NISKANEN CENTER

STOP THE INCINERATOR

The high cost of green card slots going unused and the benefits of recapturing them

Jeremy L. Neufeld
Niskanen Center

Lindsay Milliken
Federation of American Scientists

Doug Rand
Federation of American Scientists

June 2021

Key Takeaways

- The waiting list for green cards has grown well into the millions and is expected to continue growing, leading to unacceptable wait times for applicants and imposing severe costs on the U.S. economy.
- Accumulated administrative errors and the disruption of COVID-19 have exacerbated the shortage of green cards by leaving unused hundreds of thousands of green card slots that Congress has authorized.
- Recapturing unused green cards and preventing green cards from going unused in the future would help restore the immigrant population in the United States to what Congress intended while generating many billions of dollars of economic activity and billions in net revenue streams. Congress has recaptured unused green cards twice with bipartisan support, but many more green cards remain available for recapture.
- The executive branch could act alone to recapture over 231,000 unused employment-based green cards, adding $216 billion to GDP over 10 years.
- If Congress amended the American Competitiveness in the 21st Century (AC21) Act, which already recaptured some 180,000 unused employment-based green cards, over 339,000 additional unused green cards could be recaptured, which would add $104 billion to GDP over 10 years.
- If the recapture provisions in the U.S. Citizenship Act (USCA) were signed into law, over 940,000 unused employment-based and family preference green cards would be recaptured, adding $815 billion to GDP over 10 years.

Contents

Introduction

The United States has fostered a stellar reputation as a hub for opportunity and innovation throughout the world. Numerous studies show how immigrants have greatly contributed to the success of this country by launching major businesses and making new scientific discoveries.[1] A great many of these individuals relied on the ability to obtain permanent residency (also known as a "green card") in the United States in a timely manner to further their businesses or continue their research. Over the past three decades, however, this system has increasingly broken down.

Congress has provided for a limited number of green cards to be available each year, and these numbers were last fixed in statute in 1990. Specifically, there are only 140,000 employment-based green cards available per year and less than half are awarded to the principal worker; the rest go to workers' spouses and minor children.[2] For family preference immigrants, there is an effective annual ceiling of 226,000 green cards.[3]

This problem is exacerbated by the fact that the federal government has failed to award hundreds of thousands of green cards due to administrative challenges and more recently because of the COVID-19 pandemic. Congress has directed the executive branch to "recapture" some of these unused green cards from time to time over the years, but hundreds of thousands of green cards remain available for recapture.

We examine three main alternative proposals to recapture unused green cards:

- Under what we term "administrative recapture," the narrowest method, the administration could unilaterally recapture at least 231,584 unused green cards.
- By amending the American Competitiveness in the 21st Century (AC21) Act, which already recaptured some 180,000 unused employment-based green cards, we calculate Congress could recapture more than 339,000 additional unused green cards.
- Finally, if Congress adopted the recapture provisions in President Biden's proposed U.S. Citizenship Act (USCA), it would recapture over 940,000 unused green cards.

We estimate how each of these three recapturing scenarios would affect the U.S. economy and the fiscal impact that each scenario would have on federal, state, and local governments. Our estimates are summarized in the table below.

---

1. See Francine D. Blau and Christopher D. Mackie, *The Economic and Fiscal Consequences of Immigration* (Washington D.C.: National Academies Press, 2017); Sari Pekkala Kerr and William R. Kerr, "Economic Impacts of Immigration: A Survey", National Bureau of Economic Research, 2011; and Ran Abramitzky and Leah Platt Boustan, ""Immigration in American Economic History,"*Journal of Economic Literature* 55, no. 4 (December 2017): 1311-45,

2. "How to Read the Visa Bulletin." Boundless.

3. *Ibid.* Spouses, parents, and unmarried minor children of U.S. citizens are considered "immediate relatives" rather than family preference and are cap-exempt.

Table 1: The economic and fiscal effects of three green card-recapturing scenarios

Recapture scenario	Green cards recaptured	New arrivals	Cumulative effect on GDP, 2022-2032 (billions)			75-year net fiscal impact (NPV) (billions)
			Low estimate	Likely effect	High estimate	
Administrative recapture	231,584	128,900	$64	$216	$368	$90
AC21 recapture	339,206	61,983	$31	$104	$177	$118
USCA recapture	940,699	487,033	$242	$815	$1,389	$363

This problem is especially urgent over the next four months. As we describe in greater detail below, the COVID-19 pandemic has likely placed well over 100,000 green cards from this fiscal year at risk of being lost forever on September 30, 2021.

Without immediate action, green card backlogs are only going to get worse, significantly harming not only the United States' economic growth, but also the country's reputation as the primary destination to start businesses or launch careers. Recapturing unused green cards would help restore the immigrant population in the United States to what Congress intended while generating many billions of dollars of economic activity and billions in net revenue streams.

The artificial scarcity of green cards

Overview of how green card caps work

Every year, over one million people are approved for lawful permanent residency in the United States.[4] Most of the people who are approved fall into two categories of green cards, family-based or employment-based. Family-based green card recipients are sponsored by either U.S. citizens or permanent residents already living in the United States. Those with employment-based green cards are sponsored by their employers. Employment-based immigrants and family-based immigrants who are not designated the immediate relatives of U.S. citizens are subject to annual caps on the number of green cards that may be issued. These two categories are the focus of this paper.

When an individual wants to apply for a family preference or employment-based green card, several steps must be completed. First, the individual's sponsor files a petition known as Form I-140 (for employment-based green cards)[5] or Form I-130 (for family preference green cards)[6] with United States Citizenship and Immigration Services (USCIS), a component of the Department of Homeland Security (DHS).[7]

4. "The Green Card, Explained." Boundless.

5. "I-140, Immigrant Petition for Alien Workers," USCIS, May 4, 2021.

6. "I-130, Petition for Alien Relative," USCIS. May 4, 2021.

7. For most specific types of employment-based green cards, the sponsor may also need to obtain a permanent labor certification (Form 9089) from the Department of Labor ensuring that the sponsor is paying the recipient the prevailing wage for that profession and that the sponsor has first made a good faith attempt to hire a U.S. citizen for the job.

If the I-130 or I-140 petition is approved, and the individual is eligible for a green card that is subject to an annual cap, then the individual receives a "priority date" — in other words, a spot in line for permanent residency. For family preference green cards, the priority date is when USCIS has received the sponsor's I-130 petition.[8] The priority date for employment-based green cards depends on whether the category requires a labor certification from the Department of Labor (DOL). If the category does not require it (e.g., EB-1 or EB-2 with National Interest Waiver), the priority date is when USCIS accepts the I-140 petition. For employment-based green cards that require labor certifications (e.g., EB-2 without National Interest Waiver and EB-3), the priority date is the day DOL accepts the labor certification application.[9]

Once the individual's priority date is earlier than the priority date shown in the most recent Visa Bulletin from the Department of State, that person can move forward in the application process.[10] Those already in the United States must "adjust status" to permanent residency by filing an application with USCIS, while those living abroad must apply for an immigrant visa through the State Department. Once this process is complete, the individual is able to permanently reside in the United States.

This whole process is significantly shortened if the individual is an immediate relative (spouse, unmarried child under 21 years old, or parent) of a U.S. citizen. For immediate relatives, the I-130 petition and the green card application are submitted at the same time, as there is no green card cap for this group.[11]

Apart from immediate relatives of U.S. citizens, family preference green cards include four categories, shown in Table 2, below.[12] For this group, there are 226,000 green cards set aside each year.

