

A New Way Forward for Employment-Based Immigration

The Bridge Visa

RETHINKING U.S. IMMIGRATION POLICY INITIATIVE

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Executive Summary

Given today's labor market and demographic realities, the U.S. economy is reliant on a robust inflow of foreign workers to fill open jobs in the short term, and to grow the labor force in coming decades. The country's lower birth rate and aging population indicate that immigration will be the only driver of population growth 20 years from now, and already, immigrants and their U.S.-born children are sustaining labor force growth. Yet U.S. employment-based visa policies are not aligned with the country's current and future labor market needs. While the U.S. economy continues to draw sizable numbers of foreign workers through other channels—namely, family-based and humanitarian streams—such pathways do not select immigrants based on whether they are a good fit for job openings or whether their skills match demand in strategic sectors that will drive future economic growth. The country's employment-based visa policies, which were last updated more than three decades ago, are in serious need of an overhaul to better support U.S. economic interests.

U.S. employment-based visa policies are not aligned with the country's current and future labor market needs.

Current U.S. employment-based immigration pathways are flawed in myriad ways. First, the number of people who receive permanent resident status (popularly called green cards) each year through employment categories is insufficient to meet the economy's demand for foreign workers. Though the U.S. labor market is absorbing hundreds of thousands of immigrant workers each year for permanent jobs, caps set in 1990 and not updated since dictate that only about 70,000 of those workers are admitted on the basis of demonstrated labor market needs. (There are 140,000 employment-based green cards available annually, but usually about half go to spouses and minor children of sponsored workers.) For many lower-wage jobs especially, some employers—in the absence of sufficient lawful channels—hire unauthorized immigrant workers in violation of U.S. law. For higher-wage jobs, employers frequently use temporary visa pathways to bring in needed workers, but these are often also oversubscribed, and they leave workers dependent on their sponsoring employer to stay in the country, which lessens workers' labor market mobility and ability to contribute fully to the economy. A second major issue is the lack of visas for year-round, middle- and lower-wage jobs, which prevents many employers from looking abroad for workers they cannot recruit domestically and leaves vital roles in health care, transportation, construction, and other key industries unfilled. Finally, mismatches between the temporary and permanent employment-based visa streams—with many

more temporary visas available than permanent ones, and annual per-country caps applied to permanent but not temporary visas—generate green-card backlogs that sometimes stretch beyond the human lifespan.

To address these problems in the broken U.S. immigration system, the Migration Policy Institute (MPI) proposes a new visa pathway: the bridge visa. This visa would provide a legal employment-based pathway that spans across skill levels and that crosses the temporary-to-permanent divide. The bridge visa would allow U.S. employers across industries to sponsor foreign workers for an initial three-year period, which workers could renew once. Workers who desire only a temporary stay in the United States could return home after the three- or six-year period, and they would have the option to reenter on another bridge visa in the future, provided they complied with U.S. immigration and other laws. The visa would therefore create a pathway for circular migration, mostly unavailable in the current immigration system. Workers wishing to stay in the United States for the long term could self-sponsor for permanent residence after having renewed their bridge visa once, provided they have remained stably employed in the United States.

Flexibility in establishing the number of employment-based immigrants admitted each year is a key principle in the design of the bridge visa. The initial cap on bridge visas could be set to be roughly aligned with the number of foreign-born workers added to the U.S. economy annually in recent years, but adjusted up or down over time by an independent body of experts based on research on demographic trends, labor market needs, use of the bridge visa, and immigration through other pathways. There would be no cap on how many people could adjust to permanent resident status from a bridge visa. Labor market testing, to ensure that bridge visa holders are not being used to replace U.S. workers or undermine wages and working conditions, should happen up front. Employers wishing to use the bridge visa at high volume could opt to be precleared by demonstrating a record of immigration and labor law compliance and agreeing to submit to random inspections. The independent body of experts would also designate priority occupations for which no labor market testing would be needed. U.S. employers could identify potential bridge visa workers in a number of ways, including among graduating international students at U.S. colleges and universities, through informal recruitment channels such as referrals from current employees, and through the use of registered and monitored foreign labor recruiters.

BOX 1 **About the Rethinking U.S. Immigration Policy Project**

This report is part of a multiyear Migration Policy Institute (MPI) project, Rethinking U.S. Immigration Policy. At a time when U.S. immigration realities are changing rapidly, this initiative has been generating a big-picture, evidence-driven vision of the role immigration can and should play in America's future. It provides research, analysis, and policy ideas and proposals—both administrative and legislative—that reflect these new realities and needs for immigration to better align with U.S. national interests.

The research, analyses, and convenings conducted for MPI's Rethinking initiative address critical immigration issues, which include economic competitiveness, national security, and changing demographic trends, as well as issues of immigration enforcement and administering the nation's immigration system.

To learn more about the project and read other reports and policy briefs generated by the Rethinking U.S. Immigration Policy initiative, see bit.ly/RethinkingImmigration.

Congress's limited attention to immigration issues is narrowly focused on the U.S.-Mexico border and the U.S. asylum system. However, when Congress finally takes up the issue of broader immigration reform, including updating the country's decades-old employment-based immigration policies, the bridge visa proposal could be a helpful starting point. A visa of this kind would help to meet current labor market needs, provide the flexibility to address new and growing needs for foreign workers into the future, and potentially help to address border challenges by providing a real alternative to irregular migration. It could also help the United States remain competitive at a time when an increasing number of countries are vying for top global talent and for workers needed to complement their own aging populations.

1 Introduction

U.S. policies on which immigrants to admit and under what conditions, sometimes referred to as visa policies, are sorely in need of updating. This is particularly true for employment-based immigration policies. Last revised in 1990—before most Americans had access to the internet, and when manufacturing was the top industry of employment in most states—and built on an even-older architecture, U.S. immigrant admissions policies are no longer aligned with the country's economic needs or demographic realities.

In the short run, the U.S. economy has millions more open jobs than unemployed workers, creating strong demand for foreign-born workers. Over the longer run, the aging of the U.S. population means that any future growth in the size of the U.S. workforce will come from immigrants and their U.S.-born children. Ongoing productivity and economic growth will thus depend on the in-migration of workers. Of course, immigration should not be the only focus of U.S. efforts to foster labor force growth.

Greater attention also needs to be paid to helping Americans who are out of the workforce, but wish to work, to overcome employment barriers and obtain skills and credentials that can help them into jobs with sustainable wages. Still, current demographic trends imply immigration will be a necessary part of sustaining future growth.

