

An hourglass-shaped graphic with a globe in the top bulb and another globe in the bottom bulb. The hourglass is light blue and has a dark blue cap at the top. The globe in the top bulb is dark blue, while the globe in the bottom bulb is light blue. The text is centered within the hourglass.

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IMMIGRATION LEGISLATION IN 106TH CONGRESS

Ruth Ellen Wasem, Domestic Social Policy Division

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Abstract. The 106th Congress enacted 23 laws with provisions affecting immigration policy, not including appropriations laws for immigration-related programs, services, and activities. Several major immigration laws dealt with nonimmigrants, i.e., aliens admitted temporarily to the United States.

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Immigration Legislation in 106th Congress

Ruth Ellen Wasem
Specialist in Social Legislation
Domestic Social Policy Division

Summary

The 106th Congress enacted 23 laws with provisions affecting immigration policy, not including appropriations laws for immigration-related programs, services, and activities. Several major immigration laws dealt with nonimmigrants, *i.e.*, aliens admitted temporarily to the United States. The 106th Congress revised many of the nonimmigrant employment-based visa categories and created four new nonimmigrant visa categories: “H-1C” for nurses; “T” for victims of sexual trafficking; “U” for victims of domestic violence, material witnesses and humanitarian purposes; and “V” for immediate relatives of legal permanent residents (LPR) who have immigrant petitions pending. Congress also enacted laws adjusting certain aliens to LPR status, eased the naturalization requirements for certain LPRs, eliminated the per-country ceiling for employment-based immigrant admissions, and modified the requirements for an entry/exit data system. For details on immigration-related funding, see CRS Report RS20618, *Immigration and Naturalization Service’s FY2001 Budget*.

This report provides brief summaries of immigration laws enacted by the 106th Congress (excluding immigration-related appropriations), organized by issue areas. A table presenting a complete list of the laws concludes the report.¹

Legal Immigration Family Equity Act

A proposal known as the “Legal Immigration Family Equity Act” (LIFE) was added to the Commerce, Justice, State FY2001 appropriations bill that, in turn, was folded into the District of Columbia FY2001 appropriations law (**P.L. 106-553**). LIFE establishes a new nonimmigrant “V” visa for the immediate relatives of legal permanent residents (LPRs) who have second preference petitions pending at least 3 years, expands the use of the “K” nonimmigrant visa to include immediate relatives of citizens with petitions pending, and allows aliens in the “late amnesty” class action court cases to adjust to LPR status. After intense negotiations, amendments to LIFE – most notably a temporary

¹ Shirin Kaleel, a graduate student intern in the Domestic Social Policy Division, provided research assistance in the preparation of this report.

reinstatement of §245(i) of the Immigration and Nationality Act (INA) enabling unauthorized aliens to adjust to LPR status if they are otherwise eligible for visas – were included in the Labor, Health and Human Services, Education FY2001 appropriations law (**P.L. 106-554**). Despite media reports indicating that a new temporary agricultural worker program with a legalization provision would also be included, it was not in the final agreement. (See CRS Report RL30780, *Immigration Legalization and Status Adjustment Legislation*.)

H-1B Temporary Professional Workers

The 106th Congress enacted the American Competitiveness in the Twenty-first Century Act of 2000 (**P.L. 106-313**), making significant amendments to the H-1B program, most notably an increase in the numerical limits. Temporary workers are admitted to the United States under the “H” nonimmigrant category, a part of the INA (§ 101(a)(15)(H)), and H-1B nonimmigrants – professionals who work in specialty occupations – make up the largest category of temporary alien workers. The 105th Congress had enacted the American Competitiveness and Workforce Improvement Act (Title IV of P.L. 105-277) in 1998 to increase the number of H-1B nonimmigrants and reform perceived abuses of the visa. **P.L. 106-313** raises the number of H-1B visas by 297,500 over 3 years, FY2001-FY2003. It also authorizes additional H-1B visas for FY1999 to compensate for the excess inadvertently approved that year. In addition, it excludes from the new ceiling all H-1B nonimmigrants who work for universities and nonprofit research facilities. The law facilitates the portability of H-1B status for those already here lawfully, eliminates the per-country ceilings for employment-based immigrants, and requires a study of the “digital divide” on access to information technology. It makes changes in the use of the H-1B fees for education and training, notably earmarking a portion of DOL training funds for skills that are in information technology shortage areas and adding to the National Science Foundation portion a K-12 math, science and technology education grant program. Separate legislation (**P.L. 106-311**) to increase the H-1B fee from \$500 to \$1,000 and exempt educational institutions, universities and nonprofit research facilities from paying the fee was also enacted. (See CRS Report RL30498, *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*.)

