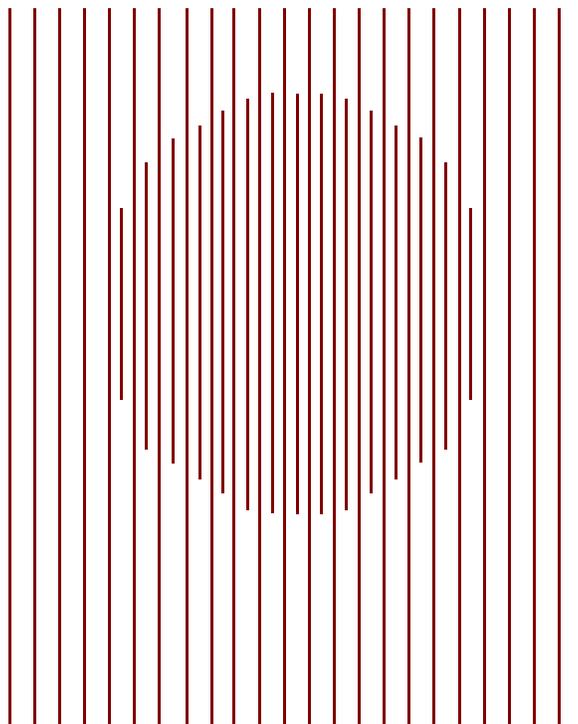


CBO PAPERS

IMMIGRATION AND WELFARE REFORM

February 1995



CONGRESSIONAL BUDGET OFFICE

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**CONGRESSIONAL BUDGET OFFICE
SECOND AND D STREETS, S.W.
WASHINGTON, D.C. 20515**

Numbers in the text and tables of this paper may not add to totals because of rounding. Unless otherwise indicated, all years refer to fiscal years. All discussions of H.R. 4 refer to the version of the bill introduced in January 1995.

PREFACE

Considerable attention has focused in recent months on the participation of legal immigrants in the welfare system. One result has been a number of proposals to end or restrict their eligibility for the major means-tested federal entitlement programs. At the request of Congressman Harold Ford when he was Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, this paper examines the participation of noncitizens in the Food Stamp program, Aid to Families with Dependent Children, Supplemental Security Income, and Medicaid, and analyzes options for limiting their eligibility for these programs. In accordance with the Congressional Budget Office's (CBO's) mandate to provide objective and impartial analysis, the paper contains no recommendations.

Daniel M. Mont of CBO's Health and Human Resources Division prepared this paper under the direction of Nancy M. Gordon and Ralph E. Smith. The estimates of the budgetary impacts of the proposals were prepared by Jean Hearne, Julia Isaacs, Robin Rudowitz, Kathy Ruffing, and John Tapogna of CBO's Budget Analysis Division, under the direction of Paul N. Van de Water and Paul R. Cullinan.

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Robert D. Reischauer
Director

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SUMMARY

A number of current proposals dealing with welfare reform would restrict or eliminate the eligibility of legal immigrants for welfare programs. This paper furnishes some background information on such immigrants and their participation in welfare programs. It also examines various aspects of those proposals and reviews arguments for and against their adoption.

IMMIGRATION AND IMMIGRANTS

Hundreds of thousands of legal immigrants enter the United States every year. About 9 million to 10 million of those living in this country are classified as legal permanent residents. Others enter the country as refugees or are granted asylum after they arrive here, and some fall into a variety of legal classifications that, along with refugees and asylees, are known as persons residing under color of law (PRUCOL). In addition, approximately 3 million aliens live here illegally.

Immigration is subject to many laws and regulations, which include limits on the number of certain types of immigrants who are allowed to enter the United States and their qualifications for entry. The majority of new immigrants obtain visas for entrance on the basis of family ties with citizens or other legal immigrants. Most of the others who enter qualify on the basis of their employment--that is, they have a particularly valuable skill or profession.

An application for immigration can be rejected if an immigrant is considered likely to become a public charge at any time after arriving in the United States. In fact, about 11 percent of visa applications are denied because potential immigrants cannot prove that they would not be public charges. Immigrants must demonstrate that they have the resources, skills, or prearranged employment necessary to support themselves. If they cannot do so, they can still immigrate if a sponsor in the United States signs an affidavit of support pledging to assist them and proving that the sponsor is capable of such assistance. (Those immigrants are referred to here as sponsored immigrants.)