To enable the United States to better leverage immigration to meet labor market needs, the Migration Policy Institute (MPI) is proposing a revamped employment-based visa pathway called a bridge visa. This would be a temporary-to-permanent visa stream open to foreign workers who have a U.S. employer sponsor, and it would be available to workers filling jobs across the skills spectrum. The visa would also allow for circularity of migration by enabling eligible workers who do not wish to stay in the United States permanently to come for work opportunities on a shorter-term basis. Bridge visa workers who wish to stay permanently could, over time, self-sponsor for permanent status, assuming they remain gainfully employed and follow U.S. laws. A key feature of the visa's design would be flexibility: The annual numerical cap on bridge visas would be adjusted up and down over time based on labor market demand, demographic and immigration trends, and other factors, as assessed by an independent expert body. (MPI first introduced this idea in 2006, originally termed the Standing Commission on Immigration and Labor Markets.¹)

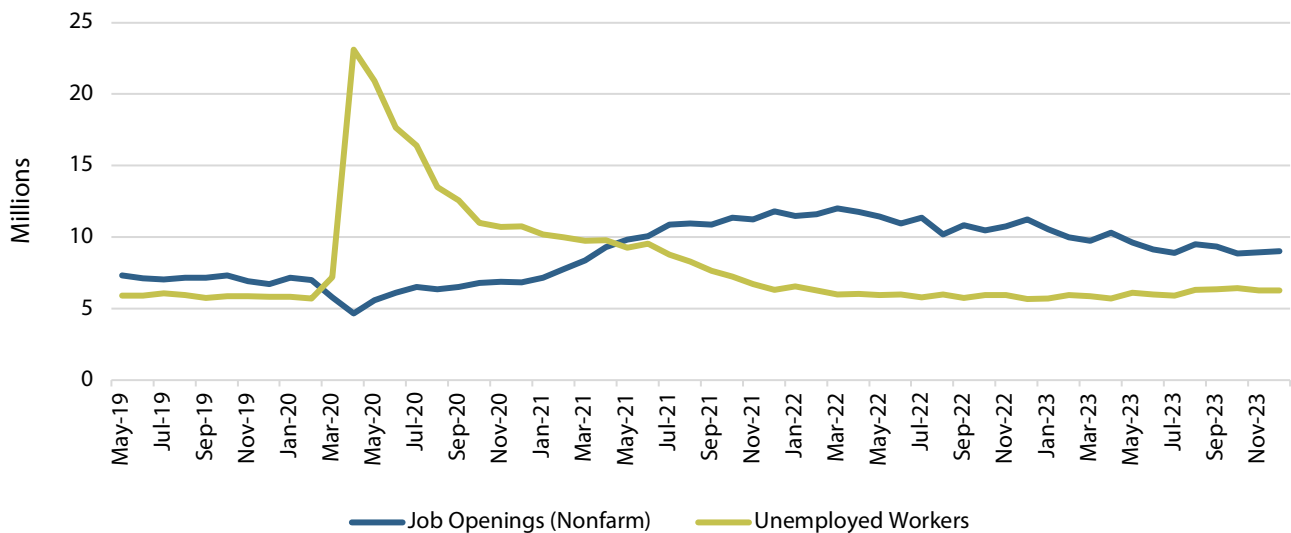
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This policy brief presents MPI’s bridge visa proposal. It first highlights the challenges in the current immigration system that the bridge visa seeks to address, before outlining how the bridge visa would work and how it would fit into the overall employment-based admissions system. Then, the brief digs a bit deeper into three issues that are integral to making this new visa stream work: 1) strategies for ensuring that the bridge visa does not replace or harm U.S. workers, 2) policies to ensure ethical recruitment of bridge visa workers, and 3) mechanisms to ensure the bridge visa application and adjudication process is as smooth and efficient as possible, while still ensuring needed vetting takes place. This brief builds on interviews that MPI researchers conducted in 2022–23 with employers and stakeholders in the restaurant, construction, elder and disability care services, nursing, and information technology fields, as well as other stakeholders from academic, business, and labor backgrounds.

2 Current and Future Labor Market Needs

The U.S. economy is hungry for workers. As of December 2023, there were more than 9 million job openings—bringing the country to well over two years of record-high job openings—compared to 6.3 million unemployed workers (see Figure 1). While most U.S. industries have recovered from job losses experienced during the COVID-19 pandemic, certain sectors, particularly parts of the health-care industry, are still missing large numbers of workers. Meanwhile, the labor force participation and employment rates of U.S.-born workers of prime working age are at pre-pandemic levels, suggesting that there may be a relatively limited number of U.S.-born adults available who are not currently working but are amenable to joining the labor force.²

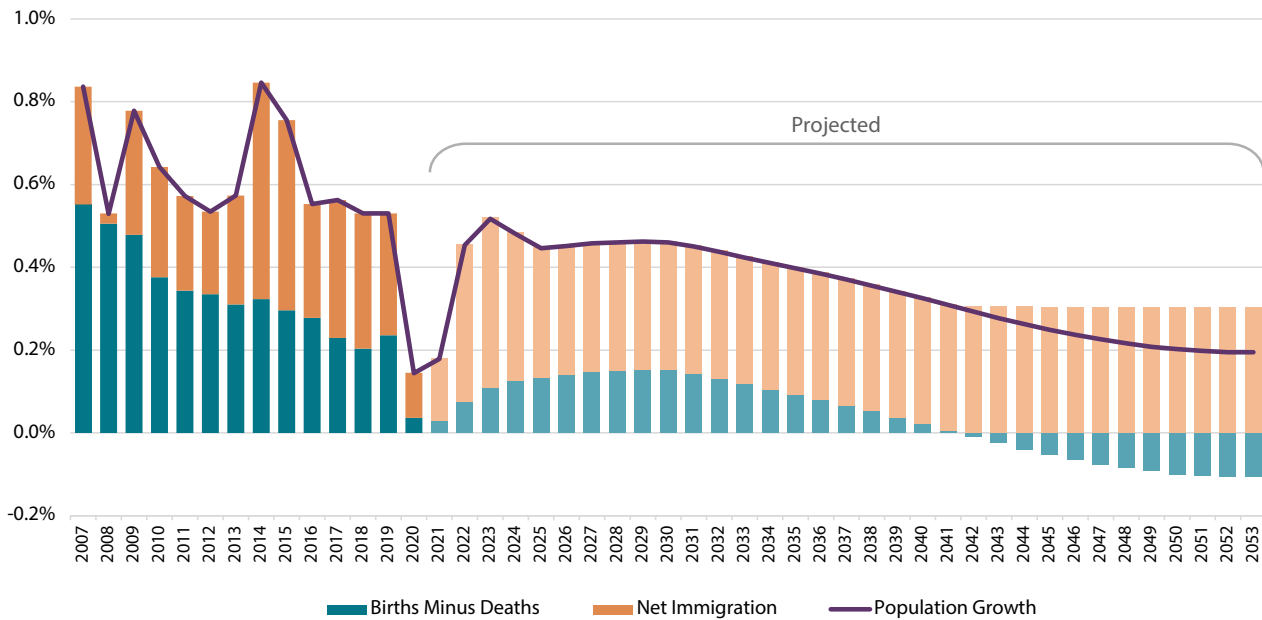
FIGURE 1
Job Openings and Unemployed Workers in the United States (Seasonally Adjusted), May 2019–December 2023



