INTERNATIONAL MUINCIPAL LAWYERS ASSOCIATION



Work Session: Special Work Session on Immigration Issues

Title: Immigration in the United States: Its History, the Impact of Illegal Aliens and the Congressional Response

by

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I. INRODUCTION

The United States began as a nation of immigrants from many cultures, all looking for a new and better life, and merging together into one cultural melting pot. As a result, a multi-cultural society was created which has lured massive numbers of people to a country they believe will give them vast economic, religious, and cultural, opportunities, via the "American Dream." It therefore seems ironic that immigration has become one of the hotly debated political topics in the United States. This paper will discuss immigration in the United States; its history, the impact of illegal aliens, and the congressional response.

As the United States thrived and developed, immigrants filled various voids in the work force.[1] When the influx of immigrants increased to a perceived unacceptable level, politicians decided to enact policies which regulated the amount of people allowed to enter the United States. Restrictions on immigration began in the late 18th century, and continue to the present day.[2]

Fears resulting from the dramatic increase in the number of illegal aliens, created today's controversy. Illegal aliens have impacted the United States in every social and economic institution.[3] Millions of undocumented immigrants currently reside in the United States.[4] Many United States citizens feel illegal aliens are stealing the ability to enjoy the fruits of the United States and are denying them the "American Dream." Massive citizen concern has caused Congress to debate the immigration dilemma.

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[1] *Issues of Immigration*. Constitutional Rights Foundation. (2006). < http://www.crf-usa.org/immigration/Issues_of_Immigation_06_Final.pdf>
[2] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History. <http://www.flowofhistory.org/themes/movement_settlement.uspolicytimeline.php>
[3] *Tancredo: A Day Without Illegal Aliens Is a Boon to Taxpayers*. Press Release: April 30, 2006. <http://trancredo.house.gov/press/PFriendlyArticle.aspx?NewsID=1189>
[4] *Issues of Immigration*. Constitutional Rights Foundation. 2006. < http://www.crf-usa.org/immigration/Issues_of_Immigation_06_Final.pdf>

There is currently raging a fierce debate in the United States concerning what kinds of policies to implement regarding immigration. Each House of Congress has proposed laws, and amendments, to deal with the issue.[5] Republicans and Democrats disagree on the appropriate response to immigration.[6] This disharmony in Congress is to be expected since the Congressional Response to immigration will affect the lives of American citizens as well as the well-being of immigrants and illegal aliens.

II. HISTORY

Migration to the United States began between 20,000 and 50,000 years ago when the American Indians walked across the land bridge from Siberia to Alaska, which today no longer exists. Three to four million Native Americans inhabited the United States in the 16th century. Beginning in the 17th century, immigrants from countries in Europe such as Spain, France, England and Holland arrived in the New World to escape various social and economic conditions in their home countries. The establishment of colonies enticed many other immigrants to seek out the United States as a place they thought provided better opportunities.[7]

There were two ways to view immigration. To the Europeans, immigration was an opportunity to express their beliefs and ideas, which provided a source of freedom. For others, immigration resulted in enslavement. In 1619, African Americans were introduced to the New World, working as servants who could eventually gain their freedom. However, this changed quickly as African immigrants became slaves never

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[5] *U.S. Republican Party Shuts Down Immigration Reform Debate*. June 2006. <http://www.workpermit.com/news/2006-06-21/us/reform_debate_shutdown.htm >

[6] Hurt, Charles. *Illegal Granted Social Security*. The Washington Times. <http://www.washtimes.com/functions/print.php?StoryID=20060518-114132-2456r>

[7] *Current Issues of Immigration*. Constitutional Rights Foundation. (2006). < http://www.crf-usa.org/immigration/Issues_of_Immigation_06_Final.pdf>

eligible to gain their freedom. When the 13th amendment to the United States Constitution was passed in 1865, slavery was abolished. [8]

Figure 1: Overview of the Immigrant Population in 18th Century

1790 Census	
English	**2,042,077**
Slaves (African)	**694,207**
Scotch	**162,572**
German	**139,309**
Dutch	**55,913**
Irish	**37,180**
French	**11,217**
Hebrew	**1,198**
Other	**750,201**
Total Population	***3,893,874***