Table 2: Family-based green card preference groups

Preference group	Eligible immigrants
F1	Unmarried sons and daughters, who are at least 21 years old, of U.S. citizens
F2A	Spouses and children (unmarried and under 21 years old) of lawful permanent residents
F2B	Unmarried sons and daughters, who are at least 21 years old, of lawful permanent residents
F3	Married sons and daughters of U.S. citizens
F4	Brothers and sisters of U.S. citizens (if the U.S. citizen is at least 21 years old)

8. "Visa Availability and Priority Dates," USCIS, April 29, 2020.

9. *Ibid*. This process is similar for EB-4 (special immigrants, including religious workers) and EB-5 (investors) green cards, except the priority date is the day that USCIS accepts either Form I-360 or Form I-536, respectively.

10. *Ibid*.

11. "Green Card for Immediate Relatives of U.S. Citizen," USCIS, June 16, 2020.

12. "Green Card for Family Preference Immigrants," USCIS, March 19, 2021.

Only 140,000 green cards can be issued for employment-based preference groups each year, including spouses and minor children of the primary worker.[13] The employment-based category includes five preference groups.[14] These groups can be found in Table 3:

Table 3: Employment-based green card preference groups

Preference group	Eligible immigrants	Description
EB-1	Priority workers	• Those with extraordinary ability in the sciences, arts, education, business, or athletics; or • Outstanding professors or researchers; or • Certain multinational managers and executives.
EB-2	Professionals with advanced degrees and exceptional abilities	• Those with at least a master's degree or a bachelor's degree in addition to five years of relevant work experience; or • Individuals with occupations in the sciences, arts, or business that require exceptional ability.
EB-3	Skilled, unskilled, and professional workers	• Skilled workers whose jobs require at least two years of training or experience and are not temporary or seasonal occupations; or • Those in unskilled positions that require less than two years of experience or training and are not temporary or seasonal; or • Individuals with at least a bachelor's degree from a U.S. institution of higher education or the equivalent from a school outside the United States.
EB-4	Special workers	• Media professionals; or • Religious workers and ministers; or • Afghanistan and Iraq nationals who served the United States in certain circumstances; or • Other employees, retirees, and their families.
EB-5	Investors	• Individuals who invested or are investing at least $1.8 million in a new U.S. business that will create 10 full-time jobs (or $900,000 in a high-unemployment or rural area).

These overall caps are restricted even further, as individuals from a particular country of origin cannot be awarded more than 7 percent of the total number of family preference and employment-based green cards per year, unless the green cards would otherwise go unused.[15] This means that individuals from countries with particularly high volumes of green card applications, such as India, China, Mexico, and the Philippines, often have to wait years or even decades for a green card.[16] This country-based cap is not adjusted based on population or individual countries' demand. Because of this, some nationals only have year-long waits for an employment-based green card, while others, like those from India, must wait for over 80 years.[17]

Backlogs and wait times for various green card categories

The employment-based green card backlog surpassed 1.2 million applicants last year and is still

13. *Ibid*.

14. "The Green Card, Explained,", Boundless.

15. David J. Bier, "Backlog for Skilled Immigrants Tops 1 Million: Over 200,000 Indians Could Die of Old Age While Awaiting Green Cards," Cato Institute, March 30, 2020.

16. David J. Bier, "Employment- Based Green Card Backlog Hits 1.2 Million in 2020," Cato Institute, November 20, 2020.

17. *Ibid*.

growing rapidly.[18] According to a report by the Congressional Research Service, the backlog is projected to double by fiscal year 2030 because for every new green card made available, two petitions are added to the queue.[19] The backlogs are concentrated mainly in the EB-2 and EB-3 categories and are the worst for Indian nationals.[20] It is estimated that without reforms, nearly 200,000 Indians will die while still waiting in line.[21]

Everyone waiting in the green card backlogs has had their petitions *already approved* for permanent residency. They have satisfied all of the necessary conditions prior to filing a green card application, but there just are not enough permission slips from Congress to allow them to proceed. Table 4, below, shows the countries with the largest backlogs for family preference green cards in fiscal year 2021.[22] It is important to note that USCIS also has a non-trivial number of *unadjudicated* I-130 petitions in its pipeline, and so the backlogs are even higher than we report in Table 4.

Table 4: Countries with largest family preference backlogs in FY 2021[23]

Country	Number of applicants in backlog
Mexico	1,219,977
Philippines	284,024
India	251,159
Vietnam	214,707
Dominican Republic	212,607
China - mainland born	178,420
Bangladesh	178,283
Pakistan	120,294
Haiti	104,292
Cuba	78,204
All others	920,924
Worldwide total	**3,762,891**

Table 5 shows the current and future wait times for family preference green cards for individuals from select countries, based on government data analyzed by Boundless.[24] For some family members applying for a green card now, wait times can be as long as 130 years.

18. *Ibid*.

19. William A. Kandel, The Employment-Based Immigration Backlog, R46291, Congressional Research Service, March 2020.

20. David J. Bier, "Employment- Based Green Card Backlog Hits 1.2 Million in 2020", Cato Institute, November 20, 2020.

21. *Ibid*.

22. "Annual Report of Immigrant Visa Applicants in the Family-sponsored and Employment-based preferences Registered at the National Visa Center as of November 1, 2020", U.S. State Department.

23. *Ibid*.

24. "Wait Time for Some Green Card Categories Could Be 100 Plus Years", Boundless, November 26, 2019.

Table 5: Wait times for family preference green cards[25]

Categories with backlogs	Wait times (in years) for individuals receiving green cards now	Wait times (in years) for individuals applying for green cards now
General waiting lists		
Unmarried adult children of U.S. citizens (F1)	7.3	*
Spouses and minor children of permanent residents (F2A)	0	*
Unmarried adult children of permanent residents (F2B)	5.8	*
Married children of U.S. citizens (F3)	12.3	20.2
Siblings of U.S. citizens (F4)	13.1	28.6
Waiting lists specific to Indians		
Siblings of U.S. citizens (F4)	14.9	17.6
Waiting lists specific to Mexicans		
Unmarried adult children of U.S. citizens (F1)	22.9	38.3
Unmarried adult children of permanent residents (F2B)	21.2	76.4
Married children of U.S. citizens (F3)	24	92.6
Siblings of U.S. citizens (F4)	22.5	130.8
Waiting lists specific to Filipinos		
Unmarried adult children of U.S. citizens (F1)	11.9	*
Unmarried adult children of permanent residents (F2B)	11.5	*
Married children of U.S. citizens (F3)	21.9	67.8
Siblings of U.S. citizens (F4)	21.5	27.3

* Boundless omitted projections for visas that "frequently flow between categories."

The wait times for employment-based green cards are also unacceptably long. According to projections from the Cato Institute, which can be found in Table 6, some applicants can expect to wait as long as 84 years to obtain a green card.[26]

25. *Ibid*.

