

ANALYSIS OF SENATE S.2611 IMMIGRATION REFORM: FOCUS ON HIGHLY SKILLED IMMIGRANTS

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NEW CAPS

- **IMMEDIATE RELATIVES OF US CITIZENS** no longer count against the family based cap and mechanisms are created to recapture unused visas.
- Reallocates the **FAMILY-SPONSORED PREFERENCE** categories:
 - 10% for unmarried sons and daughters of U.S. citizens
 - 50% for spouses, minors and unmarried adult sons and daughters of LPRs
 - 10% for married sons and daughters of US citizens
 - 30% for brothers and sisters of citizens
- **PER-COUNTRY CEILINGS** are raised from 7 to 10% of the total visas.
- **EMPLOYMENT-BASED** employment based cap is raised from 140,000 to 450,000 for FY 2007 through 2016. Jeff Bingaman added an overall cap of 650,000 for principals plus derivatives. Preference allocations are readjusted:
 - 15% for EB-1 (“priority workers”)
 - 15% for EB-2 (professions holding advanced degrees or exceptional)
 - 35% for EB -3 (skilled professionals)
 - 5% for EB-4 (investors)
 - 30% for EB-5 (old set-aside EB-3, 30% for persons before January 2004.)

EMPLOYMENT BASED (EB) IMMIGRANT VISAS

- **EXEMPTIONS FROM THE EB CAP** for those foreign professionals with:
 - US master's degree or higher, or a US medical specialty certification;
 - STEM master's degree anywhere and 3-years US experience on a NIV;
 - Outstanding researchers, professors, or professionals of extraordinary ability;
 - Occupations designated by DOL as lacking sufficient US workers ("Schedule A").
 - National interest waiver by the Attorney General.
- **EASES LABOR CERTIFICATION PROCESS:**
 - Waives certification for STEM U.S. advanced degrees holders.
 - Streamlines the labor certification process for established employers.
 - Requires USCIS to accept premium processing applicants
 - Seeks to eliminate procedural delays in certification process.
 - DOL will be required to make prevailing wage determinations
 - DOL will have a 20 day limit to provide such a determination
 - DOL must use the wage survey provided by the employer unless OES is more accurate
 - DOL must maintain a website with links to websites of each state workforce agency
 - DOL must set up process for employers to may make technical corrections

DOL must decide appeals/ motions to reopen within 60 days of filing

NEW STUDENT VISAS FOR STEM FIELD

- **Creates F-4 and J-STEM (dual-intent) visas** for students pursuing advanced degrees in a STEM field. May adjust directly into green card status, no cap for \$500 fee with 3-year authorization documents.
- Optional Practical Training for F-1 holders extended from one year to 24 months.

INCREASED H-1B VISA CAPS AND 20 PERCENT ESCALATOR

- **Cap is increased from 65,000 to 115,000** per fiscal year for three years. After that, the cap may rise up to 20% per year if employer demand outstrips supply in the previous year (no sunset).
- Extends cap exemption to all non-profit institutions; local, state, or federal government institutions are exempt.
- Extends the cap exemption for those with a US medical specialty certification w/post-doctoral training.

OTHER CHANGES RELEVANT TO SKILLED WORKERS

- **EXTENSIONS OF STAY FOR L-1 VISA** holders beyond the statutory limitation if a labor certification application or immigrant visa petition has been filed and pending for more than 365 days.
- **GREEN CARD LOTTERY** - reserves two-thirds of the lottery slots for people with advanced degrees. There will be 36,667 of these slots, and 18,333 left for regular slots.
- Brings back **VISA REVALIDATION**, which was ended after 9/11. Allows for those in the US on E, H, I, L, O, or P non-immigrant visas to renew those visas by mail from within the US.

