



Immigrant Pathways to Legal Permanent Residence

Now and Under a Merit-Based System

By Joseph M. Hayes and Laura E. Hill

Summary

The policies that determine how the foreign-born enter the United States are some of the most complicated, least understood, and most disliked of all federal policies. States, especially those with large immigrant populations such as California, have good reason to be concerned about how federal immigration policies function.

In this report, we examine how current federal immigration policies operate in selecting which immigrants can become legal permanent residents (LPRs) in the United States and in California. The process can be quite lengthy for many immigrants entering through family connections, and the distinction between legal and illegal immigrants is not always clear. Fewer than 40 percent of legal permanent residents are new to the United States at the time they earn that status and many have been here illegally at least once. This is especially true in California, where 52 percent were here illegally for at least some of the time they were in the United States (33% had never entered the United States and 15% had entered or stayed only legally before becoming legal permanent residents).

We also consider how changes to federal immigration policy proposed in spring 2007 (S. 1639) might alter the composition of legal immigrants in the United States.¹ Although this legislation failed to pass, new legislation is certain to be proposed that will likely incorporate many elements of the original bill. The proposed legislation would have replaced the current system for attaining legal permanent residency—which prioritizes applicants on the basis of family reunification and employment—with a selection system that places a greater emphasis

We consider how changes to federal immigration policy proposed in spring 2007 might alter the composition of legal immigrants in the United States.

on employment and skills. To better understand the consequences of this merit-based system, we simulate the proposed admission categories and apply its point system to a cohort of foreign-born who became legal permanent residents in 2003.

We find that under this proposal, 50 percent of 2003 LPRs would retain their eligibility for LPR status (without being subject to the merit-based point system) because they have relatives in the United States. Among those subject to the point system, relatively few would earn any of the points allotted for family relationships.

Although the proposal did not establish a point threshold over which applicants would secure admission, our simulation suggests that few would earn very many of the 90 points possible. We find that only 25 percent earn 38 points or more, and the share in California is lower still (17%). Being employed in specialized scientific fields earns 20 points, and those employed in such fields earn enough other points that 100 percent of them earn at least 38 points. Those holding high school diplomas, on the other hand, earn six points; 14 percent with only a high school diploma earn total points of 38 or more.

As was surely the intent of the proposal, current employment experience in the United States is extremely important in earning high point scores. Thus, the proposal would place even more importance on temporary visa programs. These simulations inform future policy debates by demonstrating who is most likely to be admitted under the proposed merit-based system.

Introduction

Immigration reform will remain a high priority for the public until Congress passes comprehensive reform. Although many elements of the reform proposals in 2006 and 2007 were unpopular with the public, immigrant rights advocates, employers, and members of Congress on both sides of the aisle, it is likely that future proposals will contain many of the same key components of this reform effort. As with the most recent bill debated (S. 1639, “A bill to provide for comprehensive immigration reform and for other purposes,” sponsored by Senator Kennedy and co-sponsored by Senator Specter and with support from President Bush), new proposals will probably address securing the border, employer enforcement and verification, rebalancing family-based immigration, changes to employment-based immigration (including the introduction of a merit-based system), clearing the backlog of applications for legal permanent residency, changes in temporary worker programs, and some course of action for the estimated 12 million illegal residents currently in the United States, 2.5 million of whom are thought to live in California (Pew Hispanic Center, 2006a).

Immigration is a difficult phenomenon to study, especially in the United States. We do not have a federal registry system, and

although we have fairly good entry data for some categories of the foreign-born (legal permanent residents and temporary visa holders), our data on emigration are notably poor. Furthermore, we have no federal data for the foreign-born who violate the terms of their visas or for those who enter the country illegally. Thus, designing federal policy to reform a poorly measured system is difficult at best.

In this study, we hope to shed some light on the complexity of the existing system, and we consider two very important and intersecting pieces in the most recent reform proposal—rebalancing family-based immigration and the use of a merit-based system—for granting legal permanent residency.

Our current federal immigration system is extremely complex. Data kept by the federal government are certainly detailed, yet they overlook major subtleties in the process of becoming legal—most notably, the possibility that formerly illegal immigrants become legal through the same process as those who have never resided in the United States illegally. In this study, we explain how the federal system works (focusing in particular on the attainment of legal permanent residency status) and highlight the diversity of immigrant experience before attaining a “Green Card”—the official identification of a legal permanent resident. We examine experiences in the nation as a

... we consider two very important and intersecting pieces in the most recent reform proposal—rebalancing family-based immigration and the use of a merit-based system.

whole and in California in particular, which serves as the home of a high proportion of the nation’s illegal residents and which shares a border with Mexico, the primary origin of illegal migrants.

Although a fundamental intent of the reform proposal was to rebalance family preferences for legal permanent residency and to change the employment preference system in such a way as to reward higher levels of skill, no prior simulations of the policy’s effect were undertaken. Using a detailed survey of the cohort of 2003 entrants to legal permanent residency, we examine how the proposal might function. Although the 2007 proposal did not pass, its potential effects should be carefully considered by policymakers in the development of future proposals.

Current Immigration Policies

The foreign-born residing in the United States can be divided into four main categories: naturalized citizens, legal permanent residents, temporary visa holders, and illegal residents. The potential relationships among the categories are illustrated in Figure 1.

Illegal immigrants are those who are here without legal status. They either entered the United States illegally or have violated the conditions of a visa. Estimates suggest that a little more than 50 percent of those here illegally crossed the border without authorization. As many as 45 percent overstayed their visas, and the remainder are thought to have

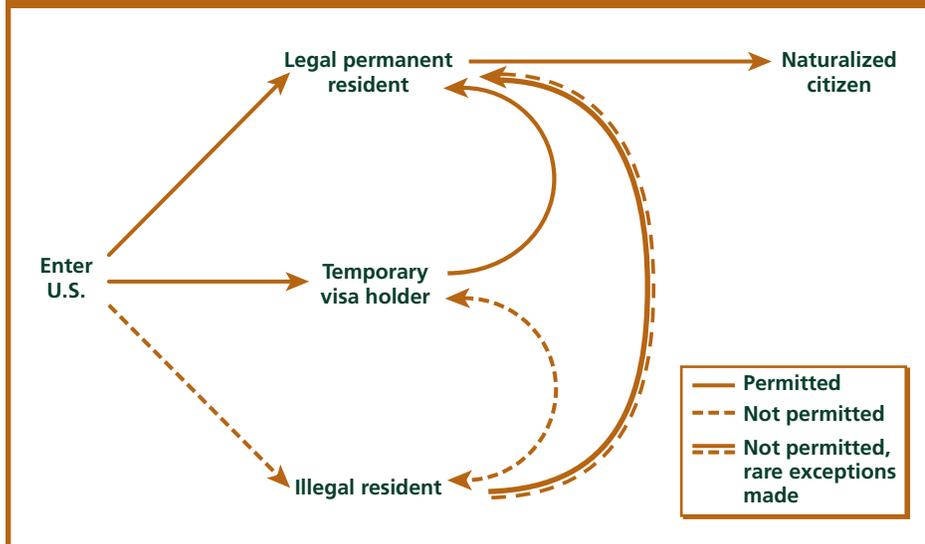
violated the terms of their border crossing cards (Pew Hispanic Center, 2006b).² Some illegal residents ultimately become legal permanent residents, as suggested in Figure 1; others may remain in the United States illegally or eventually emigrate. Temporary visa holders, in the terminology of the United States Citizenship and Immigration Services (USCIS),³ are considered “nonimmigrants” (see the USCIS Glossary for immigration terms and definitions). Nonimmigrants are not authorized to stay permanently and they do not have the same rights as permanent residents. Some common examples of nonimmigrants are holders of student and tourist visas, temporary workers including specialty occupation workers (H-1B) and agricultural

workers (H-2A), and foreign diplomats. Temporary visa holders⁴ may legally extend their stay beyond the visa’s initial term or apply to become legal permanent residents, depending on the type of visa, or they may emigrate. Legal permanent residents are foreign-born residents who have been admitted to live in the United States permanently. In most cases, LPRs must have a U.S. sponsor. Naturalized citizens are foreign-born residents who have lived in the United States first as LPRs and then have applied to become U.S. citizens (one must be an LPR for at least five years before naturalizing, with a few exceptions such as spouses of citizens, who may do so after three years). Not all eligible LPRs have naturalized, but recent estimates suggest the share is increasing, to about 59 percent of all those eligible in 2005 (Passel, 2007).

The federal system for controlling the flow of each of these categories of foreign-born individuals can be very complex. Here, we are concerned with the direct routes through which foreign-born individuals may become LPRs (below, we discuss the more indirect routes pursued by temporary visa holders or unauthorized immigrants).

There are four principal ways (categories of admission) in which the foreign-born may become legal permanent residents (Table 1). The first is through family sponsorship. Individuals residing in the United

Figure 1. Foreign-Born Residents in the United States



States legally and permanently (either citizens or LPRs themselves) can sponsor their foreign-born relatives through family categories, some without limit—the “immediate relatives” category (581,106 became LPRs in 2006)—and others with caps, which are part of the family visa preference system (222,229 individuals in this category became LPRs in 2006).⁵ Employment-based preferences are another category of admission (159,081 individuals in this category became LPRs in 2006).

