. immigration policy. I then propose methods to modernize America's immigration policy in a manner that encourages economic growth, fairness, and the rule of law. Finally, I address possible criticisms of my reform.

The Challenge

I aim to reform the U.S. immigration system in order to increase its economic benefits to the native born, to increase its fairness, and to strengthen application of its laws. A fair system would welcome refugees and asylees in numbers commensurate with the U.S. population, speedily reunify separated family members, admit similar numbers of men and woman as principal applicants for employment-based visas, and provide to immigrants and their employers the certainty necessary for planning.

Weaknesses of the Current Immigration System

Major weaknesses in the current immigration system mean wide-ranging reforms are required. The incomplete application of immigration laws is a deficiency particularly salient to the public, evident in the nexus of unauthorized immigrants who have been in the country for some time, ongoing border crossings without inspection and overstays of visas, and asylum seekers at the border with Mexico whose numbers periodically overwhelm American administrative capacity.³ Although the number of unauthorized immigrants in the United States has declined gradually since 2007, this nexus nevertheless reflects an undesirable inability of the government to apply its laws (Lopez, Passel, and Cohn 2021).

Less salient for many, and less well understood, is the failure of the immigration system to provide the greatest possible economic benefits to the native-born. One reason for the failure is that immigration is relatively low. Another is that the system does not prioritize the immigration most beneficial to the native born. For example, there are special provisions for admitting the most highly skilled mid- or late-career professionals but not for admitting their younger counterparts. As a result, highly skilled younger professionals wanting one of the limited number of temporary visas must compete with a large pool of applicants holding bachelor's degrees. Gifted young scientists and engineers who could increase economic growth, including recent graduates of American universities, are turned away or forced to leave: the most common path to a green card for graduates of U.S. universities is through marriage to a U.S. citizen (Jasso et al. 2018). Once they have left the United States, promising recent graduates may not return, which means the United States loses the investment made in the training best suited

to its labor market, while if they do return, they do so with experience less relevant to the labor market than the American experience (Akee and Yuksel 2008).

Problems in employment-based immigration are not limited to the most skilled workers. U.S. nurses are aging and retiring, with reductions in labor supply particularly marked since the onset of the COVID-19 pandemic (Buerhaus et al. 2017). Because the registered nurse (RN) occupation is designated a “shortage” occupation, RNs can reduce their green card application processing time by six months, but the best-case scenario is one year from application to receipt given that the processing time is still several months and nurses must then queue with approved workers exercising other occupations. RN applicants who are not already in the United States or are citizens of certain countries face longer durations from application to the receipt of the green card (Shusterman n.d.; Sapochnick Law Firm n.d.; U.S. Citizenship and Immigration Services 2020c; Foreign Labor Application Gateway 2022). Yet RNs without a specialization (or a master's degree or PhD) are not eligible for temporary visas for skilled workers, nor are they eligible for the temporary visa aimed at less skilled workers, which is limited to seasonal or once-off work (U.S. Citizenship and Immigration Services 2015).

Licensed practical nurses (LPNs), who, unlike RNs, typically do not have a bachelor's degree and prospective immigrants in health occupations requiring less skill than nursing have difficulty entering the United States for the same reasons (Nurse.org n.d.). Prospective home health and personal care aides and nursing assistants must rely on family connections to obtain a green card or compete with workers in many other occupations for the tiny number of employment-based green cards (10,000) open to workers with less than two years of postsecondary training. Yet with the aging of the population, the demand for these health-related occupations is high and rising; at the same time, the supply of native-born workers for low-skilled occupations is low and falling. An increase in low-skill immigration has been shown to reduce institutionalization among the U.S. elderly population and to improve the quality of care in nursing homes by increasing the number of nursing assistants (Butcher, Moran, and Watson 2021; Furtado and Ortega 2022). Further, an increase in immigrant home health and personal care aides is likely to reduce the pressure on daughters to reduce work hours to care for disabled parents, an effect documented in Austria (Frimmel et al.

2020). The narrowness of the pathways for workers in these varied health-related occupations closes off benefits to sick and elderly Americans.

Immigration of generally low-skill agricultural workers requires reform for a different set of reasons. The number of agricultural visas is not capped, but most nonseasonal sectors such as dairy farming are not eligible for agricultural visas; three-quarters of agricultural jobs are in crops, where demand is seasonal. Furthermore, employers have, for some decades, preferred unauthorized workers because of the high labor costs imposed by the visa conditions—only with the recent reduction in the supply of unauthorized workers from Mexico have employers begun to hire workers on temporary agricultural visas in large numbers (Orrenius and Zavodny 2020b). Nevertheless, approximately 40 percent of all agricultural workers were unauthorized immigrants in 2019,⁴ and therefore reforms are necessary to increase the number of authorized agricultural workers. This may have little effect on overall agricultural immigration, but an increase would not be a concern. Employers are choosing between immigrant farm workers and faster automation, with the third alternative for the United States being higher agricultural imports, not use of native-born workers (San forthcoming; Calvin, Martin, and Simnitt 2022). The immigration of agricultural workers therefore benefits American employers and consumers while causing no harm to native-born workers.

An assessment of the immigration system with regard to low-skill occupations not yet mentioned involves more difficult trade-offs. Nonagricultural seasonal immigration may cause native-born high school students to reduce their summer work hours, for example (Smith 2012). On the other hand, some small businesses may be profitable only with the use of nonagricultural seasonal immigration (Clemens and Lewis 2022; U.S. Government Accountability Office 2020), and nonseasonal visas are available only under limited circumstances. Some reform therefore seems warranted on economic grounds. No temporary visa is suitable for workers with middle skills, who may, however, apply for a small number of employment-based green cards. Since middle-skill immigrants are likely to be substitutes for native-born workers rather than complements, expanding their opportunities is not a high priority (with LPNs being an exception).

Immigration is too low not only from an economic perspective but also from a geopolitical one. Power transition theory analyzes shifts in global power and posits that a country's population and productivity are essential to its potential power (Tammen, Kugler, and Lemke 2017). Yet U.S. population growth has been on a downward trend since 1992 and fell to almost zero (0.1 percent) in 2021 (Rogers 2021). This is the result of increasing mortality due to the aging of the population and (since 2020) the COVID-19 pandemic, falling fertility, and (since 2016) falling immigration.

At the same time, humanitarian considerations point clearly to the need to offer sanctuary to more people not already living in the United States. The two channels for

offering such sanctuary are recognizing a request for asylum made at the U.S. border (including airports) and resettling refugees who have fled their country and received temporary protection outside the United States. From 2015 to 2019, the United States resettled or approved the asylum requests of 344,578 individuals, while Germany, with one-quarter the population of the United States, resettled or approved the asylum requests of 674,700 individuals.⁵ This contrast arises not because the United States applies stricter criteria to asylum applications but because it has fewer asylum applications and its higher refugee resettlement does not fully compensate (United Nations High Commission for Refugees n.d.e).

Despite the number of U.S. refugee resettlements being low from this perspective, they are an essential component of worldwide resettlement. In 2016, for example, when the United States resettled 78,761 refugees, they represented 62 percent of the world's resettled refugees (in more recent years the U.S. number has fluctuated around 11,000) (United Nations High Commission for Refugees n.d.b). Yet the United Nations High Commissioner for Refugees judges that 1.5 million people need resettlement in 2022 (United Nations High Commission for Refugees 2021). Compounding the problem, not all migrants fleeing extremely unpleasant situations qualify for asylum or refugee status. Each year for the past 20 years, at least 40 percent of asylum applications did not satisfy the asylum criteria and were rejected. Yet many whose applications were rejected fled dire situations and did not qualify for family- or employment-based entry to the United States (TRAC Immigration 2021b; UNICEF 2019).

A different issue of humanitarian and ethical concern is that the employment-based immigration system is unfair to women, admitting workers primarily in male-intensive occupations. In fiscal year (FY) 2019, the male share among principal applicants was 97 percent for seasonal agricultural visas, 87 percent for seasonal nonagricultural visas (landscaping is the most common occupation), 81 percent for intracompany transferee visas (many for managers), and 71 percent for specialty (primarily computer) occupation visas. Among large temporary work visa programs, only the eclectic State Department-run exchange visitor program had gender parity (46 percent male) (U.S. Department of Homeland Security 2022). This imbalance deprives women of the opportunity to better themselves based on their profession, which may lead some to seek asylum instead.⁶ Although it is not the fault of the immigration system that companies transfer almost exclusively male employees, and the reason for the domination by computer workers of specialty occupation visas is unclear, the system could nevertheless be reformed to offer more opportunity to women.

A deficiency of the current system that is very salient to immigrants themselves is that binding caps force many to queue for years before receiving the green card for which they have been approved. As of November 2021, four million people living abroad had approved petitions and were in the queue for the 366,000 numerically limited green cards granted yearly, while the number queuing in the United

States or in the process of petitioning is estimated to be of a similar magnitude.⁷ Those waiting abroad are separated from their family, while those waiting in the United States are often in limbo status, unable to change employer and possibly vulnerable to exploitation (Hunt and Xie 2019; Wang 2021). Due to a law that no more than 7 percent of annual green cards in any category may be issued to nationals of any one country, waits are especially long for Indians, Chinese, Mexicans, and Filipinos (Congressional Research Service 2018). These queues are also a concern for some natives, who feel that the chain migration represented by the queues indicates a loss of government control over entries.⁸

A general problem with the current immigration system concerns the processes by which immigrant workers are admitted to the United States. The employment-based immigration system imposes many obligations on employers seeking to hire an immigrant, in an effort to protect domestic workers. For example, generally the employer must document failed attempts to hire a native-born worker and respect minimum wage (a “prevailing wage” or an “Adverse Effect Wage Rate”) set by the Department of Labor (DOL) at a level above state and federal minimum wages. However, these obligations would do little to protect domestic workers even if undertaken in good faith, and some are easily circumvented. At the same time, the government lacks the resources and sometimes the legal standing necessary for enforcing basic standards such as paying the contractual wage for the contractual hours. Another important issue is that an immigrant on a temporary visa and an employer who would like to maintain their tie over several years often face uncertainty from year to year about whether the worker will be able to obtain a visa.

Public Opinion and Constraints on Policy

In crafting solutions to these problems, it is important to consider public opinion. This is in part because some judgments are necessarily subjective and should reflect societal views and in part because some choices that appear objective to the technocrat may nevertheless be constrained by public opinion and politics. One known driver of public opinion is a feeling of control: citizens are more favorable

toward immigration when they believe the government is in control of it (Harell, Suroka, and Iyengar 2016).

Yet linking public opinion to policy is generally difficult, as results of a 2021 survey by the Cato Institute show (Ekins and Kemp 2021). For example, Americans are approximately evenly split between thinking that immigration should be increased, kept the same, or decreased, but they also think 40 percent of the U.S. population are immigrants. How would views change if they learned the share was 14 percent (or 26 percent including U.S.-born children of foreign-born parents)? This is unknown, but when respondents are informed that the annual inflows of immigrants are usually about one million (as was the case before 2017), the share wanting less immigration rises from 33 to 60 percent. On the other hand, under the hypothetical scenario that immigrants could not use government services, the share supporting more immigration rises from 29 to 58 percent; it is unknown what share of respondents know that immigrant access to government services other than public schools is indeed somewhat circumscribed for the first five years.⁹ Clearly, framing and information matter in eliciting the views of the public.

