



## The RAISE Act: What Lies Beneath the Proposed Points System?

If enacted, the recently introduced Reforming American Immigration for Strong Employment Act (RAISE Act) or S. 354 would mark a sweeping overhaul of the U.S. immigration system. The bill seeks to significantly reduce levels of legal immigration to the United States by drastically cutting off some family-based categories, redefining others, and eliminating the diversity visa. It would also substitute the existing employment-based system with a narrow and rigid points system.

An evaluation of the proposed system requires an understanding of its potential implications. First, the proposed system would represent a departure from the demand-driven model that characterizes the U.S. employment-based immigration system, which allows employers to select the workers they need, subject to government regulations. While switching to the points system proposed in the RAISE Act may result in a higher proportion of high-skilled immigrants, this may not lead to economic growth and increased competitiveness if these immigrants cannot find jobs to match their skill set. Second, the effort to create a points system conflicts with many core values the United States has traditionally embraced, such as providing equal opportunities for all, fighting discrimination of all sorts, protecting minorities and disadvantaged groups, and preserving family unity.

A preliminary analysis reveals that the proposed points system likely would put some categories of people at a tremendous disadvantage. Those groups include women, people who work in the informal economy (including those who do unpaid work), individuals with family ties to U.S. citizens but without formal education and employment history, middle-aged and older adults, and applicants from less-developed countries. The problems identified in this analysis raise concerns not only about the technical design of the points system, but the foundational values upon which the proposed new system is based. These concerns suggest that, before eliminating existing visa categories and replacing them with others, lawmakers must carefully explore the impacts of any new program to determine whether such a program can meet the needs of the nation.

### **What are immigration points systems and how do they work?**

- Point-based immigration systems are immigration-management tools used to score who is eligible to enter the host country. Variations of points systems are already used in some countries including Canada, the United Kingdom, Australia, and New Zealand.
- In every country that uses a points system, these tools are used in addition to other immigration-management methods which are often based on family relationships, humanitarian concerns, or other employment-based systems.

- Points systems are typically based on a list of characteristics that a country values, such as education, occupation, work experience, language ability, or age.
- After determining all desired characteristics and point values, a country sets the total number of points that a person needs before being allowed to enter the host country; this is called the “pass mark.”
- In 2007, S. 1348 (the “Secure Borders, Economic Opportunity and Immigration Reform Act of 2007”) proposed a complex points system that relied on a combination of factors, including education, job skills, English proficiency, and family ties. The proposed system was widely criticized because it favored educated, high-skilled immigrants at the expense of less-skilled workers. Critics also asserted that the system would have favored certain regions over others (in particular, it would have placed immigrants from Latin America at a disadvantage).
- In 2013, S. 744 (“The Border Security, Economic Opportunity, and Immigration Modernization Act”) proposed a points system as a tool to allocate a portion of new immigrant visas each year. Had this new system been adopted, a minimum of 120,000 foreign-born people would have been able to obtain immigrant visas each year by accumulating points mainly based on their skills, employment history, and educational credentials. At the same time, visa slots currently allocated to siblings and married, adult children of U.S. citizens, as well as to the Diversity Visa program, would have been reallocated to this new system.

### **What are the specifics of the points system included in the RAISE Act?**

- A maximum of 140,000 immigrant visas would be issued each fiscal year based on the points system. Spouses and minor children of the principal applicant would count against the 140,000 cap. This proposed cap on visas is the same quantity as currently allocated for employment-based visas only.
- An individual would be able to apply to be placed in the Eligible Applicant Pool if he or she had accrued 30 points (*“pass mark”*).
  - The allocation of points in both tiers would be based on a combination of factors, including age, education, English language proficiency, extraordinary achievement, a job offer, and intention to invest in the United States. Additionally, an applicant who has been granted admission under a family preference but who has not received a visa within one year of the law's enactment would be eligible for extra points.
- An applicant with a spouse who is accompanying or following to join would have to calculate the points the spouse would accrue if he or she were applying for a point-based immigration visa. If the points accrued by the spouse were lower than the points accrued by the applicant, the points accrued by the applicant would be adjusted.