Immigrants who become legal permanent residents can usually become citizens after living for five years in the United States. With some exceptions, they must pass a civics and English proficiency test, after which they obtain the rights and privileges of natural-born citizens.

ELIGIBILITY OF IMMIGRANTS FOR WELFARE PROGRAMS

Most legal immigrants who otherwise qualify are eligible for food stamps, Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and Medicaid--the four major welfare programs that accounted for about 85 percent of total federal spending on means-tested entitlement programs in 1994. (Means-tested programs distribute benefits only to recipients who first satisfy an income and asset requirement.) Restrictions keep many PRUCOL aliens from receiving food stamps, but otherwise the eligibility requirements are basically the same for citizens and legal immigrants. Illegal aliens and legal nonimmigrants (mostly tourists, students, or businesspeople in the United States temporarily) are eligible only for emergency medical assistance under Medicaid.

Sponsored immigrants have an added requirement, known as deeming, to be eligible for welfare programs. The deeming procedure is generally similar for all four programs--namely, a sponsor's income and resources must be included in the test for eligibility for three years after a person immigrates. However, the deeming period for SSI has been temporarily increased to five years, and it is waived if a disability qualifying an immigrant for reciprocity began after arrival in the United States. For Medicaid, the requirement is the same for legal immigrants as for citizens: the only people whose income and resources are used in determining eligibility are the immigrant's spouse or parent (for those under age 21).

PARTICIPATION OF LEGAL IMMIGRANTS IN WELFARE PROGRAMS

The percentage of legal immigrants who receive welfare benefits varies depending on which program or subset of immigrants is being examined. Furthermore, the percentage of individual immigrants receiving welfare benefits is different from the percentage of households or families--with at least one member who is a legal immigrant--receiving benefits. In addition, in trying to assess trends in participation in welfare programs, the effects of the Immigration Reform and Control Act of 1986 (IRCA) must be considered. (IRCA allowed many previously illegal aliens to become legal permanent residents after satisfying certain requirements.)

The percentage of food stamp and AFDC recipients who are legal immigrants is similar to the percentage of all people residing in the United States who are not citizens--between 4 percent and 5 percent. About 1.2 million legal immigrants received food stamps each month in 1992, and approximately 620,000 legal immigrants received AFDC during the same period. The percentage of families receiving AFDC or of households receiving food stamps with at least one member who is not a citizen is higher--roughly 10 percent for each program.

The percentage of SSI recipients who are legal immigrants is significantly higher--approximately 12 percent of the nearly 6 million SSI recipients in 1993. Those noncitizens were disproportionately concentrated in the SSI program for the aged, as opposed to the program for the blind and disabled. About 29 percent of the aged recipients--and more than 60 percent of aged recipients not qualifying for Social Security benefits--were legal immigrants. Elderly immigrants generally do not have the work experience necessary to qualify for Social Security and thus have lower incomes and are more likely to qualify for SSI. Those circumstances, combined with the fact that Social Security recipients receive lower SSI benefits on average even when they do qualify, resulted in more than 45 percent of all SSI payments under the aged program going to legal immigrants in August 1994.

The percentage of SSI recipients who are legal immigrants has been growing, a trend that is expected to continue. Applications by immigrants have increased from about 60,000 a year in the early 1980s to more than 160,000 a year in 1993. As those applicants are approved for benefits and enter the SSI program, the total number of recipients will increase.

The reciprocity rate for legal immigrants in the Medicaid program is about 6.5 percent of all Medicaid recipients. In 1996, an estimated 2.4 million Medicaid recipients will be legal immigrants.

LIMITING LEGAL IMMIGRANTS' ELIGIBILITY FOR WELFARE PROGRAMS

A variety of reform proposals that have appeared recently are aimed at restricting or eliminating the eligibility of legal immigrants for welfare. They range from denial of welfare benefits for certain categories of immigrants to more limited proposals that would typically expand requirements for the sponsors of immigrants.