26. David J. Bier, "Employment- Based Green Card Backlog Hits 1.2 Million."

Table 6: Largest backlogs for employment-based green cards and processing time needed for existing backlog[27]

Green card type	Birthplace of applicant	Backlog	Years to process[28]
EB-1	India	74,016	5
	China	23,068	3
	Other	7,021	0
EB-2/EB-3	India	741,209	84
	China	79,020	11
	Philippines	20,803	4
	Other	83,212	5
EB-4	El Salvador	28,767	15
	Guatemala	25,854	18
	Honduras	19,888.	14
	Mexico	3,863	4
	Other	0	0
EB-5	China	67,235.	14
	India	146	0
	Vietnam	1,267	2
	Other	0	0
Total/Average		1,200,277	56

This ever-worsening situation has caused significant hardship for the prospective green card recipients, their families, and U.S. employment-based sponsors.

How the United States is needlessly constraining green cards

Even though there is an unacceptably long backlog and more applicants than there are green cards available, sometimes the federal government does not even issue every green card allotted for a given year. Administrative errors in estimating cutoff dates and coordinating between USCIS and the State Department have resulted in hundreds of thousands of authorized green card slots going unused.[29] While the agencies have improved significantly since the issue was pointed out to them in 2007 and allow far fewer green cards to go unused annually than they used to, many years still see unused green cards.

27. *Ibid*.

28. This processing time does not account for abandonment or death while waiting in the backlog.

29. Annual Report 2010, Citizenship and Immigration Services Ombudsman, June 30, 2010.

With the passage of the Immigration Act of 1990, Congress attempted to keep green cards from going unused.[30] The law outlines how surplus green card slots in either the family- or employment-based categories at the end of one year should be automatically redistributed in the next year.

For example, if fewer than 226,000 family preference green card slots are used in a given year, then those unused slots "fall across" to the employment-based categories in the following year.

This process rarely works in the opposite direction, though: If fewer than the 140,000 employment-based green card slots are used in a year, then those unused slots almost never fall across to the family preference total in the following year. Instead, those green card slots are generally "incinerated." The executive branch or Congress could act to prevent it, but they have so far not chosen to do so at any point in the last 15 years.

This is an unintended consequence of Congress failing to accurately predict future immigration flows back in 1990 combined with the specific way that the executive branch has chosen to implement the Immigration Act of 1990. The way that the law has so far been implemented, unused employment-based green cards only "fall across" when the total number of immediate-relative green cards plus the number of unused employment-based green cards is less than 254,000 — which has not happened in over two decades. Instead, the number of immediate-relative green cards has grown significantly. As a result, the number of family preference green cards is set each year at the statutory minimum of 226,000, even if there are unused employment-based green card slots from the previous year.

Because of this issue, Congress has "recaptured" some lost green cards on its own twice, in 2000[31] and in 2005,[32] but at least 231,000 green card slots remain unused (see Appendix), and that number is on the brink of getting much larger.

A new and urgent green card crisis

Whereas prior green card slots were lost incrementally over time, due to a slow accumulation of bureaucratic errors and delays, the COVID-19 pandemic has placed a large pool of green cards at risk of being lost all at once, on September 30, 2021.

As an immediate consequence of the pandemic, U.S. consular offices worldwide shut their doors in March 2020, bringing immigrant visa interviews to a near-halt. Compounding this problem, a presidential proclamation on April 22, 2020, placed an entry ban on entire categories of green card applicants from abroad, including parents of U.S. citizens, all family-based preference categories, most employment-based preference categories, and all Diversity Visa (or "green card lottery") applicants.[33] Although President Biden ultimately revoked this immigrant visa ban with a new

30. David J. Bier, "Deregulating Legal Immigration: A Blueprint for Agency Action", Cato Institute, December 18, 2020.

31. Pub. L. 106-313 (Oct. 17, 2000).

32. Pub. L. 109-13 (May 11, 2005).

33. "Trump's New Executive Order Will Favor Immigrants from Western Europe", Boundless, April 22, 2020.

proclamation on Feb. 24, 2021,[34] approximately 122,000 family preference green card slots went unused in FY 2020.[35] As a result, these slots are theoretically available for employment-based applicants to use in FY 2021.

But even in a normal year, unbattered by a global pandemic and a fiscal crisis,[36] it would be highly unlikely for USCIS and the State Department to be able to complete processing an extra 122,000 green card applications. This means that a large quantity of green card numbers will in all likelihood fall back into the incinerator at the end of this fiscal year (Sept. 30, 2021).

And this problem is repeating itself, as the State Department estimates that about 135,000 family-sponsored immigrant slots will go unused in FY 2021[37] — a great many of which could ultimately land in the incinerator on Sep. 30, 2022.

Options for restoring congressionally mandated green card slots

Clearly, the current statutory scheme for green card allocation has been implemented in a way that all but guarantees a perverse outcome, year after year. Congress itself could cure this unintended consequence of the way the executive branch has implemented the Immigration Act of 1990 and update the system so that green card numbers are no longer incinerated whenever the federal government moves too slowly.

One can never assume that Congress will act, however, so it is incumbent on the executive branch to consider all lawful options for fixing this problem — especially with so many green card slots at risk in a matter of months.

Executive action

First, the executive branch must ensure that current and future green card applicants are not unfairly penalized for delays beyond their control. Needless to say, the administration must act quickly to implement a solution, given the looming fiscal year deadline.

In addition, the executive branch should move to retroactively "recapture" the approximately 231,000 slots lost to bureaucratic error in the decades prior to FY 2020.

DHS, working with the State Department, can adopt new policies that reserve available green cards for immigrants once the State Department's Visa Bulletin confirms that a green card is available for an individual immigrant, regardless of whether USCIS and the State Department can process the relevant paperwork that year. That way, slots that go unused due to lack of demand (an admittedly unlikely event) would still fall across as Congress intended, but slots could not be

34. "A Proclamation on Revoking Proclamation 10014," White House, February 24, 2021.

35. See appendix.

36. Doug Rand and Lindsay Milliken, "The Case Of The Insolvent Federal Agency: A Forensic Analysis Of Public Data On U.S. Citizenship & Immigration Services", N.Y.U Journal of Legislation & Public Policy, June 15, 2020.

37. "DOS Launches 'Chats with Charlie' in conjunction with April Visa Bulletin," First Pathway Partners, March 22, 2021

lost solely due to bureaucratic delays, since they would count toward the year corresponding to the priority date of the immigrant to whom they are issued.

These agencies could also apply this change retroactively to recapture green cards that went unused before the new policies went into effect. This is how the Immigration and Naturalization Service (the predecessor to USCIS) and the State Department previously changed their policies concerning how to count immigrants under the Cuban Adjustment Act and retroactively recaptured green card slots for Western Hemisphere immigrants.[38]

Congressional action

Congress has passed laws to recapture unused green card slots twice, as described in more detail below, and the time is certainly ripe for it to do so again. Green card recapture is part of President Biden's sweeping U.S. Citizenship Act proposal and has garnered support from Republicans as well. Indeed, the first successful green card recapture was a Republican policy in a Republican bill; all 24 sponsors of the American Competitiveness in the 21st Century Act were Republicans and the amendment which added recapture to the bill was introduced by a Republican.[39] The 2005 recapture was passed by a Republican-dominated Congress and signed into law by a Republican president.[40] Furthermore, a Republican-controlled Senate included employment-based green card recapture in a Senate budget reconciliation bill in 2005. Though this measure was not in the final bill, it demonstrates that the current Congress could move recapture forward in a new reconciliation bill that only requires 51 votes to pass.

