



Insight

Immigration Reform in The America COMPETES Act of 2022

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Executive Summary

- The U.S. immigration system needs fundamental reform to counter worsening demographic trends—such as the country’s declining birthrate and aging population—and to refocus immigration criteria to prioritize high-skilled workers.
- The America Creating Opportunities for Manufacturing, Pre-Eminence in Technology and Economic Strength (COMPETES) Act of 2022 (H.R. 4521), contains the first immigration reforms to be considered in regular order by this Congress; it includes three reforms: a new entrepreneur’s visa, an exemption for some skilled immigrants from numerical caps, and Temporary Protected Status for residents of Hong Kong.
- While the bill would modestly raise the amount and skill levels of U.S. immigration, it is no substitute for a more comprehensive overhaul.

Introduction

The United States needs comprehensive immigration reform. The last time the United States significantly changed its method for awarding visas was in 1965, when Congress passed the Immigration and Nationality Act (INA). This law changed the immigration system from one based on country-of-origin limits to one based on family reunification. Today, however, the country faces severe demographic pressure from slowing population growth, an aging population, and declining birth rates. To counter these trends, Congress should undertake reform to increase the level of legal immigration, which can translate into greater labor force growth. Moreover, it should refocus immigration criteria toward economic considerations—that is, prioritizing immigrants based on skill level, rather than family reunification. By taking this approach, the United States can raise productivity and Americans’ standard of living, as well.

Thus far, the 117th Congress has not undertaken immigration reform in regular order. The only immigration reforms attempted were those included in the Build Back Better Act to be considered under reconciliation protections. Ultimately, the Senate parliamentarian held that these reforms did satisfy [the conditions of the Byrd Rule](#) and were removed from the reconciliation bill.

House Democrats recently released [The America Creating Opportunities for Manufacturing, Pre-Eminence in Technology and Economic Strength \(COMPETES\) Act of 2022](#), their plan to increase the United States' economic competitiveness with China. The House bill includes three major immigration-related provisions that would reshape the United States' high-skilled immigration policy.

This paper provides a brief summary and evaluation of The America COMPETES Act's proposed immigration reforms. While the reforms would modestly raise the amount and skill levels of U.S. immigration, they are no substitute for a comprehensive overhaul.

Reforms in The America COMPETES Act

The first major provision of The America COMPETES Act would amend the Immigration and Nationality Act to create a new visa category focused on start-up companies. The "W" visa category would be composed of three classifications of foreign nationals: W-1, entrepreneurs with ownership interest in a start-up; W-2, essential employees of a start-up; and W-3, W-1 and W-2 holders' spouses and children.

Nonimmigrants on a W-1 visa would start with a three-year visa and could apply for an extension of up to another five years if they and their start-ups meet certain requirements and benchmark measurements. Eventually, W-1 visa holders could apply for legal permanent resident status as immigrant entrepreneurs if their start-up proves successful. W-2 visas would be limited and allocated based on the size of the start-up and could be used for up to six years, assuming the nonimmigrant meets certain requirements.

The second major provision would exempt certain foreign nationals (and their families) from the numerical limits on immigrant visas if they have a doctoral degree in science, technology, engineering, or mathematics (STEM) from a qualified U.S. institution or from a foreign institution with a STEM program equivalent to that of a U.S. institution.

The third major provision focuses on residents of Hong Kong. The bill would provide Temporary Protected Status and refugee status for qualifying Hong Kong residents for 18 months after the bill's enactment, allowing them to live and work in the United States. Also, the Department of State and Department of Homeland Security would provide a special immigrant status for up to 5,000 qualified high-skilled Hong Kong residents for up to five

fiscal years.

Finally, the bill would require W-1 visa holders, immigrant entrepreneurs, and immigrant STEM doctoral holders to pay a one-time supplemental fee of \$1,000 that would go toward funding STEM scholarships for low-income U.S. students.

Evaluation

The provisions in The America COMPETES Act would modestly raise the amount and skill levels of U.S. immigration. These are desirable changes. Greater immigration raises the growth rate of the employed population, leading to more output and income. Improving skill levels results in higher productivity growth, which translates into higher worker compensation and standards of living. Finally, promoting entrepreneurial vigor through the bill's new visa categories will spur new methods and products, and improved competitiveness.

Nevertheless, The America COMPETES Act reforms are changes at the margins of the existing system confined to high-skilled individuals and entrepreneurs. This is not a substitute for broader substantive reform for all classes of immigrants. Congress should consider a total overhaul of the legal immigration system, shifting from a focus on family reunification to one of economic growth. The American Action Forum has [proposed](#) such a legal immigration system that could advance entrepreneurship, augment productivity gains, fill skills gaps, and combat demographically driven labor force declines.