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# Visa Issuances: Policy, Issues, and Legislation

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# Visa Issuances: Policy, Issues, and Legislation

## Summary

Since the September 11 terrorist attacks, considerable concern has been raised because the 19 terrorists were aliens who apparently entered the United States legally despite provisions in immigration laws that bar the admission of terrorists. Fears that lax enforcement of immigration laws regulating the admission of foreign nationals into the United States may continue to make the United States vulnerable to further terrorist attacks have led many to call for revisions in the policy and possibly changes in who administers immigration law.

Foreign nationals not already legally residing in the United States who wish to come to the United States generally must obtain a visa to be admitted, with certain exceptions noted in law. Under current law, two departments — the Department of State (DOS) and the Department of Justice (DOJ) — each play key roles in administering the law and policies on the admission of aliens. DOS's Bureau of Consular Affairs is the agency currently responsible for issuing visas, and DOJ's Immigration and Naturalization Service (INS) plays a key role in approving immigrant petitions and in inspecting all people who enter the United States. In FY2000, DOS issued approximately 7.5 million visas and rejected over 2 million aliens seeking visas.

House Majority Leader Dick Armey, Chair of the Select Committee on Homeland Security, introduced the President's proposal for a new Department of Homeland Security (DHS) as **H.R. 5005**. As introduced, H.R. 5005 would bifurcate visa issuances so that DHS would set the policies and DOS would retain responsibility for implementation. It would give the Secretary of the new department exclusive authority through the Secretary of State to issue or refuse to issue visas. The House Committees on Judiciary, International Relations, and Government all approved language on visa issuances that retained DOS's administrative role in issuing visas, but added specific language to address many of the policy and national security concerns raised during their respective hearings. Breaking with the Administration, the House Judiciary Committee approved language that would place much of INS's adjudication and service responsibilities — including its role in approving petitions — with a new Bureau of Citizenship and Immigration Services headed by an Assistant Attorney General at DOJ. When the House Select Committee on Homeland Security marked up H.R. 5005 on July 19, 2002, it approved language on immigrant processing and visa issuances consistent with the House Judiciary Committee recommendations. An amendment to move the consular affairs visa function to DHS failed when the House passed H.R. 5005 on July 26.

The latest version of **S. 2452**, the National Homeland Security and Combating Terrorism Act of 2002 (as acted on by Senate Governmental Affairs Committee July 25), differs somewhat on the issues of immigration adjudications and visa issuances from the Administration's proposal and H.R. 5005 as passed. The Senate draft substitute would not alter the State Department's administrative role in issuing visas but would establish an Under Secretary for Immigration Affairs in DHS who would issue regulations on visa issuance, oversee immigration enforcement and border functions, and be responsible for all immigration and naturalization adjudications.

## Contents



## List of Figures



## List of Tables

# Visa Issuances: Policy, Issues, and Legislation

## Introduction

In the months following the September 11 terrorist attacks, considerable concern has been raised because the 19 terrorists were aliens (i.e., noncitizens or foreign nationals) who apparently entered the United States legally on temporary visas. Fears that lax enforcement of immigration laws regulating the admission of foreign nationals into the United States may continue to make the United States vulnerable to further terrorist attacks have led many to call for revisions in the visa policy and possibly changes in who administers immigration law.

Foreign nationals not already legally residing in the United States who wish to come to the United States generally must obtain a visa to be admitted.[1] Under current law, two departments — the Department of State (DOS) and the Department of Justice (DOJ) — each play key roles in administering the law and policies on the admission of aliens.[2] DOS's Bureau of Consular Affairs (Consular Affairs) is the agency currently responsible for issuing visas, and DOJ's Immigration and Naturalization Service (INS) plays a key role in approving immigrant petitions and in inspecting all people who enter the United States.