Self-imposed scarcity

While "recapture" may have a commonsense appeal, we would be remiss if we did not emphasize that it is a concept based on arbitrary scarcity. Congress is solely responsible for the number of green cards available each year, and there is no good reason why the caps remain where they are year after year.

Since the last major immigration reform in 1990, the United States has issued an average of some 1 million green cards each year. Political deadlock has kept Congress from increasing this level of immigration to keep pace with the country's total population (which has increased by over 30 percent[41]) or GDP (which has doubled in real terms).[42] While the United States allows more permanent immigration per year on an absolute basis among developed countries, we are stingy on a population-adjusted basis (less than half a percent of the [total] population per year).

---

38. For more background, see the DOJ's prior handling of the Silva case: "The Silva Program was instituted by court order to provide for the recapture of 144,999 preference visa numbers originally used for Cuban refugee adjustments. Silva numbers, although subject to an overall numerical limitation, were assigned in addition to the annual worldwide ceiling." U.S. Department of Justice, Statistical Yearbook of the Immigration and Naturalization Service for Fiscal Year 1989 (Publication M-367), Glossary at p. 148 (September 1990).

39. See S. 2045, 106th Congress and S.Amdt.2427, 106th Congress.

40. H.R 1268, 109th Congress.

41. "Population," U.S. Bureau of Economic Analysis.

42. "Real Gross Domestic Product," U.S. Bureau of Economic Analysis.

Table 7: New permanent immigrants by country, 2018

	New permanent immigrants[43]	Total population[44]	Permanent immigrants per 1,000 inhabitants	Multiplier vs. U.S.
Luxembourg	21,600	608,000	35.5	10.6
Switzerland	122,100	8,513,000	14.3	4.3
Sweden	123,700	10,175,000	12.2	3.6
Austria	87,100	8,838,000	9.9	2.9
Denmark	56,000	5,790,000	9.7	2.9
Belgium	109,200	11,404,000	9.6	2.9
Ireland	45,100	4,857,000	9.3	2.8
New Zealand	45,000	4,886,000	9.2	2.7
Canada	320,400	37,059,000	8.6	2.6
Netherlands	136,200	17,232,000	7.9	2.4
Australia	192,800	24,993,000	7.7	2.3
Norway	40,500	5,312,000	7.6	2.3
Germany	630,800	82,914,000	7.6	2.3
Spain	344,200	46,733,000	7.4	2.2
Portugal	64,000	10,284,000	6.2	1.9
Czech Republic	55,900	10,626,000	5.3	1.6
United Kingdom	342,800	66,436,000	5.2	1.5
Finland	23,100	5,516,000	4.2	1.2
France	277,300	66,942,000	4.1	1.2
Italy	224,600	60,422,000	3.7	1.1
United States	1,096,600	327,167,000	3.4	1.0
Israel	28,100	8,873,000	3.2	0.9
Korea	70,200	51,635,000	1.4	0.4
Japan	116,400	126,443,000	0.9	0.3
Mexico	38,700	125,328,000	0.3	0.1

Source: OECD

On a population-adjusted basis, countries like Canada, Australia, and Germany offer permanent residency to well over twice as many immigrants as the United States — and for Sweden that figure is more than triple.

Increasing the annual number of green cards would solve a great many problems with our

43. "Inflows of permanent immigrants into selected OECD countries, 2010-19," OECD International Migration Database.

44. "Population," OECD Labor Force Statistics.

immigration system in one stroke, while helping the United States maintain technological dominance, grow GDP, stimulate job growth, reduce government deficits, and bolster the solvency of the Social Security program. Recapture is no substitute for increasing legal levels of immigration — but it can offer temporary relief from self-imposed scarcity.

The economic effects of green card recapture

The cumulative effect of green cards going unused year after year is a permanent drag on the U.S. economy. The labor force is left consistently smaller than Congress intended. Employers leave important positions vacant and suffer costly delays while they wait for green cards to become available. Others avoid the expensive and uncertain process of sponsoring green cards altogether, at the cost of depriving their companies of much-needed talent. Many talented migrants seek opportunities outside the United States instead of waiting in the backlogs, both employment-based and family preference. In short, the U.S. economy is constantly being deprived of the talents of a great many people who would otherwise be here.

Recapturing unused green cards would reverse some of the damage with a one-off, temporary increase in legal immigration flows. While recapturing unused immigrant green cards is not a permanent solution and cannot significantly change long-run immigration flows or prevent future growth in green card backlogs, even a temporary bump in immigration levels would provide substantial economic and fiscal benefits and go some way toward restoring the stock of immigrants in the United States to what Congress intended.

Below, we estimate the effects that three different recapture proposals could have on the U.S. economy and the government's balance sheet. First, we use State Department data to examine how many unused green cards would be recaptured under three different scenarios. Second, we use DHS data to determine how each proposal would translate into new immigration flows. Third, we incorporate economic projections from the Bureau of Labor Statistics with two models from the economic literature — one pessimistic model and one more optimistic model — on the economic effects of immigration to estimate the effect of each proposal on U.S. GDP. Fourth, we use data from the New Immigrant Survey to estimate the age and educational attainment composition of those new flows. This allows us to estimate the net fiscal impact of green card recapture in conjunction with estimates from the National Academy of Sciences report on immigration. A summary of our estimates for the economic and fiscal effects of green card recapture can be found in Table 8 below.

Table 8 (reproduced above as Table 1):
The economic and fiscal effects of three green card-recapturing scenarios

Recapture scenario	Green cards recaptured	New arrivals	Cumulative effect on GDP, 2022-2032 (billions)			75-year net fiscal impact (NPV) (billions)
			Low estimate	Likely effect	High estimate	
Administrative recapture	231,584	128,900	$64	$216	$368	$90
AC21 recapture	339,206	61,983	$31	$104	$177	$118
USCA recapture	940,699	487,033	$242	$815	$1,389	$363

Our estimates of the economic benefits of recapturing unused green cards are conservative and likely underestimate the true net benefits. The most significant reason is that — for simplicity's sake — we have looked only at green card recapture as it contributes to new immigration and ignored the significant benefits from green cards that would go to foreign-born workers who are already in the United States.

Our estimates therefore conservatively show the opportunity for billions of dollars in economic activity and net revenue to federal, state, and local governments — if only the administration and/or Congress would recapture the green cards necessary to make it happen.

Counting available green cards

The number of green cards available to recapture depends on the method that is used to recapture them. The two times Congress has recaptured green cards, it used the same method, but both the executive branch and Congress have over the years contemplated various alternative methods of recapture that would differ by hundreds of thousands of total available green cards. For instance, in a 2008 hearing on wasted green cards, a State Department official submitted for the record four different calculations of the total number of green cards available for recapture from 1992 to 2007, yielding as few as 130,490 green cards in the most conservative case and as many as 557,578 green cards in the most optimistic case.[45]

Alternative methods of recapture typically differ in their answers to three main questions: whether to account for any subsequent fall-across when a green card slot goes unused in a particular year, whether unused family preference green cards are included, and whether an accounting is made of the previous recapture Congress has enacted for certain employment-based green card numbers. The differences between the three methods are summarized in Table 9 below.