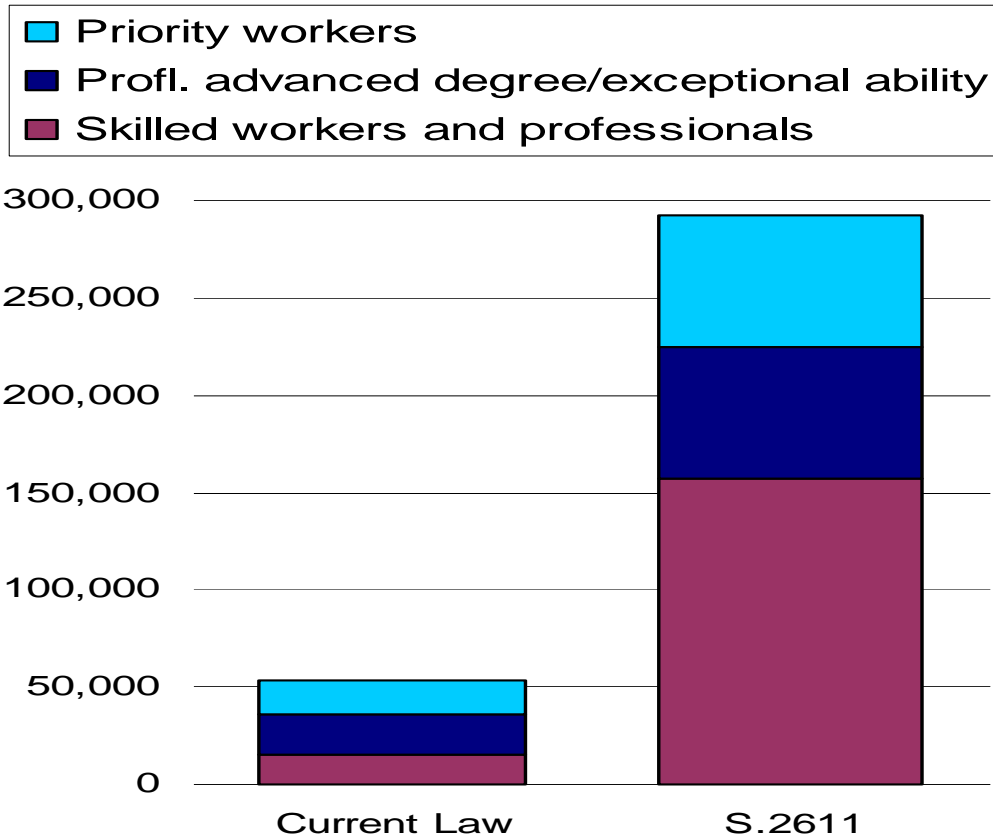
Appendix Table 1. Number of Legal Permanent Immigrants Admitted by Current and S.2611 Visa Class

Permanent admission class	FY2005			S-2611			Change, %
	Total, number	Total, %	Class, %	Total, number	Total, %	Class, %	
Total legal permanent resident (LPR) admissions¹	1,122,373	100.0%	--	1,621,802	100.0%	--	44.5%
Employment-based preferences (EB)	148,449	13.2%	100.0%	450,000	27.7%	100.0%	269.8%
1 Priority workers	42,456	3.8%	28.6%	1 67,500	4.2%	15.0%	125.7%
2 Professionals advanced degrees or exceptional ability	42,456	3.8%	28.6%	2 67,500	4.2%	15.0%	125.7%
3a Skilled workers and professionals	32,456	2.9%	21.9%	3 157,500	9.7%	35.0%	451.9%
3b Needed unskilled workers	10,000	0.9%	6.7%	-- --	--	--	--
4 Special immigrants	10,540	0.9%	7.1%	-- --	--	--	--
5 Employment creation (investors)	10,540	0.9%	7.1%	4 22,500	1.4%	5.0%	180.1%
-- Other workers (formerly 3b)	--	--	--	5a 89,991	5.5%	20.0%	866.6%
-- Other workers, present before 2004	--	--	--	5b 44,996	2.8%	10.0%	--
-- Dependents	77,193	--	--	6 200,000	12.3%	--	104.1%
Diversity	50,000	4.5%	100.0%	55,000	3.4%	100.0%	10.0%
1a Diversity, high school	50,000	4.5%	100.0%	18,332	1.1%	33.3%	-63.3%
1b Diversity, advanced degree	--	--	--	36,663	2.3%	66.7%	--
Family-sponsored preferences (FB)	226,000	20.1%	452.0%	480,000	29.6%	100.0%	112.4%
Immediate relatives of U.S. citizens	436,802	38.9%	100.0%	436,802	26.9%	100.0%	--

Sources: Data on current FY2005 admissions are from the annual Yearbook of the U.S. Department of State and include dependents, http://www.uscis.gov/graphics/shared/statistics/publications/USLegalPermEst_5.pdf. Data on S.2611 are from the author's analysis of the legislation.

Notes: The legislated numbers on the current admission system differ in number but not proportion from those shown for FY2005. The figures in the table reflect the number of principals under S.2611. Under S.2611 the EB caps apply to principals only and a new EB dependents class is created. To estimate the number of EB dependents under current law the FY2005 numbers are multiplied by 52 percent which is the percentage of derivatives in FY2005 (about 48 percent of EBs 1-3 are principals which is used for the comparison in Figure 1). Not all categories are comparable (--). For example, the number of immediate relatives would surely increase substantially under S.2611, but the projections here make no assumptions about that growth.

Figure 1. Change in LPR Visas for Employment-based Principals, Today and S.2611



Source: estimates by author and S.2611 caps.

Enforcement provisions

- S2611 includes a notable increase in temporary guestworkers; and a
- a stepped up employer sanctions regime with increased border enforcement
- How would these affect the supply of undocumented workers?