This report addresses the current policy on immigration visa issuances and options for reassigning this function to the proposed Department of Homeland Security (DHS).[3] It opens with an overview of visa issuances, with sections on procedures for aliens coming to live in the United States permanently and on procedures for aliens admitted for temporary stays.[4] An analysis of the grounds for excluding aliens follows. The report summarizes the debate on transferring visa

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[1]Authorities to except or to waive visa requirements are specified in law, such as the broad parole authority of the Attorney General under §212(d)(5) of INA and the specific authority of the Visa Waiver Program in §217 of INA.

[2]Other departments, notably the Department of Labor (DOL), and the Department of Agriculture (USDA), play roles in the approval process depending on the category or type of visa sought, and the Department of Health and Human Services (DHHS) sets policy on the health-related grounds for inadmissibility discussed below.

[3] For a fuller account of INS restructuring proposals and the possible transfer to homeland security, see CRS Report RL31388, *Immigration and Naturalization Service: Restructuring Proposals in the 107th Congress*, by Lisa M. Seghetti; and CRS Congressional Distribution Memorandum, *Analysis of President's Plan to Include the Immigration and Naturalization Service in the Proposed Department of Homeland Security*, by Lisa M. Seghetti and Ruth Ellen Wasem.

[4]For a broader discussion, see CRS Report RS20916, *Immigration and Naturalization Fundamentals*, by Ruth Ellen Wasem.

issuance policy functions to homeland security and concludes with a discussion of the legislative proposals to reassign the visa issuance activities and to revise visa issuance policies.

## Overview on Visa Issuances

There are two broad classes of aliens that are issued visas: immigrants and nonimmigrants. Humanitarian admissions, such as asylees, refugees, parolees and other aliens granted relief from deportation by the Attorney General, are handled separately under the Immigration and Nationality Act (INA). Those aliens granted asylum or refugee status ultimately are eligible to become legal permanent residents (LPRs).[5] Illegal aliens or unauthorized aliens include those noncitizens who either entered the United States surreptitiously, i.e., entered without INS inspection, or who violated the terms of their visas.

The documentary requirements for visas are stated in §222 of the INA, with some discretion for further specifications or exceptions by regulation. Generally, the application requirements are more extensive for aliens who wish to permanently live in the United States than those coming for visits. The amount of paperwork required and the length of adjudication process to obtain a visa to come to the United States is analogous to that of the Internal Revenue Service's (IRS) tax forms and review procedures. Just as persons with uncomplicated earnings and expenses may file an IRS "short form" while those whose financial circumstances are more complex may file a series of IRS forms, so too an alien whose situation is straightforward and whose reason for seeking a visa is easily documented generally has fewer forms and procedural hurdles than an alien whose circumstances are more complex. There are over 70 INS forms as well as DOS forms that pertain to the visa issuance process.[6]

The system of processing, adjudication, and issuances of visas is largely a fee-based, rather than a government service funded by direct appropriations. For example, the filing fee that a U.S. citizen would pay INS to process an immigrant petition for a relative is $130 and for an alien worker is $135. The immigrant petition fees collected by INS are deposited in the examinations fee account along with fees filed with other INS petitions (e.g., naturalization, employment authorization).[7] In FY2001, INS deposited more than $1 billion in the examinations fee account. Consular Affairs also collects fees for visas services. The Consular Affairs immigrant visa application processing fee is $335, and the nonimmigrant processing fee is $65.[8] DOS has authority to use up to $316.7 million of these

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[5]For background and further discussion of humanitarian cases, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno and Katherine Bush; and CRS Report RS20844, *Temporary Protected Status: Current Immigration Policy and Issues*, by Ruth Ellen Wasem and Karma Ester.

[6]INS forms are available at: [http://www.ins.usdoj.gov/graphics/formsfee/forms/index.htm].

[7]§286(m) of INA.