Notes: The job openings data in this figure are for non-farm job openings. The number of unemployed workers counts workers ages 16 and older who were unemployed but looking for work. Both sets of numbers are seasonally adjusted by the U.S. Department of Labor’s Bureau of Labor Statistics (BLS).

Source: BLS employment data retrieved from the Federal Reserve Bank of St. Louis’s Federal Reserve Economic Data (FRED), “[Unemployment Level](#),” accessed February 13, 2024; BLS job openings data retrieved from FRED, “[Job Openings: Total Nonfarm](#),” accessed February 13, 2024.

FIGURE 2
Recent and Projected Annual Rate of Growth of the U.S. Population, 2007–53



Source: Based on a figure originally published by the Congressional Budget Office, “The Demographic Outlook: 2023 to 2053,” updated January 24, 2023.

While short-term labor needs are strong, demographic trends imply that future demand will be even stronger. Below replacement fertility rates and the aging of the baby boom generation mean that current labor force growth is coming primarily from immigrants and their children. Looking ahead, the Congressional Budget Office projects that by 2042, all growth in the U.S. population will come from new immigrants entering the country (see Figure 2).

3 Shortcomings of the Employment-Based Immigration System

Employment-based immigration is currently a small part of the overall U.S. immigration system. Of roughly 1.1 million green cards for permanent residence issued in a normal year, just 140,000 are for

employment-based immigrants. Of those, about half are sponsored workers, and the rest are spouses and minor children of those workers. This means that roughly 7 percent of all green cards usually go to sponsored workers each year.³ Employment-based green cards are primarily reserved for workers with college or graduate degrees, with less than 10,000 slots available for jobs with low training requirements.⁴ Temporary work visas are available for high-skilled workers, including those with “extraordinary ability” (O visas), “specialty workers” filling jobs that require a bachelor’s or higher degree (H-1B visas), and managers and specialized workers transferring from a foreign location of a multinational company to a U.S. location (L visas). Temporary visas are also available for temporary and seasonal jobs for agricultural workers (H-2A visas) and for nonagricultural workers filling jobs for temporary, seasonal, peak load, or one-time needs (H-2B visas).

While these visa streams bring important benefits to the country, they also bring numerous challenges. The first of these challenges relates to the fact that the number of employment-based green cards available is much lower than the number of immigrant workers absorbed into the U.S. economy each year, and low relative to the immigration systems of competitor countries. The U.S. economy absorbed an average of more than 350,000 immigrant workers a year between 2010 and 2021, many more than the fewer than 70,000 workers accommodated by the U.S. employment-based green-card system.⁵ The United States admits a much smaller share of migrants through employment-based streams than its high-immigration peers such as Canada and Australia.⁶ In the United States, many more immigrant workers come through family-based or humanitarian streams or come (or stay) without authorization. Family and humanitarian immigration streams are important for other compelling reasons, but they do not allow the country to select immigrant workers on the basis of employer needs or immigrants' likely economic contributions. Temporary visa pathways are narrow and limited to certain types of occupations and roles, confine workers to their field of specialization, and afford workers limited labor rights. And most migrants coming to the U.S. border without prior authorization would prefer to come legally, many through employment-based channels if they could, and most Americans would prefer migrants to come through lawful channels with advance permission.⁷

A second set of issues centers on the way permanent employment-based immigration has become driven almost entirely by the H-1B and L visas as a feeder system, which was never intended. The great majority of people granted employment-based green cards each year are adjusting status from a temporary visa within the United States. Between fiscal year (FY) 2010 and FY 2019, 80 percent of people adjusting to an employment-based green card within the United States (through the first through third of five "preference" categories that make up the

employment-based green-card system⁸) were H-1B or L-1 visa holders and their spouses and children: 57 percent were H-1B holders or family members, and 23 percent were L-1 visa holders or their family members.⁹ H-1B and L-1 visas are concentrated in a small set of occupations. In FY 2022, 64 percent of approved H-1B petitions went to workers in systems analysis and programming or other computer-related occupations.¹⁰ The majority of L-1 visas likewise go to workers in computer programming and systems design industries.¹¹ The requirements of these visas prohibit their use for the many middle- and lower-wage jobs in which there is strong unmet demand for workers. Neither visa category was designed with the goal of selecting those workers best positioned to contribute to the enduring needs of the U.S. labor market.

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The third challenge is that available employment-based immigration pathways are misaligned with economic needs. While the U.S. economy employs large numbers of immigrant workers in low-wage, year-round jobs in construction, housekeeping and janitorial services, food preparation, and personal care services, among other jobs (see Table 1), there are very limited numbers of visa slots available for employers to sponsor immigrant workers for year-round jobs requiring less than a bachelor's degree. Employment-based green cards are reserved almost exclusively for college-educated workers, as are temporary visas for year-round jobs, while visas for lower-wage jobs are limited to seasonal and other temporary jobs. As the U.S. population becomes increasingly highly educated, immigration of less-educated workers can complement the skills and job preferences of U.S. workers and therefore contribute to overall economic growth.

