

First Principles

- Secure U.S. borders
- Give employers the tools necessary to verify immigration status of who they hire, and hold them accountable to do so
- Provide a lawful channel for needed temporary workers (referred to as “Y-visa” holders)
- Bring illegal workers out of the shadows (offering them what we call a “Z visa”) without amnesty
- Require English proficiency, civics training, oath of allegiance
- All policies must be workable (comparatively simple, efficient, not subject to undue litigation) -- do not repeat the 1986 failure

Triggers

- **TWP to launch and Green Card rebalancing to begin only after hard “triggers” are met**
 - Border Patrol manpower at 18,300
 - 200 miles of vehicle barrier; 370 miles of fencing; funding obtained and contracts in place to put at least 300 miles of southern border under electronic monitoring
 - No release of deportable aliens caught at the border
 - Initial implementation of secure identification tools for all Americans and aliens seeking employment
 - Employment verification system working on scale necessary for TWP; capability demonstrated for mandatory use in all hiring
 - Probationary registration of illegals complete

Four types of identity cards needed:

1. Future-flow temporary workers get a high-security card

- Overseas alien is paired with job, then goes to U.S. consulate or embassy, where Dept of State, or approved contractor, will collect name, picture, citizenship, and fingerprint
- If he clears security checks, alien comes to U.S. and picks up tamper-resistant card that contains photo, personal information, and fingerprint (including in machine-readable form)

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Identity cards needed *(continued)*

2. Legal U.S. residents seeking work will use a high-security proof of identity and citizenship

To avoid fraud, racial profiling, and failure of EEVS system, it will also be necessary for Americans seeking work in the future to use secure IDs

- Accept several secure alternatives —
- Electronic document verification through employers
 - Passport
 - PASS cards
 - Real ID driver's license
 - New tamper-resistant Social Security card

Identity cards needed *(continued)*

3. Current undocumented get probationary cards

- Starting approx 6 months after bill passage, and ending 12 months later, DHS employees and private contractors offer interim registration (aided by employers and NGOs) to illegals wishing to make themselves right with the law
- Any alien wishing to transition to a legal status **MUST** come forth during this time, and every household member must be separately enrolled
- Probationary card good while triggers and background checks proceed, but revocable at any time if background check is unsatisfactory.
- Illegals apprehended crossing the border after a date certain will be permanently barred by DHS officials

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Identity cards needed *(continued)*

4. Current undocumented who pass background checks will be given high-security card once triggers are met

By the end of the probationary enrollment period:

- Universe of illegals seeking adjustment will be known
- Architecture for a tamper-resistant permanent card will be determined
- Procedures for personal background checks will be set

Two concluding steps will then be necessary:

- Triggers for the temporary worker program have to be met
- Each applicant needs to pass a background check

- At that point, holders of probationary cards will be issued secure long-term Z-visas

Employer Compliance

- Employer verification becomes mandatory for all new hires
- Tougher employer sanctions
 - Much bigger fines
- DHS needs statutory authority
 - To cross-check records with the Social Security Administration and the IRS
 - To flexibly alter rules to combat new forms of fraud

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Future-flow Temporary Workers (Y visas)

- **First-year cap**
- **In future, adjust annual entrants based on market needs**
 - Every two years, prevailing annual cap can be altered if the Secretary of Homeland Security, in consultation with Secretaries of Labor and Commerce, certifies demonstrable need for higher or lower number
- **Job placement**
 - Employers must show that U.S. workers are not available to fill position
 - Approved jobs are listed in a publicly accessible computer database
 - Private-sector firms pair TWP applicants w/ jobs
 - TWP workers can shift to any certified job at any time
 - Aim to maximize labor mobility and minimize government dictates on where individuals may work, within certified jobs

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Future-flow Temporary Workers

- **Must assure temporary nature of program**
 - **Term**
 - *Main program:* In U.S. 2 years, then 6 months at home, 2 renewals
 - *Seasonal program:* 9 months in U.S. / 3 months at home, indefinitely renewable
 - **Family**
 - Worker may not bring spouse or children to U.S. (though may freely return home for visits)

Future-flow Temporary Workers

- **Responsible finances**
 - Costs of program to be covered by [\$1,500] processing fee
 - A portion of TWP processing fee could be transferred to localities as impact payments
 - Temporary workers to pay normal taxes, are eligible for emergency social services

- **Can temporary workers get in line for Green Card?**
 - If desired, temporary workers can apply for Green Card through normal merit-based channel, as reconfigured (see later slides), but must follow normal procedures, and leave country when temporary work period expires, even if an LPR petition is pending.