Most employment categories also require sponsorship (see the USCIS website for details on who may sponsor LPR applicants and on the fees and forms applicants and sponsors must submit, including in some cases Affidavits of Support). The number of foreign-born who can become LPRs under the family and employment preference categories is also limited for each sending country (in FY 2006, this limit was approximately 26,000 per country, or capped at 7 percent of limited family-sponsored and employment-preference LPRs for the year).

Refugees and asylees account for another large group (221,023 became LPRs in 2006).⁶ Other foreign-born individuals are admitted through the immigration diversity lottery (44,471 in 2006).⁷ Approximately 40,000 others were admitted to LPR status through the “Other/legalization” category.⁸ Most LPR visa categories also per-

Table 1. Admission Categories to Legal Permanent Residence, FY 2006

	Category of Admission		Annual Total Cap per Category
Family sponsor	Unlimited	U.S. citizen Spouse, unmarried children under age 21, parents	None
	Limited	U.S. citizen LPR	226,000
		U.S. citizen U.S. citizen	
Employment		1. Priority worker (i.e., one of extraordinary ability, such as a Nobel Prize winner) 2. Professional worker a. Advanced degree or b. Exceptional ability 3. Skilled professionals without advanced degree, needed unskilled workers 4. Special (e.g., religious, U.S. government employee) 5. Investor	143,949
Refugee/asylee			None
Diversity lottery			50,000
Other/legalization		Special legislation determines the size and type of legal permanent residence under these programs	Varies

Source: Jefferys (2007).

mit spouses and minor children to accompany the person qualifying for the LPR visa (“principal” in the USCIS terminology).

Once an LPR application has been filed with USCIS, processing can take some time (see Wadhwa et al., 2007, for a discussion). Those applying under the numerically limited family and employment preferences are given a “priority” date after their application has been approved. These

applicants then must wait further for the U.S. Department of State to issue an LPR visa.⁹ The annual preference and per-country caps have sometimes resulted in lengthy wait times for LPR applications with priority numbers, especially among certain categories of family preferences. Those admitted under family reunification preferences and given a priority number four years ago are still waiting, and those from Mexico, China, and

Foreign-born individuals who settle legally in the United States do so in a variety of ways.

the Philippines are likely to wait many more years. For example, Mexican-born unmarried adult children of U.S. citizens (family preference category 1) whose applications were approved 15 years ago are now being granted LPR status, and Philippines-born siblings of U.S. citizens (category 4) who were given a priority number 22 years ago are currently being granted LPR status (U.S. Department of State, 2007). There are also wait times for some categories and countries of origin for employment-based LPR admissions, but these wait times are typically much shorter, and some individuals are granted LPR visas immediately after application processing.

Some awaiting LPR status reside in the United States legally (as temporary visa holders), and others are illegal residents and are known by the USCIS to be living in the United States while await-

ing adjustment to LPR status, but such cases are few and this latter avenue to LPR status is not open to most illegal residents. Some illegal residents are able to become LPRs because their illegal status is not known to USCIS, and we discuss this subject below.

The numbers of individuals granted LPR status through these various categories reported by USCIS each year are the only administrative records the United States keeps on permanent migration flows into the country.¹⁰ According to the USCIS data, 51 percent of all 2003 LPRs were “new” immigrants, and the remainder were adjusted from another status (temporary visa holder or illegal immigrant) (Jefferys, 2007).¹¹ However, using data from the New Immigrant Survey (NIS), which interviewed immigrants who became legal permanent residents in 2003, we find that the story is more complex. These data provide a much richer portrait of our nation’s and state’s legal immigrants than can be gleaned from administrative data or national surveys (such as the Census, Current Population Survey, or American Community Survey).

In the next section, we explore the complexity of the pathways through which the 2003 cohort of LPRs gained admission to the United States. Further, we can use the same cohort of LPRs to explore how changes in federal immigration policy might affect

the flows of legal immigrants to California and the nation.¹²

Pathways to Legal Permanent Residence

Foreign-born individuals who settle legally in the United States do so in a variety of ways. Some arrive in the country for the first time on a temporary immigrant visa. Others may seek LPR status after spending long periods of time in this country either legally or illegally. And for yet others, legalization may be the latest step in a *series* of trips between the United States and their country of origin.¹³ Immigrants’ country of origin, occupation, age, education, and family status all affect the opportunities open to them and the choices they make about how, and whether, to settle permanently in this country. The 2003 NIS allows a detailed investigation of each respondent’s complete migration history. In this section, we introduce the system we use for categorizing these migration histories and examine the characteristics of recently legalized immigrants based on the pathways to residency they have taken.

Each of the current policy preference categories admitted immigrants in the 2003 cohort with a different mix of U.S. experience. Figure 2 shows each category

as a bar consisting of proportions of immigrants with each type of experience. For instance, among those entering under the unlimited “immediate family” category, 32 percent had never visited this country, 43 percent had visited illegally, and 25 percent had visited only legally. We cannot observe when a family sponsor became a U.S. citizen, but the high percentage of sponsored immigrants with prior illegal experience suggests that many arrived in or visited this country illegally before their relative became a U.S. citizen or while waiting for their LPR application to be processed.

The profile for those admitted under numerically limited family preferences is very different. Sixty-

four percent were new arrivals, nearly one-third had at least some prior illegal experience, and the remaining 6 percent had legally visited the United States.

Not surprisingly, nearly half admitted under employment preferences had spent time only legally in this country—the highest percentage of any group. Roughly one-third had prior illegal trips, and only 20 percent were new arrivals.

Winners of the immigration diversity lottery were overwhelmingly new arrivals (79%), whereas almost all of those legalizing from another status had some prior illegal experience.

Those admitted from refugee status (including asylees) have a unique set of experiences. Refu-

Immigrants’ country of origin, occupation, age, education, and family status all affect the opportunities open to them and the choices they make about how, and whether, to settle permanently in this country.

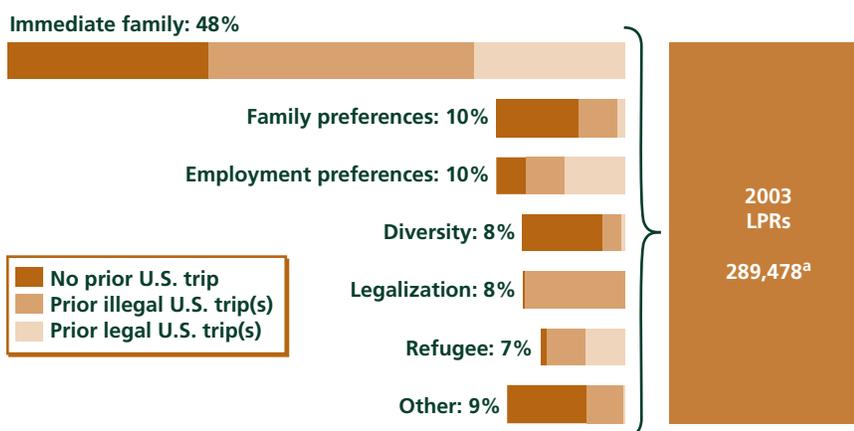
gees and asylees must spend at least one year as temporary visa holders, after which time they may apply for LPR status. Data from the NIS suggest that 48 percent of refugees had only legal U.S. experience, an almost equal share had an illegal U.S. trip, and 7 percent had no prior U.S. experience.

In the next section, we more thoroughly explore the pre-LPR experiences of these immigrants and, in particular, their prior legal and illegal trips.

Pathway Definitions

Following Massey and Malone (2002), we define seven types of migration histories, referred to as pathways, leading to the NIS respondents’ eventual establishment as LPRs (Table 2). These definitions are based on USCIS records, as

Figure 2. Visa Category, by Pathway: U.S. Sample from the 2003 NIS



Source: Authors’ calculations using the 2003 NIS.

Note: Estimates are based on weighted data.

^aThis is the number of LPRs admitted between May FY 2003 and November FY 2004. It will not match published USCIS annual figures.

well as on immigrants' self-reported experiences—most importantly, their accounts of previous trips to the United States: the visas (if any) they used to gain entry, the duration of each trip, and U.S. work experience gained along the way.

The first pathway, referred to as new arrivals, comprises those respondents reporting no U.S. visits (longer than 60 days) before admission as LPRs. The second pathway, illegal border crossers, refers to those who report having entered the United States at any point without documents or with fraudulent documents.¹⁴ The pathway defined as visa abusers consists of those who reported making at least one prior trip to the United States using a valid visa, but who then violated the terms of that visa—most commonly by overstaying a tourist visa or working for pay while visiting on a visa that did not authorize employment.¹⁵

The fourth pathway, student/exchange visitors, includes those respondents who entered the United States on a student or training visa—for study at an academic institution or vocational institution—or on a cultural exchange visa. The fifth pathway, refugees/asylees, comprises those immigrants in the United States as refugees or asylees who successfully apply for LPR status.

The last two categories are nonresident visitors and nonresident workers. The former refers to people who report prior visits

Table 2. Distribution of Pathways from the 2003 NIS: United States and California

Pathway	United States (%)	U.S. Sample Size	California (%)	California Sample Size
New arrival	37.6	3,598	32.8	782
Illegal border crosser	20.1	1,456	34.5	722
Visa abuser	21.5	1,742	17.5	387
Student/exchange	5.1	473	3.1	67
Refugee/asylee	2.2	175	1.6	39
Nonresident visitor	11.4	875	8.3	171
Nonresident worker	2.2	254	2.2	55
Total	100.0	8,573	100.0	2,223

Source: Authors' calculations using the 2003 NIS.