TABLE 1
Top 20 U.S. Occupations by Number of Immigrant Workers, 2021

	Total Workers	Foreign-Born Workers	Top 30 Occupation by Projected Largest Job Growth, 2022–32	Share of Workers with a Bachelor's or Higher Degree
All occupations	155,311,000	26,760,000		38%
Driver/sales workers and truck drivers	3,705,000	717,000	Yes	8%
Construction laborers	1,793,000	714,000	Yes	6%
Software developers	1,844,000	689,000	Yes	86%
Other managers	4,526,000	683,000	Yes	57%
Janitors and building cleaners	2,310,000	682,000		6%
Maids and housekeeping cleaners	1,219,000	594,000		6%
Registered nurses	3,416,000	546,000	Yes	68%
Cooks	1,991,000	537,000	Yes	5%
Cashiers	2,913,000	429,000		8%
Personal care aides	1,502,000	423,000	Yes	14%
Landscaping and groundskeeping workers	1,167,000	413,000		8%
Hand laborers and freight, stock, and material movers	2,560,000	411,000	Yes	8%
Retail salespersons	2,873,000	378,000		22%
Firstline supervisors of retail sales workers	2,850,000	375,000		27%
Carpenters	1,150,000	344,000		7%
Postsecondary teachers	1,445,000	341,000		92%
Customer service representatives	2,920,000	336,000		24%
Accountants and auditors	1,771,000	321,000	Yes	87%
Other agricultural workers*	696,000	312,000		8%
Miscellaneous production workers, including equipment operators and tenders	1,296,000	303,000		8%

* This category, based on U.S. Census Bureau data, is for agricultural workers other than (1) first-line supervisors of farming, fishing, and forestry workers; (2) agricultural inspectors; and (3) agricultural product graders and sorters.

Note: Some occupation codes in the U.S. Census Bureau's American Community Survey (ACS) do not perfectly match the codes used in the BLS projections. The ACS has just one category for "cooks," while the BLS projects that restaurant cooks, specifically, will have largest job growth. The ACS separates software developers and software quality assurance analysts and testers, while the BLS projects largest job growth for these two occupations combined. The ACS also separates home health aides and personal care aides, while the BLS combines the two. And the ACS combines truck drivers into one category, while the BLS has separate categories for light truck drivers and heavy and tractor trailer truck drivers (though both are projected to have large job growth).

Source: Migration Policy Institute (MPI) tabulation of 2021 data from the U.S. Census Bureau's annual ACS and from BLS, "Employment Projections: Occupations with the Most Job Growth," accessed October 13, 2023.

Finally, while high-skilled temporary visas serve as a feeder system to the permanent employment-based system, the requirements and numerical caps for these visas were not set up to align with the requirements and caps for green cards, leading to long green-card backlogs. The number of temporary visas available through the H-1B, L-1, and other high-skilled visas streams is much larger than the number of employment-based green cards available. Further, a 7 percent per-country cap applies to green cards, but not to temporary work visas. Given high usage of H-1B temporary work visas by Chinese and especially Indian nationals, and strong interest among these workers' employers in sponsoring them for a green card, green-card backlogs for workers from China and India have ballooned. As of September 2023, about 2 million people had an approved employer sponsorship petition and were waiting in line for an employment-based green card to become available.¹² Due to annual and per-country caps, if everyone with an approved petition in the backlog in September 2023 was to stay in that line and alive long enough for a green card to become available, some Indian nationals would have to wait an impossible 313 years for an employment-based second preference category (EB-2) green card and 148 years for an employment-based third preference green card (see Table 2). Though not as long as the wait for Indian workers, some Chinese nationals would have to wait 31 years for a second preference green card. Locking workers into temporary visas while they wait in line for a green card limits those workers' mobility in the job market and their ability to obtain higher wages, and thus their contributions to the larger economy. It also makes workers vulnerable to exploitation by unscrupulous employers, on whom they remain dependent for a path to permanent resident status. This can, in turn, undercut wages and working conditions for U.S. workers in the same field.

TABLE 2
Years to Clear Employment-Based Green-Card Backlogs by Preference Category for Top Countries of Origin, as of September 2023

Worker Country of Nationality	1st	2nd	3rd	3rd other workers
China	7	31	20	4
India	69	313	148	1
Mexico	0	1	3	15
Philippines	0	0	24	7

Note: Employment-based green cards are allocated through five preference categories that each have their own annual numerical cap. The first preference category is for priority workers, including those with extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors and researchers; and certain multinational managers and executives. The second preference category is for workers with advanced degrees or exceptional ability. The third preference category is for professionals and skilled workers. The small third preference "other workers" category is for workers filling jobs with low training and education requirements. Not included in this table are the fourth and fifth preference categories, which include "special" immigrants such as children involved in the child welfare system and religious workers (4th preference) and investors (5th preference).

Source: MPI analysis of data on primary applicants in line for green cards as of September 2023 and on the average number of dependents sponsored by each employment-based principal applicant. See U.S. Citizenship and Immigration Services, "Number of Form I-140, I-360, I-526 Approved Employment-Based Petitions Awaiting Visa Availability by Preference Category and Country of Birth as of September 2023" (data tables, October 2023); U.S. Department of Homeland Security, "Yearbook of Immigration Statistics, 2022," Table 7, updated November 22, 2023.

4 A New, More Responsive Approach: The Bridge Visa

To bridge the gaps in U.S. immigration policy by skill/wage level as well as the divide between temporary and permanent visas, MPI proposes a new temporary-to-permanent visa stream that would be available across skill levels: a bridge visa.

Through the bridge visa, U.S. employers could sponsor foreign workers for a temporary-to-permanent work visa. Recognizing that the U.S. economy relies on immigrant workers to fill a wide range of jobs, requiring varying levels of education and training, the bridge visa would be open to workers at all education and experience levels. After three years on the visa, workers who wish to remain in the United States and have proven their value to the U.S. economy by remaining stably employed could renew their bridge visa for an additional three-year period. To renew, workers would need to demonstrate that they have been continuously employed in the United States (though short job search periods would be allowed). Workers who opt not to renew or who fail to successfully renew would be required to depart the United States. Those not departing within 90 days of their visa's end date would be barred from being sponsored for a bridge visa in the future. Workers who successfully renew their bridge visa could stay up to six years in temporary status, and could apply for permanent residence—without the involvement of an employer sponsor—as soon as they have completed their renewal. To adjust to permanent resident status, workers would need to demonstrate a history of steady employment in the United States, as well as current and continuing employment. Allowing workers to self-sponsor removes the dependence on employer sponsorship for permanent residence, reducing the potential for employers to hold undue power over workers.