[8]DOS lists its fees at: [http://travel.state.gov/2002feechart.html].

processing fees in FY2002 and has requested authority to use $642.7 million in FY2003.[9]

## Immigrant Visas

Aliens who wish to come to live permanently in the United States must meet a set of criteria specified in the INA. They must qualify as:

- a spouse or minor child of a U.S. citizen;
- a parent, adult child or sibling of an adult U.S. citizen;
- a spouse or minor child of a legal permanent resident;
- an employee that a U.S. employer has gotten approval from the Department of Labor to hire;
- a person of extraordinary or exceptional ability in specified areas;
- a refugee or asylee determined to be fleeing persecution;
- winner of a visa in the diversity lottery; or
- qualify under other specialized provisions of law.

The largest number of immigrants is admitted because of family relationship to U.S. citizens. Of the 849,807 people who became LPRs in FY2000, 54.0% were relatives of U.S. citizens. Comparable numbers of immigrants were family of other LPRs (14.7%) and employment-based immigrants (12.6%). The remainder were refugees and asylees (7.8%) immigrants entering through the diversity lottery program (6.0%), and other miscellaneous categories (5.0%).

Petitions for immigrant, i.e. LPR, status, are first filed with INS by the sponsoring relative or employer in the United States. If the prospective immigrant is already residing in the United States, the INS handles the entire process, which is called "adjustment of status." If the prospective LPR does not have legal residence in the United States, the petition is forwarded to Consular Affairs in their home country after INS has reviewed it. The Consular Affairs officer (when the alien is coming from abroad) and INS adjudicator (when the alien is adjusting status in the United States) must be satisfied that the alien is entitled to the immigrant status. As **Figure 1** depicts, many LPRs are adjusting status from within the United States rather than receiving visas issued abroad by Consular Affairs. The spikes in FY1990 and FY1991 are due to the legalization programs of the Immigration Reform and Control Act of 1986.

A personal interview is required for all prospective LPRs.[10] The burden of proof is on the applicant to establish eligibility for the type of visa for which the application is made. Consular Affairs officers (when the alien is coming from abroad) and INS adjudicators (when the alien is adjusting status in the United States) must confirm that the alien is not ineligible for a visa under the so-called "grounds

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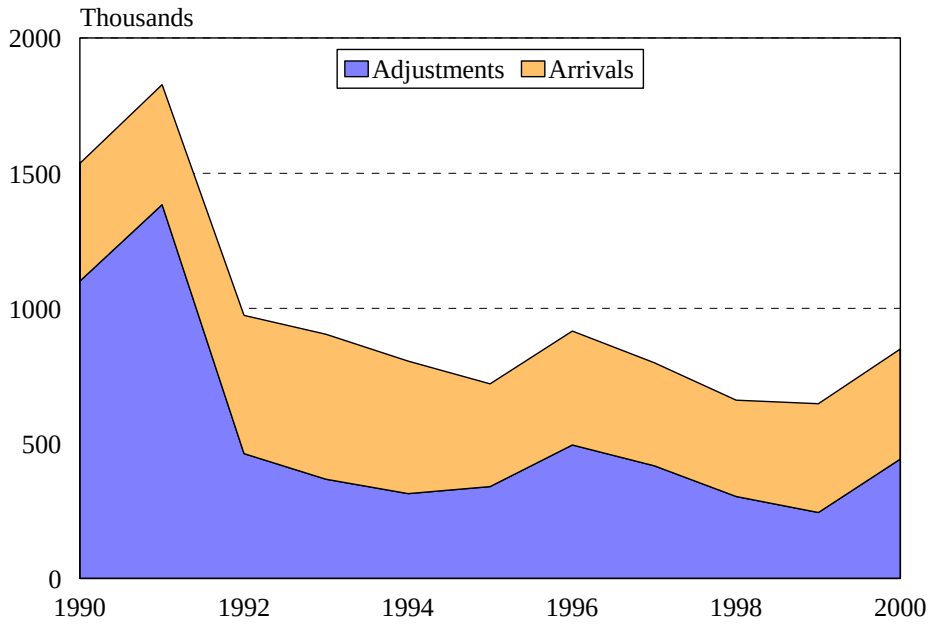
[9] §231 of P.L. 106-113, the Foreign Relations Authorization Act of 2001. CRS Report for Congress RL31370, *State Department and Related Agencies: FY2003 Appropriations*, by Susan Epstein.