Notes: Estimates are based on weighted data. Columns may not sum to totals because of rounding.

to the United States on visas that did not authorize work and who report no employment for pay on any of those visits. The latter refers to those who entered the United States at least once in the past on a visa authorizing temporary work (whether or not these respondents reported undertaking any such work).

Compared with the United States overall, California shows a slightly lower percentage of new arrivals, visa abusers, and nonresident visitors. The most striking difference that emerges is the preponderance of illegal border crossers in California—they constitute over one-third of those legalizing, compared with just one-fifth for the country as a whole.

Given the complicated migration histories gathered by the NIS (many respondents report multiple trips to, work visas for, and/or jobs

in the United States), it is possible for a single respondent to qualify for more than one pathway, as each is defined here. For this reason, we follow the taxonomy of Massey and Malone, placing each immigrant in the first of these ordered pathways for which he or she qualifies. Thus, a respondent with at least one instance of entering the country with fraudulent documents is classified as an illegal border crosser and is never put into any other pathway category. Likewise, someone who never crossed the border illegally but once overstayed a tourist visa is classified as a visa abuser, irrespective of the circumstances of any other U.S. trip.

In the case of illegal border crossers, this categorization rule appears to reflect most respondents' entire reported migration history. Only 5 percent of those classified as illegal border crossers report

more than one U.S. trip, so this pathway's representation would not change appreciably even if we had considered multiple categorizations. Further, in the case of those who overstayed tourist visas, we find that only 1 percent overstayed by less than one month and only 9 percent by less than six months. Finally, we cannot identify anyone classified as illegal by USCIS because of clerical errors or other administrative missteps—small lapses in student or work visas are unlikely to be captured in our data.

This classification strategy is a necessary oversimplification, and it serves to capture the maximum possible illegal activity reported by the respondents, at the expense of recording some respondents' legal activities. We also adhere to this taxonomy for ease of clarification and because of significant concern among the public about illegal immigration, however strictly defined. This is a major improvement over federal administrative data which, for the most part, are completely unable to measure prior illegal activity.

Geographical Representation of LPRs

Latin America and Asia were the dominant sending regions for immigrants admitted to the United States in 2003 (Table 3).

The concentration of new LPRs from these two regions was even more pronounced for California—Latin America and the Caribbean alone accounted for over half of those admitted, and Asia and the Pacific provided nearly another one-third. All of the other regions are less well represented in California than in the country as a whole. Note the very high percentage of California LPRs from Mexico (18% in the United States and 30% in California). Although the Mexican-born make up a high percentage of illegal immigrants, they also constitute the largest

Latin America and Asia were the dominant sending regions for immigrants admitted to the United States in 2003.

Table 3. Percentage Distribution of LPRs in the United States and California, by Country of Nationality

Region of Origin	United States	California
Latin America and the Caribbean	43.9	52.9
Mexico	17.5	30.1
El Salvador	6.1	11.9
Guatemala	2.4	5.5
East Asia, South Asia, and the Pacific	28.4	32.6
India	7.0	4.7
Philippines	5.4	8.8
China	5.0	6.2
Vietnam	2.9	4.4
Europe and Central Asia	13.7	6.9
Sub-Saharan Africa	6.4	1.5
Middle East and North Africa	4.4	3.9
Canada	1.8	1.3
Oceania/other North America/Arctic region/unknown	1.4	1.0
Total	100.0	100.0

Source: Authors' calculations using the 2003 NIS.

Notes: Estimates are based on weighted data. Columns may not sum to 100 percent because of rounding.

California has a higher-than-average incidence of illegal border crossers and immigrants from Latin America, contributing heavily to the national totals.

country group among legal permanent residents.

India (7%), El Salvador (6%), the Philippines (5%), and China (5%) follow. The composition of California's new immigrants is different—nearly one-third of the state's LPR cohort came from Mexico, and nearly one-eighth came from El Salvador. The Philippines, China, Guatemala, India, and Vietnam round out the list of the state's most important individual sending countries.

Characterization of LPRs, by Pathway

The pathways that immigrants take toward establishing LPR status differ significantly by their home country. Those legalizing from Asia and the Pacific are much more likely than average to be new arrivals—53 percent, compared

with 38 percent overall (Table 4). Likewise, Africans and Middle Easterners are overrepresented in this category, whereas Canadians and Latin Americans are underrepresented. Latin Americans are the group most likely to have crossed the U.S. border illicitly at least once—41 percent of the 2003 cohort reported having done so, compared with 20 percent overall. All of the other well-represented regions are far below this average, in particular Asia and the Pacific, whose representatives fall into this category only 3 percent of the time. Seventeen percent of LPRs from Canada, however, were illegal border crossers (although the number of Canadians in the survey is quite small—158 in total, so the percentage who crossed the border illegally may range between 11 and 23).

As noted above, California has a higher-than-average incidence of illegal border crossers and immigrants from Latin America, contributing heavily to the national totals. In California, 62 percent of Latin American and Caribbean LPRs were illegal border crossers (not shown). Among Mexicans, this figure is 56 percent. Given its shared border with Mexico, California has a long history as a receiving state for Mexican immigrants. California remains an attractive destination for legal and illegal immigrants and the overlapping set of immigrants with both legal and illegal entries or

stays. Among Asia/Pacific respondents, only 3 percent were illegal border crossers—the same as at the national level.

Visa abuse is relatively common among the 2003 LPRs: 21 percent overall. Among the major sending regions, the Europe/Central Asia region stands out as having the highest rate of visa abusers—those who entered the United States on a valid visa but then overstayed or otherwise violated its terms.

A more detailed breakdown of the pathway composition of each immigration visa category as was seen in Figure 2 is shown in Table A.1 of the technical appendix at http://www.ppic.org/content/other/608JHCC_technical_appendix.pdf.

Demographic Characterization of Pathways

A brief look at the demographic characteristics of LPRs reveals further differences between the various pathways (Table 5). Women constitute slightly more than half of the NIS respondents and most of the pathways except for illegal border crossers (50%), nonresident visitors (72%), and nonresident workers (47%). That we find nearly half of all illegal border crossers to be women (among those who later become LPRs) is perhaps not

Table 4. Percentage Distribution of Pathways to LPR, by Region of Origin: U.S. Totals

Region of Origin	No Prior U.S. Trip	Prior Illegal U.S. Trip		Prior Legal U.S. Trip				Total	Sample Size
	New Arrival	Illegal Border Crosser	Visa Abuser	Student/Exchange	Refugee/Asylee	Nonresident Visitor	Nonresident Worker		
Latin America/Caribbean	26	41	21	2	1	8	1	100	3,136
Asia/Pacific	53	3	17	8	1	16	4	100	2,655
Europe/Central Asia	37	3	27	9	10	12	2	100	1,366
Sub-Saharan Africa	52	2	24	7	3	9	3	100	745
Mideast/North Africa	47	3	31	4	4	10	2	100	397
Canada	23	17	20	7	0	24	9	100	158
Oceania/other	19	14	40	12	2	8	4	100	116
All regions of origin	38	20	21	5	2	11	2	100	8,573

Source: Authors' calculations using the 2003 NIS.

Notes: Estimates are based on weighted data. Totals may not sum to 100 percent because of rounding.

Table 5. Demographic Characteristics, by Pathway: U.S. Sample

Characteristic	No Prior U.S. Trip	Prior Illegal U.S. Trip		Prior Legal U.S. Trip				All Pathways
	New Arrival	Illegal Border Crosser	Visa Abuser	Student/Exchange	Refugee/Asylee	Nonresident Visitor	Nonresident Worker	
% female	57.1	49.7	54.8	55.2	51.8	72.2	47.0	56.4
% currently married	71.0	76.0	79.4	88.7	71.1	82.7	89.0	76.5
Mean age	40.8	36.3	39.8	31.5	40.3	38.5	36.6	38.8
Mean years of education	11.8	9.4	13.2	17.5	12.1	13.1	15.4	12.1
% speaking English well or very well	33.8	38.6	55.0	87.8	35.5	49.8	80.2	44.9
% now working for pay	39.9	72.0	66.2	79.4	63.1	46.8	72.5	56.0

Source: Authors' calculations using the 2003 NIS.

Note: Estimates are based on weighted data.

In May and June 2007, the U.S. Senate considered reforming federal immigration policy. The Senate's subsequent bill . . . aimed to . . . change the admissions criteria for legal permanent residency.

surprising—not long ago it was accepted knowledge that women were rare among border crossers, but reports that women are making the crossing are increasing. Three-quarters of respondents are married, but marriage rates are dramatically higher for those in some pathways, notably among students/exchange visitors and nonresident workers. Wadhwa et al. (2007) find that many student and H-1B visa holders ultimately gain LPR admission by marrying a U.S. citizen, so perhaps their high marriage rates are not surprising.

LPRs' varied qualifications are also reflected in the pathways they take to achieving LPR status. The mean age in the U.S. sample is 39 years—slightly higher for new arrivals and considerably lower for students and exchange visitors. More evident is the difference in

educational levels. Illegal border crossers, with an average of nine years of education, are significantly less educated than average. Not surprisingly, students and exchange visitors have much more education (17.5 years on average), as do nonresident workers (15 years).

Fewer than half of all respondents report speaking English well or very well (45%), and the percentage differs widely by pathway. Nearly all students (88%) and the vast majority of nonresident workers (80%) speak English at least well. Notwithstanding their lack of education and English language skills, illegal border crossers have among the highest rates of employment, along with nonresident workers and students. These three pathways show employment levels in the 70 percent range—far higher than the overall average of 56 percent. New arrivals (40%) and nonresident visitors (47%) have the lowest employment levels.