It is useful nevertheless to examine specific concerns among the one-third of the Cato survey respondents who want less immigration (“restrictionists”), beginning with the belief of 63 percent that immigration reduces wages. Because any change in policy and most sources of economic growth hurt some people even as they benefit others, I do not consider wage declines for native-born individuals who have not completed a high-school education a deficiency of the immigration system per se. Possible declines are, however, an important issue to bear in mind when recommending reforms. Other public concerns are less well founded: 71 percent of restrictionists believe immigration reduces jobs, and the same share believe it burdens the government welfare system. On the other hand, I shall address the concern of 59 percent of restrictionists that immigration burdens public schools and will be responsive to the belief of 73 percent that it is important that immigrants speak English fluently. I will bear in mind that 58 percent of restrictionists worry that immigration will change American culture but feel uncertain how to provide reassurance regarding restrictionists’ most widespread concern: among White nonimmigrant restrictionists, 82 percent fear immigration would increase discrimination against White Americans (Ekins and Kemp 2021).

The Proposal

I begin by summarizing the reform measures as they apply to each of the overarching goals of immigration reform, before detailing the reforms according to the type of immigrant affected.

Summary

A key objective is to have entrance to the United States controlled effectively by immigration law. This implies reducing entries without inspection (illegal border crossings) and visa overstay as well as increasing the government's ability to manage requests for asylum, particularly those made at the southern border. My approach is to change immigrant and employer incentives by reforming agricultural immigration and proposing new legal channels for temporary low-skill immigration. These changes are aimed at individuals considering entering the United States without inspection or overstaying their visa, employers considering hiring them, and asylum seekers whose application is unlikely to be approved. The existing agricultural visa should be made more attractive to employers, who until recently have hired unauthorized workers with apparent ease. Reforms could convert not only new hires but also the existing unauthorized agricultural workforce to an authorized workforce. Since the agricultural workforce is male dominated but asylum seekers and the population without legal residence are not, adding visas in the female-dominated health-related occupations and moderately expanding visas for workers in other sectors and industries are necessary complementary tools.

For this expansion of unskilled immigration to provide relief to the asylum system, considerable numbers of the visas must be taken up by those citizens of nearby countries wracked by violence and disorder—Guatemala, El Salvador, Honduras, and Haiti—whose asylum claims are unlikely to be approved. Most citizens of these countries fall into this category: asylum approval rates for these countries range from 18 to 20 percent (TRAC Immigration 2021a). I therefore support the recent set-aside of visas for temporary unskilled workers for citizens of the first three countries but recommend that Haiti be included (U.S. Department of Homeland Security 2021a). I also recommend measures to ensure the awareness of the programs in these four countries and to facilitate uptake. Venezuela is a less suitable country for these measures, despite high numbers of asylum

requests, because a much larger fraction of requests by Venezuelans is approved (49 percent).

Such reforms might paradoxically reduce the total time spent in the United States by unskilled immigrants: many scholars believe that the increased border enforcement since 1986 has caused unauthorized Mexican immigrants who would otherwise have come to the United States for short stays to remain permanently (Massey 2020). Shorter stays would not necessarily be beneficial for the United States economically but would allay domestic concerns about immigrant use of welfare benefits and effect on culture, might be popular with prospective immigrants, and would allow more workers abroad to benefit from higher U.S. wages.

To be effective, my measures must be accompanied by a policy legalizing the remaining stock of immigrants without legal residence and by interior enforcement mechanisms, whose design I leave to others. While the would-be reformer must admit from the outset that any immigration system other than unrestricted immigration will result in people attempting to reside illegally, it might be realistic to reduce the share of immigrants without legal residence to the much lower share of other advanced economies (Jasso 2021).

A second key objective is to reap greater economic benefits from immigration. I propose an increase in immigration particularly beneficial to natives, namely immigrants chosen by employers and especially high-skill immigrants. A major reform of the admission process for high-skill workers would allow for higher inflows of elite workers who boost economic growth. I also recommend expanding somewhat the immigration of seasonal low-skilled workers and extending the scope of visas for temporary low-skill workers to encompass more nonseasonal work, including a set-aside for LPNs, nursing assistants, and home health and personal care workers. Finally, the existing frictionless mobility between the United States and Canada for workers in certain occupations should be extended to more occupations.

All capped employment-based visas would be issued semiannually to be more responsive than currently to employer needs and the business cycle, while the caps for all except one would be adjusted as a function of the (relevant) unemployment rate. Caps would also be responsive to long-term growth in the economy, avoiding the need for future legislation: both family-based and employment-based caps would change each year by the average of the previous five years' real GDP growth. These employment-based reforms would boost innovation and economic growth, allow sick

and elderly Americans to get the care they require and to delay institutionalization, and help small seasonal businesses and nonseasonal businesses such as dairy farmers. However, because a majority of Americans are opposed to increased immigration, I partly offset the proposed increases with cuts to family-based and other immigration I consider less beneficial to natives.

For immigrants with at least a bachelor's degree, I propose splitting in three the current system of temporary visas for workers in specialty occupations. The first visa would accommodate the immigration of workers engaged in international trade in services or other temporary assignments, such as computer workers. It would work similarly to the current visa, including the use of a lottery when the visa is oversubscribed, except that it would be genuinely temporary (not dual intent), matching the temporary nature of the work and (bearing in mind majority public opinion opposed increased immigration) partially offsetting the longer durations I propose for holders of the second and third visas. Also, prevailing wage regulations would be reformed to encourage applications with higher proposed wages.

The second and third visas would be dual-intent visas with an easy transition to a green card, as I explain below. Eligibility for the second would be limited to immigrants with an American tertiary degree, with priority based on the level of the proposed wage relative to the proposed wage of other candidate workers with the same experience, education, and field of study. The third visa would be open to any potential immigrant with a bachelor's degree, with priority based simply on the proposed wage. The rankings based on wage ensure that the highest productivity immigrants are admitted and obviate the need for prevailing wage rules. For those workers passing an English test, the transition to a green card would occur after four years rather than six to encourage investment in English skills.

A third key objective of my reforms is to make the immigration system fairer. An important component of this is resettling more refugees and adjudicating asylum requests in a more streamlined fashion, including by eliminating the notion of a defensive asylum request and allocating more resources to adjudication. Another component is to admit employment-based immigrants in a more gender-neutral way, which would be accomplished by facilitating the immigration of more health-related workers.

The shortening of queues for green cards is also important for fairness. I make proposals to reduce queues for family-based green cards and eliminate them for employment-based green cards. I propose shortening family-based green card queues by eliminating eligibility for siblings of most U.S. citizens and redirecting some of the sibling quota to closer family members of U.S. citizens and green card holders. This numerically significant reform would enable faster close family reunification, reduce the scope of chain migration, and respect public hesitation to expand immigration. I also propose increasing the per-country cap from 7 to 15 percent of family-based green cards, making wait times

more equitable across countries, and increasing the existing caps slightly.¹⁰

To eliminate queues for employment-based green cards, three types of queues must be addressed. The queue of skilled workers on temporary visas waiting for employment-based green cards should be eliminated by making the transition close to automatic after six years (four if the English test is passed) and not counting these green cards against either the overall green card cap or the per-country cap. The temporary visas would be known as provisional visas.¹¹ The queues for other workers waiting for employment-based green cards should be eliminated by requiring them to obtain a provisional visa first (from another perspective, queuing time would be fixed at four to six years spent working on a temporary visa). A worker not issued a provisional visa at a given time would have to apply again later, as currently with temporary visas.

Finally, the queue for investment-based green cards should be eliminated by either ending the program entirely or by holding an auction for the visas each year: in a market, there is no reason for supply not to equal demand. My recommendation is to end the program given its history of the misappropriation of hundreds of millions of dollars of investor money, a focus on investment in sectors that do not have high returns, and a role selling visas. The counterargument is that the latest renewal of the legislation takes steps to counter fraud and raises the minimum price from \$500,00 to an inflation-linked \$800,000, which should reduce the length of the queue as well as increase investment (Riley 2019; Fragomen 2022).

Table 1 provides an estimate of the annual changes in new arrivals that would be caused by my proposed changes in immigration caps, assuming the investor green card is ended. Changes in new arrivals are lower than the sum of net new temporary visas and green cards because most employment-based and some family-based green cards are issued to workers adjusting their status from a temporary visa. The increase of 130,000 new arrivals is rather small given the overall immigration flows (e.g., one million green cards were issued in FY 2019) (U.S. Department of Homeland Security 2019, table 7). The increase in employment-based new arrivals is 131,000, of which three-quarters are skilled immigrants. This is a tiny number in the context of 79.8 million employed workers with a bachelor's degree or more in 2019 (Bureau of Labor Statistics 2020, table 7).

Changes in overall new arrivals and employment-based new arrivals are approximately equal because other changes cancel out: the reduction in family-based new arrivals (23,000) and in investor new arrivals (8,000) is close to the recommended increase in refugee resettlement (30,000, a number that assumes the current cap is 125,000 even though this cap has not been met). However, I propose to index almost all caps to GDP, and (uncapped) agricultural immigration could increase slightly with its opening to year-round agriculture. Furthermore, the increase in the stock of immigrants would be larger than the increase in new arrivals because remaining in the United States long term would

TABLE 1

Annual Additional New Immigrant Arrivals Under the Proposal's Changed Caps

Total	129,622
Non humanitarian	99,622
Humanitarian	30,000
Investors	-8,230
Family	-22,940
Employment (without investors)	130,792
Employment: bachelor's +	99,503
Employment: less than bachelor's	31,289

Source: Calculations based on numbers in table 3.

Notes: Visas or green cards are divided by education according to the education of the principal applicant. EB-1 recipients are all classified as bachelor's degree holders, while 50% of the EB-3A and EB-3B recipients are classified as bachelor's degree holders. Humanitarian new arrivals are refugee resettlements. The numbers do not include any increase from eliminating the cap on spouses and minor children of green card holders and use the base numbers of W and H-2B visas.



become easier for skilled workers. It is difficult to estimate how many skilled immigrants would be induced to extend their stay in the United States, and I do not attempt to do so.

Combined, the reforms I have proposed have benefits greater than the sum of their parts. They make immigration more responsive to the business cycle and provide insurance against future U.S. population decline by increasing immigration. The increase in employment-based skilled immigration and the smaller increase in employment-based unskilled migration would increase the benefit of immigration to the economy and provide more equal opportunities to prospective female immigrants. Green cards for siblings of U.S. citizens would be redirected to closer family members and to the crucial U.S. humanitarian mission. The greater emphasis on the temporary rather than permanent migration of workers would address domestic concerns regarding the use of welfare benefits by immigrants and immigrants' impact on American culture. Incentives for immigrants to learn English as well as attend government-financed English classes would increase the productivity of immigrants and alleviate domestic concern about the cultural integration of immigrants.

A final, sorely needed improvement to the immigration system is better data. In describing the current system below, I have not always been able to give with confidence the number of new workers entering annually on a particular visa type. For certain green cards, the number queuing abroad is published, but the number queuing inside the United States is not. The share of individuals who decline to take up their green card (or who have died) when they reach the head of a queue is not known to the public. The numbers of individuals holding any of the visas or green cards at a given time is also unknown, in part because of the failure to gather data on emigration. Within the government, the databases from the different agencies involved in immigration cannot be merged. Some of the more detailed data that

could provide crucial insights to researchers are sometimes made available but only in response to a Freedom of Information Act request; agencies do not maintain the data files as standard operating procedure. Informed policymaking cannot be carried out in this data environment, and a well-funded plan to produce detailed cross-agency data for internal and external use must be produced and implemented.

In the next subsections, I explain my reforms in detail. They are summarized in table 2, while table 3 provides the calculations underlying the changes in the new arrival numbers of table 1.