Administrative recapture

Administrative recapture is the narrowest method of recapture, but could be pursued by the executive branch alone, without the need for legislation, as described in greater detail above. The administration could implement the counting method featured in the 2007 and 2010 USCIS Ombudsman's reports to Congress. In those reports, the number of employment-based, or EB, green cards available for recapture was calculated as the number of unused EB green cards in that year *in excess of the difference between the following year's family preference limit and 226,000.*[46]

To give an example, in 1994, there were 29,430 unused EB green cards. The difference between the following year's family preference cap of 253,721 and 226,000 is 26,721. Therefore, the Ombudsman's report calculated 1,709 EB slots available for recapture (i.e., 29,430 minus 26,721).

---

45. U.S. Congress, House of Representatives, Committee on the Judiciary. Wasted Visas, Growing Backlogs: Hearing before the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. 110th Congress, 2nd sess., April 30, 2008, 146-152.

46. See Annual Report 2010, Citizenship and Immigration Services Ombudsman, June 30, 2010 and Annual Report 2007, Citizenship and Immigration Services Ombudsman, June 11, 2007.

The 2010 Ombudsman's report used this method to calculate the number of available unused green cards from 1992-2009. The report:

- Excluded unused green cards from 1992 because fall-across did not begin until 1994;
- Excluded unused green cards from 1999 and 2000 because of the AC21 Act; and
- Subtracted an additional 50,000 because of the 2005 supplemental. (see below)

With those exclusions, the Ombudsman's report calculated there were just under 219,000 unused green cards available for recapture. Extending this number through 2020 yields 231,584 green cards.[47]

AC21 recapture

The method of recapture that has actually been implemented by the U.S. Congress can be found in the American Competitiveness in the 21st Century Act of 2000 (AC21 Act), which recaptured unused green cards from 1999 and 2000.[48] The 2005 Emergency Supplemental Appropriations Act recaptured another 50,000 unused EB green cards with the same method by amending the AC21 Act.[49] This method of recapture can be simply stated: the number of green cards available for recapture for a given year is the number of unused employment-based green cards in that year.

The difference between this method and the administrative method can be seen clearly by considering 1999 and 2000. Over the first five years of the 2000s, AC21 (before it was amended) recaptured about 130,000 green cards — the total number that went unused in 1999 and 2000. However, the narrow method in the Ombudsman's report would only have counted approximately 61,000 available green cards over those two years (because the family preference limit in 2000 was 69,000 higher than 226,000), less than half of what Congress actually recaptured.

Because 130,000 green cards went unused in 1999 and 2000, the number recaptured by the AC21 Act before the 2005 amendment was about 130,000. The 2005 amendment brought the number up to about 180,000 by recapturing precisely 50,000 of the more than 107,000 unused green cards from 2001-2004. If the AC21 Act were amended again to cover the entire period from 1992-2020, the total number of remaining unused green cards available for recapture would be 339,206 (i.e., approximately 519,000 total unused green cards minus 180,000 already recaptured).[50]

USCA recapture

A third method of recapture is found in the U.S. Citizenship Act of 2021 and yields the greatest number of green cards. It is similar to the AC21 method but includes unused family preference

47. See the table in the appendix to see precisely how we calculated the number of visas available for recapture under each method in each year.

48. Pub. L. 106-313 (Oct. 17, 2000).

49. Pub. L. 109-13 (May 11, 2005).

50. See appendix.

green cards. Because it does not amend the AC21 Act and does not account for previous recaptures, it counts unused green cards from 1999 and 2000 as available for recapture. From 1990-2020, it would yield 940,699 green cards for recapture.[51]

Table 9: Three methods of recapture

Method:	Administrative	AC21	USCA
Source of the method:	The counting method found in the 2007 and 2010 USCIS Ombudsman's reports	The method implemented by the American Competitiveness in the 21st Century Act of 2000	The method proposed in U.S. Citizenship Act of 2021
Green cards available (1992-2020)	231,584	339,206	940,699
Method	The number of green cards available for recapture for a given year is the number of unused green cards in excess of the difference between the following year's family preference limit and 226,000	The number of green cards available for recapture for a given year is the number of unused employment green cards in that year	The number of green cards available for recapture for a given year is the number of unused employment and family green cards in that year
Recaptures unused family preference green cards?	No	No	Yes
How does it treat fall-across?	Deducts any fall-across above 226,000	Ignores fall-across	Ignores fall-across
Excludes already recaptured green cards?	Yes, by excluding unused green cards from 1992, 1999, 2000 and subtracting 50,000	Yes	No

From recapture to new arrivals

While the number of immigrant visas issued each year is often used as a proxy for new immigration, there is not a one-to-one correspondence between the two. Many immigrant visas go to individuals who are already here on nonimmigrant visas such as the H-1B and already are contributing to the U.S. economy. While guaranteeing the long-term immigration status of guest workers and other nonimmigrants already present in the United States has numerous benefits, as discussed further below, we err on the side of caution and only analyze the effect of recapturing green cards as a function of its contribution to immigration flows. Therefore, treating every available green card for recapture as adding one immigrant to the U.S. economy would overcount immigrants. Luckily, we can use the statistics DHS publishes each year that break down how many of each type of green card go to new arrivals and how many go to immigrants already present. To determine the increase in immigration under each proposal, we multiply the total number of green cards available under each proposal by the share of new arrivals in the relevant visa category over the last five years. We believe this is a reasonable assumption because of the relative stability in the rate of new arrivals over time.

51. See appendix.

Table 10: New arrivals vs. total admissions by type (2015-2019)[52]

Immigrant visa type	2015	2016	2017	2018	2019	2015-2019
Employment-based (new arrivals)	22,069	24,253	24,525	27,824	28,769	127,440
Employment-based (total)	144,047	137,893	137,855	138,171	139,458	697,424
Family preference (new arrivals)	197,127	222,971	218,760	204,115	185,140	1,028,113
Family preference (total)	213,910	238,087	232,238	216,563	204,139	1,104,937

Over the five years preceding COVID-19, the share of new arrivals among employment-based immigrant visas has been only 18 percent. The share of new arrivals among family preference categories is much higher at 93 percent.

We can now estimate how each recapture proposal would contribute to immigration flows by assigning recaptured green cards to each category. The AC21 Act assigned all recaptured green cards to the employment-based categories. The USCA assigns unused employment-based slots to the employment-based categories and unused family preference slots to the family-based preference categories. In the administrative recapture scenario, the executive branch could likely allocate recaptured green card numbers across the two categories at its discretion. For our analysis, we assume that administrative recapture would assign half of the recaptured green cards to each category.

Table 11: New arrivals under each recapture scenario, by visa category

Recapture scenario	Employment-based	Family preference	Total
Administrative	21,159	107,741	128,900
AC21	61,983	0	61,983
USCA	94,881	392,151	487,033

We estimate that the administrative recapture of 231,584 unused green cards would lead to a one-time increase of 128,900 new arrivals if the administration allocated 115,792 new green cards for both family-based and employment-based immigration. Recapture of 339,206 employment-based green cards by amending the AC21 Act would increase the employment-based immigration of new arrivals by 61,983. And the U.S. Citizenship Act's 519,245 employment-based green cards and 421,454 family preference green cards would translate into 94,881 new employment-based immigrants and 392,151 new family-based immigrants. Notably, even though AC21 recapture would result in more new green cards than administrative recapture, it would result in fewer new arrivals.