[10] 22 CFR §42.62.

for inadmissibility" of the INA, which include criminal, terrorist, and public health grounds for exclusion discussed below.[11]

**Figure 1. Immigrants Arriving or Adjusting Status, FY1990-FY2000**




**Source:** CRS presentation of published INS data.

## Nonimmigrant Visas

Aliens seeking to come to the United States temporarily rather than to live permanently are known as nonimmigrants.[12] These aliens are admitted to the United States for a temporary period of time and an expressed reason. There are 24 major nonimmigrant visa categories, and 70 specific types of nonimmigrant visas are issued currently. Most of these nonimmigrant visa categories are defined in §101(a)(15) of the INA. These visa categories are commonly referred to by the letter and numeral that denotes their subsection in §101(a)(15), e.g., B-2 tourists, E-2 treaty investors, F-1 foreign students, H-1B temporary professional workers, J-1 cultural exchange participants, or S-4 terrorist informants.

The burden of proof is on the applicant to establish eligibility for nonimmigrant status and the type of nonimmigrant visa for which the application is made. Nonimmigrants must demonstrate that they are coming for a limited period and for a specific purpose. The Consular Affairs officer, at the time of application for a visa,

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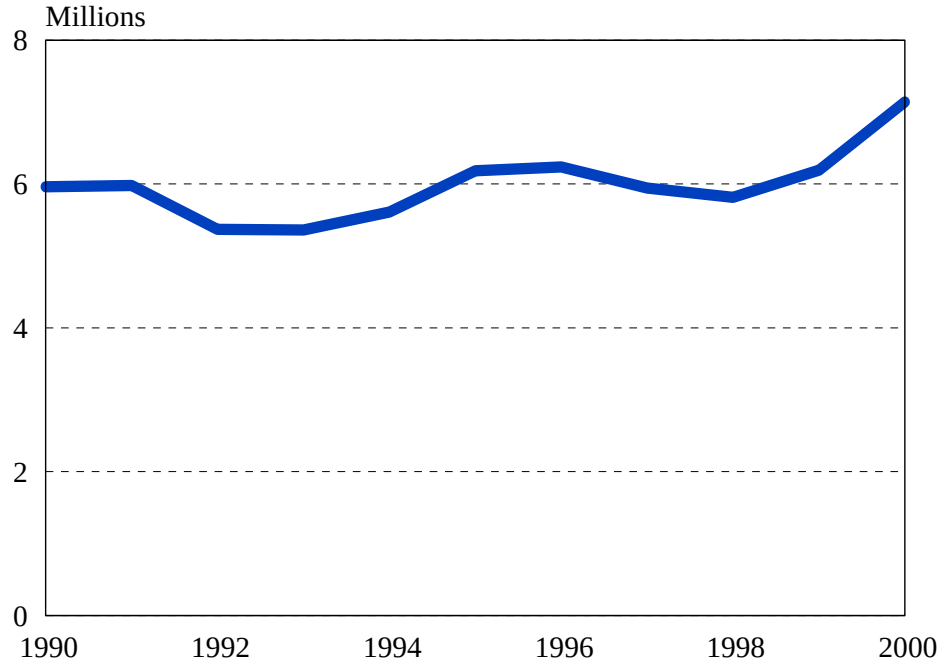
[11]For more information, see CRS Report RL31019, *Terrorism: Automated Lookout Systems and Border Security Options and Issues*, by William J. Krouse and Raphael Perl.

[12]For a full discussion and analysis of nonimmigrant visas, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by Ruth Ellen Wasem.

as well as the INS inspectors, at the time of application for admission, must be satisfied that the alien is entitled to a nonimmigrant status.[13] The law exempts only the H-1 workers, L intracompany transfers, and V family members from the requirement that they prove that they are not coming to live permanently.[14] INS plays a role determining eligibility for certain nonimmigrant visas, notably H workers and L intracompany transfers. Also, if a nonimmigrant in the United States wishes to change from one nonimmigrant category to another, such as from a tourist visa to a student visa, the alien files a change of status application with the INS. If the alien leaves the United States while the change of status is pending, the alien is presumed to have relinquished the application.