Employment-Based Immigration of High-Skill Workers

In this subsection, I first describe the current pathways into the United States for high-skill immigrants, defined as those with at least a bachelor's degree or equivalent or those with outstanding professional accomplishments, before laying out the significant reforms I propose. The reforms would eliminate green card queues and expand the number of very highly skilled workers able to stay in the United States on a permanent basis while curtailing the ability of less highly skilled workers to do so. These reforms would increase U.S. innovation and economic growth.

The Current System for High-Skill Workers

Currently, immigrants with at least a bachelor's degree or equivalent, or outstanding professional accomplishments, may obtain green cards through the following channels that exclude workers of lower skill: via the EB-1 channel for

TABLE 2
Summary of Proposed Reforms

	Old cap	New cap	Change in eligibility	Change in conditions	Other major changes
A. Temporary Work Visas					
All	--	--	--	--	Caps indexed to GDP; visas issued semi-annually; fees indexed to inflation
H-1B: Specialty occupations (applications subject to cap)	85,000	195,000; 155,000 if unemployment rate high	1/3 require U.S. bachelor's or higher (previously 1/4 requiring U.S. master's or higher). Extend to registered nurses	Uncapped automatic path to green card after 6 years (4 if pass English test)	Split into 3 W visas with equal caps. In 2, applications prioritized by proposed wage, rendering prevailing wage unnecessary
H-2A: Agricultural visa	None	None	Extend to year-round agriculture	Reduce Adverse Effect Wage Rate from 2020 level (in real terms); Increase visa, employer certification validity from 1 to 3 years (counting 3 times against cap)	Special provisions for recruiting in Haiti, El Salvador, Guatemala, Honduras
H-2B	66,000; extensions to 76,000-130,000	106,000; 126,000 if unemployment low	Extend to health (other than RNs) and care occupations not requiring bachelor's (5000 set-aside)	Increase visa, employer certification validity from 1 to 3 years (counting 3 times against cap)	Special provisions including set-asides for Haiti, El Salvador, Guatemala, Honduras
O-1A: Extraordinary ability	None	None	Extend to self-petitioners	Uncapped automatic path to green card after 4 years	None
L-1: Intracompany transferees	None	None	None	Uncapped automatic path to green card after 4 years	None
TN (Canada and Mexico)	None	None	Extend occupations covered	Uncapped automatic path to green card after 4 years	None
E-3: Specialty occupations (Australia)	None	None	Extend occupations covered to registered nurse	Uncapped automatic path to green card after 4 years	None
B. Green Cards, Student and Refugee Visas					
Employment-based green cards				Per-country caps lifted	Caps indexed to GDP
EB-1 Priority workers	40,040	0	Apply for O-1A	--	--
EB-2 Exceptional workers	40,040	0	Apply for reformed H-1B (W)	--	--
EB-3A,B Skilled or professional workers	30,040	0	Apply for reformed H-1B (W)	--	--
EB-3C Other workers	10,000	0	Apply for H-2A, H-2B, etc.	--	--
EB-5 Investors	10,000	0	Eliminate program	--	--
Family-based green cards				Per-country caps raised from 7% to 15%	Caps indexed to GDP
F1 Unmarried adult children of U.S. citizens	23,000	66,000 including F3	None	None	Merge with F3
F2A Spouses, minor unmarried children of green card holders	90,000	None	None	None	None
F2B Married children of green card holders	26,000	36,000	None	None	None
F3 Married children of U.S. citizens	23,000	See F1	None	None	Merge with F1
F4 Siblings of US citizens	65,000	7000 + 4000 = 11,000	Only siblings from TPS countries, siblings holding temporary work visas	None	None
F-1 Student Optional Practical Training	None	None	None	Reduce STEM duration so one year for all fields of study	None
Refugee visas	Variable	125,000 + 30,000 privately sponsored = 155,000	None	None	None

TABLE 3

Effects of Annual Changing Caps on Annual New Immigrant Arrivals

Program (1)	Recipient type (2)	Old cap (3)	New cap (4)	Change in cap (5)	Share of recipients who are new arrivals (6)	(5) x (6) = Change in new arrivals (7)
1. Temporary work visas						
H-1B	Bachelor's	85,000	195,000	110,000	1	110,000
H-2B	Less than bachelor's	66,000	106,000	40,000	1	40,000
2. Employment-based green cards						
EB-1	Bachelor's or extraordinary ability	40,040	0	-40,040	0.057	-2,282
EB-2	Bachelor's	40,040	0	-40,040	0.087	-3,483
EB-3A	EB-3A: bachelor's	30,040	0	-30,040	0.315	-9,463
EB-3B	EB-3B: less than bachelor's	10,000	0	-10,000	0.398	-3,980
EB-3C	Less than bachelor's	10,000	0	-10,000	0.823	-8,230
EB-5	Investors	10,000	0	-10,000		
3. Family-based green cards						
F1	Unmarried major children of U.S. citizens	23,000	33,000	10,000	0.853	8,530
F2A	Spouse, minor children of green card holders	90,000	None	—	—	—
F2B	Major children of green card holders	26,000	36,000	10,000	0.909	9,090
F3	Married children of U.S. citizens	23,000	33,000	10,000	0.912	9,120
F4	Siblings of U.S. citizens	65,000	11,000	-54,000	0.920	-49,680
4. Refugees						
		125,000	155,000	30,000	1	30,000

Source: Share of new arrivals sourced from: <https://www.dhs.gov/immigration-statistics/yearbook/2019/table7>, accessed October 8, 2022.

Note: Visas or green cards are divided by education according to the education of the principal applicant, though spouses and especially children are likely to have less education. To calculate new arrivals by education (which is proxying for skill), EB-1 recipients are all classified as bachelor's degree holders, while 50% of the EB-3A and EB-3B recipients are classified as bachelor's degree holders. It is difficult to judge to what degree removing the F2A cap will increase new arrivals. The table uses the base numbers of W and H-2B visas.



individuals of “extraordinary ability” and “priority workers,” who may apply even without a job offer (40,040 green cards available, including family members); via an employer through the EB-2 channel for “members of the professions holding advanced degrees or workers of exceptional ability” (40,040); or via an employer through the EB-3A and EB-3B channels for “skilled workers and shortage workers” (30,040). Skilled workers might also qualify through the EB-4 channel for “ministers of religion and religious workers” (5,000) or “certain employees of the U.S. government abroad and others,” (4,940) and any sufficiently wealthy individual qualifies for the EB-5 investment green cards. Skilled workers would not qualify for the tiny EB-3C “other workers” category (10,000) (Congressional Research Service 2018). Although these EB “employment-based” green cards may be issued to workers who do not hold any temporary U.S. visa, in practice 85 percent of EB green cards each year are issued to individuals who are already in the United States on a temporary (nontourist) visa (indeed, most other applications are rejected; see U.S. Department of State (2021a) annual immigrant visa waiting list report as of November 1, 2021; Bier 2022).

One common temporary work visa is the H-1B for workers in “specialty occupations,” a visa for which at least

a bachelor's degree or equivalent is required and for which the applicant is an employer on behalf of a specific worker.

¹² Although the annual cap is 65,000 visas, with an additional 20,000 available for holders of U.S. master's degree or higher, there is no cap for exempt employers, namely institutes of higher education and their associated nonprofits as well as nonprofit or government research organizations. The number of new H-1Bs issued in 2019 was 138,927 (exclusive of spouses and children) (U.S. Citizenship and Immigration Services 2020a,b). If the cap binds, the visas are attributed by lottery, and if it binds sufficiently, all visas are issued on the basis of a lottery in the month of April. An April lottery was held in 2007–08 and 2013–22. Due to the lottery, there is an incentive for employers to apply for more workers than they need (Sharma and Sparber 2020). Workers obtaining visas between April and September may not start work until October. The visa is for three years, renewable once (though workers with a green card application in process may remain employed indefinitely). Two-thirds of new H-1B recipients are computer workers, and more than half are from India (57 percent in 2019), many of whom work on temporary projects.

Another common temporary work visa is the L-1 intra-company transferee visa for managers and executives (L-1A)

or “specialized knowledge workers” (L-1B), which does not permit the worker to change employer during its five- to seven-year duration. There is no cap, with the number of new L-1s (exclusive of spouses and children) issued in FY 2019 being approximately 12,000.¹³ This visa is intended to encourage foreign direct investment in the United States (U.S. Department of State 2021b, table XVB). Likewise uncapped but smaller is the O-1A visa for workers with “extraordinary ability,” the temporary counterpart to the EB-1 green card. It does differ somewhat from the EB-1 in that workers cannot self-petition and the standard is somewhat lower (the EB-1 guidelines mention that a Nobel Prize would be a useful supporting document). It is initially valid for three years but under some circumstances can be extended for a year, with no limit on the number of extensions. The number of new O-1s (including O-1Bs for entertainers and athletes) issued in FY 2019 was 17,751.¹⁴

Furthermore, Canadian and Mexican nationals with job offers on a list of skilled occupations have uncapped access to three-year TN work visas that can be renewed indefinitely (21,193 issued in 2019), while Australians with a bachelor’s degree or equivalent may obtain two-year E-3 visas, renewably indefinitely and capped at 10,500 (5,807 were issued in 2019). Finally, international students on the most common student visa, F-1, may use Optional Practical Training (OPT) to work in the United States for up to three years (depending on field of study) following graduation, during which time they may apply for temporary visas (or green cards if they marry a U.S. citizen or green card holder): in 2019, 223,294 OPT requests were approved, with almost two-thirds going to those from India and mainland China (Bier 2020b).

Clearly, since some of these temporary visas are uncapped, the temporary visa numbers have been chosen without consideration for the likely number of later adjustments of status and available employment-based green cards. The number of H-1B visas alone (138,927 in 2019, exclusive of family members) is larger than the number of EB-1, EB-2, EB-3A, and EB-3B visas (110,120 including family members), a large disparity even when recognizing that not all temporary workers wish to remain permanently. Adjustments of status are also affected by the per-country cap on green cards. Many H-1B and other workers therefore wait years for their employer-sponsored green card, during which time they may prefer not to change employer (or else the application will have to be resubmitted) or cannot change employer (if their temporary visa expires after the green card application is submitted). As of July 2022, EB-2 and EB-3 (skilled and shortage workers) green cards were becoming available for Indians who applied in December 2014 and January 2012, respectively, while the corresponding dates for mainland Chinese were April 2019 and March 2018. Because queues are lengthening, any worker applying now would have to wait even longer. On the other hand, for workers of other nationalities, EB-2 and EB-3 green cards were available for 2022 applicants.¹⁵

Reforms to the Immigration of Skilled Workers

A few simple changes to the temporary work visas and the employment-based green cards would simplify and streamline the system for high-skill workers. I also propose a major redesign of the H-1B system, indexing all caps to GDP and eliminating per-country caps.

Provisional Visas and the Transition to a Green Card

The first important change is to eliminate the temporary-to-permanent queue by making the transition almost automatic and uncapped for all but one visa for skilled workers. Visas providing such a transition would be called provisional visas. The green cards thus issued, including those going to the principal applicant’s spouse and minor children, if any, would not count against any numerical cap nor any per-country cap.

A worker on a provisional visa could transition to a green card after six years, a duration that would be shortened to four years for a visa holder who on the Test of English as a Foreign Language received a score of at least 20 in each of the reading, writing, listening, and speaking sections (a common standard for admission to U.S. universities). As of November 2021, there were 405,986 applicants in the queue for EB-1, EB-2, EB-3A, and EB-3B green cards, and the large majority who are adjusting status from a temporary visa should be processed as quickly as administratively possible under the new transition rules. The remainder should be processed as quickly as administratively possible under the current rules (U.S. Citizenship and Immigration Services 2022f).