Denying Legal Immigrants Eligibility for Welfare Programs

One of the proposals would eliminate eligibility for welfare benefits other than emergency medical assistance for most legal immigrants. The exceptions would be refugees and legal permanent residents who were age 75 or older and had lived in the United States for at least five years. The Congressional Budget Office (CBO) estimates that this option would reduce federal outlays by \$23.3 billion over the 1997-2000 period. (Savings would be minimal in 1996 because the January 1995 version of H.R. 4, which would deny eligibility for welfare programs to most legal immigrants, would not apply to the eligibility of a noncitizen until one year after the date of its enactment--provided that the noncitizen was residing in the United States and eligible for benefits on that date.)

One reason for cutting back immigrants' eligibility that is given by proponents of reform is that immigrants who choose not to become citizens after residing in this country for the required number of years are making a statement about their level of commitment to the United States. Therefore, such proponents claim that it would be appropriate to deny those immigrants the full benefits enjoyed by citizens. Critics of that argument point out that legal immigrants are treated like citizens when they are required to contribute to the public interest. For example, immigrants who have not become naturalized citizens must still pay taxes, and those men who are of an appropriate age must register with the Selective Service. Therefore, such critics maintain that legal immigrants should also receive the benefits accorded citizens.

Concern about a lack of commitment to the United States may be more relevant for SSI eligibility than for eligibility for AFDC or the Food Stamp program. Most legal immigrants who receive SSI benefits entered the United States when they were age 60 or older and are thus less likely than the typical recipient of food stamps or AFDC (who tends to be younger) to have paid taxes or contributed to the nation's economy. Similarly, elderly immigrants are not called upon to serve in the armed forces.

Other reasons given in support of this proposal are that sponsored immigrants should be the responsibility of their sponsors, not the general public; reliance on public assistance programs undermines the incentive for new immigrants to integrate themselves into the nation's economy; and this approach might deter low-skilled immigrants of working age from coming to the United States and competing directly for jobs with economically disadvantaged citizens.

Opponents of these measures, aside from denying the proponents' claims, offer two arguments against restricting eligibility. First, they are concerned about the social well-being of immigrants and their children, many of whom will become citizens when the five-year waiting period ends. Second, eliminating federal benefits could create more applicants to welfare programs supported by the states. In essence, the savings at the federal level could be at least partly translated into state expenditures. Some proposals attempt to address that possibility, but there are some questions about their constitutionality.

Restricting Legal Immigrants' Eligibility for Welfare Programs

Other proposals would restrict rather than eliminate the eligibility of sponsored immigrants by increasing the deeming period for all welfare programs to five years or until an immigrant obtains citizenship. A measure that falls between those two approaches calls for increasing deeming periods to five years for all sponsored immigrants but, in addition, increasing them until citizenship is obtained for immigrants with sponsors whose income exceeds the national median. These proposals have much smaller savings than the proposal to eliminate eligibility for most benefits.

Finally, another approach would make a sponsor's affidavit of support a legally binding document. Under current law, if sponsors renege on their agreements, neither the immigrant nor the government can take legal action. Although such an option would send a signal about a sponsor's responsibility, it might not generate significant savings because of the difficulty and cost of enforcing it.

Effects on State and Local Spending

Denying or restricting legal immigrants' eligibility for federal welfare programs would affect spending by states and localities, but the magnitude of the effect could vary significantly from state to state, and some states might even spend less than they do under current law. The net impact would depend on the existence and nature of state and local general assistance (GA) programs, state supplements to SSI, state and local shares of AFDC and Medicaid expenditures, and the economic and demographic characteristics of states' populations of legal immigrants. Spending for GA and general medical assistance (GMA) programs would increase, but state and local spending for AFDC, Medicaid, and state supplemental payments for the SSI program would decrease.

The impact of the various proposals on local governments could be more severe than their impact on the states. Legal immigrants who were removed from Medicaid would presumably show up at locally funded public hospitals for both emergency and nonemergency treatment. Those immigrants would probably also seek services at community health centers and migrant health centers, which would no longer be able to use federal funds to treat immigrants. Those facilities would, therefore, have higher unreimbursed costs.

Some proposals have included measures that would allow states and localities to restrict the eligibility of noncitizens for their welfare programs, thus minimizing the potential for costs to be shifted to them. Although questions have arisen about the constitutionality of those measures, states and localities could certainly curtail their GA and GMA programs for all residents, thereby reducing the financial impact of restricted eligibility for federal programs.