52. Yearbook of Immigration Statistics 2019, Department of Homeland Security and Yearbook of Immigration Statistics 2017, Department of Homeland Security.

The economic benefits of green card recapture

There is astounding consensus in the economics literature that immigration yields net economic benefits, though there is some disagreement about the magnitude of those benefits.[53] We will rely on two models from the literature to derive two estimates of the magnitude of the benefits from green card recapture. Our "low" estimate comes from the simple model that economist George Borjas describes in his textbook on immigration economics.[54] Borjas' estimates of the economic effects of immigration are among the most pessimistic in the literature. Because Borjas' model assumes immigrants have no effect on productivity — that for modeling purposes, immigrants do not innovate or bring any ideas with them — we treat the estimate we derive using his model as a conservative lower bound on the economic effects of green card recapture.

Our "high" estimate is derived from the model in a paper by economist Giovanni Peri.[55] Unlike Borjas' model, Peri's model accounts for immigration increasing not only the size of the labor force but productivity as well, and is calibrated with data from 40 years of U.S. immigration. While we think Peri's model is probably closer to accurately predicting the benefits of immigration, we nevertheless report the average of the estimates derived from each model as the "likely effect" of immigration.

For each scenario, we assume that recaptured green cards from 1992-2020 are allocated for 2022 and that all new immigrants arrive that year. In Borjas' model, the explanatory variable is the foreign-born share of the population, so we use the 2017 Census Bureau population projections to determine the effect of each recapture scenario on the foreign-born share of the U.S. population in 2022.[56] In Peri's model, the explanatory variable is immigrants as a share of employment, so we divide the flow of new immigrants from each recapture scenario by projected employment in 2022 according to Bureau of Labor Statistics projections from 2020.[57]

To estimate the economic effects over 10 years, we assume that after the increase in output in 2022 caused by the immigration of new arrivals on recaptured green cards, GDP growth for the next nine years reverts to the projected annual GDP growth rate from the 2020 BLS projections.[58]

---

53. Blau and Mackie, *The Economic and Fiscal Consequences of Immigration*; Kerr and Kerr, "Economic Impacts of Immigration."

54. George J. Borjas, *Immigration Economics* (Cambridge: Harvard University Press, 2014), p.150-153. We adopt the same values as he suggests for the labor share of income (s_L =.7) and the wage elasticity (ε_{LL} =-.3), but derive the foreign-born share p as described above.

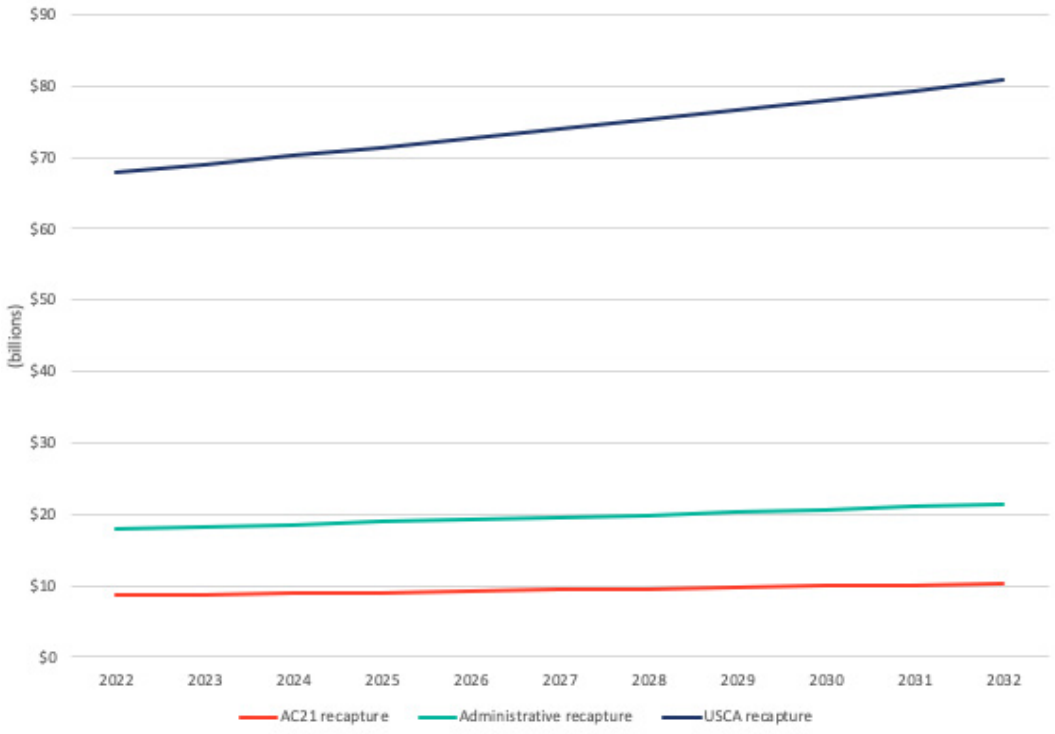
55. Giovanni Peri, "The Effect of Immigration on Productivity: Evidence From U.S. States," *The Review of Economics and Statistics* 94, no. 1(2012), 348-358. We specifically use the basic 2SLS estimation in Table 2 on page 352.

56. "2017 National Population Projections Tables: Main Series", United States Census Bureau.

57. "Projections overview and highlights, 2019-29", U.S. Bureau of Labor Statistics, September 2020.

58. "Real gross domestic product by major demand category", U.S. Bureau of Labor Statistics.

Figure 1: Likely effect of recapture on annual GDP, relative to status quo, 2022-2032 (billions of 2012 dollars)



We estimate that administrative recapture would likely contribute $216 billion cumulatively to GDP from 2022-2032; AC21 recapture would contribute $104 billion; and the recapture provisions in the U.S. Citizenship Act would contribute $815 billion. The estimate from each model is found in Table 8 above.

The fiscal benefits of green card recapture

Government coffers stand to benefit from green card recapture as well. To estimate the net fiscal impact of recapturing green cards, we rely on the average total fiscal impacts of immigrants grouped by age and educational attainment calculated in the National Academy of Sciences (NAS) report on the economic and fiscal effects of immigration.[59]

In order to assign the immigrants under each recapture scenario to age and educational attainment categories, we rely on two sources. First, we separate immigrants with recaptured employment-based green cards into principals, derivative spouses, and derivative children using the share of these visas assigned to principals, spouses, and children reported by DHS in 2019.[60] Of 139,458

59. Blau and Mackie, *Economic and Fiscal Consequences of Immigration*, Table 8-12, p. 430. We use the baseline scenario estimating the total impact based on recent immigrants on the 75-year net present value to federal, state, and local governments without public goods included in benefits and using the CBO long-term budget outlook.

60. "Persons Obtaining Lawful Permanent Resident Status by Type and Detailed Class of Admission: Fiscal Year 2019", Table 7, Department of Homeland Security.

employment-based visas issued in 2019, about 48 percent went to principals, 28 percent went to derivative spouses, and 24 percent went to derivative children.