The system would be further simplified conceptually by requiring workers to hold a temporary work visa before applying for an employment-based green card (except for EB-4 green cards, many of whose recipients are effectively refugees), which is already the case for 85 percent of EB-1, EB-2, EB-3A, and EB-3B green card recipients.¹⁶ Consequently, the complex labor certification process (“PERM”) involving prevailing wages and the employer’s attempting to hire a domestic worker would be unnecessary for obtaining a green card, and the health check-up would likewise be dropped. The main checks would be that the applicant has been paying appropriate taxes and has not become a national security risk; there would be no applicants with felony records because felonious temporary visa applicants would not be admitted, while felonious temporary visa holders are deported.

Most employers who would have applied directly for EB-2 and EB-3A green cards would be redirected to the H-1B system (which would be reformed as described below). Employers or individuals who would have applied directly for an EB-1 green card would be redirected to the O-1A temporary visa, which would be changed to resemble the EB-1 in that extraordinary individuals without a job offer could apply. The O-1A would also be made a provisional visa. The EB-5 investment green card would be abolished (or made

an auction), while the EB-4 “certain employees of the U.S. government abroad and others” visa, which is in part a humanitarian visa, would be retained. Consistency would dictate that ministers and religious workers applying for EB-4 green cards would be redirected to the temporary R-1 non-immigrant religious workers visa, but given the popularity of these workers in Congress, I propose leaving the EB-4 green card untouched. The single employment-based green card obtained after four to six years on a provisional visa could be known as the EB-S.

Redesign of the H-1B Program

I propose splitting the current capped H-1B temporary visa into one truly temporary visa and two provisional visas to be called W-T, W-P1, and W-P2, respectively. The H-1B program for cap-exempt employers would continue with minor changes but would be renamed W-E. A number of reforms would be common to all W visas, of which the most important is to allow access to all RNs with a bachelor’s degree—past programs with the same aim, such as the H-1C visa, have lapsed. Until 2027, this would be accomplished by deeming the RN occupation a specialty occupation, which would allow access to all employers through the capped W visas, and would imply uncapped access to most university-associated (teaching) hospitals. By 2027, states should have invested in expanding domestic nursing bachelor’s programs, and the occupation should be considered a specialty occupation for the purposes of capped visas only.¹⁷

Several other reforms would be common to all W visas. Prevailing wages would be reformed or rendered irrelevant, and the ability of spouses of W visa holders to work would be legislated rather than be subject to regulatory changes. For capped visas, half the annual allocations should be made available in April and the second half in October to allow employers to hire workers quickly and to make immigration more aligned with the business cycle.

The H-1B notion of a “dependent” employer would be dropped or rendered irrelevant, with penalties and additional requirements reserved for willful violator employers. However, unlike for the H-1B, the DOL would be authorized to audit and investigate the working conditions of W holders without waiting for a complaint, which means the number of willful violators could be expected to rise. The moves to making applications electronic should continue, both to reduce the administrative burden and to provide information on unsuccessful applications. Fees would be adjusted and indexed to inflation. The DOL budget would need to be increased to accommodate the reforms and transition to new procedures; if visa fees, fines, and savings from reduced bureaucracy do not cover the need, the money should be allocated from general appropriations.

Temporary W-T Visa

The new temporary W-T visa is designed for workers with a bachelor’s or more who are engaged in international trade in services or other temporary assignments, of the type

performed by many current H-1B holders. This work is currently concentrated in information technology and can involve a task permanently outsourced to an establishment that performs the work in the United States and possibly on site using rotating immigrant workers; a temporary project outsourced to an establishment providing a temporary immigrant team, with the work performed on or off site; the process of newly offshoring work to a foreign establishment or a U.S. foreign subsidiary; or the coordination between a U.S. establishment and the foreign establishment or a U.S. subsidiary performing offshored work. Although the job of some of these H-1B workers is to facilitate offshoring—a calculation for the 2021 H-1B intake suggests the number could be about 20,000 (Hira and Costa 2021)—were H-1B visas unavailable, the work of certain other H-1B workers and their native-born colleagues would be transferred abroad. Empirically, the net effect of the H-1B program is to reduce offshoring and increase the work performed in the United States (Glennon 2020; Mayda et al. 2020).

I therefore propose making 65,000 W-T visas available annually, consistent with the U.S. commitment in General Agreement on Trade in Services mode 4. These visas would be valid for two years only and would not permit the transition to an EB-S green card. Selection would be first come, first served or by lottery if there are more applications than the cap within a week of applications being accepted.

To discourage firms from submitting more applications than they need to improve their odds in the lottery, the application fee would increase with the number of the firm’s applications. On the other hand, the fee for most W-T applications should be lower than for the W-P2 to make the W-T visa appealing to employers of temporary workers who would be somewhat less skilled and highly paid on average. I propose that an employer’s applications in a six-month period be numbered and the application fee for the n th application should be $2000(1+n^{1.5}/80,000)$. This means the fee increases from \$2,000 for the first application to \$2,280 for the 500th application and to \$2,791 for the 1,000th application, all similar to the \$1,750–\$2,460 fee currently for firms with less than 50 U.S. employees or larger firms with less than half their U.S. workers on H-1B and L-1 visas. The fee for the 3,000th application (\$6,108) would be similar to the current fee of \$6,460 for larger firms with more than half their U.S. workers on H-1B and L-1 visas. The 5,000th application would cost \$10,839 and the 10,000th \$27,000, with the latter likely to be prohibitively high for a worker with a short time horizon and the kind of skills suitable for temporary work.¹⁸ (The fee for the W-E would be a flat \$2,000 fee.)

The H-1B prevailing wage system would be reformed for the W-T visa. Currently, the prevailing (minimum) wage the employer must pay is a function of the occupation and location of the job and in which of four categories (“levels”) the combination of the worker’s education, experience, and duties is deemed to be. The higher the level, the higher the percentile of the occupation-location wage distribution that serves as the prevailing wage. The system is designed to protect domestic workers by preventing their wages from being undercut by immigrants. This idea does not have a firm

BOX 1

Ranking W-P1 Visa Applications

The log of the salary would be regressed using ordinary least squares on years since highest U.S. degree and its square, a dummy for a master's degree and a dummy for a doctoral degree, and dummies for field of study. The residual from this regression would determine an application's ranking. Although wages vary by region and by whether the location is urban, they should not be adjusted for location for two reasons. One is that variation by location reflects at least in part genuine variations in productivity rather than pure differences in price levels. The other is practical: this adjustment could not be done in a statistically meaningful way with the number of applications likely to be made for the visas.

The adjustment for field of study must be based on the six-digit major codes reported in the Student and Exchange Visitor Information System database, but this level of detail is too fine for this purpose at hand.¹ Even within many two-digit categories, there are likely to be few applications. At first glance, even three-digit categories (i.e., fields of study with the same first three digits) may seem too coarse. For example, aeronautical, chemical, civil, computer, electrical, and mechanical engineering share the same three-digit code, which might seem to foreclose immigration of civil engineers at the expense of chemical engineers since chemical engineers earn more on average. However, there is considerable overlap between the earnings of workers with these fields of study, so no group would be entirely excluded, and it is appropriate if demand rises for one set of engineering skills relative to the others that applicants with the more in-demand skills move up the rankings as their wages rise.

I therefore recommend constructing field of study dummies based on three-digit codes unless there are fewer than 100 applications within a three-digit code, in which case two-digit codes should be used. No exception is needed to separate the three-digit nursing codes since this would happen through the education controls. If there are fewer than 100 applications within a two-digit code, it should be grouped with other such codes.²

1. See U.S. Immigration and Customs Enforcement (2020, F103ff). The more easily readable two- and four-digit codes are at National Center for Education Statistics (n.d.).

2. A slight complication is that many two-digit classifications include six-digit classifications representing "general" (often with last four digits 0000 or 0101), "other" (with last four digits 9999), or "pre" (e.g., "engineering, general," "engineering other" and "pre-engineering," or "legal studies, general," "legal professions and studies, other" and "pre-law studies"). The "general" and "pre" (and possibly "other") categories should be aggregated and combined with the lowest-paid three-digit category within the relevant two-digit category. The majors in the two-digit category "multi/interdisciplinary studies," "liberal arts and sciences, general studies, and humanities," and "basic skills" should be reassigned to a closely related major.

backing in economics, however. A higher prevailing wage will induce employers to hire higher quality immigrants (even within occupation, experience, and education categories) and will merely change which native-born workers immigrants compete with, not eliminate competition.

Furthermore, while the wage distribution is measured in the Occupational Employment and Wage Statistics survey, the combinations of characteristics assigning workers to levels are designed with no recourse to data. While workers in the American Community Survey with levels I and II experience and education earn about the level I and II prevailing wages on average, American Community Survey workers with levels III and IV experience and education earn considerably below levels III and IV prevailing wages on average.¹⁹ This may explain why so few employers seek to hire H-1B workers at levels III and IV. For the proposed W-T and W-E visas, as well as all other visas using prevailing wages, the guidance on categorizing workers by level must be written to correspond to the prevailing wages or vice versa.²⁰

Provisional W-P1 Visa

The W-P1 provisional visa would be restricted to graduates of accredited U.S. tertiary institutions and would be valid for six years. Prospective applicants who would have applied for the 20,000 H-1B visas reserved for workers with at least a master's degree from an accredited U.S. institution would be redirected to this visa. I propose 65,000 W-P1 visas, which is equal to approximately one-quarter the annual number of degrees conferred on students with a temporary visa. If the seasonally adjusted unemployment rate for college

graduates aged 25 or over were 4 percent or higher for two consecutive months before the month applications opened, the cap would be reduced by 10,000. The fee would be \$4,000 for a firm's first 100 applications and \$6,000 for subsequent applications within the same six-month period.

The level of the highest U.S. degree, its field, and the year it was awarded may be obtained by the DOL through the Student and Exchange Visitor Information System database. If the cap were binding in the first week the visas were made available, this information would be combined with the proposed salary to rank applications by the premium the employer proposes to pay compared with wages of similar applicants. This competition on wages would render prevailing wages unnecessary. The details of the ranking procedure are explained in box 1. Although favoring applications proposing high wages could lead to fewer applications for women, I expect the new system to incentivize applications for workers in a more diverse set of occupations, leading to more applications for women on net.²¹

If the W-P1 visa program were not so oversubscribed that all visas were allocated as soon as they were made available, applications proposing wages lower than a certain threshold would be rejected. If this happened before the cap had ever been sufficiently binding as to warrant ranking, the threshold would be the prevailing wage as calculated under the reformed system in use for the W-T and W-E. Otherwise, the threshold would be based on wages on successful applications the previous time the applications were ranked, and equal to the lowest wage with the requested worker's combination of education and years since highest U.S. degree, adjusted for inflation.

Provisional W-P2 Visa

The W-P2 visa would be open to all workers with at least a bachelor's degree or equivalent. Employers failing to secure a W-P1 visa could have their application considered for the W-P2 visa for an additional fee. I propose 65,000 W-P2 visas. If the seasonally adjusted unemployment rate for college graduates aged 25 or over were 4 percent or higher for two consecutive months before the month applications opened, the cap would be reduced by 10,000. The application fee would be a flat \$8,000. If the cap were binding in the first week the visas were made available, applications would be ranked by the proposed wage. If the cap were not this binding, the lowest wage of successful applications the previous time the cap had been this binding would serve as a minimum wage. If the cap had not yet been this binding, the minimum wage would be the prevailing wage as calculated under the reformed system in use for the W-T and W-E. Total capped W visas would number 195,000, which was the H-1B cap in 2001–03, and compares to 211,797 applications (now called registrations) for capped H-1Bs, on average, over FY 2016–20, 308,613 in FY 2022, and 483,927 in FY 2023 (RedBus2US 2022; U.S. Department of Homeland Security 2021, table 3).