Personal interviews are generally required for foreign nationals seeking nonimmigrant visas. Interviews, however, may be waived in certain cases, most notably B visitor visas.[15] This waiver formed the basis for the controversial and allegedly fraud-prone "Visa Express" in Saudi Arabia (now suspended) where travel agents pre-screened visa applicants and submitted petitions on behalf of the aliens.

**Figure 2. Nonimmigrant Visas Issued, FY1990-FY2000**




Source: CRS presentation of DOS Bureau of Consular Affairs data.

[13] 22 CFR §41.11(a).

[14] §214(b) of INA.

[15] 22 CFR §41.102.

In FY2000, DOS issued 7,141,636 nonimmigrant visas. As **Figure 2** illustrates, the annual number has grown over the past few years after dipping slightly in the early 1990s. This growth is largely attributable to the issuances of border crossing cards to residents of Canada and Mexico and the issuances of temporary worker visas. Combined, visitors for tourism and business comprised the largest group of nonimmigrants in FY2000, about 5.7 million. Visitors on B visas comprised 58.7% of the 7.1 million, while visitors with border crossing cards who are from neighboring countries made up the next largest group (21.3%). Other notable categories were students (8.4%) and workers (4.9%). Depending on the visa category and the country the alien is coming from, the nonimmigrant visa may be valid for several years and may permit multiple entries. As a result, INS reports over 30 million nonimmigrant entries in FY2001.[16]

Most visitors, however, enter the United States without nonimmigrant visas through the Visa Waiver Program (VWP). This provision of INA allows the Attorney General to waive the visa documentary requirements for aliens coming as visitors from 28 countries, e.g. Australia, France, Germany, Italy, Japan, New Zealand, Switzerland, and the United Kingdom. The INS reports that 17 million nonimmigrants entered the United States through VWP in FY2001.[17] Since aliens entering through VWP do not get visas, INS inspectors at the port of entry must perform background checks and make a determination of whether the VWP alien is eligible to enter the United States.

## Grounds for Exclusion

All aliens must undergo reviews performed by DOS consular officers abroad and INS inspectors upon entry to the U.S. These reviews are intended to ensure that they are not ineligible for visas or admission under the grounds for inadmissibility spelled out in INA.[18] These criteria are:

- health-related grounds;
- criminal history;
- security and terrorist concerns;
- public charge (e.g., indigence);
- seeking to work without proper labor certification;
- illegal entrants and immigration law violations;
- ineligible for citizenship; and,
- aliens previously removed.

Consular officers are required to check the background of all aliens in the "lookout" databases. Some other provisions may be waived or are not applicable in the case of nonimmigrants, refugees (e.g., public charge), and other aliens. All family-based

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[16]For additional analysis, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by Ruth Ellen Wasem.

[17]For further discussion of VWP, see CRS Report RS21205, *Immigration: Visa Waiver Program*, by Alison Siskin.

[18]§212(a) of INA.

immigrants and employment-based immigrants who are sponsored by a relative must have binding affidavits of support signed by U.S. sponsors in order to show that they will not become public charges.

As **Table 1** presents, DOS excluded 33,605 applicants for immigrant visas and 21,119 applicants for nonimmigrant visas in FY2000 based upon inadmissibility. Almost half (48.5%) of the immigrant petitioners who were rejected on listed exclusionary grounds were rejected because the DOS determined that the aliens were inadmissible as likely public charges. On these grounds, about two-thirds of all rejected nonimmigrant applicants were inadmissible because of immigration law violations, most notably misrepresentation. Another 13.4% were inadmissible because of prior unlawful presence in the United States.