Table 12: Distribution of employment-based green cards to principals, derivative spouses, and children

Visa	Principals	Derivative spouses	Children	Total
EB-1	15,674	12,419	11,378	39,471
EB-2	19,834	12,573	70,99	39,506
EB-3	20,739	11,631	9,417	41,787
EB-4	7,041	887	1,681	9,609
EB-5	3,285	2,076	3,724	9,085
Total	66,573	39,586	33,299	139,458

Then, we use data from the New Immigrant Survey to find the breakdown of immigrants' ages and educational attainment among immigrants on employment-based visas and family preference visas.[61] Luckily, the New Immigrant Survey identifies principals and spouses among EB immigrants. For family preference immigrants, EB principals, and EB spouses, we used the sampling weight to find the proportion of immigrants in each group at each of the 15 age and educational attainment combinations associated with an average impact in the NAS report. For EB children, we know all of them are under 24 years of age at arrival. We assigned them to the five educational attainment categories according to the educational attainment distribution of EB principals, following the NAS assumption that children will reach the educational attainment of their parents. Our estimates for the distribution of ages and educational attainment within each of these four categories of immigrants are reported in the tables below.

Table 13: Family-sponsored immigrants, by age and educational attainment (n=1,516)

	0-24	25-64	65+
<HS	15.90%	20.12%	0.94%
HS	16.62%	15.68%	0.31%
Som Col	1.71%	1.13%	0.00%
BA	7.00%	11.27%	0.70%
>BA	3.14%	5.06%	0.42%

61.Guillermina Jasso et al., "The New Immigrant Survey 2003 Round 1 (NIS-2003-1) Public Release Data," March 2006, http://nis.princeton.edu. Unfortunately, while the NIS reports immigrants' year of entry, it does not report their precise birth years, offering only lower-resolution birth year ranges. We assigned every immigrant born before 1940 to the >65 years old at arrival group. For every immigrant with a birth year reported in a five-year bucket (i.e., everyone born from 1940-1980), we assumed they were born in the median year of that bucket and calculated their age at arrival. Finally, we assigned everyone born after 1980 to the <24 years old at arrival group.

Table 14: Employment-based principals, by age and educational attainment (n=1,250)

	0-24	25-64	65+
Less than high school	3.51%	2.83%	0.19%
High school	5.03%	5.38%	0.08%
Some college	0.92%	0.85%	0.00%
Bachelor's degree	30.70%	11.32%	0.00%
Greater than a bachelor's degree	26.24%	12.70%	0.24%

Table 15: Employment-based derivative spouses, by age and educational attainment (n=279)

	0-24	25-64	65+
Less than high school	2.73%	6.07%	0.00%
High school	7.66%	5.81%	0.00%
Some college	1.22%	1.34%	0.00%
Bachelor's degree	28.89%	13.22%	0.00%
Greater than a bachelor's degree	26.28%	6.79%	0.00%

Table 16: Employment-based derivative children, by age and educational attainment (n=1,250)

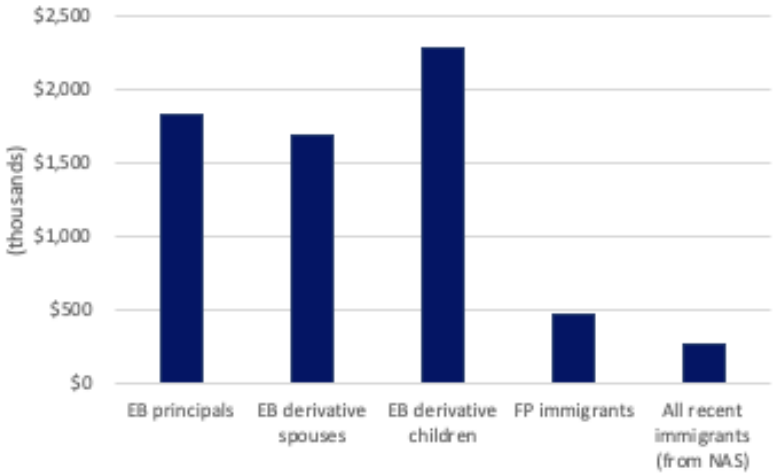
	0-24	25-64	65+
Less than high school	8.80%	0.00%	0.00%
High school	13.47%	0.00%	0.00%
Some college	2.56%	0.00%	0.00%
Bachelor's degree	42.11%	0.00%	0.00%
Greater than a bachelor's degree	33.06%	0.00%	0.00%

Combining these estimates derived from the New Immigrant Survey and the estimates of the fiscal impacts of immigrants from the NAS study, we can immediately see that the average employment-based or family preference immigrant is a larger net fiscal benefit than the average immigrant. For instance, we estimate the average EB derivative child and their descendants are expected to pay $2.3 million more in taxes to all levels of government than they receive in benefits over 75 years in net present value terms.[62] The long-term net fiscal impact of the average family preference immi-

62. The total fiscal impact of an immigrant in the NAS study includes the fiscal effect not only of the immigrant, but their descendants (who would otherwise not be here).

grant is estimated at $466,000. By contrast, NAS estimates the long-term net fiscal impact of the average immigrant of any type is only $259,000.

Figure 2: Average 75-year net present value to federal, state, and local governments of new immigrants of each category (thousands of 2012 dollars)



When we apply these impacts to the immigration flows under each recapture proposal, we can see the fiscal promise of recapturing green cards. We estimate administrative recapture would have a long-term net fiscal impact to all levels of government of more than $90 billion, AC21 recapture would have a long-term net fiscal impact of $118 billion, and USCA recapture would have a long-term net fiscal impact of $363 billion.

The unestimated benefits of recapture: adjustments of status, work authorization for spouses, and retention of children

Our estimate of the economic and fiscal impact of recapturing green cards is based only on the effect that recapturing green cards would have on increasing the number of new arrivals. For simplicity, we have ignored the contributions to the economy from green cards that go to migrants already present in the United States. Recaptured green cards would not only bring new immigrants into the labor force, but they would also retain and boost the productivity of temporary workers, offer work opportunities to their spouses, and ensure their children can stay in the country and contribute to the economy when they become adults. Our estimates are therefore likely to be conservative; if anything, this report *under*estimates the net economic and fiscal benefits of recapture. While foreign-born workers in the green card backlog who are waiting to adjust status are already contributing to the U.S. economy, their productivity and economic contributions are diminished because they lack the rights associated with lawful permanent residence. Their immigration status imposes obstacles if they want to change employers; and extending their status costs both them and the government money and time. There's strong evidence that greater permanency in immigration status facilitates integration into U.S. labor markets by reducing barriers to employment

and giving immigrants certainty that they can remain in the United States, enabling them to invest in education, job training, and improving their skills.[63]

Furthermore, when a temporary worker finally receives a green card, their spouse and children can be freed from restrictions that keep them from contributing to the economy. With some exceptions, spouses of temporary workers are prohibited from working themselves until they receive a green card. A program established by regulation in 2015 has granted work authorization to many spouses of H-1B workers, but even so, the program is precarious because it can be threatened by a hostile administration or in court. In addition, the children of temporary workers often lose their right to remain in the United States once they turn 21, even though they have grown up and been educated in the United States. Retaining these children requires that their parents receive green cards in time. Moreover, green cards not only allow the spouses and children of migrants lawfully present in the United States to contribute when they otherwise cannot, but it also keeps families facing these restrictions from leaving entirely for opportunities abroad.

One of the most pressing examples is the ongoing flow of Indian workers and their families on temporary skilled-worker H-1B and H-4 visas to Canada. The Canadian immigration system has offered a much faster track for skilled workers and their families to obtain permanent residency, so much so that some prospective immigrants are refusing to consider immigrating to the United States altogether.