Seasonal Workers

**Current programs for seasonal labor don't work—
for employers or for employees**

- **Only 32,000 H-2A visas were picked up in the latest year**
 - Program is complicated, burdensome, costly
 - Labor certification process frustrates growers
 - Adverse Effect Wage Rate prices many farmers out of program
- **Thus the vast majority of all workers employed in agriculture at present are illegals**
 - There are a total of 1.1 million farm workers in the U.S.
 - 300,000-500,000 are illegals
 - 32,000 are legal temporary workers
 - The rest are natives
- **H-2B (seasonal workers other than agriculture) totalled 87,000**

Goals for a Seasonal Portion of TWP

- Seasonal workers would enjoy the same privileges and be subject to all the rules applying to the new TWP, except as specifically exempted
- Seasonal workers would be matched to jobs using the wider TWP mechanisms
- Unlike other temporary workers (who would be limited to terms of 2 years), seasonal workers could enter the U.S. every year, indefinitely—but only on a seasonal basis (present no more than 9 months out of 12)
- Seasonal workers would contract with their employers, guaranteeing that the laborer will be available for the duration of the season
 - A seasonal worker may leave a contracted job, but if so he will have to leave the country and go through a one-year cooling off period out of the U.S.
 - If he wants to shift to a TWP job in a different, non-seasonal category, he can re-enter the U.S. only under the wider TWP terms (not for 9 out of 12 months)
- Non-ag seasonal workers would be included in overall intake allotments and annual caps under the wider TWP; ag workers would be uncapped
- The H-2A and H-2B programs would end

Current Undocumented

These immigrants are in violation of U.S. law, and must be treated differently from lawful arrivals

Large cumulative penalties [\$2,000] fine levied at every 3-year Z-visa period. Eventual effect will be the equivalent of a felony fine broken into installments. While substantial, these penalties are modest compared to smuggler's fees and, especially, the economic benefit to the migrant of coming to the U.S. Large penalties are important to putting sneak entry at a disadvantage to legal entry. Penalties are also the difference between amnesty and restitution.

- **Pay for their own processing** In addition to penalties, Z-visa holders will be required to pay the same processing fee [\$1,500] assessed to all temporary workers at each licensure. This will allow the process to be self-funding, and not a burden on taxpayers. A portion of every 3-year licensure fee to be shared with localities as an impact fee
- **Government programs** Z-visa holders are eligible for emergency social services and primary & secondary education

Current Undocumented

Z visa offers limited benefits

- **Holders can stay for three-year terms, indefinitely renewable, but there are requirements:**
 - Must not commit serious crimes (background check at every renewal)
 - Must work, have a working head of household, or be in school for most of each year
 - Must pass, at their first renewal, the same English and civics tests required of aliens applying for naturalization (exceptions for elderly). Faith-based, community, and business groups involved in assimilation programs
 - Trim fees/penalties for immigrants who meet higher assimilation standards
- **Fraud is not rewarded**
 - Workers who paid Social Security taxes while working illegally may not obtain benefits based on those contributions unless they were made under real name with a valid SSN. Fraudulent contributions are forfeited
- **Holders do not have right to sponsor relatives to come to the U.S.**

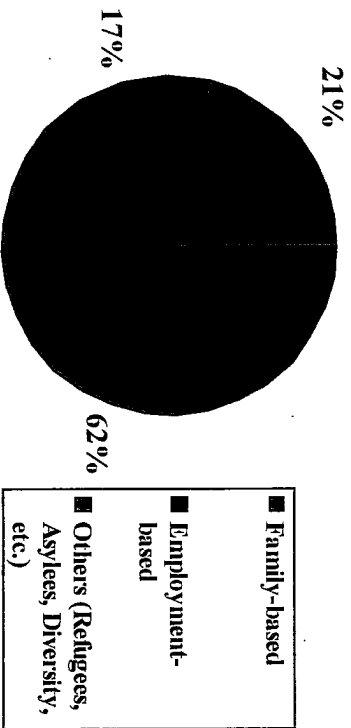
Green Card Criteria Need Remaking

Current system is out of balance

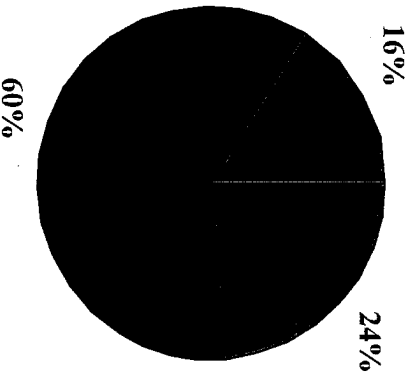
- It favors those lucky enough to have a relative here over those with valuable talents and education
 - Of 1.1 million immigrant visas issued in FY05:
 - 58% went to relatives
 - 22% to persons selected for their ability to contribute to the U.S. economy (and a majority of that 22 percent was actually spouses or minor children of the persons selected for merit)
 - Remainder are humanitarian (e.g. refugees) or diversity visas
- Better balancing the family and talent categories would:
 - Make the U.S. more competitive with other nations (who generally emphasize an immigrant's ability to contribute)
 - Reduce chain migration
 - Open up opportunities to reduce Green Card waiting lines