While the grounds of inadmissibility are an important basis for denying foreign nationals admission to the United States, it should be noted that most aliens who are rejected by DOS — over 2.5 million — are rejected because they are not eligible for the visa they are seeking. Comparable data from INS on aliens deemed ineligible for immigrant status or inadmissible as a nonimmigrant are not available. As a result, the DOS data presented in **Table 1** understate the number and distribution of aliens denied admission to the United States.

## Table 1. Aliens DOS Excluded in FY2000 by Grounds of Inadmissibility

| Grounds for exclusion | Aliens excluded by State Department | | | |
|---|---|---|---|---|
| | Immigrant | | Nonimmigrant | |
| Health | 1,288 | 3.8% | 151 | 0.7% |
| Criminal | 507 | 1.5% | 3,207 | 15.2% |
| Terrorism & security | 9 | — | 181 | 0.9% |
| Public charge | 16,285 | 48.5% | 763 | 3.6% |
| Labor certification | 7,849 | 23.4% | 2 | — |
| Immigration violations | 2,878 | 8.6% | 13,969 | 66.1% |
| Ineligible for citizenship | 3 | — | 3 | — |
| Previously removed or illegal presence | 4,781 | 14.2% | 2,837 | 13.4% |
| Miscellaneous | 5 | — | 6 | — |
| Total inadmissible | 33,605 | 100% | 21,119 | 100% |
| Ineligible for visa applied for due to other reasons | 40,241 | — | 2,489,327 | — |

**Source:** CRS analysis of DOS Bureau of Consular Affairs data.

# Issues and Legislation

## Reassigning Visa Issuance Functions

With the expected creation of a department of homeland security imminent, considerable debate has surfaced about whether or not any or all visa issuance functions should be located in the new agency. Varied viewpoints are discussed below.

As announced on June 6, 2002, the Administration's proposal for a homeland security department would include INS among the agencies transferred to a new homeland security department. The stated goal of the Administration's proposal is to consolidate into a single federal department many of the homeland security functions performed by units within various federal agencies and departments. The Administration would place all functions of INS under the border and transportation security division of the proposed department. The narrative of the June 6, 2002 plan did not go into details, however, it appeared that under the plan Consular Affairs in the Department of State would retain its visa issuance responsibilities.

**Option: Locating all Functions in DHS.** Voices in support of moving Consular Affairs's visa issuance responsibilities to the proposed DHS assert that consular officers emphasize the promotion of tourism, commerce, and cultural exchange and are lax in screening foreign nationals who want to come the United States. Media reports of the "Visa Express" that DOS established in Saudi Arabia to allow travel agents to pre-screen nonimmigrants raised considerable concern, especially reports that several of the September 11 terrorists allegedly entered through "Visa Express." Critics argued that visa issuance was the real "front line" of homeland security against terrorists and that the responsibility for this function should be in a department that did not have competing priorities of diplomatic relations and reciprocity with foreign governments.

Some argue that keeping the INS adjudications and Consular Affairs visa issuances in different departments would perpetuate the types of mistakes and oversights that stem from inadequate coordination and competing chains of command. Most importantly, they emphasize the need for immigration adjudications and visa issuances — as well as immigration law enforcement and inspections activities — to be under one central authority that has border security as its primary mission.

**Option: Locating Functions in Different Agencies.** Proponents of retaining visa issuances in Consular Affairs assert that only consular officers in the field would have the country-specific knowledge to make decisions about whether an alien was admissible and that staffing 250 diplomatic and consular posts around the world would stretch the proposed homeland security department beyond its capacity. They also point out that under current law, consular decisions are not appealable and warned that transferring this adjudication to homeland security might make it subject to judicial appeals or other due process considerations. They maintain that the problems Consular Affairs evidenced in visa issuances have already

been addressed by strengthening provisions in the USA PATRIOT Act (P.L. 107-56) and the Enhanced Border Security and Visa Reform Act (P.L. 107-173).