Changes to Immigration Under a Merit-Based System

The previous sections demonstrate the complexity of our current federal immigration system. Here, we investigate a proposal considered by the U.S. Senate in spring 2007. Although the proposal never left the Senate, some of its key elements are certain to

resurface in future attempts at immigration reform. We focus in particular on the portion of the bill that proposed changing the criteria for earning Green Cards. The proposal suggested a radical reform in immigration policy—reducing the group defined as immediate family, eliminating some categories of family preference, eliminating the employment preference categories, eliminating the diversity program, and introducing, instead, a merit-based point system. We apply the merit-based point system to the members of the 2003 LPR cohort who would no longer be eligible for preferences or the diversity program to see how the outcome might change if the new system were implemented. We then examine the distribution of points among different subsets of 2003 LPRs, such as country of origin, pathway to entry, educational attainment, and occupational category.

Details of the Proposed System

In May and June 2007, the U.S. Senate considered reforming federal immigration policy. The Senate's subsequent bill, S. 1639 (sponsored by Senator Kennedy and co-sponsored by Senator Specter), aimed to both eliminate unauthorized immigration and change the admissions criteria for legal permanent residency (among other proposed changes to the federal system; see the text of S. 1639 for details).

Currently, federal immigration law gives preference to potential immigrants seeking to reunite with family members in the United States (who are either LPRs or citizens) and to those in particular employment categories, as described in Table 1.

As under the current system, the spouses and unmarried children (younger than age 21) of U.S. citizens will be admitted without limit. (Refugees and asylees would continue to be admitted as well.) Two other categories of family preference would be permitted entry, but subject to limits: (1) U.S. citizen-sponsored parents (U.S. citizen must be at least age 21 to sponsor) and (2) the spouse and minor children of LPRs. All other sponsorship categories (both family and employer) and the diversity lottery would be eliminated.

As proposed in Title V of S. 1639, the new point system would assign points to applicants based on U.S. employment in particular occupations, employer endorsement, age, education, English language ability, and knowledge of U.S. civics. The proposal called for limiting the total number of LPRs admitted each year to the same number as had been admitted through family and employment preferences in 2005 at least for the first five years after enactment.¹⁶ Per-country limits would still apply but would be raised from their current 7 percent of the total admitted under limited family and employ-

ment preferences to 10 percent of the total admitted in the new system.¹⁷ At the time of the proposal, the number of points required to gain admission was not stated.

The United States is not the first country to propose a point system that heavily weights high-skill occupations and high levels of educational attainment in determining immigrant admissions. Canada and Australia are two notable examples of this practice. Indeed, a point system for immigrant admission was considered by the U.S. Select Committee on Immigration and Refugee Policy of 1979–1981 (Jasso, 1988). When proposed again in 2007, it was very unpopular with immigrant rights groups and employers.

The way in which Green Cards are distributed has not changed appreciably since 1965 and many observers were understandably concerned about the policy's effect on the mix of immigrants who would be admitted. Immigrant rights and advocacy groups argued that the change would unfairly disadvantage immigrants from countries where educational attainment is lower. They were especially concerned about the foreign-born who had an expectation under the current policy that they would be able to reunite with their families (although there were provisions in the bill to clear the backlog of current LPR applicants). Other critics noted that a point system

Currently, federal immigration law gives preference to potential immigrants seeking to reunite with family members in the United States and to those in particular employment categories.

that could be altered only by Congress would not be sufficiently responsive to the changing needs of the economy. Many employers were further dissatisfied, arguing that increasing the number of highly skilled workers among those admitted to LPR status might not result in the right candidates for their open positions.

Who Would Be Admitted Under the Point System?

Until now, concerns about the composition of LPRs admitted under the proposed system have been largely untested.¹⁸ Here, we examine those who were admitted to LPR status in 2003 (using the 2003 NIS) and apply the proposed point system to them. In so doing, we are able to approximate how the new proposal might change the future mix of

legal permanent residents in the United States. However, we cannot approximate the short-term changes in the composition of LPRs after reform because of the need to clear the backlog of applicants awaiting admission, nor can we approximate the effect of giving illegal immigrants a pathway toward legalization. In addition, should a merit-based point system ultimately cause the skill and education levels of those admitted to rise (by either admitting fewer of the types of applicants who used to apply or increasing the number of highly skilled applicants), as it appears the system intended to do, the education of applicants who are admitted through family exemption and numerically limited family preferences may rise as well. This will happen as the highly skilled LPRs eventually naturalize and are then able to sponsor their highly skilled spouses and family members.

To examine how the proposed system might work for individuals when applied to the 2003 cohort of LPRs, we divide the cohort into those who would be exempt from points because of their immediate family connections or their refugee status, those who would still be able to be sponsored under limited family preferences, and those subject to the proposed point system (Table 6).

Similar shares of 2003 LPRs in California and the United States (slightly more than 40%) would be

Table 6. 2003 LPR Cohort Under 2007 Proposed Immigrant Visa Allocation

	Percentage of 2003 Cohort	
	United States	California
Exempt from points (family and refugee)	42.9	38.2
Limited family preferences	14.4	18.0
Subject to points	42.8	43.8
Total	100.0	100.0

Source: Authors' calculations using the 2003 NIS.
Notes: Estimates are based on weighted data. Columns may not sum to 100 percent because of rounding.

subject to the point system were S. 1639 to be enacted. In California, the 2003 LPRs are somewhat less likely to be exempt (38%, compared with 43% in the nation as a whole), and slightly more California LPRs could petition for admission through relatives, although per-country caps could still result in long wait times.

To understand how the merit-based point system might screen future LPR applicants, we can simulate point scores for those we predict would be subject to them. The 2003 NIS includes enough detail on occupation, educational attainment, employment history, and self-reported English language ability to allow us to approximate a point score for each adult who was granted his or her Green Card in 2003. The proposed merit-based system is presented in Table 7. The first column lists the type of points being awarded, and the second column displays the possible point values available.

Most points are derived from employment and education, although not all points are awarded from high-skill employment—the 16 points available for high-demand occupations are available to those employed in a variety of low-skill positions as well, such as janitors, waiters and waitresses, and groundskeepers. However, the only way to earn the maximum occupational points is to be employed in a STEM (science, technology, engineering, and mathematics) specialty occupation, such as in a computer-related or math or physical sciences occupation (8 + 20 points).

Figure 3 shows the distribution of points earned by those subject to points.¹⁹ The line shows the percentage of LPRs in the subgroup who have point scores equal to or higher than the number on the horizontal axis. Because the potential 10 points for family are earned only if an applicant earns more than 55 points, and are applied

Table 7. Proposed Point System

	Maximum Points
Employment	47
U.S. employment in specialty occupation ^a or	20
U.S. employment in largest 10-year job growth (high-demand occupation) ^b	16
U.S. employment in health or STEM occupation	8
U.S. employer endorsement ^c	6
Years of work for a U.S. firm (two points/year)	10
Worker's age between 25 and 39	3
Education	28
M.D., M.B.A., graduate degree or	20
B.A. or	16
A.A. or	10
High school diploma or General Equivalency Diploma	6
Completed certified Perkins Vocational Education program ^d or	5
Completed Department of Labor Registered Apprenticeship ^e or	8
Degree in STEM field (A.A. and higher) ^f	8
English language and civics^g	15
Native speaker of English or	15
TOEFL score of 75+ or	15
TOEFL score of 60–74 or	10
Pass USCIS citizenship test in English and civics	6
Family (applies only to those with 55+ points)^h	10
Adult (age 21+) child of U.S. citizen or	8
Adult (age 21+) child of LPR ^e or	6
Siblings of U.S. citizen or LPR	4
Applied for above family visa after 5-1-05 ^e	2
	100

Sources: S. 1639 and authors' calculations using the 2003 NIS. U.S. employment data for the largest projected 10-year job growth (high-demand) occupations are from Hecker (2005).

^aSpecialty occupations are defined by the Department of Labor and USCIS as those occupations held by H-1B visa holders. We used the occupations held by H-1B visa holders in 2003 (Office of Immigration Statistics, 2004) and considered anyone employed in those occupations with at least a B.A. to have earned the 20 points.

^bThese jobs include home health aides, retail salespersons, and child care workers, among others.

^cEndorsement means that an employer willing to pay 50 percent of the LPR fee either offers a job or attests for the employee. We gave points to immigrants with employer-sponsored LPR applications.

^dWe allocate these points to anyone who is reported to have a vocational degree.

^eNot available in the 2003 NIS.

^fWe allocate these points to anyone with an A.A. and above who is currently employed in a STEM occupation. We do not observe the field in which the degree was earned, thus we likely underestimate the number of STEM degrees.

^gThose who are native speakers of English and those who reported speaking and comprehending English "very well" received full points. We approximated Test of English as a Foreign Language (TOEFL) scores of 60–74 by self-reported English comprehension as at least "well" and speaking English at least "well." USCIS passage is approximated by correct answers to each of the four questions related to U.S. civics in the NIS. Currently, LPRs are not required to have any knowledge of U.S. civics at the time of admission, but anyone who wishes to become a naturalized citizen must pass an exam administered by USCIS.

^hUsed only to break ties between those with the same point totals.

