

Immigration Policy

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IMMIGRATION POLICY: WESTERN HEMISPHERE

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ISSUE DEFINITION

There is currently a waiting period of more than two years for immigrant visas for aliens entering the United States from other countries in the Western Hemisphere, including Mexico and Canada. In contrast to Eastern Hemisphere aliens, aliens from the Western Hemisphere are not admitted according to a preference system. Immigrant visas are immediately available for all preference categories for all Eastern Hemisphere countries except the Philippines. At issue is the nature of the legislative action necessary to put Western Hemisphere immigrants on the same footing as those from the Eastern Hemisphere.

BACKGROUND AND POLICY ANALYSIS

An annual ceiling of 120,000 on Western Hemisphere immigration went into effect on July 1, 1968, as the result of the far-reaching Immigration and Nationality Act Amendments of 1965, which also abolished a quota system based on national origin. Prior to that time immigration from other countries in this hemisphere had been numerically unrestricted. The principal argument used in 1965 in favor of the controversial ceiling was the fear of greatly increased immigration due to the expanding population of many Western Hemisphere countries. There has been little pressure in recent years to repeal the ceiling. The recommendation made in 1972 by the President's Commission on Population Growth and the American Future that "immigration levels not be increased" is relevant here. The current backlog of more than 200,000 active cases under the Western Hemisphere ceiling indicates that without the ceiling our immigration levels would have been significantly higher.

Since the ceiling went into effect, Congressional attention has been focused on two aspects of the immigration law which received little discussion during the 1965 debate: (a) the absence of a preference system, and (b) a limit for each country in the Western Hemisphere. The present treatment of the Western Hemisphere contrasts with that of the Eastern Hemisphere in that, along with an overall annual numerical ceiling of 170,000, the Eastern Hemisphere has a 20,000-per-country limitation and a special seven-point preference system. This preference system provides that certain categories of immigrants--most notably close relatives of U.S. citizens and permanent resident aliens (other than members of the immediate family who are already exempt from numerical limitations), and those possessing talents and skills in short supply in this country--are given preference over others.

Bills have been introduced since the 91st Congress to modify the Eastern Hemisphere preference system and to apply it to both hemispheres under a single worldwide ceiling. The State Department has consistently opposed the immediate adoption of a single worldwide ceiling and unified preference system because of the difficulty they see in predicting the effect of a preference system on Western Hemisphere immigration. They have also opposed any immediate major overhaul of the preference system for the same reason.

During the 93rd Congress, the House Judiciary Committee accepted the premise that immigration reform should be a two-step operation, holding off a unified worldwide ceiling and a revised preference system for sometime in the

future. The House-passed bill, H.R. 981, simply extended the current preference system to the Western Hemisphere. The only modification was in the seventh preference "refugee" category to conform with the definition of "refugee" in the United Nations Protocol Relating to the Status of Refugees, to which the United States has acceded. The separate hemispheric ceilings of 170,000 for the Eastern Hemisphere and 120,000 for the Western Hemisphere were retained, and the 20,000-per-country limit now in effect for Eastern Hemisphere countries was extended to the Western Hemisphere. No action was taken by the Senate on legislation related to this issue.

During the 93rd Congress, the single most controversial aspect regarding revision of Western Hemisphere immigration law was the regulation of immigration from the geographically contiguous countries, and most particularly from Mexico. In FY 1974, Mexico accounted for 71,586 immigrants, or more than twice as many as any other country. Of these, 26,339 were exempt from numerical limitation, primarily because of immediate relative status; 45,247 entered under the Western Hemisphere ceiling. Based on the 1974 figures, the imposition of a 20,000-per-country limit on Mexico would reduce total annual Mexican immigration by approximately 35%, and numerically restricted Mexican immigration by considerably more than one-half. An amendment introduced during the House floor debate on H.R. 981 to increase the ceiling on Mexico and Canada from 20,000 to 35,000 was defeated by a vote of 203 to 174.