Other Visas

The much greater availability of visas for graduates of U.S. tertiary institutions means it would no longer be necessary to have long OPT available postgraduation. I therefore propose that the OPT extension for science and engineering fields be removed and OPT be made available only for one year regardless of field of study. The motivation for this cut is to reassure the public that university admission is not a de facto work visa whose determination is out of the government's control. The single year of OPT would remain as useful training for those returning to their own country and as one year of insurance for graduates wishing to remain in the United States who might have had bad luck in their first try in the W visa system.

I propose that holders of L-1 visas, holders of the TN visa (Canadian and Mexican), and holders of the similar E-3 visa (for Australians) should be afforded virtually automatic transition to a green card after four years of consecutive work on the temporary visa (as for holders of W-E, W-P1, and W-P2 visas). In addition, I recommend further reducing barriers to migrating or commuting between the United States and Canada. The occupations covered by the TN visa for Canadians should be extended in a bilateral agreement to include computer programmers, skilled trades, LPNs, and nursing assistants (specialized computer workers, RNs, and physical therapists are already included). Commuting on the visa should be permitted. Immigration of these workers would be economically beneficial to the United States, and Americans' ability to commute or emigrate to Canada would help the economies of thinly populated U.S. border regions close to Canadian cities and provide opportunities to other individual Americans. The scope of the TN visa

may be difficult to change as it is part of a trade agreement; a separate bilateral agreement could possibly be signed.²²

Reform of Immigration of Agricultural Workers

In this subsection, I first describe the role of immigrants in the current agricultural labor market, before describing reforms to reduce the number of unauthorized workers and reduce uncertainty for employers and immigrant workers.

Current System for Immigration of Agricultural Workers

The uncapped H-2A visa is designed to allow seasonal or temporary (10 months or less) agricultural labor migration; special rules permit sustained employment of immigrants as sheepherders or goatherders. An employer wishing to hire immigrants must be certified by the DOL that they have not been able to hire "U.S. workers" and that "U.S. workers" would not be harmed by hiring an immigrant. The latter condition is unlikely to hold except in periods of wage growth since the definition of a "U.S. worker" includes recently arrived immigrants and economists agree that new immigrants reduce the wages of earlier immigrants. Nevertheless, employers are certified to fill over 95 percent of jobs for which they request certification.

The next step is to apply to the Department of Homeland Security for permission to apply for visas. Approved workers must then apply for visas at a U.S. consulate abroad before proceeding to the United States. Employers frequently use recruiting companies to identify suitable workers from among the list of eligible source countries; countries whose citizens are found to have high overstay rates, for example, are removed from the list. The vast majority (93 percent) of H-2A recipients are from Mexico, with only tiny numbers from Central America and Haiti (Congressional Research Service 2020; U.S. Department of Homeland Security 2021b; Martin 2022).

Two factors make the employment of H-2A workers expensive to employers: the Adverse Effect Wage Rate and housing, described in detail below.

Adverse Effect Wage Rate

The first is the legal wage floor. The wage paid must be the maximum of the local minimum wage, the federal minimum wage, the wages of similar workers with the same employer, the prevailing wage, any (rare) union contract wage, and the Adverse Effect Wage Rate (AEWR). In practice this is almost always the AEWR, an average farm worker wage calculated by region from a U.S. Department of Agriculture (USDA) Survey: for example, 95–97 percent of certified H-2A workers were paid the AEWR in 2010–19 (Castillo et al. 2021).

The AEWR is likely to be high relative to the market wage for workers hired on H-2A visas for several reasons. First, it is

derived by averaging the earnings of all types of farm workers, not merely the earnings of workers in the jobs where immigrants are concentrated. Yet U.S. citizen farm workers have more education²³ and often hold more skilled jobs (e.g., equipment operation) than the laborers hired on H-2A visas. Furthermore, the survey from which the AEW is derived—the USDA’s Farm Labor Survey—does not cover workers brought to farms by labor contractors and other nonfarm businesses, who often specialize in less skilled workers.

The AEW is also likely to rise even absent any change in market wages for a given job. As mechanization increases and more equipment is used, the change in the workforce composition may increase the AEW that must be paid to workers using no equipment. The use of the average wage rather than the median wage could also have a ratchet effect: an increase in the AEW one year raises the wages on which the following year’s AEW is based. The high AEW is a concern because in agriculture the effect of a higher wage floor is to lead employers to hire unauthorized workers as well as to mechanize more quickly or switch to more mechanized crops.²⁴

Housing

The second factor making H-2A workers expensive is that farmers must provide them with free housing. They cannot pass this cost on to workers due to the binding AEW floor. Somewhat offsetting the cost is farmers’ ability to obtain 33-year loans at 1 percent interest or even (for needy employers in urban areas) grants to build housing from the USDA Rural Development Housing and Community Facilities Programs office (Castillo et al. 2021; Martin 2021). Although the housing requirement remains a burden on farmers, the housing problem is fundamentally one of the housing market and not of the H-2A visa program. For example, it is particularly expensive for California farmers to provide housing because workplaces are in areas with high housing costs (Martin 2013, 2017). But were they not required to provide housing; the problem would shift from being one of California farmers being reluctant to hire immigrant farm workers to one of immigrant farm workers being reluctant to work in California without additional compensation. Also offsetting the cost of H-2A workers is their exemption from federal social security and Medicare taxes (Internal Revenue Service 2020).

Reforms to the Immigration of Agricultural Workers

A natural starting point for reforms to the H-2A program is a bill that was passed in the House of Representatives in March 2021 and is under discussion in the Senate: the Farm Workforce Modernization Act (H.R. 1603) (Lofgren 2021). I discuss the bill and note additional reforms needed.

Farm Workforce Modernization Act

The bill addresses both the AEW and housing issues and recommends calculating the AEW separately by farm occupation to better reflect worker skills. The bill also limits increases in the AEW to 3.25 percent annually for 10 years, which given the current inflation rate implies real decreases and proposes replacing the AEW by a new (unspecified) wage system in 2031. Although the reduction in the real value of the AEW for the least skilled should increase employer willingness to hire workers on H-2A visas, the reduction in the AEW for the least skilled workers was conceived in a lower-inflation environment when the fallback wage floor, the state or federal minimum wage, was eroding more slowly in real terms. The details of the proposal may therefore need to be rethought.

The bill also recommends increasing USDA loans and grants for H-2A housing. It is unclear how government support for housing would affect the use of H-2A workers versus unauthorized workers. If these are in fact different workers and unauthorized workers are more likely to be living permanently in the United States with their own housing, the housing subsidies might lead employers to substitute from unauthorized to H-2A workers but without necessarily changing the number of unauthorized residents of the United States. It is also unclear that such government support would be economically efficient.

Additional reforms in the bill also work to make the H-2A more attractive to employers: allocating a certain number of H-2A visas to year-round agricultural workers, permitting employers to rehire an H-2A worker for a fourth year even if a U.S. worker is available, extending the validity of the visa to three years, reducing the number of petitions an employer needs to make for a given season, increasing DOL enforcement powers, and requiring employers to use an electronic eligibility verification system. The bill also proposes that farm workers who have worked at least 180 days in agriculture over the last two years be legalized with the issue of a temporary visa renewable indefinitely.

Other provisions of the bill address exploitation of workers, a path to citizenship, and the visa process. The bill proposes a pilot program allowing H-2A workers to change employer, thus reducing the possibility for worker exploitation. Legalized workers are offered a path to a green card and citizenship (albeit conditional on lengthy future service in agriculture). Also, 40,000 additional EB-3 green cards are to be made available and H-2A workers allowed to remain in the United States while waiting for an EB-3 to become available even if the H-2A visa expires. The process would be made more efficient through the creation of a common electronic platform for agencies and employers.

Additional Necessary Reforms

Adoption of this bill would greatly improve the agricultural labor market. Nevertheless, additional changes are needed to the H-2A program. One goal not addressed is encouraging greater employment of agricultural workers from Haiti,

Guatemala, El Salvador, and Honduras. Temporary measures could allow for the establishment of networks and pathways that could become self-sustaining. I therefore propose a three-year suspension for these countries of the H-2A requirement that employers pay for worker travel to the United States, and propose that the United States partially subsidize this travel for the same period, contributing \$150 each way for Haitians and \$100 each way for Central Americans. This would complement a pledge by the Guatemalan government to exempt departing workers from the departure tax and air ticket value-added tax.²⁵

Further, the U.S. government should cooperate with the governments of these countries to establish certified recruiters (and with the Mexican government to certify existing recruiters) to establish pathways without exploiting workers. The Biden administration has in fact announced a general policy of this type, albeit with the omission of Haiti. The State Department has opened a migration resource center in Guatemala to inform Guatemalans about U.S. visas for which they would be eligible, intends to open more, and is providing funding to Central American nonprofits to provide similar services (White House 2021a,b). If this approach does not quickly yield results, the U.S. government should instead turn to multinational for-profit recruiting companies.²⁶

A final modification to the H-2A program should be to allow employers without violations in the previous five years to receive labor certification to hire H-2As for three years rather than one. Employers would still be required to submit a job order. In this way, in combination with the three-year visa validity, workers and employers who wish to work together for three years would be able to plan this in advance and would be less tempted to have an unauthorized employment relationship (Martin 2022).

Reform of Nonagricultural Visas for Workers with Less Than a Bachelor's Degree

To increase the economic benefit of less skilled nonagricultural immigration, and to reduce requests for asylum and unauthorized immigration, I propose reforms to the H-2B visa. As for almost all other visas and green cards, caps would be indexed to GDP, and as for other capped employment-based visas, per-country caps would be abolished.

Current System

The H-2B visa allows employers to hire immigrants for seasonal or other one-off nonagricultural work for up to a year at a time, extendable for a maximum of three years under limited circumstances. There are no educational or occupational restrictions (except the exclusion of doctors), and in 2019 44 percent of visas were issued for landscaping and groundskeeping workers.

The process for obtaining an H-2B visa is the same as for the H-2A visa, while the wage floor is an occupational prevailing wage determined by the DOL. The annual cap is 66,000 visas, issued semiannually, and a lottery is conducted when the cap is immediately oversubscribed, as for the H-1Bs. However, Congress frequently authorizes the Department of Homeland Security to raise the cap for a particular six-month period and did so most recently in response to large numbers of applications for the summer season of 2021, the winter of 2021–22, and the summer of 2022. Workers already in the United States whose visa is extended do not count against the cap. The number of visas issued was in the range 76,000–130,000 each of FY 2003–08 and 2016–19. In FY 2021, 97,268 new H-2B visas were issued, 74 percent of them for Mexican workers (U.S. Citizenship and Immigration Services 2022a,b,c; Congressional Research Service 2020).