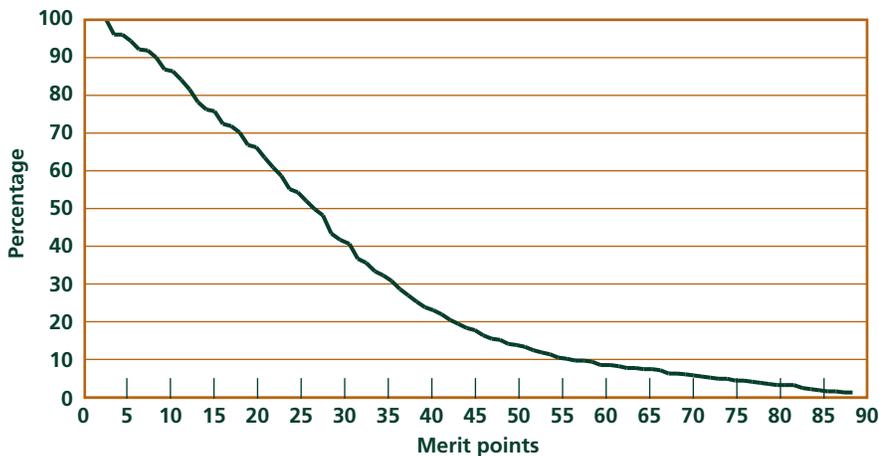
only as a tie breaker, we do not consider them in Figure 3.²⁰

Although S. 1639 did not propose a particular point score that would ensure that applicants gained admission, it is useful to consider a few point thresholds. In particular, the legislation stipulated that applicants with scores of 55 or more would be able to earn additional points for certain categories of family relationship (see Table 7). We find that few in the United States—and fewer in California—would be eligible to earn these extra points (10% and 6%, respectively). California's overall point scores are lower than those for the 2003 LPRs in the nation as a whole.

Using the distribution of point scores plotted in Figure 3, we establish relationships between admission thresholds and point scores (the distribution for California is not shown). Half of all U.S. LPR applicants would be admitted with point scores of 26 or higher, and the same is true for 23 percent of California LPR applicants (Table 8). If 10 percent of California's LPRs who would be subject to the point system were to be admitted, the point threshold would have to be set as low as 46 points.

To imagine how such a system might work for an individual, we consider a few examples (Table 9). "Paul" is 35 years old and applies from abroad for LPR status. He is highly skilled (he has a Ph.D. in a

Figure 3. Percentage with Merit Point Scores Equal to or Higher Than Shown on the Horizontal Axis, Among 2003 LPRs Subject to Points



Source: Authors' calculations using the 2003 NIS.
 Note: Estimates are based on weighted data.

Table 8. Point Scores for Various Admission Rates

Admission Threshold	Point Score Required	
	U.S. Distribution	California Distribution
10% admitted	55	46
25% admitted	38	32
50% admitted	26	23
75% admitted	14	11

Source: Authors' calculations using the 2003 NIS.
 Note: Estimates are based on weighted data.

STEM field) and is fluent in English. He wants to move to California, where he has a brother who is a U.S. citizen. Because he has never worked in the United States, he scores only 46 points out of a possible 90. This score is higher than all but 16 percent of other LPR applicants' scores, but it is not high

enough to accrue any family points. Even an employer job offer is not enough to earn him those points. If he worked in the United States on an H-1B visa before applying, his point score would increase to 82, enough to earn the family points (and his score would be higher than that of all but 3 percent of applicants).

“Mary” is employed as a maid (a high-demand occupation = 16 points), has worked for five years in the United States (10 points), and is 30 years old (three points). She has the equivalent of a high school diploma (six points) and has English language ability that earns her 10 points for a total of 45 points. She also has a sister who is a U.S. citizen, but her family relationship does not count toward her admission status because her other points total fewer than 55. To increase her score, Mary might take a job in a high-demand occupation that is also in health, such as a home health aide (original 16 plus additional eight points), and improve her English to the highest point value (an additional five points). This would raise her total score to 58, in which case the four points she has for her family connections would be considered if she were to be compared with another potential immigrant with 58 points (and her score would be higher than all but 9 percent of all other LPR applicants subject to points).

“Bob,” with the longest tenure in the United States, has worked in agriculture and other low-skill jobs. He has no degree and poor English skills. His age and work experience earn him 14 points, and 75 percent of applicants have scores higher than his. Improving his English earns him a total of 29 points (leaving 42% of LPR applicants ahead of him).

Table 9. Merit Point Scenarios

	Employment = 47 max	Education = 28 max	English = 15 max	Total Points	Family = 10 max	% of Applicants with Equal or Higher Score
Paul, age 35	No U.S. employment = 3	Ph.D. in engineering = 28	TOEFL 75+ = 15	= 46	= 0	16
	Job offer = 9			= 52	= 0	12
	H-1B (specialty occupation), 1 year = 39			= 82	U.S. citizen sibling = 4	3
Mary, age 30	U.S. employment as a maid (high demand) for 5 years = 29	High school diploma = 6	TOEFL 60–74 = 10	= 45	= 0	18
	Job switch to home health aide = 37		TOEFL 75+ = 15	= 58	Child of U.S. citizen = 8	9
Bob, age 30	Worked in U.S. agriculture for 8 years, employer offer = 14	No degree = 0	Poor English = 0	= 14	= 0	75
			TOEFL 75+ = 15	= 29	= 0	42

Whether or not Paul, Mary, and Bob are admitted as LPR applicants would depend on (1) the point threshold approved in the year they apply, (2) the point scores of other applicants in that year, and (3) the number of applicants with higher scores from their own country (recall that per-country limits would still be in place under this proposal).

Point Scores for the 2003 LPR Cohort

The proposed reform could have a dramatic effect on the admission rates of the 2003 LPR cohort discussed above. Here, we first examine the point scores by the

specific canceled admission categories whose applicants would now be subject to points, and then by pathway.

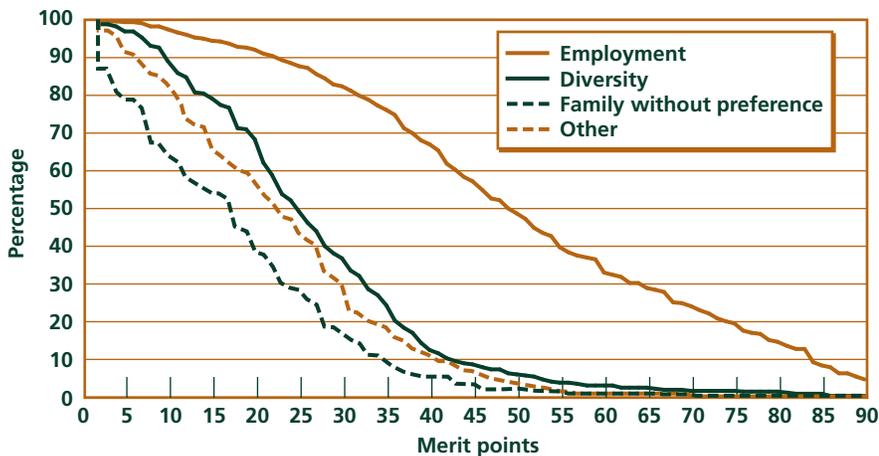
Not surprisingly, those 2003 LPRs who entered through employment preferences have the highest point scores, and those entering on canceled family preferences have the lowest (see Figure 4). Indeed, only 1 percent of this group would actually be eligible to earn the family points. Employment immigrants, on the other hand, are the most likely of all to score 55 points or higher (40%). Diversity immigrants, who by and large have no U.S. experience, but typically have at least a high

school diploma, have point scores close to, but above, those of family and “other” 2003 LPRs.

We find that admission rates to LPR status under the proposed system differ considerably when we examine the 2003 cohort by pathway. Recall that “New arrivals” are LPRs who have never before entered the United States (or at least never for a trip longer than 60 days). The remainder of the 2003 LPRs are divided into those who ever came to the United States illegally and those who have had only legal U.S. trips.

When considering the way that the proposed reform may change admissions to LPR, it is

Figure 4. Percentage with Merit Point Scores Equal to or Higher Than Shown on the Horizontal Axis, Among 2003 LPRs Subject to Points, by 2003 Admission Category



Source: Authors' calculations using the 2003 NIS.
 Note: Estimates are based on weighted data.

important to recall that some will be admitted without being subject to the point system. We find, for example, that students are probably the most likely to retain their LPR admission status in our simulation. Because relatively few (35%) are subject to points, and those subject to points have high point scores, we expect that many students would still qualify for admission (Table 10).

New arrivals appear to be the least likely to be admitted under the proposed system—fewer have relatives who might sponsor them (i.e., 55% are subject to points) and, by definition, do not have U.S. work experience (the primary way to earn points). In fact, it is impossible for those without prior

U.S. employment to earn more than 52 points (see Table 7; the maximum possible is six points for a potential U.S. employer's endorsement, three points for age, and the maximum points for education (28) and English/civics (15)). Illegal border crossers would also be likely to be admitted to the United States at a very low rate should the merit-based point system be implemented. Differences between the nation and California are significant—52 percent of illegal border crossers retain an ability to petition for admission through family preferences at the national level, but only 42 percent are able to do so in California. Lower exemption rates in California may result from the low

naturalization rates for Mexicans (35%) and California immigrants in general (54%) compared with the national average of 59 percent among the eligible (Passel, 2007). Illegal immigrants in California (who are mostly Mexican) are less likely than illegal immigrants in other states to have citizen family members sponsor them.