CHAPTER I

IMMIGRATION AND IMMIGRANTS

The Congress and the Administration are currently proposing to revamp the nation's welfare system. As a result, increasing attention has focused on the participation of legal immigrants in welfare programs. Out of that scrutiny has come a debate about whether legal immigrants should be eligible for public assistance. Several Members of Congress have offered proposals that would eliminate or at least seriously curtail the eligibility of legal immigrants for welfare benefits. This paper provides background information on immigrants and welfare and analyzes several such proposals.

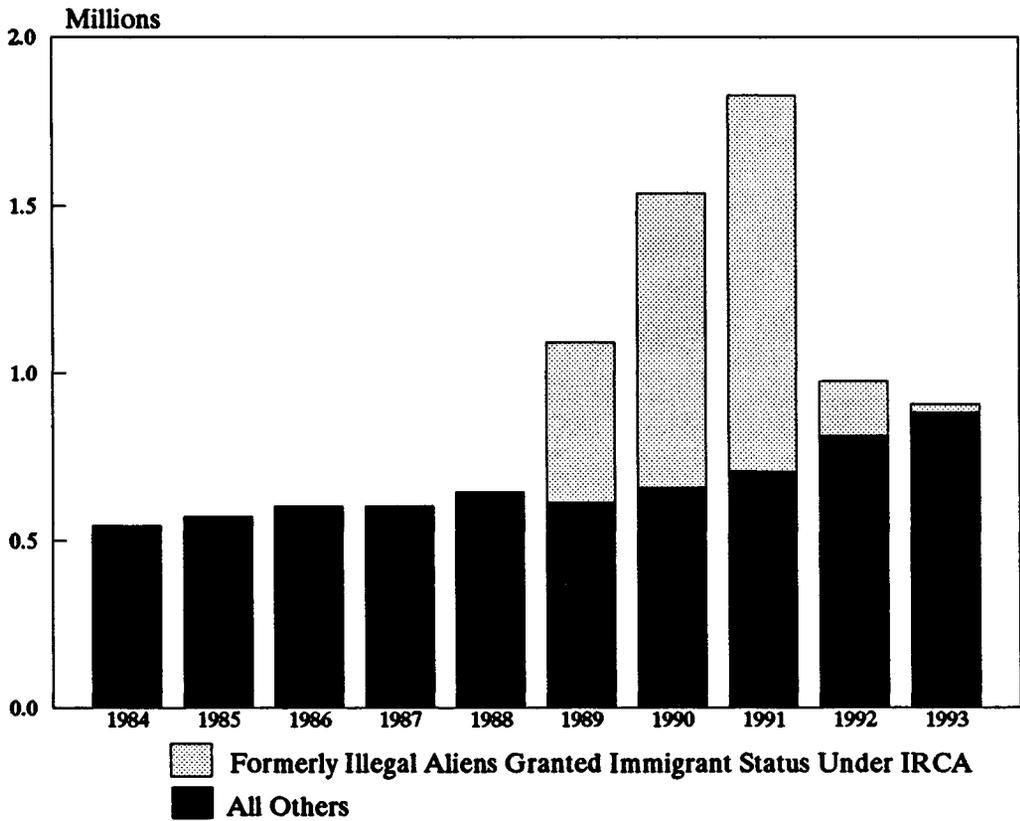
Historically, immigration has had a major impact on the composition of the U.S. population, and that process continues today. Between 1990 and 1993, over 5 million people either immigrated legally to the United States or changed their residency status from temporary to permanent. In fact, legal immigration has increased during every decade since the 1930s. If the current pace continues for the rest of this decade, legal immigration in the 1990s might break the record set in the first 10 years of this century.

Record numbers of people became legal immigrants in 1990 and 1991 (see Figure 1). That surge was due in large part to certain illegal aliens' being given legal status under the Immigration Reform and Control Act of 1986 (IRCA). But even if one excluded people who became legal immigrants under IRCA, it would still be clear that immigration had increased in every year from 1990 to 1993.