The bridge visa could also be used for circular migration, for those who desire to work for shorter periods in the United States. As long as employers and bridge visa holders comply with the rules of the program, and workers depart at the end of their three- or six-year authorized period of stay, workers and employers could use the bridge visa program as many times as they like. Workers who so desire could work for several years in the United

States, return home, and after a gap, come back to the United States on a new bridge visa to work with the same employer or a new sponsoring employer. Circular migration has benefits for migrants, employers, and sending countries. It helps migrants who wish to maintain ties in their home country to find temporary work in higher-wage countries and meet savings goals or acquire desired skills or experience. It helps employers to fill jobs that may be less desirable to U.S. workers because of their limited duration. And it benefits sending countries, which reap the rewards of circular migrants' remittances and the infusion of new experiences, skills, and ideas they return with from their time abroad.¹³

The bridge visa, in particular, could serve as a straightforward path for international students graduating from U.S. colleges and universities to stay in the United States, and for the United States to capitalize on their skills.

Bridge visa workers could be recruited from abroad or from within the United States, providing a pathway to permanent residence for some immigrants in the country with a temporary status. The bridge visa, in particular, could serve as a straightforward path for international students graduating from U.S. colleges and universities to stay in the United States, and for the United States to capitalize on their skills. Under current policy, many international students struggle to stay in the United States, even if they find an employer sponsor, given the strictures of available visa pathways. To facilitate the retention of international students, those bridge visa holders who have previously taken advantage of the work opportunities allowed for international students,

called Optional Practical Training, could potentially be allowed to count some of the time they spent in Optional Practical Training toward the three years required before renewal of their bridge visa and eligibility for adjustment to a green card.

MPI recommends an annual numerical cap on bridge visas, but no additional cap on how many bridge visa holders could adjust to permanent status. A key part of the bridge visa proposal is that the annual cap would be set by an independent body of experts that would consider factors such as past demand for the visa, current labor market conditions, the number and skills of immigrants who have come through family and other immigration channels, and the share of past bridge visa recipients who have adjusted to permanent status. An initial cap could be set in statute at 350,000 per year, to be roughly aligned with the number of foreign-born workers added to the U.S. economy annually in recent years. The expert body could also be tasked with making policy changes if the bridge visa were to become dominated by workers in certain industries, of certain skill levels, or in certain parts of the country. The expert body could, for example, consider setting subcaps by skill or education levels, setting quotas by industry or industry group, setting quotas by state, or perhaps reserving some visas for employers offering the highest wages, adjusted for the experience level required for the job and the local cost of living.

Spouses and minor children of bridge visa holders could be admitted as their dependents, but to obtain work authorization, they would need their own bridge or other visa, which could be obtained from inside the United States. To ensure they are not locked out of the U.S. labor market, spouses of bridge visa workers should receive priority under annual numerical caps.

5 How the Bridge Visa Fits within the Overall Employment-Based Immigration System

Under this proposal, the bridge visa would replace many of the temporary work visas that are currently used to fill ongoing, nonseasonal jobs such as the H-1B and O visas. Visas established in U.S. treaty obligations (such as the TN visa established by the United States-Mexico-Canada Agreement or the E visa for citizens of countries with which the United States maintains commerce or other treaties) would remain in place. L-1 visas for intracompany transferees would also be retained because they facilitate multinational companies' ability to move staff across borders in order to support operations. In addition, visas for jobs that are truly short term and seasonal in nature, such as the H-2A temporary agricultural worker visa and the H-2B temporary nonagricultural visa, would remain in place, though such programs would also benefit from reforms to enhance worker protections and speed processing for employers.

The bridge visa would also replace most migration that currently happens through the employment-based green-card system. Direct pathways to employment-based green cards would be reserved for workers for whom labor market testing would be superfluous, given their recognized achievements and high demand for them in the U.S. labor market. Professionals in "strategic occupations"—strategically important fields and critical industries, as designated by the same independent body of experts that adjusts bridge visa numbers on a regular basis—could also qualify for direct, permanent pathways to green cards. Most employment-based green cards would go to workers transitioning from a bridge visa to permanent residence, just as more

than 80 percent of employment-based green cards currently go to people transitioning from a temporary work visa or other status within the United States.¹⁴

To complement the bridge visa, seasonal/short-term visas, and direct-to-permanent pathways, the United States could also pilot a small points-based immigration stream. This type of model, used by Canada, Australia, and other countries, has won adherents in the United States.¹⁵ Flexibility is key to the success of points-based immigration streams. Countries with points systems regularly adjust the number of points awarded to foreign workers seeking a visa for different skills and experiences, add new criteria for awarding points, and adjust the threshold of points needed to obtain a visa, in order to achieve desired immigration levels and profiles. In particular, countries have generally moved toward allocating more points for in-country work experience and job offers.¹⁶ The success of a points system pilot in the United States would depend on the ability to make adjustments over time, without the need for Congress to pass legislation for each modification.

Such a pilot points system could allocate points based on, for example, human-capital characteristics, sponsorship by an employer or a state or local government, or a credible plan for employment-creating entrepreneurship. This would allow simultaneous testing of local immigrant sponsorship—an idea that has gained traction in U.S. policy discussions but not yet been tested—and testing of the idea of an entrepreneur or start-up visa, to admit those who have demonstrated they can launch a new business and create U.S. jobs.¹⁷ Rather than simply adopting such models wholesale, their feasibility should be tested for the distinct realities of the U.S. labor market, business practices, and political traditions. Legislation establishing such a pilot should allocate funding for the collection and analysis of administrative and survey data to allow for the assessment of the program's efficacy and to compare the outcomes

of immigrants selected in a points system to those of workers selected through direct employer sponsorship and the bridge visa.

Finally, the bridge visa could be designed to serve as a mechanism for granting a path to permanent resident status to workers who are already in the United States and contributing to the U.S. economy but who lack stable immigration status. This could include those with some kind of liminal status (such as Deferred Action for Childhood Arrivals recipients, Temporary Protected Status holders, humanitarian parolees, or asylum applicants) or unauthorized immigrants who meet certain criteria.

6 Protecting U.S. Workers

Successful implementation of the bridge visa would rely on careful attention to a few key issues. One is building in mechanisms to ensure that bridge visa holders are not used to replace U.S. workers, or to undercut U.S. workers' wages and working conditions. Labor market testing strategies and increasing foreign workers' labor protections can help in these goals. Building in protections for U.S. workers is important also for garnering broad political support for the bridge visa proposal.