Admission and Points, by Demographic Characteristics

Table 11 illustrates differing likelihoods of admission to LPR status, by sending country. We focus on just those countries currently experiencing admission backlogs because of the annual per-country caps.

Twenty-three percent of the 2003 LPRs from Mexico would be subject to points—the lowest figure from any of the countries currently experiencing migration backlogs. So, although their point scores may be low, Mexican LPRs appear to be the least likely to be excluded by the system when we consider the cohort admitted in 2003. Roughly half of the 2003 LPRs from China and the Philippines and nearly two-thirds of those from India would be subject to points. We see that the various countries' point distributions are dramatically different. LPRs from Mexico are clustered toward the bottom of the point scores, whereas those from the Philippines are clustered toward the middle. LPRs from China have a bifurcated point distribution—

Table 10. Point Scores for Various Admission Rates, by Pathway

	% Subject to Points	Point Scores Required for:			
		75% Admitted	50% Admitted	25% Admitted	10% Admitted
New arrival	55%	10	20	30	39
Prior illegal trip					
Illegal border crosser	48%	14	25	32	43
Visa abuser	31%	22	32	46	65
Prior legal trip					
Student	35%	47	67	83	89
Nonresident visitor	24%	34	44	65	82
Nonresident worker	48%	45	67	80	87

Source: Authors' calculations using the 2003 NIS.
Note: Estimates are based on weighted data.

Table 11. Point Scores for Various Admission Rates, by Country of Origin

	% Subject to Points	Point Scores Required for:			
		75% Admitted	50% Admitted	25% Admitted	10% Admitted
Mexico	23%	13	21	31	42
China (PRC)	45%	8	19	46	79
India	65%	20	38	67	84
Philippines	49%	22	35	54	60

Source: Authors' calculations using the 2003 NIS.
Note: Estimates are based on weighted data.

many applicants are clustered at the bottom of the distribution (eight points would exclude only 25% of applicants) but many others are at the top (79 points gains entry for 10% of applicants). If just 10 percent of each nation's applicants were to be admitted, we see that a point score as low as 42 would earn an LPR slot for those from Mexico. The point scores for those from India and

China would be much higher (84 and 79, respectively).

We find that LPR applicants admitted without numerical limitation are almost as skilled as those screened through the merit system. For example, roughly equal percentages have B.A. degrees, and 9 percent of those admitted without numerical limitation have graduate degrees, compared with 13 percent of those subject to points (for more

detail, see Table 2 of the technical appendix at http://www.ppic.org/content/other/608JHCC_technical_appendix.pdf).

Relation of Skill and Education to Point Scores

In this section, we consider the point scores for individuals with various levels of employment history and skill, educational attainment, and English language ability

Some employed in high-demand occupations earn few other points besides the 16 points for their jobs.

(the skills explicitly rewarded by the proposed merit-based point system). In this way, we can understand the interactions of all the categories for which points are awarded. For example, we know that working in a high-demand occupation earns 16 points, but how does this figure into the overall point score for the individuals who work in these occupations?

First, we consider the various employment categories. Recall that the employment category is the one in which the most points can be earned (47) (see Table 7). We consider the point distributions for those who are not working, those working in occupations not rewarded by points, those in high-demand occupations, those in specialty occupations, and

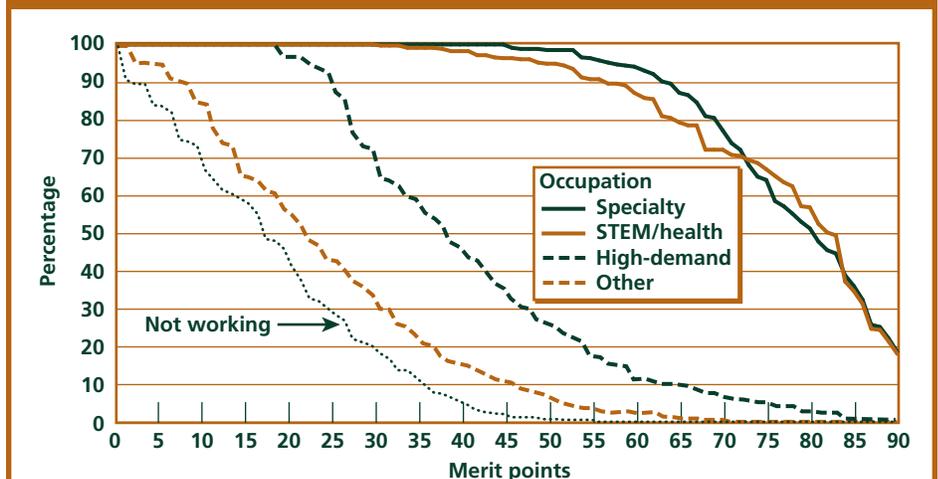
finally those in STEM occupations (which can include specialty or high-demand occupations). Those not working and those employed in occupations not specifically rewarded by points have the lowest overall scores (Figure 5).

Some employed in high-demand occupations earn few other points besides the 16 points for their jobs. Recall that high-demand occupations do include some low-skill jobs, such as maids, janitors, food preparation workers, and waiters. LPRs working in these occupations account for 22 percent of LPRs subject to points. The 20 points earned by specialty occupation workers do not in themselves explain the distance between the two occupational

point distributions. Clearly, those in specialty occupations also possess high educational attainment and probably English language skills as well (this group constitutes 5% of all LPRs subject to points). STEM/health occupations (which are worth eight points) overlap to a high degree with specialty occupations.

When we examine the threshold for earning the family points, we find that none of those who are not currently employed reach 55 points, compared with 4 percent working in nonpoint occupations, 18 percent of those in high-demand occupations, 91 percent of those in STEM/health jobs, and 96 percent of those in specialty occupations.

Figure 5. Percentage with Merit Point Scores Equal to or Higher Than Shown on the Horizontal Axis, Among 2003 LPRs Subject to Points, by Employment



Source: Authors' calculations using the 2003 NIS.
Note: Estimates are based on weighted data.

An applicant can earn a maximum of 28 points from educational attainment. Naturally, higher levels of educational attainment result in higher point score distributions (Figure 6).

However, the higher scores reflected in high-attainment categories are not due to education alone—higher levels of education are also associated with points-rich occupations and English language ability. And finally, having a graduate degree does not necessarily translate into a high point score. Only 44 percent of those with graduate degrees earn enough points to qualify for any family points. Ph.D.s from abroad with no prior work experience in the United States would earn relatively

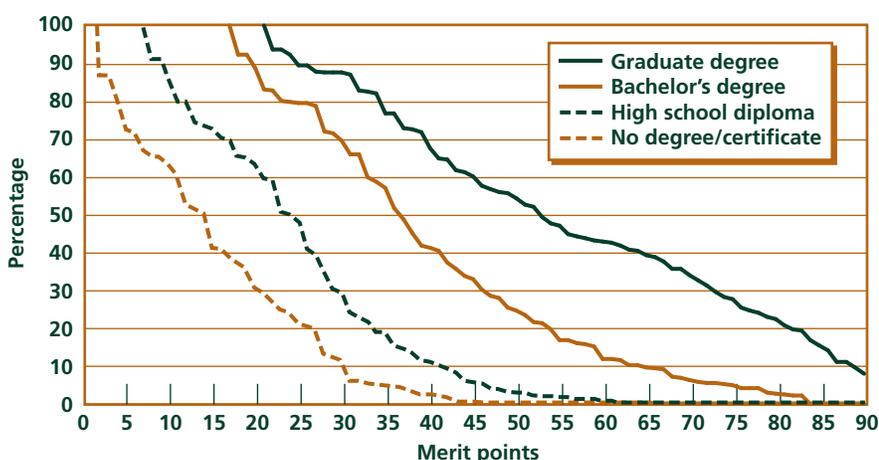
few points (fewer than 52 in all cases). However, if a point threshold were established that allowed 25 percent of the entire 2003 LPR cohort to be admitted (i.e., 38 points), 72 percent of those with a graduate degree would be admitted, compared with 45 percent of those with a bachelor's degree and 14 percent of those with a high school diploma.

Finally, strong English language skills alone are not closely related to high point scores, capping out at a maximum of 15 points (results not shown). We estimate that 27 percent of those earning the maximum points for English language ability would also earn enough other points to arrive at the threshold for point

Ph.D.s from abroad with no prior work experience in the United States would earn relatively few points.

credits through family relations. For those earning 10 points (“good” English language ability), we estimate that just 12 percent would earn 55 points or more.

Figure 6. Percentage with Merit Point Scores Equal to or Higher Than Shown on the Horizontal Axis, Among 2003 LPRs Subject to Points, by Educational Attainment



Source: Authors' calculations using the 2003 NIS.
Note: Estimates are based on weighted data.

Conclusions and Policy Considerations

Categorizing immigrants by their pathways to legal permanent residence allows us to see important differences in immigrant groups. Among the 2003 cohort, California has fewer newly arriving LPRs than does the nation as a whole but many more illegal border crossers. This situation arises because of California's

Some of the apparent goals of the proposed merit-based point system may not be met in practice.

concentration of LPRs from Latin America, particularly neighboring Mexico (representing one-third of the state's total) and El Salvador (one-eighth). At the national level, 44 percent of the LPRs from Mexico were former illegal border crossers. Mexico is by no means the only country with a high percentage of 2003 LPRs with prior illegal entries or stays. We estimate that more than one-third of those from Canada and 30 percent of those from Europe/Central Asia had prior illegal entries or stays.