The University of Tennessee at Chattanooga conducted a study of 1,042 individuals in the United States with temporary immigration status (H-1B, H-4, J-1, F-1, and L-1) and found that 93.4 percent were "very concerned" about the long wait times for green cards.[64] The study also found that 70 percent of all participants were "seriously thinking at the present time about emigrating to a more visa-friendly country."[65] Stuart Anderson, executive director of the National Foundation for American Policy, found that the number of Indians obtaining permanent residence in Canada has more than doubled since 2016.[66] The Center for Security and Emerging Technology found that between 2017 and 2019, over 20,000 "noncitizen U.S. residents sought and received invitations to apply for permanent residence in Canada" through the high-skill Express Entry immigration program.[67]

Recapturing green cards would therefore go some way toward persuading families on the fence about moving to the United States or staying in the United States that they should bring and keep their talents and contributions here. These are substantial benefits and their absence from the

63. Bernt Bratsberg et al., "The Effect of Naturalization on Wage Growth: A Panel Study of Young Male Immigrants," *Journal of Labor Economics* 20, no. 3, 2002. See also María E. Enchautegui and Linda Giannarelli, "The Economic Impact of Naturalization on Immigrants and Cities," Urban Institute, 2015 and Manuel Pastor and Justin Scoggins, "Citizen Gain: The Economic Benefits of Naturalization for Immigrants and the Economy," Center for the Study of Immigrant Integration, 2012. While the literature has focused on naturalization specifically, the mechanisms, if not the magnitudes, should apply as well to getting lawful permanent residency — and in any case, lawful permanent residency is a prerequisite for the benefits of naturalization.

64. Pooja B. Vijayakumar and Christopher J.L. Cunningham, "An indentured servant: The impact of green card waiting time on the life of highly skilled Indian immigrants in the United States of America", University of Tennessee at Chattanooga,January 17, 2019.

65. *Ibid*.

66. Stuart Anderson, "Indians Immigrating To Canada At An Astonishing Rate", Forbes, February 3, 2020.

67. Zachary Arnold, "Canada's Immigration System Increasingly Draws Talent from the United States", Center for Security and Emerging Technology, July 14, 2020.

U.S. economy would be to the country's detriment. Nevertheless, none of these factors is included in our estimates.

We also are likely to have underestimated the benefits from recapturing green cards by assuming that there is no long-term effect on the growth rate. In both our high and low estimates, we assumed that after 2022, GDP growth would return to its previous projected trajectory. Even though our high estimate is based on a model that captures the contribution of immigrants to productivity, it only measured the first-year effect on productivity. Since it is almost certain that the effect on productivity and hence on the growth rate does not fall to zero after a year, the true benefits of immigration may very well exceed our high estimate.

We can be less sure of bias in our estimate on the fiscal impacts. While it is true that family preference immigrants have likely gotten older on average since the NIS was conducted, as backlogs and waiting list times have increased, immigrants have also tended to be more educated on average. These two effects work in opposite directions on our estimate of the fiscal effects of administrative and USCA recapture. However, since AC21 recapture would only allocate recaptured green cards to the EB category, we would expect the latter effect to dominate.

We hence expect that we have underestimated the economic benefits of each recapture scenario, as well as the fiscal benefits of at least AC21 recapture.

Conclusion

The international researchers, scientists, and entrepreneurs who have come to the United States to advance innovative projects or businesses rely on the ability to obtain permanent residency in a timely manner. However, the federal government is handicapping its already highly constrained allotment of green cards by not granting all of them each year due to administrative errors or delays. And the poorly-implemented way that unused green cards move back and forth between family-based and employment-based categories means many of these mistakes lead to a permanent loss of green cards and a persistent shortfall in the number of immigrants below what Congress intended. All of this severely exacerbates the unacceptable wait times for applicants and costs the economy billions of dollars.

The Biden administration and Congress must act to recapture lost green cards and update the way unused green cards are distributed. Without immediate action, the United States could miss out on hundreds of billions of dollars of GDP growth over the next 10 years. Recapturing lost green cards is a straightforward way we can ensure that immigrants and their families can build their lives in the United States and contribute to our communities.

Acknowledgements

We would like to thank Bruce Morrision, Amy Nice, Emilie Hyams, David Bier, and Kristen De Peña for their thoughtful recommendations and comments that improved this report. All remaining errors are our own. We would also like to thank David Dagan for his meticulous copy-editing and Jacob Czarnecki for his help with formatting.

APPENDIX

Table 17: Calculating the number of green cards available for recapture[68]

FY	Unused family preference numbers	Unused employment preference numbers	Following FY's family preference cap	Following FY's employment preference cap	Available green cards under administrative recapture	Available green cards under AC21 recapture	Available green cards under USCA recapture
1992	5,435	21,207	232,483	161,207	14,724*	21,207	26,642
1993	3,213	0	226,000	143,213	0	0	3,213
1994	6,503	29,430	253,721	146,503	1,709	29,430	35,933
1995	0	58,694	311,819	140,000	0	58,694	58,694
1996	0	21,173	226,000	140,000	21,173	21,173	21,173
1997	0	40,710	226,000	140,000	40,710	40,710	40,710
1998	20,906	53,571	226,000	160,906	53,571	53,571	74,477
1999	2,299	98,941	294,601	142,299	30,340*	98,941*	101,240
2000	52,074	31,098	226,000	192,074	31,098*	31,098*	83,172
2001	2,632	5,511	226,000	142,632	5,511	5,511	8,143
2002	31,532	0	226,000	171,532	0	0	31,532
2003	64,422	88,482	226,000	204,422	88,482	88,482	152,904
2004	8,449	47,305	226,000	148,449	47,305	47,305	55,754
2005	3,949	0	226,000	143,949	0	0	3,949
2006	7,148	10,288	226,000	147,148	10,288	10,288	17,436
2007	22,704	0	226,000	162,704	0	0	22,704
2008	0	0	226,000	140,000	0	0	0
2009	10,662	0	226,000	150,662	0	0	10,662
2010	0	405	226,000	139,349	405	405	405
2011	4,958	47	226,000	144,958	47	47	5,005
2012	18,465	311	226,000	158,465	311	311	18,776
2013	10,247	0	226,000	150,247	0	0	10,247
2014	4,807	0	226,000	144,807	0	0	4,807

68. The first four columns come from "Report of the Visa Office," Bureau of Consular Affairs, 2000-2020; *Annual Report 2010*, Citizenship and Immigration Services Ombudsman, June 30, 2010; and *Annual Report 2007*, Citizenship and Immigration Services Ombudsman, June 11, 2007. The last three columns are the authors' calculations.

2015	329	855	226,000	140,329	855	855	1,184
2016	0	0	226,000	135,309	0	0	0
2017	281	0	226,000	140,281	0	0	281
2018	1,910	798	226,000	141,910	798	798	2,708
2019	16,248	1,324	226,000	156,248	1,324	1,324	17,572
2020	122,281	9,095	226,000	262,281	9,095	9,095	131,376
Total					231,584†	339,206†	940,699

*Years marked with an asterisk are not included in the total because of how that theory treats previous recaptures.

†Totals indicated with a dagger are equal to the sum of the included rows of the column, minus 50,000 additional green cards which were already recaptured by the 2005 supplemental and hence not included in the way that method counts available green cards.