After the Revolutionary War in 1775, immigration to the United States gradually experienced a gradual increase until 1840. Immigration between 1841 and 1860 had a major impact on the United States when 4 million immigrants crossed the Atlantic Ocean to the United States. Immigrants disembarked primarily from Great Britain, Germany and particularly Ireland. In the 1840's, the Great Potato Famines caused country-wide starvation in Ireland, which led to massive numbers of people fleeing Ireland in order to escape certain death if they were to remain. In the first ten years of the massive increase in immigration, 1.6 million Irish people and their families traveled in the "steerage" compartments of ships trying to survive the voyage without dying of disease.[9] The "steerage" compartment is "located in the deepest part of the ship, where it was dark and foul-smelling because there was no fresh air. In the steerage, immigrants slept in narrow

[8] *Id.*

Figure 1 University of Virginia Historical Census Browser. <http://fisher.lib.virginia.edu/collections/stats/histcensus >

[9] *Current Issues of Immigration*. Constitutional Rights Foundation. (2006). < http://www.crf-usa.org/immigration/Issues_of_Immigation_06_Final.pdf>

bunks stacked three high. There were no showers or even a table off which to eat. Instead, food was served from huge kettles."[10]

In 1848, the borders of the United States changed dramatically through the Treaty of Guadalupe Hidalgo, which expanded the borders to include what are now Texas, California, Nevada, Utah, and New Mexico. The Mexican inhabitants who lived on this land were considered United States citizens. Before the treaty, Mexicans were free to travel to and from these areas, but now the United States owned these lands and adopted immigration policies, which the Mexicans ignored.[11] The Treaty of Guadalupe Hidalgo was the stepping stone towards border control and paved the way for future immigration policy in the United States.

There were many United States ports of entry for immigrants, but it was not until the 1850's that the west coast first began seeing an influx of Chinese throughout San Francisco. Many were captivated by the Gold Rush, hoping that they could partake of the riches that lay buried in the California desert. Many others were hired for the construction of the Transcontinental Railroad. In 1873, an economic depression caused many Americans to lose their jobs which prompted an immediate backlash directed towards Chinese immigrants. Many claimed that the Chinese were stealing their jobs. Due to the backlash, the United States implemented the Exclusion Act of 1882 which was later abolished in 1943. This Act stipulated that the Chinese were banned from entering America. For those already residing in the United States, they were denied citizenship.[12]

As agriculture increased in the 1890's so did the need for cheap labor. As a way to solve this labor problem, many farmers encouraged the Japanese to immigrate to the

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[10] *Coming to America*. Outagamie County Historical Society. (2004). <http://www.akahoudini.org/images/Teach_Res/Coming_to_America.pdf >

[11] *Current Issues of Immigration*. Constitutional Rights Foundation. (2006). <http://www.crf-usa.org/immigration/Issues_of_Immigation_06_Final.pdf>

[12] *Id*.

United States. Again, many people felt too many immigrants began to arrive in the United States. As a result, United States entered into a "Gentleman's Agreement" between the two countries that slowed down immigration. However, the attack on Pearl Harbor in 1941 prompted an anti-Japanese sentiment that spread across the United States. The reaction of the government initiated the mass removal of thousands of Japanese out of the Western United States. Relocation camps housed thousands of Japanese citizens and non-citizens for the duration of the war. In wasn't until 1988 that the United States deemed it necessary to compensate each relocated living person with $20,000 along with a public apology.[13]

Through the 1850's, immigrants from Europe continued to seek a better life in the United States. These European immigrants entered through the famous and at times infamous, Ellis Island. From 1881-1920, the immigration population mostly from Europe increased to 24 million people in 40 years. This period marked an increase of immigrants from Italy, Greece, Turkey, Spain, Portugal, Austria-Hungary, Bulgaria, Rumania, Poland, Russia, and other countries. These unskilled workers chose to live in large Eastern cities like New York and Boston. They began to fill the increasing demand for factory workers and helped stimulate the industrialization of the United States.[14]

When new immigrants came to America, they brought with them different customs and values. The many different religions at that time threw off the balance of society. Nativism arose out of the fear that new immigrants could not integrate into society. The Immigration Restriction League pushed for literacy tests restricting those who could not read from entering the United States. In 1907, the Dillingham Commission was created by the United States Senate to specifically study immigration

[13] *Id.*
[14] *Id.*

Extremist groups, like the Ku Klux Klan, arose with the main function of harassing and terrorizing minority groups.[15]