The profiles of immigrants differed widely by the preference categories under which they were admitted. Numerically limited family preferences and diversity lottery winners were heavily populated by new arrivals (those with no prior U.S. trips), whereas employment-based preferences,

unlimited family preferences, and refugees had a much more varied set of experiences, including new arrivals and those with legal and illegal prior U.S. entries or stays.

Most clearly, we saw that education, language skills, and employment rates differed significantly by pathway—variables that matter in our analysis of the proposed point-based admission system.

In that analysis, we found that many 2003 LPRs would still be admitted without being subject to the proposed point system. We found that many among those who would still be admitted because they had an immediate family member in the United States have skill sets similar to those screened by the point system—for example, a roughly similar share had at least a bachelor's degree.

Roughly 43 percent of the 2003 cohort in both California and the United States would have their employment, education, and English language skills scrutinized by the system, and we found in our simulation that point scores in these areas differ by country of origin, current LPR admission category, and pathway to immigration.

Some of the apparent goals of the proposed merit-based point system may not be met in practice. In particular, the points earned by applicants in high-demand occupations (which often involve low skills) are given to a large number of those in the 2003 cohort of LPRs, but only 18 percent earn

enough other points to arrive at the threshold of 55 points that would entitle them to favorable consideration through family connections. The proposal does appear to function well as a way for those employed in some high-skill occupations (specialty occupations or STEM occupations) to gain LPR status. If the point threshold were set so that 25 percent of the entire LPR cohort were admitted, 99 percent of all STEM/health employment and 100 percent of all specialty occupation 2003 LPRs would be admitted.

If we shift to the merit-based point system as described in S. 1639, the population of those admitted to LPR status—and of those who ultimately become U.S. citizens—has the potential to become increasingly highly skilled. This would occur if the point threshold were set high enough to exclude many of the types of applicants who would have been admitted under the old system and if the skill level of applicants rose as a result. The relatives that these new naturalized U.S. citizens might sponsor might also be highly skilled. Thus, the distinction between those admitted by way of family connections and those admitted via the merit-based system has the potential to blur over time.

Depending on where the point threshold is drawn, it is possible that temporary employment visas will be the key to LPR status for

most admitted under a merit-based system. Under this proposal, the maximum number of points one can earn without some prior U.S.-based employment is 52, which is not enough for any family points to count and which excludes 88 percent of the 2003 LPR cohort subject to points. If a point threshold were established at 53 or higher, federal reform rules surrounding temporary employ-

ment visas would be of critical importance and essentially determine who would constitute the pool of immigrants entering this country as legal permanent residents. Prior work experience is not a requirement of Canada's point system—applicants must actually reside outside Canada until they meet the minimum point threshold (Senate Republican Policy Committee, 2007).

Depending on where the point threshold is drawn, it is possible that temporary employment visas will be the key to LPR status for most admitted under a merit-based system.

The New Immigrant Survey

The New Immigrant Survey aims to provide a nationally representative public-use dataset on adults and their families who have recently gained legal permanent residence in the United States. The NIS takes as its sampling frame the USCIS administrative records of all foreign-born persons admitted to LPR status. From this universe, a stratified sample is drawn and detailed interviews are conducted.

The first full cohort surveyed as part of this project (in 2003) used a target population of 289,478 adult immigrants receiving LPR status between May and November of 2003 (Jasso et al., 2006). Our analysis focuses on the sample of 8,573 completed interviews.

According to the “2006 Yearbook of Immigration Statistics” (Office of Immigration Statistics, 2007), immigrants admitted as legal permanent residents in 2003 were generally similar to those admitted in the years immediately preceding and following 2003.²¹ Whereas the 2003 NIS is designed to be representative at the national level, the California sample (29% of the weighted sample) is large enough for us to compute separate analyses for the state in some cases.²²

The 2003 NIS gathered standard socioeconomic information from respondents (for example, educational attainment, self-reported English language ability, marital status, and household status). Interviews were conducted in the language of the respondent's choice (see Jasso et al., 2005b) and the interview instruments were translated into Spanish, Chinese, Korean, Polish, Russian, Tagalog, and Vietnamese.

The 2003 NIS asked about every international trip of 60 days or more that each immigrant took since leaving his or her home country for the first time. For each of these trips, information was collected on whether a visa was used for entry and, if so, what kind of visa it was. Other lines of questioning gathered details about current employment (dates, occupation, industry, social connections used to procure work), U.S. jobs held before admission to LPR, and work authorization attained.

In sum, the dataset makes it possible not only to determine how much time a respondent has spent in the United States but also to tally the number of trips and, in some cases, the fraction of each trip that was spent without proper authorization.

Two important questions remain. First, will the proposal be good or bad for the national and California economies? The answer is that this will depend on whether employers are able to fill their open positions with the right employees through this system.

Second, how will these skill-selected immigrants integrate? Will

those selected on the basis of their skills be able to find jobs appropriate to their skill sets and forge family and community connections that are important in permanent assimilation and progress? When the follow-up wave of the 2003 NIS becomes available, we could examine the socioeconomic outcomes for each of these three groups, exam-

ining rates of English language acquisition, economic progress, and the net contributions of each to the economy, among other measures.

This would help policymakers learn if screening potential immigrants on skill and education at admission is an effective way to also screen for immigrants who will fare well in this country. ♦

Notes

¹ For the text of Senate Bill 1639, see <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:S.1639>.

² These estimates differ over time and by source.

³ Formerly the Immigration and Naturalization Service. USCIS is a part of the Department of Homeland Security (DHS).

⁴ For the sake of clarity, we use the term “temporary visa holder” rather than the term “nonimmigrant” throughout the remainder of this report.

⁵ These figures may differ from the stated caps because unused LPR visas from other categories may be applied to elevate the limits (Jefferys, 2007).

⁶ The number of refugees who can enter the United States every year is set by the President. Refugees must spend one year in refugee status before they can apply to become legal permanent residents. There are no limits to the number of refugees who can transition into LPR status in a given year. Asylees may also apply for LPR status after one year, and there is no limit on the number who can be admitted to LPR status. However, before 2005, the number of asylees admitted to LPR status in any year was limited to 10,000.

⁷ The diversity lottery was established in 1990 to give potential immigrants from nations underrepresented in the U.S. population a chance to enter, even if they do not have family ties to U.S. residents. The 50,000 spots in 2006 were filled by random lottery winners from the 6.4 million applicants, and the vast majority of these spots were successfully used to obtain Green Cards.

⁸ The Other/legalization category included, among others, illegal residents who qualified to have their deportation orders canceled or who qualified for legalization under the Nicaraguan Adjustment and Central American Relief Act of 1997.

⁹ Applications for LPR are filed with USCIS. LPR visas are issued by the U.S. Department of State.

¹⁰ Data on temporary visa holders are also kept, but we have only estimates for the numbers of illegal immigrants.

¹¹ Of the past 10 years for which data are published, in only three (1998, 1999, and 2003) were there more new LPRs than adjusting LPRs, which has been attributed to large processing backlogs in those years (Wadhwa et al., 2007).

¹² The New Immigrant Survey is described in the textbox on page 23.

¹³ We borrow the term “pathway” from Massey and Malone (2002).

¹⁴ We call those crossing the border without authorization “illegal border crossers,” but USCIS and DHS refer to these illegal residents as having “entered without inspection.”

¹⁵ We find a similar percentage of all 2003 LPRs had been illegal border crossers as Massey and Malone (2002) who used 1996 data. However, a much higher percentage in the 2003 data are found to be visa abusers (22% compared with 11%) than in the 1996 data, largely because the newer data allow more visa abuse to be detected.

¹⁶ The 2005 limit is reported to be 247,000 (see AILA InfoNet, June 2007a, June 2007b).

¹⁷ This cap does not include backlog reduction specifications (see the text of S. 1639 and AILA InfoNet, June 2007a, June 2007b).

¹⁸ Others (Migration Policy Institute, 2007) have attempted to describe how the mix of legal permanent residents might change should a point system be enacted, but our data have significant advantages. Researchers at the Migration Policy Institute examined the foreign-born who arrived within the past 15 years, as documented in the American Community Survey (which includes a mix of naturalized citizens, legal permanent residents, nonmigrant visa holders, and the unauthorized), whereas we examine legal permanent residents in the year in which they were granted that status.

¹⁹ We include principals and any nonprincipal spouses. Robustness checks where we included only the principals resulted in point distributions that were nearly identical—at only a few point scores do the percentiles differ by more than 1 percent.

²⁰ Because points for apprenticeships certified by the Department of Labor cannot be allocated because of data limitations (see Table 7), we allocate these points to those individuals who might be eligible (eight points are granted to those with no educational attainment, three more for those who already have five points from a vocational certification). We found that the curves shift only slightly, and those results are not shown here.

²¹ There are two notable differences. One is the decline in the percentage of those born in Mexico (at 21% in 2000, 16% in 2003, and 14% in 2006). This decline is likely due to a decrease in the number of eligible Mexican-born immigrants legalized under the Immigration Reform and Control Act. There is a similar decline in the proportion of all legal immigrants who are family sponsored, numerically limited immigrants (28% in 2000, 23% in 2003, and 18% in 2006). The second notable difference is the lower percentage of adjustees, mentioned above in the Current Immigration Policies section.