Legal immigrants are a varied group. They come from all over the world and differ widely in age, occupation, and education. In 1993, about 40 percent of them came from Asia, 39 percent from the Americas, and 18 percent from Europe. They settled in all 50 states, but over two-thirds of them immigrated to just six: California (29 percent), New York (17 percent), Texas (7 percent), Florida (7 percent), New Jersey (6 percent), and Illinois (5 percent).

Legal immigrants fall into a number of categories, all of which are distinct from nonimmigrants and illegal aliens (see Figure 2). Noncitizens are considered immigrants if they are lawfully admitted to the United States for permanent residence. Legal immigrants can secure employment, and after a period of residence, usually five years, they can become citizens. The United States also admits nonimmigrants for a special purpose. In 1993, more than 21

FIGURE 1.
NUMBER OF LEGAL IMMIGRANTS ADMITTED TO THE
UNITED STATES, 1984–1993



SOURCE: Congressional Budget Office using data from the Immigration and Naturalization Service.

NOTES: Legal immigrants admitted to the United States include new entrants and people previously residing in the United States whose status was changed to that of immigrant.

IRCA = Immigration Reform and Control Act of 1986.

FIGURE 2. OVERVIEW OF CITIZENSHIP STATUS CATEGORIES

	CITIZENS	NONCITIZENS	
		Permanent (Immigrants)	Temporary (Nonimmigrants)
LEGAL	Native born Naturalized	Legal Permanent Residents -With financial sponsors -Without financial sponsors PRUCOL -Refugees and asylees -Other	Tourists Business Travelers Diplomats Students Others
ILLEGAL	Not applicable	Illegal Aliens	

SOURCE: Congressional Budget Office.

NOTE: PRUCOL = permanently residing under color of law.

million nonimmigrants entered the country; they consisted mostly of tourists, business travelers, diplomats, and students. These "temporary noncitizens" are subject to more restrictions than immigrants. Unless otherwise noted, the term "legal immigrants" in this paper refers to lawfully admitted immigrants who have not become naturalized citizens.

LEGAL AND ILLEGAL RESIDENTS

Solid estimates of the number of legal immigrants living in the United States are not available. Until 1980, noncitizens residing here were required to file an alien address report annually. However, the federal government eliminated that procedure in 1981, making it much more difficult to estimate the total number of resident noncitizens. According to testimony by officials from the Immigration and Naturalization Service (INS) before the Commission on Immigration Reform in December 1993, between 8.8 million and 9.8 million immigrants were considered legal permanent residents in the United States at the time of the 1990 census. At that time there were also about 8 million naturalized citizens--that is, immigrants who had completed the naturalization process and become citizens.

Measuring the size of the illegal alien population residing in the United States is extremely difficult as well, although a variety of methods exist that can generate a range of estimates. For 1990, the Bureau of the Census reported a population of between 1.7 million and 5.5 million illegal aliens, although that range is wider than what is usually reported. The INS estimates that as of October 1992, 3.4 million illegal aliens were residing in the United States, with current annual growth in their numbers of approximately 300,000. The General Accounting Office estimated that in April 1990, there were at most 3.4 million illegal aliens in the United States.¹

Estimates are that roughly 80 percent of illegal aliens reside in five states. According to the INS, California has 40 percent of the total number and New York has the next largest share at 15 percent--followed by Florida (10 percent), Texas (10 percent), and Illinois (5 percent).

This paper deals mainly with legal immigrants because illegal aliens are ineligible for the four major federal welfare programs: food stamps, Aid to Families with Dependent Children, Supplemental Security Income, and Medicaid. (Illegal aliens are, however, eligible for emergency medical assistance through Medicaid.) Recent proposals to limit eligibility for federal

1. General Accounting Office, *Illegal Aliens: Despite Data Limitations, Current Methods Provide Better Population Estimates*, GAO/PEMD-93-25 (August 1993).

programs refer to changing the eligibility rules for legal immigrants only. Thus, the remainder of this chapter discusses those immigrants and the categories into which they are divided.

LEGAL PERMANENT RESIDENTS

Most legal immigrants enter the country as legal permanent residents (LPRs). LPRs are admitted to the country under a preference system based primarily on family relationships and employment arrangements. These immigrants, known as green-card holders, are permitted to stay and work in the United States indefinitely.