A. Labor Market Testing

Most employers wishing to sponsor a worker on a bridge visa would need to undergo some form of labor market testing. The goal should be to improve on the current labor market testing process for employment-based green cards, which is time-consuming, repetitive, and criticized for not meaningfully protecting U.S. workers.¹⁸ Under current processes, employers must set the requirements for the job and then obtain a prevailing wage determination from the U.S. Department of Labor to ensure that the offered wage is commensurate with wages paid to other workers in similar occupations in the same

geographic area. They must post the open job on relevant job boards, file a job order with their state's workforce agency, and attempt to recruit U.S. workers to fill the job for more than 30 days. Finally, they document the recruitment process and apply to the Department of Labor for certification, a prerequisite for sponsoring a foreign worker. There is a perception that employers and their lawyers are generally able to structure job requirements and postings so as to fail to find any qualified U.S. workers.¹⁹ The process causes delays in sponsoring workers, usually implies substantial legal fees, and generally does not provide a meaningful test of whether U.S. workers are available to fill a job. Nor does it function to connect U.S. workers to open jobs in a meaningful way.

Labor market testing for the bridge visa should be designed to be both more efficient and more meaningful. For the bridge visa, MPI envisions employers being given a choice of three labor market testing options: (1) hire for a designated "priority occupation," for which labor market testing would not be required; (2) go through a precertification process, for employers who intend to sponsor multiple workers over time; or (3) complete a streamlined labor certification process for each application, establishing that hiring a foreign worker would not displace U.S. workers or undermine wages or working conditions.

Option 1: Hire for a "Priority Occupation"

Employers hiring workers to fill designated "priority occupations" would not need to undergo labor market testing for those positions. The list of priority occupations should be updated regularly by the independent body of experts charged with adjusted bridge visa numbers. This group would study immigration, labor market, and demographic trends and identify occupations experiencing tight labor markets in which employment is rising, wages are rising, and unemployment rates are low, and where migration is a reasonable response to the tight labor market. (Some might call these conditions a "short-

age," while some economists bristle at the term.) In addition to data analysis, this process should involve consultations with business groups, state departments of labor, and labor unions. The work of this group could build on the experience of the Migration Advisory Committee in the United Kingdom, which has been reviewing occupations for inclusion in the UK Shortage Occupation List since 2008.²⁰

Moving the work of updating "shortage" or "priority" occupation lists to an independent body could help to ensure that the list is updated more frequently.

Under current law, the U.S. Department of Labor has the authority to designate occupations as "shortage occupations," allowing employers to sponsor workers for those jobs without undergoing labor market testing. This list is known as the Schedule A shortage occupation list. However, the department has not amended the list since 1991, in part because of lack of agreement on the methodology that should be used to update it, leaving the list to include only nurses, physical therapists, and immigrants with "exceptional ability."²¹ Moving the work of updating "shortage" or "priority" occupation lists to an independent body could help to ensure that the list is updated more frequently, as data suggest changes in which occupations have very tight labor markets.

Because some occupations experiencing tight labor markets are in health-care and education fields where professional credentials are usually required, the independent body of experts charged with designating priority occupations should also be charged with studying barriers to hiring foreign workers in these occupations and recommending changes in policies regarding recognition of foreign credentials or ideas for establishing a system to test the competency of foreign workers and issue a U.S. credential.

This work could build on the ongoing Department of Labor study of the barriers that immigrants and refugees with foreign degrees and credentials face in the U.S. labor market, mandated by the *Bridging the Gap for New Americans Act of 2022*.²²

Option 2: Complete a Precertification Process

The precertification process envisioned in this proposal would require employers to demonstrate a history of past compliance with labor and immigration laws; payment of wages to foreign workers that are in line with wages for U.S. workers; and regular efforts to recruit U.S. workers, support a domestic training pipeline, and invest in the skills of their existing workforce. Employers who have not sponsored foreign workers in the past could, over time, build up a history of compliance with bridge visa requirements. Precertified employers would not need to complete the labor certification process to sponsor each individual bridge visa worker. They would, however, be subject to random audits that would investigate the wages of bridge visa workers relative to similarly situated workers within the company and at similar companies, and that would review employers' recruitment methods for recent hires to ensure the company was seeking and seriously considering U.S. workers. Precertified employers would therefore need to keep records of their recruitment processes, documenting where they posted jobs, how many applications were received from U.S. workers and from foreign workers, who was interviewed, and the reasons for not selecting those U.S. workers that applied.

This process could build in some ways on the U.S. Citizenship and Immigration Services (USCIS) Known Employer Pilot, which from 2016 to 2020 allowed a small group of employers to request review of their eligibility for sponsoring foreign workers on certain temporary and permanent visas before starting the

sponsorship process. The program's goals were to simplify the sponsorship process, reduce paperwork for employers, and prevent government agencies from needing to review and assess the same information repeatedly from high-volume visa sponsors. The pilot included just five employers. USCIS found that the pilot did not create time savings, but that is likely because participating employers filed very few applications through the pilot.²³

Option 3: Complete a Streamlined Labor Certification Process

Employers who are not precertified and are hiring for a non-priority occupation would need to go through a one-time labor certification process for each worker they sponsor. This process would build on current practices, but the exact parameters would be designed to provide meaningful protection for U.S. workers without creating unworkable delays. Effective labor market testing is a substantive challenge and political imperative, so policies must be designed in a way that ensures buy-in from labor unions and other interested parties. Such policies should still include wage requirements along the lines of today's prevailing wage requirement to ensure the bridge visa is not used to hire foreign workers who undercut the wages of the domestic workforce. Wage requirement policies should be regularly reviewed by expert economists to ensure that required wages are similar to or higher than those paid to similarly situated U.S. workers, but remain in line with market wages without introducing unwanted distortions. Additional requirements could include a version of the current requirement to attempt to recruit U.S. workers or, alternatively, fees (scaled to the wage level of the job) that would disincentivize using immigrant workers to replace U.S. workers, while also collecting revenue that could be used to supplement domestic training pipelines or to fund labor standards enforcement.

BOX 2**H-1B Fees and U.S. Worker Training**

Since 1998, some portion of fees collected by U.S. Citizenship and Immigration Services for H-1B petitions has been dedicated to education and training for U.S. workers. Since 2004, 50 percent of this special H-1B fee, now set at \$1,500 per H-1B petition, has gone to the Department of Labor's Employment and Training Administration (ETA), 40 percent has gone to the National Science Foundation (NSF), and the remaining 10 percent to reducing H-1B processing times and enforcement of H-1B rules. ETA uses H-1B fees to administer grants for training programs for American workers, focusing on high-growth sectors. NSF uses most of the fee money it receives for scholarships for low-income students studying science and engineering, and a smaller share for programs for K-12 students and teachers. By one estimate, the fees have funded nearly 90,000 college scholarships as well as science programs for more than 1 million K-12 students and 50,000 teachers. The efficacy of the various education, training, and scholarship programs funded by H-1B fees has been evaluated only sporadically, and such evaluations have generally been inconclusive.

