



BILL SUMMARY | Homeland Security & Immigration

OVERVIEW OF THE AMERICANS FIRST IMMIGRATION ACT (H.R. 8586)

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TOPLINE POINTS

- ★ The Americans First Immigration Act (H.R. 8586) is a critical piece of legislation that proposes a transformational overhaul of America's legal immigration system.
- ★ The legislation would first reduce low-skilled immigration by eliminating the chain migration categories and the Diversity Visa Program.
- ★ The legislation then would increase high-skilled immigration by replacing the current employment-based program with a points-based merit program.
- ★ By shifting from a low-skilled to a merit-based system, the Americans First Immigration Act would advance America's national interest by promoting the immigration of higher-skilled, higher-earning immigrants who are more likely to contribute to the economy and American society.

OVERVIEW

The Americans First Immigration Act (AFIA) ([H.R. 8586](#)) is a critical piece of legislation introduced by Congressman Barry Moore (AL-01) that reduces mass, low-skilled immigration by repealing both the extended family-based preference categories and the [Diversity Visa Program](#). It then increases high-skilled immigration by converting our employment-based system into a [merit-based system](#). Through these reforms, the Americans First Immigration Act will create an immigration system that finally places the interests of Americans first by promoting the immigration of higher-skilled, higher-earning immigrants who are more likely to contribute to the economy and American society. The major reforms contained in the Americans First Immigration Act are described below.

Ends Chain Migration

The AFIA reins in mass, low-skilled migration in two ways. First, it eliminates the chain migration categories under the [Immigration and Nationality Act Section](#)



[203\(a\)](#) (also called the extended family-based categories), preserving only the category for spouses and minor children of legal permanent residents. In addition, the AFIA narrows the category of “immediate relatives,” which is uncapped numerically, by redefining the category to include only the spouses and minor children of U.S. citizens, excluding parents.

Repeals the Visa Lottery

The AFIA repeals the Visa Lottery, also known as the [Diversity Visa Program](#). The Visa Lottery, which began in 1995, allows up to 55,000 foreign nationals from countries with relatively low levels of immigration to the U.S. to apply for green cards (immigrant visas) through a lottery. To be eligible for the lottery, aliens only need a high school diploma (or its equivalent) or two years of qualifying work experience.

Since its inception, the Visa Lottery has undermined America’s interests by encouraging low-skill immigration, undermining the integrity of our system through fraud, and increasing national security risks due to the inability to vet applicants or even confirm their eligibility. The AFIA finally repeals the Visa Lottery and transfers the 55,000 available visas to the merit-based immigration system.

Establishes a Merit-Based Immigration System

The AFIA transforms America’s decades-old immigration system by replacing the employment-based immigration system (found in INA Section 203(b)) with a points-based merit system. This points-based system is allotted 192,000 immigrant visas annually—significantly more than the 140,000 green cards currently slated for the employment-based category. This increase is the result of:

1. The transfer of the 55,000 visas allocated to the Diversity Visa Program to the merit-based category; and
2. The subtraction of religious worker special immigrant visas, capped at 3,000, which are transferred from the employment-based system to a stand-alone category.

The annual cap of 192,000, however, is reduced each year by the number of aliens in the previous year who were never detained or were released despite being subject to mandatory detention under INA Section 235(b) (related to the inspection and processing of aliens who illegally cross the border).

The proposed points-based system allows prospective immigrants between 18 and 51 years old to apply for green cards if they can accumulate at least 16 points based on several criteria: high-paying job offers, extraordinary achievement, education, age, proficiency in English, and military service.

Job Offer at a High Salary

The most influential factor in the merit-based system is having a job offer at a high salary. To be eligible for a merit-based immigrant visa, the applicant must show that she or he has a job offer that ranks at least 150-200% of the median wage in the state where the job is located.



However, points are awarded for job offers with higher salaries. For example, aliens *without* a college degree can earn between 5 and 35 points for a job offer at a wage that is at least 250% to 500% of the median wage in the state of employment. Aliens *with* a U.S. college degree can earn between 3 and 35 points for a job offer at a wage that is 200-450% of the median wage in the state of employment. Points earned in this category will be the first factor in breaking a tie between applicants who have the same point total.

Extraordinary Achievement

The merit-based system also awards points for extraordinary achievement. Aliens would receive 10 points if they earned an individual Olympic medal within the past 8 years. Aliens can also receive between 10 and 50 points, at the discretion of the Secretary of Homeland Security, for having extraordinary ability in the sciences, arts, education, or business, “which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation.” This requirement is similar to the top employment-based immigrant visa category in current law (i.e., [EB-1](#)). Finally, aliens can earn 70 points for being a Nobel Laureate in a field of scientific or social scientific study.). Finally, aliens can earn 70 points for being a Nobel Laureate in a field of scientific or social scientific study.

Education

The merit-based system also awards points for educational attainment. For example, applicants who have a post-secondary credential receive 3 points; a foreign bachelor’s or master’s degree, 4 points; and a U.S. bachelor’s or master’s degree, 5 points. Points under the education category increase with the educational level of the applicant. The highest number of points (35) is awarded for a U.S. doctoral degree in a STEM field.

Age

To be eligible to apply for a merit-based visa, an alien must be between 18 and 51 years old. However, the points-based system favors younger applicants. Applicants who are 18-35 years old receive 6 points, and applicants who are 36-44 years old receive 2 points. No points are awarded to applicants who are 45-51 years old.

English Proficiency

To be eligible to even apply for a merit-based green card under the AFIA, an alien must score at least in the 5th decile on the English language examination. However, aliens will receive points for scoring higher. An applicant will receive 2 points for scoring in the 6th decile; 3 points for scoring in the 7th decile; 4 points for scoring in the 8th decile; 7 points for scoring in the 9th decile; and 8 points for scoring in the 10th decile.

Military Service



Aliens can also receive 6 points for three years of qualifying service in the U.S. military.

Conditional Status

Immigrants who receive merit-based green cards, like marriage-based immigrants, receive these green cards on a conditional basis. After two years in the United States, merit-based immigrants must file paperwork with the Department of Homeland Security (DHS) to establish that they are still eligible for the green card under the law; that they have not been convicted of a felony; that they have not received any means-tested public benefits; and that they are still earning the same salary (or higher). If they satisfy these requirements and attend an in-person interview, DHS will remove the condition.

Protects In-State Tuition for Americans

The AFIA targets state laws that permit illegal aliens to obtain in-state tuition despite the provision in federal law, passed in 1996 ([IIRIRA Sec. 505, Public Law 104-208](#)), that sought to end that practice. The AFIA provides that it is the policy of the U.S. that:

- Aliens who are not legal permanent residents should not be entitled to public education benefits in the same manner as citizens and legal permanent residents; and
- States should not be obligated to provide public education benefits to aliens who are not legal permanent residents.

The AFIA also amends IIRAIRA to provide that:

- Aliens who are not legal permanent residents shall be required to pay out-of-state tuition rates at postsecondary educational institutions; and
- No U.S. citizen may be charged higher tuition than tuition charged to alien students who are not legal permanent residents.