Legislation similar to the House-passed H.R. 981 of the 93rd Congress was introduced in the 94th Congress, again by House Judiciary Committee Chairman Peter W. Rodino, Jr., with the number H.R. 981. It differs from the 93rd Congress legislation in the provision of annual per-country limits of 35,000 each for Mexico and Canada. H.R. 367, introduced by Chairman Joshua Eilberg of the House Judiciary Subcommittee on Immigration, Citizenship, and International Law, is almost identical to the 93rd Congress legislation. The House Judiciary Subcommittee on Immigration commenced hearings on these two bills on Sept. 25, 1975. Also under consideration is H.R. 10323, the Administration bill introduced on Oct. 22, 1975, by Congressman Edward Hutchinson, the ranking minority member of the House Judiciary Committee, for himself and Congressman Hamilton Fish, the ranking minority member of the Judiciary Subcommittee on Immigration. A companion bill, S. 3208, was introduced in the Senate on Mar. 25, 1976, by Senator Hiram Fong, the ranking minority member of the Senate Judiciary Subcommittee on Immigration and Naturalization.

Senator James O. Eastland, Chairman of the Senate Judiciary Committee and of its Subcommittee on Immigration and Naturalization, introduced S. 3047, the Immigration and Nationality Act Amendments of 1976, on Mar. 4, 1976; and the Subcommittee began hearings on Mar. 17, 1976. The bill extends the present preference system with only minor modifications as well as the hemispheric ceilings now in effect. On Sept. 24, 1975, Senator Edward Kennedy, also a member of the Subcommittee on Immigration and Naturalization, introduced S. 2045, the Immigration and Nationality Act Amendments of 1975. S. 2045 would establish a worldwide ceiling of 300,000 immigrants annually, with a modified preference system and a 20,000-per-country limit except for Mexico and Canada, which would each be limited to 35,000.

LEGISLATION

H.R. 367 (Eilberg)

"Immigration and Nationality Act Amendments of 1973." Almost identical to the House-passed H.R. 981 of the 93d Congress, and similar to H.R. 981 as introduced in the 94th Congress (see below), except for the application in H.R. 367 of the 20,000-per-country annual limit to Mexico and Canada as well as to other Western Hemisphere countries. H.R. 367 was introduced on Jan. 14, 1975, and was referred to the House Committee on the Judiciary.

H.R. 981 (Rodino)

"Immigration and Nationality Act Amendments of 1973." Extends to the Western Hemisphere a seven-category preference system. Establishes per-country limits of 35,000 each for Mexico and Canada, and 20,000 for other Western Hemisphere countries, under the overall Western Hemisphere ceiling of 120,000 immigrant visas available annually. (A preference system and 20,000-per-country limit are currently in effect for Eastern Hemisphere countries, under the overall Eastern Hemisphere ceiling of 170,000.) Amends the refugee section of the current law, and the provisions relating to the admission of certain temporary workers. The bill was introduced on Jan. 14, 1975, and was referred to the House Committee on the Judiciary.

H.R. 10323 (Hutchinson and Fish, for the Administration)/S. 3208 (Fong)

Immigration and Nationality Act Amendments of 1975. Extends to the Western Hemisphere a modified eight-category preference system, which would also be applicable to the Eastern Hemisphere under the existing separate numerical ceilings (120,000 for Western Hemisphere; 170,000 for Eastern Hemisphere). Extends to the Western Hemisphere countries the 20,000-per-country annual limit currently in effect for Eastern Hemisphere countries. Modifies the labor certification requirement. The bill was introduced on Oct. 22, 1975, and was referred to the House Committee on the Judiciary.

S. 2405 (Kennedy)

Immigration and Nationality Act Amendments of 1975. Establishes a worldwide ceiling of 300,000 immigrants annually, effective July 1, 1978, with a modified preference system and a 20,000-per-country limit except for Canada and Mexico, which would be limited to 35,000. During the interim period, increases the Western Hemisphere ceiling to 130,000 and applies modified preference system and per-country limits under separate hemispheric ceilings. Amends the refugee provisions of the current law. The bill was introduced on Sept. 24, 1975, and was referred to the Senate Committee on the Judiciary.

S. 3074 (Eastland)

Immigration and Nationality Act Amendments of 1976. Extends to the Western Hemisphere a seven-category preference system similar to the one currently in effect for the Eastern Hemisphere, under the existing hemispheric ceilings (120,000 for Western Hemisphere; 170,000 for Eastern Hemisphere). Extends to the Western Hemisphere countries the 20,000-per-country limit currently in effect for Eastern Hemisphere countries. Amends the section of the current law relating to the admission of certain temporary workers. (Includes penalties for the knowing employment of illegal aliens, as well as other related provisions; see IB74137, Immigration: Illegal Aliens). The bill was introduced on Mar. 4, 1976, and was referred to the Senate Committee on the Judiciary.