U.S. vs. Other Nations of Immigrants

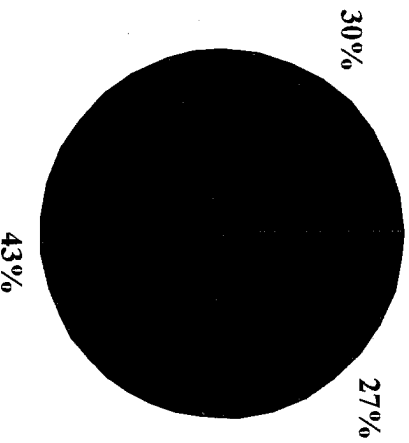
US (Annual Average FY2004-2006)



Canada (2005)



Australia (2004-2005)



■ Family-based
 ■ Employment-based
 ■ Others

■ Family-based
 ■ Employment-based
 ■ Others

The Extended-family Backlog

Waiting lists for chain migration of extended family members are completely out of control

- Over the last decade, applications by siblings and adult children for permanent immigrant visas have become a flood
- Several million foreign extended family members have now asked to come to America -- it will take over 30 years to finish processing them on our current path
- Recognizing the untenability of these applications, in July 2004 USCIS stopped processing family petitions because the lines were so long

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Clean Up the Extended-Family Backlog

1. **Fix preferences that encourage chain migration**
 - Place caps & waiting periods on preference for parents
 - Immediately redirect 50,000 annual visas to merit-based and national-need categories
 - Eliminate preference for siblings and adult children
 - Will eventually free up 140,000 annual visas
 - But first, handle those backlogged in line
2. **Eliminate the Diversity Visa Lottery**
3. **Conduct a census of existing lines**
 - Require fresh application by all backlogged applicants
 - Collect updated information, biometric identifiers, \$500/person fee
 - This will consolidate backlog to earnest applicants
4. **Reduce the extended-family backlog**
 - Offer those turned down the opportunity to apply for merit-based visas, with points awarded for having U.S. relatives

Rebalancing Our Green Card Categories

In the initial years:

- **Clear out backlogs and waiting lines**
- **Create slots for immigrants with valuable education, skills, and talents**
 - Convert all diversity visas and some parent-preference visas to merit-based selection—creating 100,000 openings in year one
- **Launch a visa system that sorts applicants according to national needs and individual merit (p.23)**
 - U.S. competitiveness will be boosted by increased admissions of needed brain workers and exceptional Y-visa workers
 - Emphasize education
 - Make it easier for the best foreign students earning STEM degrees at U.S. colleges to stay and work

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Rebalance Green Card Categories

In the subsequent period:

- Backlogs are cleared
- Family-related and refugee visas total approx 700,000/yr
- Merit- and need-based visas kick in fully at 700,000/yr
 - Use points to select two large streams for Green Cards:
 - Educated and skilled workers critical to national competitiveness
 - Unskilled workers with high employer valuations and other equity and roots in the U.S.
 - Merit system can be tuned at various points to keep the level and mix of Green Cards in the national interest

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Current Undocumented and Green Cards

▪ No special path to citizenship

Z-visa holders who wish to apply for a Green Card may do so, but only through regular programs, after backlog resolution. Expectation is that those without disqualifying problems will eventually all be processed through the system. But in recognition of their illegality, Zs will face some special strictures:

- **Penalties:** Z-visa holders who choose to pursue LPR will be required to pay a [\$10,000] fine: [\$2,000] at application, [\$8,000] at approval
 - **Home application:** Z-visa holders who choose to pursue LPR will be ineligible for “adjustment of status” from the U.S. Heads of household will need to return to their home country and follow the normal channel of applying at the U.S. embassy or consulate, where there is already infrastructure and expertise to handle such applications. After applying, they will re-enter the U.S. legally—their right to return being guaranteed by their valid Z visa
- ## ▪ Sift applications using anew procedure:
- Portfolio application with point-based merit selection

Selecting LPRs by national-interest criteria

- **Two steps:**
 - **Application by portfolio**
 - Neither self-nomination nor employer-nomination
 - **Selection by points**
 - Use a point system which selects for merit and national interests in categories like education, skills, English proficiency, employer recommendation, etc. -- but which also gives significant weight to years of U.S. work, homeownership, health insurance enrollment, children's success in school, and other indicators of civic roots and equity in America, so as to offer Zs (and some exceptional Ys) a realistic chance at LPR status

Can Y-visa temp workers apply for LPR?

- **No automatic conversion to LPR status**
 - Temporary workers are temporary
 - However, there ought to be some meaningful chance for a temporary worker who has been a model employee and good member of the community to be eligible for LPR through normal channels, on a normal timeline
 - Within the new merit-based visa system, allow some TWP workers to compete for an LPR slot
 - Do this on a normal timeline -- no instant path. If TWP permit expires while application is pending, worker must wait in home country, or as a renewed TWP worker
 - Candidates are to be selected under clear meritocratic criteria
 - Initial petition and final selection based on national-interest criteria