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B. Other Steps to Ensure the Bridge Visa Does Not Undermine Wages or Working Conditions

In addition to the labor market testing strategies, MPI's proposal includes several other measures that would help to ensure that workers on bridge visas do not undercut the wages and working conditions of U.S. workers. These include visa portability, random inspections, and better access to the courts.

The bridge visa should be portable, after an initial period. Workers on this visa could find a new employer if they find a U.S. job that provides better wages for their skills, where treatment of workers is better, or if they simply wish to seek a new opportunity. By voting with their feet, foreign workers could avoid the type of exploitation that can undercut the well-being of workers (foreign and U.S. born alike) across occupation or industry groups, rooted in the fact that many workers on temporary visas today can only work for their sponsoring employer. Spon-

sored bridge visa workers would need to stay with their sponsoring employer for an initial period to ensure that the employer obtains a benefit from their time and money spent on the sponsorship process. However, if a new employer was willing to reimburse the sponsoring employer for the sponsorship costs, this initial period could be skipped. Importantly, workers experiencing wage, hour, or other workplace violations should be free to leave, as explained below. After that initial period, workers who wish to move to a new job within the same occupational category, or move into a priority occupation, should be able to switch employers freely, without filing a new sponsorship application (just an amendment to notify USCIS of the change). Bridge visa workers seeking to switch to a new, non-priority occupation would need their new employer to submit a sponsorship application and to undergo a labor market testing process.

A second measure to ensure that employers are complying with the terms they attested they would meet would be for the Department of Labor to perform regular, random inspections of employers

sponsoring bridge visa workers, funded by the fees collected from employer sponsors. Employers with more than 25 employees should be barred from having more than 50 percent of their workforce comprised of bridge visa holders. Employers with more than 25 employees and for whom bridge visa workers comprise more than one-quarter of their workforce should be subject to regular inspection by the Department of Labor. Employers that show turnover rates higher than the industry average—which can indicate that their wages and working conditions are not competitive with other companies in their field—should be prioritized for inspection.

MPI's proposal envisions workers on bridge visas having labor rights and protections equal to those for U.S. workers. They would have access to courts and the right to bring private causes of action to redress violations of their rights (instead of relying on bringing complaints to administrative agencies, as is currently the case). Based on income eligibility, they would also have access to representation by the Legal Services Corporation (LSC), an independent nonprofit created by Congress in the 1970s. For low-income workers, the legal aid LSC offers is especially critical for meaningful access to courts. In turn, access to the courts and adequate representation would be important for the integrity of the new visa regime. Legislation establishing a bridge visa could also codify current protections for noncitizen workers who report labor law violations, including the availability of deferred action, so that such remedies are not up to the whims of the executive branch. These protections can ensure that bridge visa workers feel comfortable reporting violations, thus helping to prevent bad-actor employers from using the bridge visa for unfair competition.

Legislation establishing a bridge visa could also codify current protections for noncitizen workers who report labor law violations.

In sectors of the economy where outsourcing of workers to other worksites is the business model (such as business consulting firms or IT service companies), the employer sponsoring the bridge visa worker should retain liability for the treatment of the worker under U.S. wage and hour laws.

7 Recruiting Bridge Visa Workers

Employers would be able to find workers to sponsor for a bridge visa in several ways, both within the United States and abroad. They might find foreign workers already in the United States among graduating classes of international students, those working during their post-graduation Optional Practical Training period, or other noncitizens in the United States on temporary visas. Or, they might recruit qualified workers internationally through referrals from current employees or by employing labor recruiters abroad. Congress should consider extending the Optional Practical Training period for foreign graduates to at least two years in all cases, to facilitate the transition of desired workers onto a bridge visa and to better compete with other high-immigration countries for desired talent.

Because this visa could incentivize use of labor recruiters, and because foreign recruitment of workers brings heightened risks of exploitation, regulation of labor recruiters would be important. Many U.S. employers who sponsor temporary workers on H-2A and H-2B visas employ foreign labor recruiters to help them locate workers abroad who are interested in working in the United States and qualified for the jobs and for U.S. immigration. Those recruiters, in turn, sometimes employ other recruiters or agents to help them identify workers. Generally out of sight of U.S. employers, recruitment practices can involve abuses such as illegal—sometimes exorbitant—fees charged to prospective workers, false promises about wage levels or working conditions, lack of in-

formation about contracts or labor rights, garnishing of wages to cover travel costs, or, at worst, outright labor trafficking.²⁴ Recruiters are also accused of violating U.S. antidiscrimination laws by selecting workers based on their gender, age, or skin color, depending on the job duties. Under the present regime, the government has little oversight of recruitment agencies. Employers who use labor recruiters can find it difficult to know what practices a recruiter is using, or even whom the recruiter employs to help them find workers. When abuses or legal violations are reported, law enforcement authorities may struggle to locate the responsible recruitment companies. Most enforcement comes through civil litigation, meaning that companies forced to pay damages can often continue operating.

Language in the 2013 “Gang of Eight” comprehensive immigration reform bill and in recent versions of the *Farm Workforce Modernization Act* offers ideas for regulation of future foreign labor recruitment.²⁵ These bills call for foreign labor recruiters to register with the U.S. federal government. Those recruiters would be held liable for any violations of U.S. immigration, labor, or civil rights law they commit, or that are committed by any subcontractors working on their behalf. Employers who use registered recruiters to find foreign workers would not face liability for recruiters’ legal violations. These bills also detail the information that recruiters would be required to provide to prospective workers, including wages, working conditions, and other features of the offered job. And they would create new mechanisms for workers to file complaints and for investigation and enforcement following any complaints.