Other Temporary Workers

Religious Workers. An immigration provision that allows for the admission of immigrants to perform religious work (INA §101(a)(27)(C)), originally established as a temporary program, expired on September 30, 2000. Although the provision has a broad base of support, some expressed concern that it is vulnerable to fraud. After considering whether to make the provision permanent, Congress enacted **P.L. 106-409**, which extends the religious worker visa through FY2003.

Nurses. **P.L. 106-95**, the Nursing Relief for Disadvantaged Areas Act of 1999, includes provisions intended as a short-term solution for nursing shortages in a limited number of medically underserved areas. The act establishes a new H-1C category for 500 nonimmigrant nurses annually for 4 years in health professional shortage areas. It sets forth admissions requirements, including a maximum 3-year stay. Petitioning hospitals would have to be in shortage areas defined by the Department of Health and Human

Services, have at least 190 acute care beds, and have specified percentages of Medicare and Medicaid patients. A previous H-1A category for nurses, which has expired, was subject to fewer restrictions. (See CRS Report RS20164, *Immigration: Temporary Admission of Nurses for Health Shortage Areas (P.L. 106-95)*.)

H-2A Temporary Agricultural Workers. P.L. 106-78, the FY2000 Agriculture appropriations act, §748, amends the INA to reduce from 60 to 45 days the minimum period prior to need that employers must file H-2A labor certifications; and to increase from 20 to 30 days the minimum days in advance of need that the Secretary of Labor must act on H-2A certification requests. **P.L. 106-554** included minor provisions that modified the requirements for employers seeking H-2A workers. (See CRS Report RL30852, *Immigration of Agricultural Guest Workers: Policy, Trends and Legislative Issues*.)

Refugees

P.L. 106-104 reauthorizes the Refugee Resettlement Program, a set of federally-funded human service programs, through FY2002. **P.L. 106-113** reenacted for 2 years a provision referred to as the “McCain Amendment” that, quoting from the conference report, “restores eligibility for U.S. refugee resettlement to certain sons and daughters of Vietnamese re-education camp survivors, and also provides such eligibility for sons and daughters who were denied the right to resettle in the United States [solely] because their government-issued residency documents did not prove ‘continuous coresidency’ with their parents.” **P.L. 106-429** enables certain displaced aliens paroled into the United States from Southeast Asia to adjust to LPR status, and **P.L. 106-554** extends the “Lautenberg Amendment,” which requires the Attorney General to designate as refugees former Soviet and Southeast Asian nationals for whom less evidence is needed to prove refugee status.

Section 110 Integrated Entry and Exit Data System

The INS Data Management Improvement Act of 2000 (**P.L. 106-215**) amends §110 of the Illegal Immigration and Immigrant Responsibility Act (IIRIRA) to require the development of an integrated entry and exit system that would use available data to record alien arrivals and departures but would not establish additional documentary requirements. The scope of §110, as amended, is much narrower than the original IIRIRA provision, which would have required the development of a system to record the entry and exit of every alien arriving in and departing from the United States. **P.L. 106-215** includes provisions that: (1) set staggered deadlines for the implementation of the system at air, sea, and land border ports of entry; (2) establish a task force to evaluate the implementation of the system and other measures to improve legitimate cross-border traffic; and (3) express a sense of Congress that federal departments charged with border management should consult with foreign governments to improve cooperation. (See CRS Report RS20627, *Immigration: Integrated Entry and Exit Data System*.)