Those who support retaining immigrant adjudications and services in DOJ and visa issuances in DOS point to the specializations that each department brings to the functions. They assert that the "dual check" system in which both INS and Consular Affairs make their own determinations on whether an alien ultimately enters the United States provides greater security. Proponents of the current structures argue that failures in intelligence gathering and analysis, not lax enforcement of immigration law, were the principal factors that enabled terrorists to obtain visas. Others opposing the transfer of INS adjudications and Consular Affairs visa issuances to DHS maintain that DHS would be less likely to balance the more generous elements of immigration law (e.g., the reunification of families, the admission of immigrants with needed skills, the protection of refugees, opportunities for cultural exchange, the facilitation of trade, commerce, and diplomacy) with the more restrictive elements of the law (e.g., protection of public health and welfare, national security, public safety, and labor markets).

**Legislation.** Representative Dick Armey, Majority Leader and Chair of Select Committee on Homeland Security, introduced the President's proposal as **H.R. 5005**, the Homeland Security Act of 2002. H.R. 5005 would transfer all of the functions of INS to the newly created department under its Border Security and Transportation Division. As introduced, H.R. 5005 would bifurcate visa issuances so that DHS would set the policies and DOS would retain responsibility for implementation.

During the week of July 8, 2002, the House Committees on Judiciary, International Relations, and Government all approved language on visa issuances that retained DOS's administrative role in issuing visas, but added specific language to address many of the policy and national security concerns raised during their respective hearings. Breaking with the Administration, the House Judiciary Committee approved language that would place much of INS's adjudication and service responsibilities — including its role in approving immigrant petitions — with a new Bureau of Citizenship and Immigration Services headed by an Assistant Attorney General at DOJ.

When the House Select Committee on Homeland Security marked up H.R. 5005 on July 19, 2002, it approved language on immigrant processing and visa issuances consistent with the House Judiciary Committee recommendations. As reported, H.R. 5005 clarifies that the Secretary of DHS would issue regulations regarding visas issuances and would assign staff to consular posts abroad to provide advice and review and to conduct investigations, and that Consular Affairs would continue to issue visas. It would further expand the current exclusion authority of the Secretary of State by permitting the Secretary to exclude an alien when necessary or advisable in the foreign policy or security interests of the U.S., giving the Secretary of State an authority even broader than that in law before the 1990 Immigration Amendments reformed the grounds for exclusion. It also would clarify that decisions of the consular officers are not reviewable.

During the floor debate on H.R. 5005, only one immigration-related amendment was considered, and it would have moved the consular visa function to DHS. The amendment offered by Congressman David Weldon failed, and the House went on to pass H.R. 5005 on July 26, 2002. **Table 2** summarizes what department would be responsible for visa issuance activities under the various bills.[19]

The National Homeland Security and Combating Terrorism Act of 2002 reported by the Senate Governmental Affairs Committee (S. 2452) on June 24, 2002, includes the immigration enforcement functions of INS and the Office of International Affairs but does not transfer any of the other immigration services and visa issuances functions. Representative Mac Thornberry sponsored H.R. 4660, a bill similar to S. 2452 as introduced, that creates a homeland security department but also does not transfer any of the immigration adjudications and visa issuances functions.

## Table 2. Visa Issuance Policy Roles and Tasks: Comparison of Major Homeland Security Proposals

| Task/role | Current law | S. 2452 (introduced) | S. 2452 (July 29 substitute) | H.R. 5005 (introduced) | H.R. 5005 (passed) |
|---|---|---|---|---|---|
| Issuing nonimmigrant visas abroad | State | State | Homeland regulates; State issues | Homeland sets policy; State administers | Homeland regulates; State issues |
| Changing nonimmigrant visas | Justice | Justice | Homeland | Homeland | Justice |
| Approving immigrant petitions | Justice | Justice | Homeland | Homeland | Justice |
| Issuing immigrant visas | State | State | Homeland regulates; State issues | Homeland sets policy; State administers | Homeland regulates; State issues |
| Adjusting immigrant (LPR) status | Justice | Justice | Homeland | Homeland | Justice |