HEARINGS

U.S. Congress. House. Committee on the Judiciary. Subcommittee No. 1. Western Hemisphere immigration. Hearings, 93d Congress, 1st session, on H.R. 981. Washington, U.S. Govt. Print. Off., 1973. 358 p.

Hearings held Mar. 28-June 14, 1973.
"Serial No. 8"

REPORTS AND CONGRESSIONAL DOCUMENTS

U.S. Congress. House. Committee on the Judiciary. Immigration and Nationality Act Amendments of 1973; report together with additional views to accompany H.R. 981. [Washington, U.S. Govt. Print. Off.] 1973. 49 p. (93d Congress, 1st session. House. Report no. 93-461)

OTHER CONGRESSIONAL ACTION

N/A

CHRONOLOGY OF EVENTS

- 03/25/76 -- S. 3208, the Immigration and Nationality Act Amendments for 1976, was introduced in the Senate by Senator Hiram Fong for the Administration.
- 03/17/76 -- Hearings commenced by the Senate Judiciary Subcommittee on Immigration and Naturalization on S. 3074.
- 03/11/76 -- The State Department reported that immigrant visas were available under the Western Hemisphere limitation for April for applicants with priority dates earlier than Nov. 15, 1973.
- 03/04/76 -- S. 3074, the Immigration and Nationality Act Amendments of 1976, was introduced in the Senate by Mr. Eastland.
- 10/22/75 -- H.R. 10323, the Immigration and Nationality Act Amendments of 1975 (Administration bill), was introduced in the House by Mr. Hutchinson and Mr. Fish.
- 09/25/75 -- Hearings commenced by the House Judiciary Subcommittee on Immigration, Citizenship, and International Law on legislation relating to Western Hemisphere immigration, including H.R. 367 and H.R. 981.
- 09/24/75 -- S. 2405, the Immigration and Nationality Act Amendments of 1975, was introduced in the Senate by Mr. Kennedy.
- 01/14/75 -- H.R. 981, the "Immigration and Nationality Act Amendments of 1973," was introduced in the House by Mr. Rodino.

- 09/26/73 -- H.R. 981 passed the House by a vote of 336 to 30.
- 01/01/73 -- The State Department reported a Western Hemisphere waiting list of 297,833, of which 192,761 were active cases and 105,072 were inactive cases.
- 07/01/68 -- The 120,000 ceiling on Western Hemisphere immigration took effect.
- 01/00/68 -- The Select Commission on Western Hemisphere Immigration, established by P.L. 89-236, recommended "that the effective date for the imposition of the 120,000 ceiling on Western Hemisphere immigration be extended from July 1, 1968 to July 1, 1969" and that the life of the Commission also be extended an additional year to allow them to conduct further study. Legislation implementing these recommendations passed the House but not the Senate.
- 10/03/65 -- P.L. 89-236 was enacted into law (79 Stat. 911). Section 21(e) provided that an annual ceiling of 120,000 on Western Hemisphere immigration was to go into effect on July 1, 1968, unless legislation to the contrary was enacted prior to that time.

ADDITIONAL REFERENCE SOURCES

- Gordon, Charles, and Harry N. Rosenfield. Immigration law and procedure. Rev. ed. 2 v. (loose-leaf). New York, Matthew Bender, 1974.
- U.S. Immigration and Naturalization Service. Report of the Commissioner of Immigration and Naturalization. Washington, For sale by the Supt. of Docs., U.S. Govt. Print. Off. [1974] 126 p.
- U.S. Library of Congress. Congressional Research Service. Immigration and nationality legislation enacted 1962-1974 [by] Joyce Vialet. [Washington] 1975. 25 p.
Multilith 75-25ED
- U.S. Select Commission on Western Hemisphere Immigration. Washington, For sale by the Supt. of Docs., U.S. Govt. Print. Off., 1968. 197 p.
Commonly known as the Scammon Report.
- U.S. Visa Office Report, 1974. Washington, U.S. Govt. Print. Off., 1975. 84 p.