Other Immigration-Related Legislation

Immigrant and Naturalization Benefit Processing. Widespread concern over the growing backlogs and delays in processing naturalization and immigrant petitions has prompted legislation aimed at reducing the processing times of most petitions to no more than 90 days. Currently the processing of most immigration benefits is funded by

fees paid by the beneficiaries. **P.L. 106-313**, the latest H-1B law, included language that requires the Attorney General to submit a plan to reduce the backlogs and improve petition processing, establishes an “Immigration Services and Infrastructure Improvement Account,” and authorizes the appropriation of such sums as may be necessary.

Human Trafficking. P.L. 106-386 is aimed at stopping human trafficking, particularly sexual trafficking in women and children. The act seeks to combat trafficking through prevention; prosecution and enforcement against traffickers; and protection and assistance to victims. **P.L. 106-386**, among other provisions, amends the INA to establish new nonimmigrant visa categories: “T” for certain sexual trafficking victims; and “U” for victims of domestic violence, material witnesses, and other humanitarian purposes. “T” visa holders are limited to 5,000 annually, and “U” visas holders are limited to 10,000 annually. Both are allowed to adjust to LPR status after 3 years of continuous physical presence in the United States. (See CRS Report RL30545, *Trafficking in Women and Children: The U.S. and International Response*.)

Noncitizen Victims of Family Violence. P.L. 106-386 also includes immigration benefits for noncitizen victims of domestic violence. The law expands immigration relief to battered aliens in areas such as cancellation of removal, adjustment of status, and self-petitioning for immigration benefits.

Visa Waiver Pilot Program (VWPP). The VWPP allows nationals from certain countries to enter the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. consulate abroad. VWPP had been a pilot program for 12 years and the statutory authority had expired on April 30, 2000. **P.L. 106-396** made the VWPP permanent and included provisions designed to strengthen the documentary and reporting requirements. Also, **P.L. 106-406** allows for an extension of stay of nonimmigrant aliens entering under the VWPP who require medical treatment.

Syrian Jews. P.L. 106-378 adjusts certain Syrian nationals who are Jewish to LPR status. Many of these individuals were brought to the United States about 10 years ago for humanitarian reasons, but they were not given refugee status at that time.

Use of Social Security Numbers on Driver’s Licenses. P.L. 106-69 repeals §656(b) of IIRIRA. Section 656(b) prohibited federal agencies from accepting state-issued driver’s licenses or comparable documents for identification purposes after October 1, 2000, that did not contain a Social Security number (unless the state qualified for an exemption) and meet other standards.

Adoption and Citizenship. P.L. 106-395 confers automatic U.S. citizenship on certain foreign-born children adopted by U.S. citizens. It also includes provisions aimed at protecting certain immigrants from removal due to bad moral character findings because they falsely claim citizenship or registered to vote. **P.L. 106-139** provides that an adopted alien under age 18 may be considered a child under the INA if adopted with or after a sibling who is under age 16. Congress also enacted **P.L. 106-279**, the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, which includes provisions ensuring legal standards, soundness, and ethical behavior.

National Interest Waiver for Alien Physicians. P.L. 106-95 and P.L. 106-113 include identical amendments to the INA requiring the Attorney General to issue a “national interest waiver” of the job offer requirement for alien physicians seeking permanent admission as employment-based second preference immigrants. The alien physicians must agree to work in a medically underserved area designated by the HHS Secretary or in a Veterans Affairs facility, and do so for 5 years, and a federal agency or state public health department must previously have determined that their work in the area or facility is in the public interest.

Naturalization. P.L. 106-448 permits the waiver of the citizenship oath for certain LPRs whose disabilities prevent them from taking the oath. P.L. 106-207 seeks to facilitate the naturalization of Hmong and other Laotian refugees who served in special guerilla units in Laos (and their spouses or widows) by easing applicable naturalization requirements. The law exempts them from the English language requirement and provides them with special consideration concerning the required examination in U.S. government and history. P.L. 106-415 extends these naturalization provisions to certain Hmong widows not covered by P.L. 106-207.