After five years of continuous residence here, any LPR age 18 or over may apply for naturalization. Additional requirements include knowledge of the history and government of the United States and literacy in English. Children of LPRs under the age of 18 automatically become citizens when their parents do. LPRs over a certain age who have lived in the United States for an extended time (20 years for people age 50 and over and 15 years for people age 55 and over), or who are physically unable to comply with the English literacy requirement for citizenship, can be exempted from it, although not from the civics requirement. Children and spouses of citizens are also exempt from the English requirement. Furthermore, some LPRs can become citizens before five years of residence. For example, the majority of spouses of U.S. citizens can become naturalized citizens after three years.

LPR Classifications

Most LPRs are admitted to the United States because of family relationships with citizens or other LPRs. In some cases, LPRs gain entry because of employers or diversity requirements. Still others entered initially as illegal aliens but have been able to gain legal status under IRCA. People applying to enter the United States are often subject to numerical limits based on their classification.

Immediate Relatives. More than a quarter million of the over 900,000 people entering the United States as immigrants in 1993 were immediate relatives of citizens (see Table 1). That category of immigrants faces no numerical limits. It includes spouses, unmarried children under age 21, and parents of citizens age 21 and over.

TABLE 1. NUMBER OF LEGAL IMMIGRANTS BY CATEGORY OF ADMISSION, 1993

Category of Admission	1993 Admissions and Adjustments ^a	1993 Numerical Limit	1994 Numerical Limit
Legal Permanent Residents			
Immediate relatives of citizens ^b	255,059	None	None
Family-sponsored preference ^c	226,776	232,483	226,000
Employment-based preference ^d	147,012	161,217	143,213
Diversity ^e	33,468	41,019	46,918
Legalization dependents ^f	<u>55,344</u>	55,000	32,776
Subtotal	717,659		
PRUCOL			
Refugees and asylees ^g	127,343	h	h
Other	<u>35,012</u>	Various	Various
Subtotal	162,355		
IRCA Legalizations	<u>24,278</u>	i	i
Total	904,292		

SOURCE: Congressional Budget Office based on J. Violet and M. Forman, *Immigration: Numerical Limits on Permanent Admissions*, CRS Publication 94-146 EPW (Congressional Research Service, July 1994).

NOTE: PRUCOL = permanently residing under color of law; IRCA = Immigration Reform and Control Act of 1986.

- a. Adjustments are people who entered the country before or during 1993 and whose status changed in that year from nonimmigrant to immigrant.
- b. Immediate relatives of citizens are spouses, parents of citizens age 21 and over, and unmarried children under age 21.
- c. Family-sponsored preference immigrants include children and siblings of citizens, and spouses and children of legal permanent residents.
- d. Employment-based preference immigrants include workers with extraordinary abilities, members of professions holding advanced degrees, "shortage" workers who have skills in short supply, certain special immigrants such as ministers and employees of the U.S. government abroad, and certain investors who create at least 10 new jobs.
- e. Diversity immigrants are natives of countries "adversely affected" by the Immigration and Nationality Act Amendments of 1965. The number of immigrants in this category exceeded the numerical limits in 1993 because limits apply to the number of visas issued, whereas admissions and adjustments refer to actual entry into the country. Some legalization dependents who obtained visas in 1992 did not enter the country until 1993. Under the family unity provisions of the Immigration Act of 1990, the numerical limits for this category are reduced each fiscal year from 1992 to 1994 by the number of immediate relatives who were immigrants in the previous year, less 239,000.
- f. Legalization dependents are spouses and children of permanent residents who were formerly illegal aliens but were given legal status under the provisions of IRCA.
- g. Asylees, like refugees, are people who have fled persecution in their homeland and who are already living in the United States.
- h. There are no numerical limits for refugees; the limit for asylees is 10,000.
- i. The number of IRCA legalizations is limited to the number of cases still pending.

Family-Sponsored Preference Immigrants. Other relatives can enter the United States through a family-sponsored preference system. Family members in certain categories, such as citizens' unmarried sons and daughters age 21 and over and spouses and children of permanent residents, have priority over others in lower preference groups, such as married sons and daughters of citizens and citizens' siblings age 21 and over. People immigrating as a member of one of the family-sponsored preference groups are subject to numerical limits.²

Employment-Based Preference Immigrants. Immigrants can also gain entry as LPRs through an employment-based preference system. Such immigrants typically have special skills or abilities that are considered particularly desirable or that are in short supply in the United States.³

Diversity Immigrants. The diversity immigrant classification attempts to make immigrating easier for nationals of countries who would otherwise find immigrating difficult under the family-sponsored preference system. That situation arises because people from countries that have had small numerical limits in the past have fewer relatives in the United States. (Since most immigrants gain entry to the United States through family members, the system generates an immigrant pool that comes mainly from countries providing immigrants in the recent past.)