Although the program is very similar to the H-2A program in many ways, the programs and contexts differ in some respects important for the effect of policies. Most obviously, the H-2A visas are uncapped, while the H-2Bs are capped, and the H-2A program is constrained to one industry, while the H-2B is not. Furthermore, H-2B workers are more likely than H-2A workers to be in competition with native-born workers rather than with automation, although some arguably provide services such as landscaping and groundskeeping that natives would otherwise do without or do themselves. The share of unauthorized workers is also lower in H-2B occupations than in agriculture. However, according to one 2020 estimate, there are one million unauthorized immigrants working as landscapers and groundskeepers, maids or housekeepers, and construction laborers, with 21–23 percent of workers in each of these broad occupations being unauthorized. Since 53 percent of H-2B holders worked in these occupations in 2019, there is scope for diverting unauthorized workers to legal work (Svajlenka 2020).

Reforms

Given these considerations, I recommend raising the H-2B cap, making changes to allow certain health and care workers to obtain H-2B visas, and introducing other reforms qualitatively similar to those for the H-2A. The annual number of applications was over 100,000 from 2001 to 2009 and 2015–21, and in the range 200,000–250,000 in 2006–08 (Bier 2021b), leading to the use of lotteries to allocate visas. I propose a new floor of 106,000 visas, with 20,000 additional ones to be made available under some circumstances. If the semiannual 52,000 visas were all issued within the first two months they were available, and the seasonally adjusted unemployment rate for 16- to 24-year-olds was below 12 percent for both of the months preceding the date the cap was reached, an additional 5,000 visas would be made available; if the youth unemployment rate were below 10 percent for both months, an additional 10,000 visas would instead be made available.²⁷ The rule that employers may request workers no more than 90 days before the desired start date should

be abolished so as not to disadvantage employers whose seasonal peak is relatively late.

To increase the attractiveness of the H-2B visa compared to unauthorized work and to address the needs of an aging population, a certain number of visas should be exempted from the requirement that a job be seasonal or one-off to be eligible for an H-2B visa. Annually, 5,000 visas should be set aside for LPNs and licensed vocational nurses, nursing assistants, orderlies and psychiatric aides, and home health aides and personal care aides, and a further 20,000 should be exempted and open to work in all occupations. To provide more certainty to employers and immigrants in these year-round jobs in particular, but in H-2B jobs more generally, the H-2B visa duration and temporary labor certification should be made valid for a longer period, as recommended for the H-2A program. The H-2B visas should be made valid for up to three years without the need for an extension and regardless of whether the worker has been continuously in the United States, while employers with no violations in the previous five years should receive temporary labor certification to hire H-2B workers for three years rather than one. Employers would still be required to submit a job order, and workers reentering the United States from abroad would continue to count against the cap; they would be permitted to work even if this caused the cap to be exceeded.

Measures should also be introduced to enable the hiring of more workers from Guatemala, El Salvador, Honduras, and Haiti. The Biden administration set aside H-2B visas specifically for workers from the first three countries in 2021, but these visas were not all taken up, leaving workers from these countries with only 6.8 percent of the visas. Haitian workers received so few visas that Haiti is grouped in the statistics with other countries receiving fewer than 10 visas. The set-asides should be continued (as they have been in 2022) and extended to Haiti, in conjunction with the temporary and permanent recruitment supports proposed in the H-2A context. Emphasis should be placed on recruiting in health-related occupations, in an effort to achieve more gender balance among employment-based immigrants (U.S. Citizenship and Immigration Services 2022b; U.S. Embassy Guatemala). Although these four countries are those that should be focused on for the foreseeable future, immigration regulations should allow for future set-asides for any country designated for Temporary Protected Status (TPS).

The last reforms I recommend also parallel those recommended for the H-2A program. A single electronic portal for use by employers and all relevant agencies should be set up to speed decisions and avoid the duplication of processes. Further, the method of computing the prevailing wage should be returned to the pre-2015 method, when it was calculated as a function of the worker's experience in addition to occupation. This will ensure that it is cost-effective to hire inexperienced workers.²⁸

Reforms to Family-Based Green Cards

U.S. citizens and green card holders may sponsor certain family members for a green card. I propose reforms to the system, to be implemented over a 10-year transition period, with indexation of caps to GDP beginning once the transition period is over.

Current System

There is no limit on the number of immediate relatives U.S. citizens may sponsor: spouses, unmarried minor children, and parents. However, the number of other family-based green cards is numerically limited, in practice to 226,000. The exact number of each type can vary slightly according to a formula, but approximately 23,000 are reserved for unmarried adult children of U.S. citizens (first preference, F1); 90,000 for spouses and minor unmarried children of green card holders (second preference A, F2A); 26,000 for married sons and daughters of green card holders (second preference B, F2B); 23,000 for married sons and daughters of U.S. citizens (third preference, F3); and 65,000 for siblings of U.S. citizens (fourth preference, F4). No more than 7 percent of green cards in each year may go to citizens of one country. As of November 2021, 3,969,573 individuals abroad were in the queues for family-based green cards subject to a cap, of whom 2,240,258 (56 percent) were siblings of U.S. citizens; 390,489 (10 percent) were spouses and unmarried minor children of green card holders; and 1,209,633 (30 percent) were Mexicans (U.S. Department of State 2021a). Much smaller numbers were queuing inside the United States, while 2.4 million applications were pending (U.S. Citizenship and Immigration Services 2022e).

Reforms

I propose to speed the reunification of immediate family members of green card holders (F2A) by uncapping the number of spouses and minor unmarried children of green card holders who may be sponsored. This would provide relief to Mexicans particularly: in August 2022, F2A green cards were available for Mexicans only if they had applied on or before April 2019.²⁹ I also recommend reducing the total cost of the fiancé temporary visa (K-1) to that of the spousal temporary visa (K-3). Ideally, additional administrative resources would reduce F2A processing times enough to make these bridging visas irrelevant. I also recommend increasing the cap for the unmarried adult children of green card holders by 10,000 and the cap for the adult children of U.S. citizens by 20,000; these are essentially reallocations of some of the sibling green cards.

These additional green cards can be viewed as a reallocation of green cards from the siblings of U.S. citizens: I propose ending the right of most U.S. citizens to sponsor their siblings for a green card (after a transition period). This would reduce the scope for chain migration, reduce

greatly the future number of people queuing, and temper the increase in immigration in deference to public opinion. However, to bolster the U.S. humanitarian effort, siblings from countries whose citizens are currently under TPS in the United States would remain eligible. Currently, 15 troubled countries are designated for TPS: Afghanistan, Burma/Myanmar, Cameroon, El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, Ukraine, Venezuela, and Yemen (U.S. Citizenship and Immigration Services 2022g).

As of August 2022, green cards were available for TPS country siblings who applied in 2007, but the wait is estimated to be a minimum of 14 years for new applicants. The queue contains 47,771 Haitians, 27,740 Salvadorans, and smaller but publicly unspecified numbers from other TPS countries. I propose an annual quota of 7,000 green cards for U.S. citizens' siblings from TPS countries (whether already in the United States with TPS or still in the home country).³⁰ These siblings would benefit particularly from permanent residence in the United States as they would already have a support network. I do not propose offering green cards to all those currently in the United States with TPS because I believe that would reduce support for the TPS program.

U.S. citizen siblings holding any temporary work visa would remain eligible for a sibling green card, after two years of the previous three years working in that visa status, so as to provide a path to a green card to at least some of workers with less than a bachelor's degree who would otherwise no longer have such a path in the reformed system. In recent years, the share of siblings receiving green cards who adjusted status (from all visa types) from within the United States has been variable, but this share is usually less than 10 percent of the total, with the absolute numbers ranging from 2,700 to 15,000. Based on these numbers, I propose an annual quota of 4,000.

The queuing system for the remaining queues should be made more equitable. The per-country cap for family-based green cards should increase from 7 to 15 percent, a compromise between no change and abolition. The first and third preference categories should also be merged to remove some of the distinctions based on marital status. Currently, an individual sponsored under the first preference must remain unmarried while in the queue of 13,202 individuals until the green card is received or else the individual will move to the third preference category, whose queue has 38,458 individuals.

After this series of reforms, four capped categories will remain: adult sons and daughters of U.S. citizens (F1 and F3, together 66,000 green cards), unmarried adult children of green card holders (F2B, 36,000 green cards), siblings of U.S. citizens from TPS countries (F4A 7,000 green cards), and siblings of U.S. citizens adjusting status from a visa not requiring a bachelor's degree (F4B, 4,000 green cards). Green card holders will remain ineligible to sponsor parents and married sons and daughters, leaving an incentive for the green card holders to become citizens and (less desirably) for their sons and daughters abroad to remain unmarried.

Transition to New System

Several bills introduced to Congress since 2019 propose, as I do, raising the per-country cap for family-based green cards, abolishing it for employment-based green cards, uncapping spouses and minor unmarried children of green card holders, and reducing queues, but they differ on how to transition to the new per-country cap system (Andrews and Long 2022; American Immigration Lawyers Association 2021). The difficulty is that if a queue were re-sorted to reflect the application date more closely, with no expansion of available green cards, many applicants who had reason to think their green card would soon be available and who had applied and arranged their lives expecting a certain wait time would find themselves set back by several years.

I therefore propose a 10-year transition period to the final system. For these 10 years, the 7 percent per-country limit would continue to apply to the existing queues using the old caps and categories. In addition, however, the permanent increase in the green cap for the F2B (10,000) and the merged F1 and F3 (20,000) categories would be issued among applicants in proportion to the number of green cards their country lost due to the per-country cap having been 7 percent rather than 15 percent over the previous 10 years (in the case of the F1/F3, without regard for marital status). For each of the first 5 years only, an additional 10,000 F2B and 20,000 F1/F3 green cards should be issued for the same purpose. In the 11th year, the 15 percent per-country cap would apply to all applicants and the F1 and F3 categories would be merged.

For the F4 siblings category, I recommend closing the current system to new applications and continuing to process 66,000 green cards annually subject to the old 7 percent per-country cap until the queue is eliminated. U.S. citizen siblings from TPS countries would be able to apply for the new F5 green cards immediately (thus leapfrogging some in the F4 queue), while the new F5 system for U.S. citizen siblings adjusting status would begin after the transition period. Thus, except for the F2A category, queues would not be eliminated; eliminating queues entirely is an unattainable goal.

Humanitarian Reforms

Since 2014, asylum applications have soared to 200,000 per year, overwhelming the U.S. asylum system (Trading Economics n.d.). This growth motivated in part the recommendation to divert asylum seekers with weak cases to expanded legal employment opportunities and motivated the recommendation to use 7,000 green cards for siblings of U.S. citizens for siblings from countries in disarray. However, the asylum system is inadequate even for processing asylum seekers with strong cases. A full assessment of necessary reforms to the U.S. asylum system is beyond the scope of this proposal, though they would include additional resources for adjudication, additional resources for providing legal counsel to petitioners, and the granting to all asylum seekers access to the affirmative asylum process rather than to

the defensive asylum process, which is less favorable to the petitioner (TRAC Immigration 2021b). Detailed reform proposals have been written by other policymakers.³¹

Yet the situation at the border must not distract from the importance of increasing refugee resettlement to at least the 125,000 announced for FY 2022 (White House 2021c). Refugees resettled to the United States are typically from much poorer countries than asylum seekers (other than Haitian asylum seekers): in 2016 the top refugee origin country was the Democratic Republic of the Congo, with Congolese accounting for a quarter of U.S. resettlements and Somalians and Eritreans together accounting for another 15 percent (UN Nations High Commission for Refugees n.d.d). The U.S. government should allow for the resettlement of 30,000 refugees sponsored by groups of private individuals, as in Canada, to boost numbers beyond a floor of 125,000 (UN Nations High Commission for Refugees n.d.h). Canada resettled 19,000 refugees in this way in 2019, the last pre-pandemic year, and research has found they assimilate more quickly into the labor market than government-sponsored refugees.³²

Programs Not Requiring Reform

A number of other temporary visas and green cards have not been mentioned because I do not propose to reform them. Some of these are small, aimed at groups including diplomats, entertainers, and traders and investors from countries having bilateral trade agreements with the United States or serving humanitarian purposes. The 6,800 H1-B1 temporary visas for skilled Chileans and Singaporeans, guaranteed under trade agreements, would be adjudicated along with the W-E visas. Larger programs for which I propose no major reform are the collection of short-term J-1 exchange visas run by the State Department and the Diversity Visa, which issues 55,000 green cards by lottery to nationals of countries underrepresented in the United States: I do recommend indexing the Diversity Visa cap to GDP once the 10-year transition phase for family-based green cards has ended.