In 1917, Congress instituted a literacy test. Seven years later, a yearly cap of 164,000 immigrants, limited the number of immigrants allowed to enter the United States. The limit was percentage based on the population of immigrants from each country already living in the United States. After this law was implemented, immigration slowed down, and even decreased as the United Stated entered the Great Depression in the decade of the 1930's. As the era of the Nazi's approached in 1939, refugees that were subject to concentration camps, and the brutality of the Nazi's, attempted to flee to the United States. Sadly, many were turned down because of the quota statute. [16]

After World War II, the Cold War of the 1950's brought about new changes in legislation. In 1953, Congress enacted the Refugee Relief Act which dramatically increased the number of immigrants to arrive from Europe. However, the quota system remained intact until 1964 when President Lyndon B. Johnson, asked Congress to abandon the quota system and set limits based on each hemisphere. It wasn't until 1978, that overall limits on immigration were set annually.[17]

Immigration patterns have continually changed since the 1800's and 1900's. A new wave of immigrants began coming to the United States in the 1980's and 1990's. The immigrant population in the United States continued to rise, as second generation children to immigrants were being born. Many immigrants began arriving from Asia and Latin America, specifically Mexico. [18]

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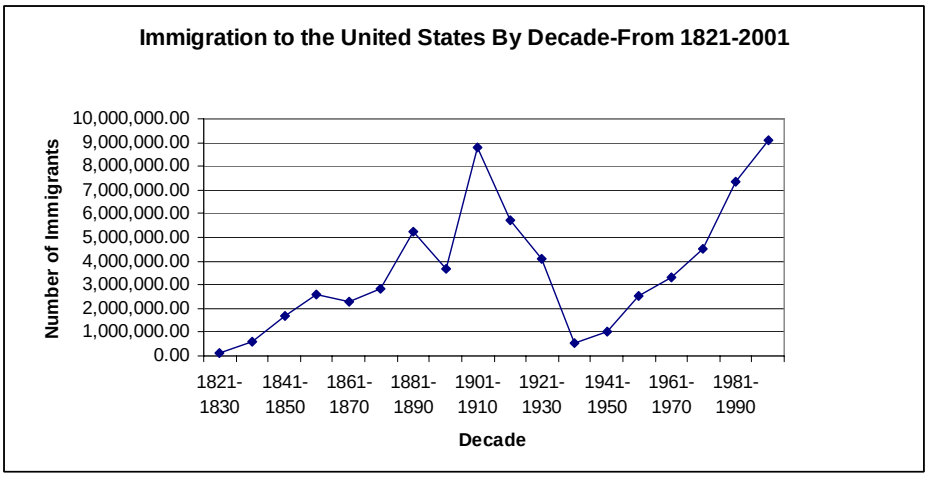
[15] *Current Issues of Immigration*. Constitutional Rights Foundation.
[16] *Id.*
[17] *Id.*
[18] *Id.*

When there were labor shortages after World War II, the United States implemented the Bracero Program which translated means "day laborer." This Program allowed numerous Mexicans to come into the country and work seasonally. The main premise was that the stay in the United States was temporary. The program was ultimately abandoned in 1964. As of 2001, Mexico was sending more legal immigrants into the United States than any other country. By 2000, new groups of immigrants were arriving from other countries like India and the Philippines. [19]

Figure 2



The chart above diagrams the number of immigrants who entered the country from 1821 to 2001. This diagram shows that there have been periods of time where immigration has been fairly low and others where it has peaked. As the line nears 2001, it clearly indicates that there has been a rise in the number of immigrants that have entered the United States, as was the case in the early 1900's.