Recently released substitute language for S. 2452 differs somewhat on the issues of immigration adjudications and visa issuances from the Administration's proposal and H.R. 5005 as reported. The Senate substitute would not alter the State Department's consular role in issuing visas, with language comparable to H.R. 5005, and it would give DHS the authority to issue regulations on visa issuances. It would, however, give DHS the permission to delegate authority to issue regulations to DOS. In contrast to the House-passed bill and S. 2452 as introduced, the Senate substitute

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[19]For a detailed comparison, see CRS Report RL31513, *Homeland Security: Side by Side Comparison of H.R. 5005 and S. 2453, 107th Congress*, coordinated by Sharon Gressle.

would establish an Under Secretary for Immigration Affairs in DHS who would handle immigration and naturalization functions as well as immigration enforcement and border functions. The Senate Government Reform Committee acted on the substitute for S. 2452 on July 24, 2002.

## Revising Visa Issuance Policy

**Sharing Data and Screening Aliens.** Since the September 11 terrorist attacks, considerable concern has been raised because the 19 terrorists were aliens who apparently entered the United States legally on temporary visas. Although the INA bars terrorists, consular officers issuing the visas were not able to bar them because information identifying them as such was not in the databases to which they had access. Many have asserted that the need for all agencies involved in admitting aliens to share intelligence and coordinate activities is essential for U.S. immigration policy to be effective in guarding homeland security. Some argued that the reforms Congress made in the mid-1990s requiring all visa applicants to be checked in the "look out" databases were inadequate because the databases across the relevant agencies were not inter-operable.

Those less enthusiastic about inter-operable databases point to the cost and time required to develop such databases. Instead, they argue the money and resources might be better spent on other tools to strengthen enforcement of immigration laws. They also warn that if intelligence data become too accessible across agencies, national security may actually be breached because sensitive information could fall into the wrong hands.

On a related matter, critics point to the fact that consular officers do not personally interview many aliens to whom they issue nonimmigrant visas. By-passing the personal interview, especially for visitors coming for purportedly short periods of time, was advocated by some as an efficiency of staffing and resources. Others assert that this cost savings comes at too high a price in terms of national security. The critics argue that checking an alien's name in a database is no substitute for a face-to-face interview.

The 107th Congress enacted provisions in the USA PATRIOT Act (P.L. 107-56) that seek to improve the visa issuance process by providing access to relevant electronic information. These provisions authorize the Attorney General to share data from domestic criminal record databases with the Secretary of State for the purpose of adjudicating visa applications. Title III of P.L. 107-173, the Enhanced Border Security and Visa Reform Act, likewise aims to increase access to electronic information in the context of visa issuances, while also requiring additional training for consular officers who issue visas. **H.R. 5013**, introduced on June 26, 2002, would require that consular officers conduct a personal interview of all aliens seeking visas to the United States, not just those who wish to become LPRs.

**Defining Terrorism.** In response to concerns that the definition of terrorism and the designation of terrorist organizations in the INA that is used to determine the inadmissibility and removal of aliens is too narrow, Congress amended the INA's inadmissibility provisions to broaden somewhat the terrorism grounds for excluding aliens. The INA already barred the admission of any alien who has engaged in or

incited terrorist activity, is reasonably believed to be carrying out a terrorist activity, or is a representative or member of a designated foreign terrorist organization. To this list of inadmissible aliens, the USA PATRIOT Act adds representatives of groups that endorse terrorism, prominent individuals who endorse terrorism, and spouses and children of aliens who are deportable on terrorism grounds on the basis of activities occurring within the previous 5 years.

**S. 864**, which was reported by the Senate Judiciary Committee on April 25, 2002, would further broaden the security and terrorism grounds of inadmissibility to exclude aliens who have participated in the commission of acts of torture or extrajudicial killings abroad. S. 864 also would make aliens in the United States removable on these same grounds. **H.R. 5013** would expand and recodify the grounds for inadmissibility in the INA as part of its significant revision of immigration policy.