Questions and Concerns

My proposal is likely to prompt questions and concerns of several types. Would my recommendations be effective in reducing unauthorized immigration and asylum requests? Would the net economic benefits of increased immigration really be positive? What would the reforms' effect be on economic and cultural assimilation? If increased immigration is beneficial, why have I not proposed a larger increase?

Effect on Unauthorized Immigration and Asylum Requests

Whether increased legal immigration reduces unauthorized immigration is a topic less well understood than other aspects of immigration (and the effect on asylum requests is unknown).³³ For the United States, the most relevant episodes are the introduction and subsequent ending of the Bracero temporary agricultural migration program. Border apprehensions rose initially when the program was introduced, before falling to negligible levels, and then began rising again when the program ended in 1965. I find the argument that a combination of policies was required to keep unauthorized immigration low convincing.

In the early days of the Bracero program, employers and immigrant workers established connections and wished to continue the employment relationship. However, initially, employers could not choose their Bracero workers and enforcement was lax, so the employment relationships were continued unofficially. When the Bracero program permitted employers to rehire the same workers and enforcement was tightened, unauthorized immigration became rare.³⁴ Enforcement at the border is currently relatively tight, giving me confidence that my proposed increased legal immigration along with longer visa and labor certification durations would cut unauthorized immigration. It is unlikely that the reduction in U.S. citizens' siblings' green cards would spur any unauthorized immigration that the long wait times have not already spurred.

Whether the proposals would reduce asylum requests at the southern border would depend in part upon the success of efforts to attract legal workers from Haiti, Guatemala, El Salvador, and Honduras. However, because fleeing

violence is a strong motivator for asylum seekers from these countries, the temporary nature of the new legal immigration channels may not appeal to many asylum seekers, even if their applications have a low chance of success. Furthermore, I do not judge it likely that easier immigration for unskilled workers would deter Venezuelans, who are relatively educated and have high asylum approval rates, from making asylum claims. Nevertheless, reforms to the H-2B program may lead employers to use it for more medium-skill jobs, which may appeal to a minority of Venezuelans whose asylum applications are unlikely to succeed. A set-aside for Venezuelans within the new year-round H-2B set-aside is worth considering.

Would the Net Economic Benefits of Increased Immigration Really Be Positive?

Economists express confidence that immigration increases GDP per capita (for native-born Americans or for the United States as a whole). Yet, for the benefits of immigration to fully materialize, local, state, and federal governments must be able to accommodate population growth, whether due to natives or immigrants. A notable sphere in which policy is failing to accommodate population growth is housing, and some studies have found that immigration increases housing prices, which hurts the native born (on average; naturally, owners of housing benefit) (Mussa et al. 2017).

Another concern is the impact of immigration on wages of lower-paid native-born workers. Economists would expect an increase in immigration to leave the employment rate and average wages unchanged and would expect increased high-skill immigration to increase economic growth and the fiscal health of the United States. However, increased immigration of individuals who have not completed a high-school education can reduce the wages of native-born individuals in sectors other than agriculture who have not completed a high-school education. While the faster economic growth might eventually raise all wages, it is unclear in what time frame this might take place. Mindful of this issue, I recommended only a moderate expansion to the H-2B visa program, whose seasonal workers could affect native-born high school or college students' summer jobs. I have also proposed a reduction in

family-based immigration, which would partially offset the H-2B increase in unskilled immigrants.

These considerations make it imperative that my immigration reforms be accompanied by complementary reforms. The federal government should make permanent the current higher Earned Income Tax Credit (essentially a wage subsidy for low-wage workers payments) payment to young childless workers and increase the payments to older childless workers. In this way, the class of workers vulnerable to immigration-induced wage declines would be protected. State and local governments must change zoning regulations in metropolitan areas to allow for denser and therefore cheaper housing. Another pressing population-related need is more extensive and better quality public transit: this will be addressed by the Infrastructure, Investment, and Jobs Act signed into law in 2021 (White House. n.d.).

Further, the federal government should make transfers to school districts with a large share of immigrant students to compensate them for the cost of educating these children, even those proficient in English.³⁵ This would eliminate the fiscal loss immigration causes to state and local governments through the public schooling of immigrants' children and would be funded from the fiscal gain the federal government makes from contributions to unused social security and from highly paid immigrants' federal taxes (National Academies of Science 2015). The federal government should also make transfers to these school districts or their state governments to provide free English instruction to adult immigrants, imitating governments in Canada and Israel (Government of Canada 2018; Ministry of Aliyah and Integration 2021). The federal government should also cooperate with Mexican consulates to expand the Spanish literacy instruction given in their plazas comunitarias (Consulate General of Mexico in New York n.d.); literacy in English comes more quickly to those literate in their native language (Eisenclas et al. 2013). Adult instruction would not only benefit adult immigrants as workers and community members but also enable their children to be more successful in school. These complementary reforms should offset the costs of increased immigration, allowing all Americans to benefit from the combined package.

How Economic and Cultural Assimilation Would Be Affected

The proposed reforms would have implications for economic and cultural assimilation. Such assimilation is not necessarily economically advantageous for natives but is valued by many natives for noneconomic reasons. Assimilation is easiest for immigrants with a high wage and good English proficiency upon entry to the United States, with English proficiency promoting both cultural and economic assimilation as well as representing an aspect of cultural assimilation (Bleakley and Chin 2010; Hunt 2015). Almost by definition, however, assimilation takes time. The proposed reforms would increase inflows of high-wage workers, with

the nationality mix of the new inflow being unclear but likely to include Europeans and Indians with proficient English and Chinese who are less proficient; would increase inflows of slightly less highly paid workers, with Indian workers likely the main beneficiaries; and would increase inflows of individuals likely to earn lower wages and are less proficient in English, with Haitians and Central Americans among the intended employment-based beneficiaries and Mexicans likely to be even larger family-based beneficiaries in the short term.³⁶ Of these groups, however, only the high-wage workers and Mexicans would be admitted with a green card or a provisional visa leading to a green card. The reforms would therefore boost the assimilation of certain groups while restricting it for others. An implication is that certain groups would also have increased scope to influence American culture, while this scope would be restricted for other groups.

Why Not Propose a Larger Increase in Immigration?

I have not proposed larger increases in immigration for three reasons. The first is uncertainty as to the magnitude of the increase I have proposed given the uncertainty about how much automatic transition to a green card would increase the stock of skilled immigrants. Given the clear economic benefits of skilled immigration, however, this matters mainly because of the second reason: that public opinion appears not to support a large increase in immigration. An alternative approach would be to combine larger increases in immigration with better information about current immigration, information that may shift opinion. The third reason is my concern that the necessary complementary policies to offset the negative effects of immigration will not materialize.

These reservations notwithstanding, serious consideration should be given to further increasing immigration explicitly to encompass two groups: entrepreneurs and child-care workers. My proposal helps entrepreneurship in that it speeds the transition to a green card for high-skill workers, which would reduce the time a budding entrepreneur on a temporary visa must wait before opening a business without a U.S. citizen partner. My proposed reduction of OPT to a uniform one-year duration would not affect entrepreneurship because although the standard year of OPT may be used to start a business, the science and engineering extended duration may not be.³⁷ Nevertheless, the proposal does not allow for immigrants to move to the United States to start a business.³⁸

I did not propose a start-up or entrepreneurship visa because I believe it is difficult for the government to identify entrepreneurs. However, one could argue that even a large number of business failures would be outweighed by a few great successes. And in fact, as a result of a lawsuit by the National Association of Venture Capitalists in 2017, the U.S. Citizenship and Immigration Services has recently begun admitting entrepreneurs using its discretionary power

to “parole” individuals having a significant public benefit to the United States. It is also approving H-1B applications in the context of a program pioneered by Massachusetts called Global Entrepreneur in Residence. It would be preferable to legislate a dedicated start-up or entrepreneurship visa, ideally guided by an evaluation of the Global Entrepreneur in Residence program (U.S. Citizenship and Immigration Services 2022d; Brah 2019).

The arguments made in favor of admitting more health-related workers could be repurposed to support a visa targeting child-care workers, with the difference that demand for child care is not likely to rise as inexorably as demand for health care. Increased low-skill immigration has been shown to free highly educated native women to join the labor force, increasing the efficiency of the economy (Cortés and Tessada 2011). Canada has a program encompassing caregivers providing care in private residences to children, seniors, or people with medical needs (Government of Canada 2022a,b). My proposed H-2B set-aside for health-related workers could be expanded and made more general, or two distinct set-asides could be created based on skill. Lessons from earlier Canadian programs, particularly difficulties with the live-in caregiver program, should be studied if this path is followed.

Other Reforms Not Recommended

A final set of questions involves other recommendations I have not made. A popular program I have not proposed is a points (merit) system whereby the government sets criteria for ranking skilled worker applicants. Evidence from Australia and Canada suggests that points systems are not effective in selecting workers who are as productive and innovative as immigrants to the United States (Blit, Skuterud, and Zhang 2020; Bonikowska, Hou, and Picot 2011). This is likely because governments are less qualified than employers to choose suitable workers.³⁹

Another reform I have not proposed is to allow states to sponsor immigrants who would be obliged to reside in that

state or in a rural area. Canadian and Australian programs have been successful in altering where immigrants reside and have stabilized falling populations in some areas.⁴⁰ However, this is a noneconomic objective, and if immigrants expected to be productive and content in such areas, they would move there in the absence of any program. Encouraging immigration to the isolated island of Newfoundland, where the unemployment rate has not been below 10 percent since at least 1982, seems ill-advised.⁴¹ Nevertheless, this is a subjective decision.

Another policy favored in countries including Australia is that of maintaining a regularly updated list of shortage occupations and favoring immigration of workers in these occupations (Australia Department of Home Affairs 2021). The concept of a labor shortage is not economically sound, and the designation of shortage occupations cannot be done scientifically (Veneri 1999). I therefore do not favor such a policy, even as I endorse favoring health workers based on obvious very long-term trends.

Certain analysts have suggested taxing immigrants at a higher rate than native-born Americans, possibly as a substitute for numerical caps (Smith 2020). I have not embraced this idea because this would require complicated changes in the tax code and possibly abrogating international tax treaties. I have also not embraced the idea of paying a sum of money on arrival, either nonrefundable to cover future government benefit use, as in the United Kingdom, or refundable under some circumstances (see Smith 2020; for the United Kingdom fee, see GOV.UK n.d.). Immigrants are already prevented from using many benefits for five years, and this seems sufficient to ensure the immigrants’ migration decisions are little influenced by the availability of public benefits.