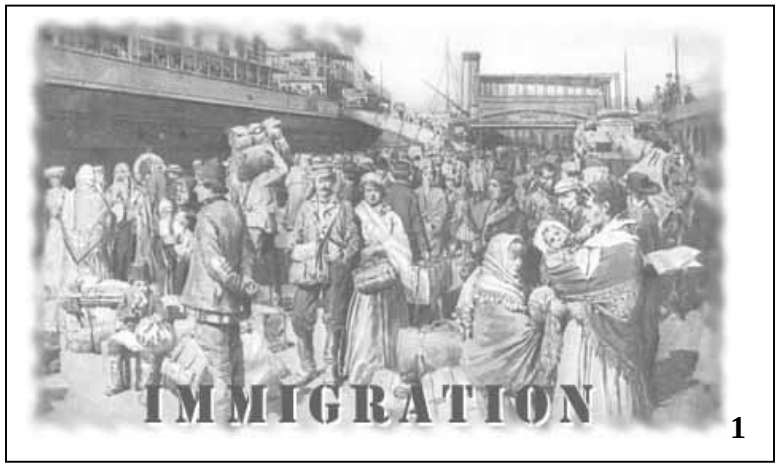
A. History of Legislation on Immigration

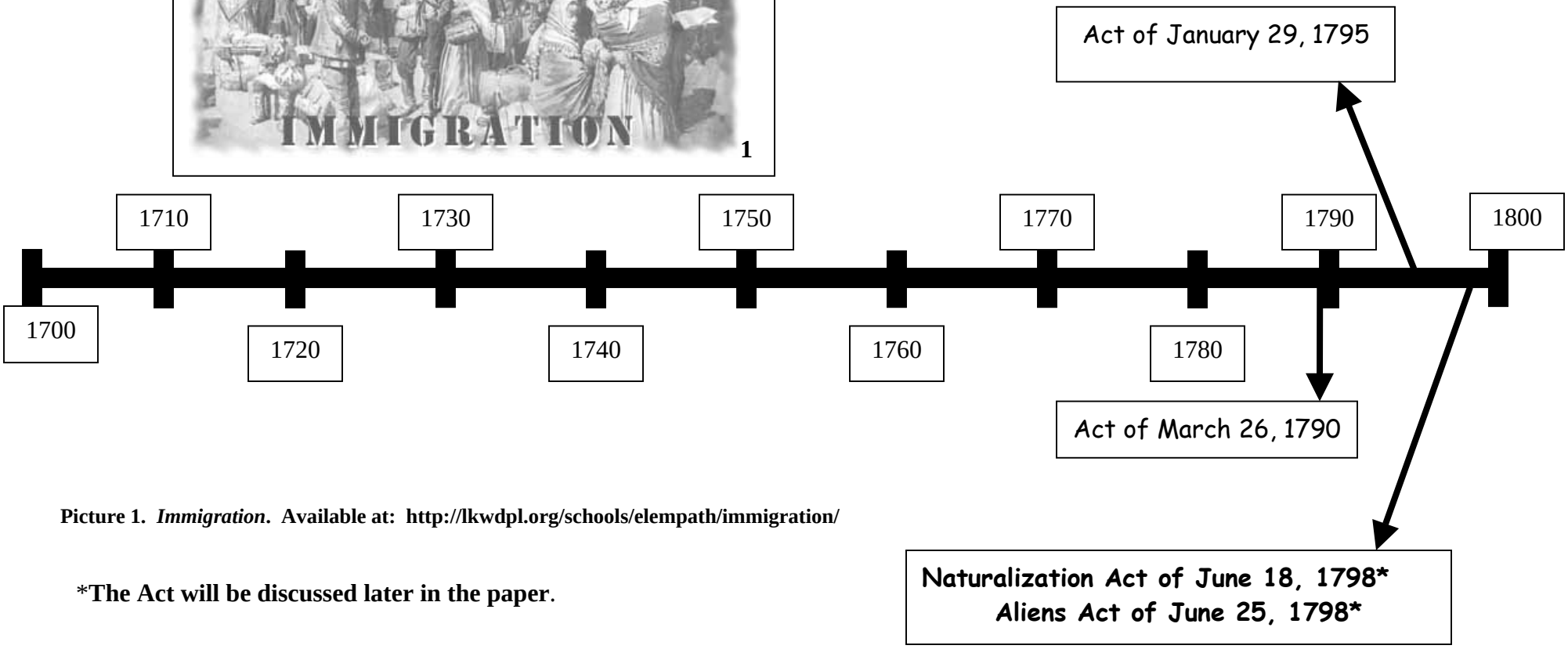
1. 1700's

a. Timeline

[19] *Current Issues of Immigration*. Constitutional Rights Foundation.
Figure 2 2001 Statistical Yearbook of the Immigration and Naturalization Service.