The points would be distributed as follows:

### Full Details of Points System

| Worldwide level  | Cap of 140,000 for each fiscal year (including spouses and children)                |                               |
|------------------|---|-------------------------------|
| Point allocation | <b>Age (10 points maximum)</b>  |                               |
|                  | ▪ Between 0 and 17  | May not submit an application |
|                  | ▪ Between 18 and 21   | 6 points                      |
|                  | ▪ Between 22 and 25   | 8 points                      |
|                  | ▪ Between 26 and 30   | 10 points                     |
|                  | ▪ Between 31 and 35   | 8 points                      |
|                  | ▪ Between 36 and 40   | 6 points                      |
|                  | ▪ Between 41 and 45   | 4 points                      |
|                  | ▪ Between 46 and 50   | 2 points                      |
|                  | ▪ 51 or older   | 0 points                      |
|                  | <b>Formal education (13 points maximum)</b>   |                               |
|                  | ▪ U.S. or Foreign High School Degree  | 1 point                       |
|                  | ▪ Foreign Bachelor's Degree   | 5 points                      |
|                  | ▪ U.S. Bachelor's Degree  | 6 points                      |
|                  | ▪ Foreign Master's Degree in Science, Technology, Engineering or Mathematics (STEM) | 7 points                      |
|                  | ▪ U.S. STEM Master's Degree   | 8 points                      |
|                  | ▪ Foreign Professional Degree or Doctoral STEM                                      | 10 points                     |
|                  | ▪ U.S. Professional Degree or Doctoral STEM   | 13 points                     |
|                  | <b>English language proficiency (12 points maximum)</b>                             |                               |
|                  | ▪ 1 <sup>st</sup> – 5 <sup>th</sup> deciles   | 0 points                      |
|                  | ▪ 6 <sup>th</sup> – 7 <sup>th</sup> deciles   | 6 points                      |
|                  | ▪ 8 <sup>th</sup> decile  | 10 points                     |
|                  | ▪ 9 <sup>th</sup> decile  | 11 points                     |
|                  | ▪ 10 <sup>th</sup> decile   | 12 points                     |

|                         |   |           |
|-------------------------|---|-----------|
| <b>Point allocation</b> | <b>Extraordinary achievement (40 points maximum)</b>  |           |
|                         | ▪ Nobel Laureate or comparable recognition  | 25 points |
|                         | ▪ Individual Olympic medal or first place in a comparable international sporting event  | 15 points |
|                         | <b>Job offer/highly compensated employment (13 points maximum)</b>  |           |
|                         | ▪ Annual salary offered is at least 150% but less than 200% of the median household income in the state of employment   | 5 points  |
|                         | ▪ Annual salary offered is at least 200 % but less than 300% of the median household income in the state of employment  | 8 points  |
|                         | ▪ Annual salary offered is at least 300% of the median household income in the state of employment  | 13 points |
|                         | <b>Investment and active management of new enterprise (12 points maximum)</b>   |           |
|                         | ▪ Investment of at least \$1.35 million but less than \$1.8 million in a U.S. New Commercial Enterprise (NCE); maintain the investment for three years and play active role in managing the NCE as primary occupation | 6 points  |
|                         | ▪ Investment of at least \$1.8 million in a U.S. NCE; maintain the investment for three years and play active role in managing the NCE as primary occupation  | 12 points |
|                         | <b>Valid (pre-existing) offer of admission under family preference category</b>   | 2 points  |

The underlying message of this point distribution is very clear: it prioritizes individuals who are already U.S.-educated, trained in STEM fields, highly-compensated, English-fluent, and young.