²² The 2003 NIS California sample of LPRs is slightly older than the California population of LPRs measured by the USCIS in 2003 and 2004 (26% are ages 35–44, compared with 23% in the USCIS data). The California 2003 NIS sample is also slightly less likely to be single (19% compared with 22% in the USCIS data).

References

- AILA InfoNet, "Summary of Senate 'Grand Bargain,'" Doc. No. 07051768 (posted May 17, 2007), available at <http://www.aila.org/content/default.aspx?docid=22365>.
- AILA InfoNet, "Summary of Key Business Immigration Provisions in S. 1639," Doc. No. 07062167 (posted June 21, 2007a), available at <http://www.aila.org/content/default.aspx?bc=6712|8846|22704>.
- AILA InfoNet, "Summary of Key Family Immigration Provisions in S. 1639," Doc. No. 07062165 (posted June 21, 2007b), available at <http://www.aila.org/content/default.aspx?bc=6712|8846|22702>.
- Broder, Tanya, *Overview of Immigrant Eligibility for Federal Programs*, National Immigration Law Center, Los Angeles, California, July 2007.
- Hecker, Daniel E., "Occupational Employment Projections to 2014," *Monthly Labor Review*, Table 3, November 2005.
- Jasso, Guillermina, "Whom Shall We Welcome? Elite Judgments of the Criteria for the Selection of Immigrants," *American Sociological Review*, Vol. 53, No. 6, December 1988, pp. 919–932.
- Jasso, Guillermina, Douglas S. Massey, Mark R. Rosenzweig, and James P. Smith, "The New Immigrant Survey Pilot (NIS-P) Public Release Data," March 2005a, available at <http://nis.princeton.edu>.
- Jasso, Guillermina, Douglas S. Massey, Mark R. Rosenzweig, and James P. Smith, "The U.S. New Immigrant Survey: Overview and Preliminary Results Based on the New-Immigrant Cohorts of 1996 and 2003," 2005b, available at http://nis.princeton.edu/downloads/nis_2003/JMRS_IRSS-NIS-Overview-2005.pdf.
- Jasso, Guillermina, Douglas S. Massey, Mark R. Rosenzweig, and James P. Smith, "Immigration, Health, and New York City: Early Results Based on the U.S. New Immigrant Cohort of 2003," Federal Reserve Bank of New York, *Economic Policy Review*, December 2005c.
- Jasso, Guillermina, Douglas S. Massey, Mark R. Rosenzweig, and James P. Smith, "The New Immigrant Survey 2003 Round 1 (NIS-2003-1) Public Release Data," March 2006, available at <http://nis.princeton.edu>.
- Jefferys, Kelly, "U.S. Legal Permanent Residents: 2006," Annual Flow Report, Office of Immigration Statistics, Policy Directorate, Department of Homeland Security, Washington, D.C., March 2007.
- Massey, D., and N. Malone, "Pathways to Legal Immigration," *Population Research and Policy Review*, Vol. 21, No. 6, December 2002.
- Migration Policy Institute, "Migration Policy Institute Proposed Point System and Its Likely Impact on Prospective Immigrants," *Immigration Backgrounder*, No. 4, May 2007.
- National Immigration Law Center, "Major Benefit Programs Available to Immigrants in California," Los Angeles, California, January 2007.
- Office of Immigration Statistics, *Characteristics of Specialty Occupation Workers (H-1B): Fiscal Year 2003*, Department of Homeland Security, Washington, D.C., November 2004.
- Office of Immigration Statistics, "2005 Yearbook of Immigration Statistics," Department of Homeland Security, Washington, D.C., November 2006.
- Office of Immigration Statistics, "2006 Yearbook of Immigration Statistics," Department of Homeland Security, Washington, D.C., September 2007.
- Papademetriou, Demetrios G., "Selecting Economic Stream Immigrants Through Points Systems," Migration Policy Institute, *Migration Information Source*, Washington, D.C., May 18, 2007, available at www.migrationinformation.org/Feature/print.cfm?ID=602.
- Passel, Jeffrey S., *Growing Share of Immigrants Choosing Naturalization*, Pew Hispanic Center, Washington, D.C., March 28, 2007.
- Pew Hispanic Center, *Fact Sheet: Estimates of the Unauthorized Migrant Population for States Based on the March 2005 CPS*, Washington, D.C., April 26, 2006a.
- Pew Hispanic Center, *Fact Sheet: Modes of Entry for the Unauthorized Migrant Population*, Washington, D.C., May 22, 2006b.
- Senate Republican Policy Committee, *RPC Backgrounder: Merit-Based Permanent Immigration: A Look at Canada's Point System*, Washington, D.C., May 22, 2007.
- Terrell, Nicholas, "STEM Occupations," *Occupational Outlook Quarterly*, Spring 2007.
- U.S. Citizenship and Immigration Services, "A Guide to Naturalization," n.d., available at <http://www.uscis.gov/files/article/M-476.pdf>.
- U.S. Citizenship and Immigration Services, "Welcome to the United States: A Guide for New Immigrants," n.d., available at <http://www.uscis.gov/files/nativedocuments/M-617.pdf>.
- U.S. Citizenship and Immigration Services, a glossary of terms related to immigration, n.d., available at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=b328194d3e88d010VgnVCM10000048f3d6a1RCRD&vgnnextchanel=b328194d3e88d010VgnVCM10000048f3d6a1RCRD>.
- U.S. Department of State, *Visa Bulletin*, Vol. 8, No. 113, Washington, D.C., December 2007, available at http://travel.state.gov/visa/frvi/bulletin/bulletin_3841.html.
- Wadhwa, Vivek, Guillermina Jasso, Ben Rissing, Gary Gereffi, and Richard Freeman, "Intellectual Property, the Immigration Backlog, and a Reverse Brain-Drain: America's New Immigrant Entrepreneurs, Part III," Ewing Marion Kauffman Foundation, Kansas City, Missouri, August 2007.

About the Authors

Joseph M. Hayes is a research associate at the Public Policy Institute of California.

Laura E. Hill is a research fellow at the Public Policy Institute of California.

Contributors

The authors gratefully acknowledge the helpful comments of Guillermina Jasso, Mark Silverman, Steven Camarota, Sabina Ohri, Hans Johnson, Deborah Reed, Gary Bjork, Michele Waslin, Monica Higgins, Jennifer Martin, Pat Bedrosian, and Edward Kissam.

Board of Directors

Thomas C. Sutton, Chair
Retired Chairman and Chief Executive Officer
Pacific Life Insurance Company

Mark Baldassare
President and Chief Executive Officer
Public Policy Institute of California

Ruben Barrales
President and Chief Executive Officer
San Diego Regional Chamber of Commerce

Linda Griego
President and Chief Executive Officer
Griego Enterprises, Inc.

Edward K. Hamilton
Chairman
Hamilton, Rabinovitz & Associates, Inc.

Gary K. Hart
Former State Senator and Secretary of
Education
State of California

Walter B. Hewlett
Director
Center for Computer Assisted
Research in the Humanities

Donna Lucas
Chief Executive Officer
Lucas Public Affairs

Leon E. Panetta
Director
The Leon & Sylvia Panetta Institute for
Public Policy

Ki Suh Park
Design and Managing Partner
Gruen Associates

Constance L. Rice
Co-Director
The Advancement Project

Raymond L. Watson
Vice Chairman of the Board Emeritus
The Irvine Company

Carol Whiteside
President Emeritus
Great Valley Center

The Public Policy Institute of California is dedicated to informing and improving public policy in California through independent, objective, nonpartisan research on major economic, social, and political issues. The institute's goal is to raise public awareness and to give elected representatives and other decisionmakers a more informed basis for developing policies and programs.

The institute's research focuses on the underlying forces shaping California's future, cutting across a wide range of public policy concerns, including economic development, education, environment and resources, governance, population, public finance, and social and health policy.

PPIC is a private, nonprofit organization. It does not take or support positions on any ballot measures or on any local, state, or federal legislation, nor does it endorse, support, or oppose any political parties or candidates for public office. PPIC was established in 1994 with an endowment from William R. Hewlett.

Copyright © 2008 by Public Policy Institute of California. All rights reserved. San Francisco, CA

Short sections of text, not to exceed three paragraphs, may be quoted without written permission provided that full attribution is given to the source and the above copyright notice is included.

Research publications reflect the views of the authors and do not necessarily reflect the views of the staff, officers, or Board of Directors of the Public Policy Institute of California.

PUBLIC POLICY INSTITUTE OF CALIFORNIA
500 Washington Street, Suite 600
San Francisco, California 94111
Telephone: 415.291.4400
Fax: 415.291.4401
www.ppic.org

PPIC SACRAMENTO CENTER
Senator Office Building
1121 L Street, Suite 801
Sacramento, California 95814
Telephone: 916.440.1120
Fax: 916.440.1121

ISSN #1554-401X



Recent issues of
California Counts

POPULATION TRENDS AND PROFILES

Crime, Corrections, and California: What Does Immigration Have to Do with It?

Birth Rates in California

Death in the Golden State: Why Do Some Californians Live Longer?

Can California Import Enough College Graduates to Meet Workforce Needs?

How Immigrants Affect California Employment and Wages

are available free of charge on PPIC's website
www.ppic.org

PUBLIC POLICY INSTITUTE OF CALIFORNIA
500 Washington Street, Suite 600
San Francisco, California 94111

NON-PROFIT ORG.
U.S. POSTAGE
PAID
BRISBANE, CA
PERMIT #83

In This Issue

**Immigration
Policy: Family
vs. Skills**