Miscellaneous Nonimmigrant Amendments. P.L. 106-396, the visa waiver legislation, also modifies §641 of IIRIRA that establishes a program to collect information on nonimmigrant foreign students, enabling INS to collect the fee rather than requiring the educational institutions to do so. P.L. 106-95 amends the “L” nonimmigrant category for intracompany transfers (i.e., employees of international corporations) to provide that international management consulting firms that break off from other international accounting firms may continue to use L visas, provided they maintain the qualifying worldwide organizational structure. P.L. 106-104 amends the INA to extend for an additional 2 years the “S” nonimmigrant category for alien witnesses and informants providing information on organized crime and terrorist operations.

Other Provisions. P.L. 106-113 authorizes the Secretary of State to charge fees relating to affidavits of support and states the Department’s policy regarding processing of immigrant relative visa applications within 30 to 60 days of receipt. It also prohibits the use of funds appropriated by it for providing visas to citizens or nationals of countries determined by the Attorney General under INA §243(d) to deny or unreasonably delay accepting the return of their citizens or nationals. P.L. 106-536 creates a special immigrant visa for up to 100 workers annually who are employed by the International Broadcasting Bureau of the Broadcasting Board of Governors.

Immigration Legislation Enacted in the 106th Congress

Law	Provision
P.L. 106-69	Repeals §656(b) of IIRIRA concerning the use of Social Security numbers
P.L. 106-78	Includes an amendment to INA to expedite H-2A labor certification applications
P.L. 106-95	Amends INA to create an H-1C nurse visa and amends provisions for alien physicians and “L” nonimmigrants
P.L. 106-104	Amends INA to extend “S” non-immigrant category for alien witnesses and informants for additional 2 years; authorizes refugee resettlement assistance program through FY2002; reinstates “McCain Amendment” for 2 years
P.L. 106-113	In addition to appropriation provisions, it authorizes fees for affidavits of support and prohibits the use of funds to provide visas to nationals of countries that deny or unreasonably delay accepting the return of their citizens or nationals
P.L. 106-139	Amends INA to increase age limit of alien child adoption from 16 to 18 years for those who have siblings under 16 years of age that have been adopted
P.L. 106-207 and P.L. 106-415	Waives the English language and civics requirements, with respect to naturalization, for certain Hmong veterans and their spouses; extends these benefits to former spouses of deceased Hmong veterans
P.L. 106-215	Amends §110 of IIRIRA on automated exit-entry systems
P.L. 106-279	Provides for the implementation of the Hague Convention on intercountry adoption
P.L. 106-311 and P.L. 106-313	Amends INA to increase the number of available non-immigrant H1-B specialty occupation visas for FY2001 through FY2003; eliminates per country ceilings for permanent employment-based admissions; requires petition processing plan
P.L. 106-378	Adjusts to LPR status certain Syrian Jews
P.L. 106-386	Amends the INA to create new non-immigrant “T” and “U” visas for victims of trafficking (especially sex trade), domestic abuse, and humanitarian purposes
P.L. 106-395	Confers citizenship on certain foreign born children adopted by U.S. citizens
P.L. 106-396	Amends INA to revise and permanently authorize the visa waiver pilot program
P.L. 106-409	Extends religious worker provisions in INA for 3 years
P.L. 106-429	Enables certain displaced aliens from Southeast Asia to adjust to LPR status
P.L. 106-448	Permits the waiver of the citizenship oath for certain LPRs whose disabilities prevent them from taking the oath
P.L. 106-536	Creates a special immigrant visa for up to 100 workers a year who are employed by the International Broadcasting Bureau of the Broadcasting Board of Governors
P.L. 106-553 and P.L. 106-554	Allows certain aliens in class action cases to become LPRs, creates a “V” visa for immediate family of LPRs, expands “K” visas for immediate family of citizens, and temporarily restores §245(i) of INA; extends the “Lautenberg Amendment” for former Soviet Union and Southeast Asian parolees; modifies H-2A procedures

Note: Immigration-related appropriations are not included in this table. See CRS Report RS20618, *Immigration and Naturalization Service’s FY2001 Budget*.