Legalization Dependents. Legalization dependents are spouses and children of permanent residents who became legal immigrants under IRCA. IRCA allowed illegal aliens who would otherwise have been eligible for immigration and who had resided continuously in the United States since before January 1, 1982, to apply for temporary resident status during the 12-month period beginning in May 1987. After 18 months as temporary residents, such applicants could apply for an adjustment to their status within the subsequent 12 months and become legal permanent residents. After becoming LPRs, these people could apply for citizenship after five additional years of residence. Some of those previously illegal aliens had become citizens by the end of 1993.

Sponsored LPRs

Foreign nationals who would otherwise be eligible to immigrate and to be classified as LPRs are not admitted to the United States if immigration officials

2. The family-sponsored preference groups and their numerical limits are discussed in detail in J. Vialet and M. Forman, *Immigration: Numerical Limits on Permanent Admissions*, CRS Publication 94-146 EPW (Congressional Research Service, July 1994).

3. The employment-based system is also discussed in more detail in Vialet and Forman, *Immigration*.

expect them to become public charges (incapable of supporting themselves financially). The Department of State denies about 11 percent of noncitizens' visa applications for immigrant status because those individuals are unable to prove that they will not become public charges.⁴

Yet people who are expected to be public charges upon arrival in this country can still become immigrants if a sponsor signs an affidavit of support pledging to be financially responsible for them. To be a sponsor, a person or organization must demonstrate the ability to support any present dependents as well as the prospective immigrant.

Financial sponsors are not necessarily the same as the family sponsors mentioned earlier (although they may be). Similarly, not all immigrants with family sponsors need financial sponsors--only those people who are expected to become public charges. From now on, the term "sponsored immigrants" in this paper will refer to immigrants with signed affidavits of support.

A sponsor's affidavit of support, however, is not a legally binding document. If sponsors renege on their commitment, there is no legal recourse. Neither the sponsored alien nor the government can enforce the affidavit through the courts.

PERMANENTLY RESIDING UNDER COLOR OF LAW

Noncitizens who are not LPRs but who are here as legal residents--either permanently or indefinitely--are sometimes classified as permanently residing under color of law (PRUCOL). PRUCOL status is not defined by statute. Rather, it is a term used in several federal welfare laws for determining whether certain people who legally reside in the United States but who are not LPRs or nonimmigrants are eligible for benefits. Welfare programs vary in terms of which groups of immigrants are considered PRUCOL and may thus receive benefits if they otherwise qualify.

Refugees and "asylees" are larger in number than any other group of immigrants with a PRUCOL classification. Refugees are people fleeing persecution in their homelands; asylees have similar claims but are already living in the United States. The PRUCOL status of refugees and asylees is usually transitional because they can be granted permanent legal status under the Refugee Act of 1980 and then become citizens in the same manner as any

4. For further discussion of self-sufficiency under immigration law, see J. Vialet and L. Eig, *Immigration and Federal Assistance: Issues and Legislation*, CRS Issue Brief IB94037 (Congressional Research Service, July 13, 1994).

LPR. (Hereafter, refugees and asylees will be referred to collectively as refugees.)

Before 1980, the main mode of entry into the United States for people fleeing persecution was parolee status, which was granted by the Attorney General. Refugees and parolees numbered about 340,000 in 1993; they had come mainly from Cuba, the former Soviet Union, and Indochina. Just under half of the total number of people with PRUCOL status in 1993 were refugees and parolees.

People who are considered PRUCOL in welfare programs also include conditional entrants--noncitizens who are residing in the United States and have an indefinite stay of deportation, or people for whom the INS has suspended deportation with no intention of enforcing it. Other noncitizens in similar circumstances, as defined in section 1614(a)(1)(B) of the Social Security Act, are also classified as PRUCOL.