I have also not proposed withholding wages from low-skill temporary immigrants who would be reimbursed upon return to their home country. Employment-based immigrants account for only 7–10 percent of visa overstayers, which does not appear high enough to justify a procedure that is administratively burdensome, difficult to implement without cooperation from foreign governments, and a hardship for immigrants.⁴²

Conclusion

I have made proposals that would increase new immigrant arrivals in the United States by approximately 130,000 annually, a number that would increase as caps are expanded in line with GDP growth. Inflows would shift from family-based immigration to employment-based and humanitarian immigration, and employment-based inflows would shift from unskilled to skilled workers. Inflows would increase in all categories except family-based immigration, where inflows would be reduced by ending the eligibility of most siblings of U.S. citizens. Increasing inflows of health and care workers of both medium and low skill is an important component of the reforms. The stock of immigrants would increase by more than the inflows as skilled immigrants on temporary visas take advantage of an uncapped and unbureaucratic transition to a green card.

I have proposed reforms effectuating these changes to increase the economic benefits of immigration while avoiding harm to native-born workers and to reduce unauthorized employment and asylum requests with little chance of success. I have also tempered immigration increases in

recognition of public reluctance to increase immigration. My reforms would increase fairness by extending sanctuary to more people in need, reunifying close family members more quickly, admitting more women based on employment, and treating immigrants more equitably by raising per-country caps.

Despite the large net benefits of these immigration reforms, it is essential to introduce complementary policies to ensure net benefits for the broadest set of native-born Americans. Expanding the coverage of the Earned Income Tax Credit and making it more generous for some workers would forestall earnings declines for native-born Americans without a high-school diploma. Other reforms would enhance the country's ability to accommodate population growth: loosening restrictions on housing construction would minimize increases in the cost of shelter; boosting federal funding to school districts with large numbers of immigrant students would ensure all jurisdictions can provide quality education to all students; and improving public transit would prevent increased commuting congestion.

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Endnotes

1. For immigrants aged 15 and older; see d'Aiglepierre et al. (2020).
2. For more far-reaching proposals involving visa auctions and visa resale markets, see Caselli and Cox (2018), Orrenius and Zavodny (2010, 2020a), Peri (2012), and Zavodny (2015).
3. In 2022, 41 percent of Americans said they worried a great deal about illegal immigration, while 19% said they worried a fair amount (Gallup 2022). See also Pew Research Center (2021).
4. More than half of hired crop workers in 2019 who were not on an H-2A visa were unauthorized (the survey with information on whether workers are documented excludes workers on H-2A visas). Taking H-2A holders into account, approximately 40 percent of all workers are unauthorized. See Economic Research Service (n.d.).
5. Author's calculations based on United Nations High Commission for Refugees (n.d.a,b,c,f,g). 2021 and 2022 have been unusual years, as the United States granted humanitarian parole (outside the asylum and refugee system) to 70,000 Afghans following the U.S. military's withdrawal from Afghanistan and to 87,000 Ukrainians (through September 2022) following the Russian invasion of Ukraine (Chishti and Bush-Joseph 2022).
6. This issue is discussed in Resstack and O'Donnell (2021).
7. See U.S. Department of State (2021a) and Bier (2021a). The number of green cards excludes those issued in the Diversity Visa Lottery, for which there is no queue.
8. See, for example, Vaughan (2018). Experts agree that each family-based immigrant sponsors approximately one further immigrant but interpret that number in different ways (Massey and Pren 2012; Cascio and Lewis 2021).
9. The complex, state-varying rules governing access to benefits are described in Broder, Lessard, and Moussavian (2022). For example, in half of states, immigrants are excluded from most public health programs including Medicaid. Lack of understanding of the rules on the part of both immigrants and those who administer them reduces usage.
10. This is similar to the proposed U.S. Citizenship Act of 2021. See Congress.gov (n.d.).
11. This is the terminology of Orrenius and Zavodny (2010) and is also proposed for the United States by Anderson (2020). A virtually automatic transition from a temporary visa to permanent residence is the process in Switzerland; see Etat de Vaud (n.d.).
12. For 106 pages of information on temporary work visa types, see U.S. Citizenship and Immigration Services (n.d.).
13. It is unclear if the 12,000 includes so-called blanket petitions. See U.S. Citizenship and Immigration Services (2020b).
14. This number may include renewals; see U.S. Department of State (2021b, table XVB).
15. See U.S. Department of State (2022b). There are no data on queues for adjustment of status by temporary visa types.
16. Calculation based on U.S. Department of Homeland Security (2019, table 7).
17. Eventually, a bachelor's degree might become required for all RNs, at which point registered nursing would automatically become a specialty occupation. New York has taken a step in this direction by requiring nurses without a bachelor's degree to obtain one within 10 years of licensure. See University of Buffalo School of Nursing (n.d.).
18. Thirty-six percent of applications for the 85,000 capped H-1B visas were chosen in the April 2022 lottery. In 2019, the 25th percentile salary for (all) new H-1B recipients was \$70,000. See U.S. Citizenship and Immigration Services (2020a).
19. Author's calculations.
20. I do not propose reducing the cap in high unemployment periods because the cap cannot be below 65,000 due to the U.S. treaty obligation through the General Agreement on Trade in Services. Temporary projects are likely to be the first abandoned in a downturn, however, so I expect applications to decline considerably in economic downturns.
21. See U.S. Immigration and Customs Enforcement (2020, F103ff). The more easily readable two- and four-digit codes are at National Center for Education Statistics (n.d.).
22. Landgrave (2020) proposes free labor mobility between Canada and the United States.
23. Author's calculation based on the American Community Survey.
24. The most recent document describing the calculation of the AEWR in full detail is U.S. Government Accountability Office (1988), notwithstanding recent Federal Register notices containing proposed changes to the calculation. The Farm Labour Survey sampling frame and response rate is described at U.S. Department of Agriculture (2022). See also Calvin, Martin, and Simnitt (2022).
25. See White House (2022). This declaration also notes the Biden administration plan to attract more workers from northern Central America to the H-2A program.
26. This is suggested by Martin (2022). The importance of reputable recruiters and government cooperation is stressed in Gutierrez, Zedillo, and Clemens (2016).
27. The maximum additional visas would only rarely be available since in the last 40 years this condition was satisfied only from December 1999 to March 2001 and from March 2017 to February 2020. See Federal Reserve Economic Data (2022).
28. The last two H-2B reforms have been proposed by Bier (2021), who also describes the H-2B application process in full detail. Bieber (2022) proposes allowing H-2B workers to work for the same employer for three years while only counting once against the cap.
29. Earlier in the fiscal year, some green cards were available for more

recent Mexican applicants, since a feature of the complex system is that 75 percent of F2A green cards are not subject to a per country cap. By “available,” I mean that an applicant who had entered the queue by successfully submitting an I-130 Petition for Alien Relative could now submit an I-485 Application to Register Permanent Residence or Adjust Status. The share of individuals with a successful I-130 who do not submit an I-485 is unknown. See U.S. Department of State (2021a).

30. Statistics in this subsection come from U.S. Department of State (2021a) and U.S. Department of State (2022a).
31. Others have written reports on the asylum system with recommendations varying from incremental to bold; for example, Frelick (2021); Bier (2020a); Meissner, Hipsman, and Aleinikoff (2018); and Fratzke and Tanco (2022). Recent asylums reforms are described in U.S. Department of Homeland Security and Department of Justice (2022), while others are being litigated.
32. See Government of Canada (2019). Kaida, Stick, and Hou (2020) show that privately sponsored refugees are more educated but assimilate more quickly even compared to similar government-sponsored refugees.
33. For analysis of countries other than the United States, see Czaika and Mobolth (2016) and a literature review in Cooper (2019): the evidence points toward legal migration being a substitute for other migration.
34. This discussion is based on Gutierrez, Zedillo, and Clemens (2016). Anderson (2003) and Massey and Pren (2012) agree the Bracero program reduced unauthorized immigration.
35. Possible reforms to the existing, underfunded, federal Title III program for limited English proficiency students are discussed in Sugarman (2016).
36. See Gambino, Acosta, and Grieco (2014) for the English proficiency of immigrants of different nationalities.
37. For guidance approving starting a business on regular OPT, see U.S. Immigration and Customs Enforcement (2010). For guidance ruling this out for (former) students on the extended STEM OPT, see U.S. Department of Homeland Security (2016).
38. Kerr and Kerr (2020) describe in detail opportunities and challenges for would-be immigrant entrepreneurs in the United States.
39. I examine the pros and cons of points systems in Hunt (2017).
40. The effects of the Canadian programs are analyzed in Pandey (2011) and Whalen, Li, and Eisen (2021). The programs are described in Australia Department of Home Affairs (2022) and Government of Canada (2022c).
41. Statistics on the most recent provincial nominees chosen by Newfoundland are in Thevenot (2021). Unemployment rates are from Government of Newfoundland and Labrador (n.d.).
42. See U.S. Department of Homeland Security (2020). The withholding idea has been proposed by others; see, for example, Peri (2012), who proposes a broader use, and Gutierrez, Zedillo, and Clemens (2016) in their detailed proposal for close U.S.-Mexican migration cooperation.



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Director

I propose reforms to the U.S. immigration system that would increase its economic benefits to the native born, increase its fairness, and strengthen the application of its laws. New immigrant arrivals would initially increase by approximately 130,000 annually, with caps subsequently expanded in line with GDP growth. Inflows would shift from family-based immigration to employment-based and humanitarian immigration, while high-skill workers' share of employment-based inflows would increase. Inflows would increase in all categories except family-based immigration, where inflows would be reduced by ending the eligibility of most siblings of U.S. citizens. Facilitated entry for health and care workers of both medium and low skill would increase provision of crucial services while increasing women's access to work visas. The stock of immigrants would increase by more than the inflows as high-skill immigrants on temporary visas take advantage of uncapped transitions to a green card.

Effects of Annual Changing Caps on Annual New Immigrant Arrivals

Program (1)	Recipient type (2)	Old cap (3)	New cap (4)	Change in cap (5)	Share of recipients who are new arrivals (6)	(5) x (6) = Change in new arrivals (7)
1. Temporary work visas						
H-1B	Bachelor's	85,000	195,000	110,000	1	110,000
H-2B	Less than bachelor's	66,000	106,000	40,000	1	40,000
2. Employment-based green cards						
EB-1	Bachelor's or extraordinary ability	40,040	0	-40,040	0.057	-2,282
EB-2	Bachelor's	40,040	0	-40,040	0.087	-3,483
EB-3A	EB-3A: bachelor's	30,040	0	-30,040	0.315	-9,463
EB-3B	EB-3B: less than bachelor's	10,000	0	-10,000	0.398	-3,980
EB-3C	Less than bachelor's	10,000	0	-10,000	0.823	-8,230
EB-5	Investors	10,000	0	-10,000		
3. Family-based green cards						
F1	Unmarried major children of U.S. citizens	23,000	33,000	10,000	0.853	8,530
F2A	Spouse, minor children of green card holders	90,000	None	—	—	—
F2B	Major children of green card holders	26,000	36,000	10,000	0.909	9,090
F3	Married children of U.S. citizens	23,000	33,000	10,000	0.912	9,120
F4	Siblings of U.S. citizens	65,000	11,000	-54,000	0.920	-49,680
4. Refugees		125,000	155,000	30,000	1	30,000

Source: Share of new arrivals sourced from: <https://www.dhs.gov/immigration-statistics/yearbook/2019/table7>, accessed October 8, 2022.

Note: Visas or green cards are divided by education according to the education of the principal applicant, though spouses and especially children are likely to have less education. To calculate new arrivals by education (which is proxying for skill), EB-1 recipients are all classified as bachelor's degree holders, while 50% of the EB-3A and EB-3B recipients are classified as bachelor's degree holders. It is difficult to judge to what degree removing the F2A cap will increase new arrivals. The table uses the base numbers of W and H-2B visas.

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