Employers should be required to use only federally registered recruiters to recruit bridge visa workers abroad, and likewise not face liability for any legal violations committed by those recruiters. Recruiters with a record of repeated, willful, substantiated violations should be taken off the list of approved recruiters. To make such a policy workable, the requirements set for recruiters to register and be avail-

able to bridge visa sponsors must be agreed-upon by relevant parties (including labor unions, business interests, and groups representing immigrant workers), building on the experiences of recruitment for current H-2A, H-2B, H-1B, and other temporary work visas. Ensuring that sponsored workers have information about U.S. recruitment and labor laws, the requirements of the bridge visa and the rights it affords foreign workers, the terms of their employment offer, and mechanisms for assistance and filing grievances with the U.S. government would all be paramount.

Future reforms should also explore the positive role that foreign governments can play in ensuring fair and ethical recruitment. Governments in northern Central America have been deepening their involvement in the recruitment of workers for H-2 visas, gathering and vetting lists of interested workers, whom they refer to interested U.S. employers.²⁶ In addition to setting up equitably run state-led recruitment efforts, sending-country governments could also help in regulating recruiters, enforcing labor laws when applicable to the recruitment process. Future reforms could also build in structured feedback mechanisms for workers to share information about their treatment by recruiters. In 2023, the U.S. Agency for International Development committed to working with the Guatemalan, Honduran, and Salvadoran governments to survey a sample of returning H-2 workers about their recruitment and employment experiences.²⁷

8 Streamlining Processing and Providing Greater Certainty

Current employment-based visa streams present numerous obstacles for employers seeking to sponsor workers, from processing delays to requirements to submit the same information repeatedly to the Department of Labor, USCIS, and the State Depart-

ment. The Department of Labor is severely behind in completing prevailing wage determinations for employment-based green-card sponsorship applications and for H-1B applications. In late January 2024, it was adjudicating applications submitted as far back as February 2023.²⁸ It also had a backlog of more than 161,000 pending permanent labor certification applications as of December 2023.²⁹ USCIS, for its part, has been taking an average of almost six months to adjudicate employer sponsorship applications for green cards.³⁰ And the State Department has a backlog of more than 330,000 immigrant visa applicants (family, employment-based, or diversity) waiting for a consular interview, and waits for interviews for temporary work visas can stretch to five months or more at some consulates.³¹

Most frustrating for U.S. employers is the uncertainty of whether they will be allowed, under annual numerical caps, to sponsor or retain desired workers, making it difficult to plan contracts and work commitments. Under first-come-first-served systems, such as the current employment-based green-card system, employers have some sense of how early they need to file to secure a slot, though that slot is never certain. A similar system was used in the past to operate capped temporary visas, such as the H-1B and H-2B. As more and more employers filed applications for these visas on the first day possible, with applications surpassing the number of available visas, the Departments of Homeland Security and Labor began to use lotteries to allocate slots. A lottery was first used for the H-1B visa in 2006, and for the H-2B visa in 2018.³² These random allocation processes exacerbate uncertainty for employers. Currently, employers subject to the H-1B cap must enter a lottery to win the right to apply to sponsor a worker. Last year, employers submitted 781,000 registrations to compete for just 85,000 visa slots.³³ Similarly, employers seeking to sponsor workers on an H-2B visa face a lottery at the Department of Labor to find out if they can have their labor certification processed, and another lottery at USCIS for which

sponsorship applications will be processed. Employers must gauge their chances of making it through these lotteries in order to estimate the size of their future workforce and the work they will be able to complete.

Bureaucratic processes and delays could be a challenge for the bridge visa's successful implementation, even if the visa is designed with efficiency in mind. Current delays at the Department of Labor, USCIS, and the State Department make it difficult for employers to sponsor workers quickly through any available channel. USCIS had been making strides in improving its processing by reducing unnecessary requirements, waiving interviews and biometrics where possible, shortening forms, making more applications available for online processing, and digitizing applications submitted on paper. Continued efforts on these fronts would help to expedite processing, as would additional congressional appropriations for reducing processing backlogs. The Department of Labor is in need of mandates—such as legislation requiring short processing times for all types of applications—to push the agency to speed its work, along with the appropriations needed to hire sufficient staff and upgrade systems and processes. The State Department maximized its use of visa interview waivers during the COVID-19 pandemic to help it more quickly process visa applications from temporary workers and students.³⁴ Making these flexibilities permanent and increasing staffing to tackle backlogs that built up during the pandemic would make visa pathways faster and more workable.

Allowing employers that sponsor a high volume of bridge visa workers to be precleared for sponsorship and allowing sponsors of workers for priority occupations to skip labor market testing procedures (as described in Section 6.A) should help to reduce paperwork and processing times for employers. For employers that are not precleared and those sponsoring workers for non-priority occupations, paperwork requirements would be relatively great-

er. Those that do not have the in-house capacity to complete government forms to sponsor bridge visa workers could work with lawyers or other intermediaries to help them complete the necessary applications and processes, as some employers do for currently available visas.

The design of the bridge visa should avoid the use of lotteries and aim to avoid wait lists for visas. A key component of the proposal is that the cap on bridge visas would be flexible, based on assessment of employer demand, the domestic supply of workers, and projections about future needs and available workers. If, for example, demand for bridge visas is higher than the cap across a wide range of sectors with tight labor markets, that should be taken as a sign that the bridge visa cap is set too low. If employer demand for the bridge visa in a particular sector is very high, despite evidence showing availability of U.S. workers, that should be taken as an indication that the prevailing wage threshold has been set too low and needs to be raised.

9 Conclusion

While legal immigration reform is not at the top of U.S. policymakers' agendas, current labor market

demands and ongoing demographic shifts make the need for better pathways for foreign workers a pressing concern. The bridge visa proposal presented in this brief is one way forward for updating the United States' decades-old employment-based immigration system. The overarching goal would be to generate a lasting framework that is flexible enough to adapt over time to changing economic and demographic realities and to the shifting push and pull factors shaping migration to the United States—and, crucially, that does not force the country to wait several decades for Congress to find supermajority support for future reforms. The bridge visa would help meet employers' demand for foreign workers in a wide range of industries and occupations, be flexible enough to accommodate both circular migrants and those wishing to stay in the United States permanently, ensure protections for both U.S. and foreign workers, and grow and shrink in scale over time, as needed to meet economic and other imperatives. This proposal is meant as a starting point for future conversation, feedback, and negotiations, before the bridge visa is enshrined in legislative text. But the hope is that this proposal can build buy-in and help to encourage congressional action on visa reform, to better align the U.S. immigration system with national interests.

The overarching goal would be to generate a lasting framework that is flexible enough to adapt over time to changing economic and demographic realities and to the shifting push and pull factors shaping migration to the United States.

Endnotes

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