## The challenges of shifting away from a demand-driven immigration model

- As detailed in the bill, this proposed system would represent a departure from the demand-driven model that characterizes the U.S. employment-based immigration system.<sup>1</sup> Under the current system, employers are allowed to select the workers they need, subject to government regulations.<sup>2</sup> Specifically, employers can petition for foreign workers through different [visa preference categories](#). Because they respond directly to the labor needs of employers, immigration systems that are demand-driven and employer-led have proven to be the most successful models for facilitating economic growth and competitiveness.<sup>3</sup>
- Under the proposed points system, potential immigrants are largely valued in terms of their human-capital attributes (an individual's current skills, knowledge, and experience), and therefore, their presumed capacity to produce economic value.
- Switching from a demand-driven to a human-capital model entails some risks. While selective migration strategies such as the points systems can be an effective way of attracting highly-educated individuals<sup>4</sup>, the intended objective of increasing national economic competitiveness is not guaranteed. Research has shown that even if an immigrant selection system produces a higher proportion of high-skilled immigrants, the economy does not reap benefits if these people cannot find jobs to match their skill set.<sup>5</sup>
- Both Australia and Canada use points-based systems to select economic migrants. In both cases, research has shown that generically qualified immigrants selected through such systems often have difficulties finding or maintaining employment in their professions; in other words, they have not been able to fully utilize all of their skills.<sup>6</sup>
- As documented by the Canadian case, the human capital-driven points-based system is unable to assess intangible qualities such as social adaptability or emotional intelligence. Thus, the degree to which the system reflects the hiring needs and practices of the Canadian labor market has been questioned. According to Canadian immigration expert Arif Anwar, "In Canada, the traditional disconnect between government policy and private sectors' practices are exacerbated, and play a role in the general lack of success experienced by Canadian skilled immigrants who arrive without arranged employment."<sup>7</sup>
- The points system proposed in the RAISE Act is a hybrid (combining elements of the traditional point and demand-driven models) in that it assigns points based on an offer of employment, but those points only apply to highly compensated occupations. By doing so, the proposed system seems to assume that only STEM occupations present pressing labor shortages. That is not consistent with the reality of several industries, such as [direct care](#) workers who provide care to the elderly and those with disabilities or serious illness; these industries are expected to experience severe labor shortages in the coming years.<sup>8</sup>

## Who is forgotten by the RAISE Act's proposed points system?

- Unlike S.744, the points system in the RAISE Act does not contain a dedicated path for less-skilled immigrants. Less-skilled immigrants play a fundamental role in the “[essential economy](#)”-- which encompasses the food services and hospitality industries, construction, agriculture, elder care, and manufacturing. By ignoring this fact, the RAISE Act could harm those industries.<sup>9</sup>
- In addition to the possible negative impact on U.S. economic competitiveness, the proposed points system raises concerns about its potential gender bias. As noted above, the system would disproportionately prioritize applicants with STEM degrees. [Women, who are traditionally underrepresented in STEM fields](#), not just in the United States but in other countries as well, would have fewer opportunities to immigrate under the proposed points system. Additionally, in some countries women have less access to education and work opportunities than men and would be systematically excluded from these channels.
- Even if we adhere to the purely economic rationale upon which this new system is premised, the potential contributions of women who work in the care economy are not adequately valued.<sup>10</sup> Immigrant women who perform their work in the domestic sphere help sustain the current workforce, raise the future workforce, care for the elderly and sick, and play a critical role in household well-being. Their contributions to the economy are, therefore, not only immediate, but also longstanding.
- Family ties are downplayed in the proposed system. Even though it has been demonstrated that families expedite the social and economic incorporation of immigrants, the points system does not grant any points based on family ties. It has been demonstrated that families provide critical resources for new immigrants (e.g., opportunities for employment, credit, and support)<sup>11</sup>. In addition to not granting points based on family ties, the RAISE Act also proposes to eliminate some current categories of family-sponsored immigration. Specifically, the bill would eliminate all family sponsorship beyond spouses and minor children of U.S. citizens and lawful permanent residents.
- The assignment of points based on age also raises concern regarding the moral and practical implications of age discrimination. The United States has evolved into a country that [stands out](#) globally for its principles of inclusion and civil-rights protection, and for fighting against discrimination of all sorts. However, this bill seems to go against those values that are embedded in [domestic policy](#). By privileging younger cohorts over older ones, this system reduces the chances of admission of people who, because of their age, have more experience, knowledge, and wisdom. This certainly does not reflect core American values.
- The proposed points system may also result in nationality bias, which will be translated into a systematic exclusion of immigrants from countries with lower levels of human capital arbitrarily valued under the system. The [Diversity Visa component](#), which has been an important part of the U.S. immigration system for more than twenty years, would —under this bill —be terminated.

## Endnotes

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6. Leslyanne Hawthorne, "Labour Market Outcomes for Migrant Professionals: Canada and Australia Compared," Ottawa: Statistics Canada (April 2007): 71, [http://publications.gc.ca/collections/collection\\_2010/cic/Ci64-1-2007-eng.pdf](http://publications.gc.ca/collections/collection_2010/cic/Ci64-1-2007-eng.pdf).
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11. Alejandro Portes and Rubén G. Rumbaut, *Immigrant America: A Portrait* (Berkeley, CA: University of California Press, 2006): 95.