History of Immigration Legislation in the 1700's





Picture 1. ***Immigration*****. Available at: http://lkwdpl.org/schools/elempath/immigration/**

***The Act will be discussed later in the paper**.

Policies on naturalization did not appear until the late 1790's after the United States Constitution was adopted in 1789, which provided the first step toward immigration policies by establishing the "power to establish a uniform Rule of Naturalization."[20] In 1798, Congress passed The Alien and Sedition Acts, a series of four acts. The Naturalization Act required that an alien had to be a resident for a period of 14 years rather than the previous period of 5 years. The Alien Act was passed a week later, which stated that in the case of aliens who may be "dangerous to the peace and safety of the United States" the government was allowed to deport them.[21] The third law was the Alien Enemies Act which permitted the deportation, imprisonment, and arrest of any alien from an enemy power during wartime. The last Act of the Sedition Act stated "any treasonable activity, including the publication of 'any false, scandalous and malicious writing,' was a high misdemeanor, punishable by fine and imprisonment." [22]

The constitutionality of these acts was questioned by the American public and the promise of abolishment of these acts was greatly responsible for the election of Thomas Jefferson. The people affected by the laws were given some form of restitution from the government including pardons for those convicted under the Sedition Act and repaying of all fines assessed against the aliens.[23]

2. 1800's

a. Timeline

[20] United States Constitution. Article 1. Section 8.
[21] *The Alien and Sedition Acts of 1798.* Milestone Historic Documents. <http://www.earlyamerica.com/earlyamerica/milestones/sedition/ >
[22] *Id.*
[23] *Id.*

History of Immigration Legislation in the 1800's



Steerage Act of March 2, 1819*

Naturalization Act of April 14, 1802

Act of February 19, 1862

Chinese Exclusion Act of May 6, 1882*
Immigration Act of August 3, 1882

Act of March 13, 1875*

Act of February 23, 1887
Act of March 3, 1887

Passenger Act of March 3, 1855

1800 | 1810 | 1820 | 1830 | 1840 | 1850 | 1860 | 1870 | 1880 | 1890 | 1900

Act of May 26, 1824

Act of February 22, 1847

Act of July 4, 1864*

Naturalization Act of July 14, 1870

Act of February 26, 1885*

Act of March 3, 1891*
Act of March 3, 1893

***The Act will be discussed later in the paper**.

Picture 2. Available at: http://www.genealogy.com/icon170.jpg

1.) Steerage Act of March 2, 1819

The Steerage Act was the first law that directly related to immigration. This law required, "the reporting of immigration and rules for passengers from United States ports bound for Europe."[24]

2.) Act of July 4, 1864

This act was the "first Congressional attempt to centralize control of immigration."[25] The ability to bring contract laborers into the country was legalized. A contract laborer was defined as "one who under any of the conditions set forth comes to perform labor in this country under contract or agreement…"[26]

3.) Act of March 3, 1875

The act prohibited the entry of any criminals or prostitutes into the country.[27] During this year, the Supreme Court in Henderson v. Mayor of New York "dismissed the decision of the court below, which dismissed complainant's bill, on the grounds that the state statute that imposed a bond or a commutation tax upon emigrant passengers invaded the domain of legislation that belonged exclusively to Congress."[28]

4.) Chinese Exclusion Act of May 6, 1882

The Chinese Exclusion Act banned the immigration of the Chinese to the United States and also prevented those Chinese who were already in the country from becoming United States citizens. It also, "barred convicts, lunatics, and others unable to

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[24] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History.
[25] Act of July 4, 1864 (13 Statutes-at-Large 385). Immigration Information. <http://www.uscis.gov/graphics/shared/aboutus/statistics/legishist/447.htm>
[26] *The Exemption of American Vessels from Operation of the Prohibition Act: Hearing*. H.R. 11579, p 39. (1921)
[27] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History.
[28] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History. <http://www.flowofhistory.org/themes/movement_settlement.uspolicytimeline.php>: (*Citing* Henderson v. Mayor of New York, 92 U.S. 259 (1875).)

care for themselves…"[29] A head tax was also placed on each immigrant which was 50 cents per person. A head tax was a fee that was given to every new immigrants arriving in the United States.[30]

5.) Act of February 26, 1885 (Contract Labor Law)

This law stipulated that it was unlawful to bring in unskilled aliens to work for employers. However, this law did not apply to land borders meaning those land borders between Mexico and Canada.[31]

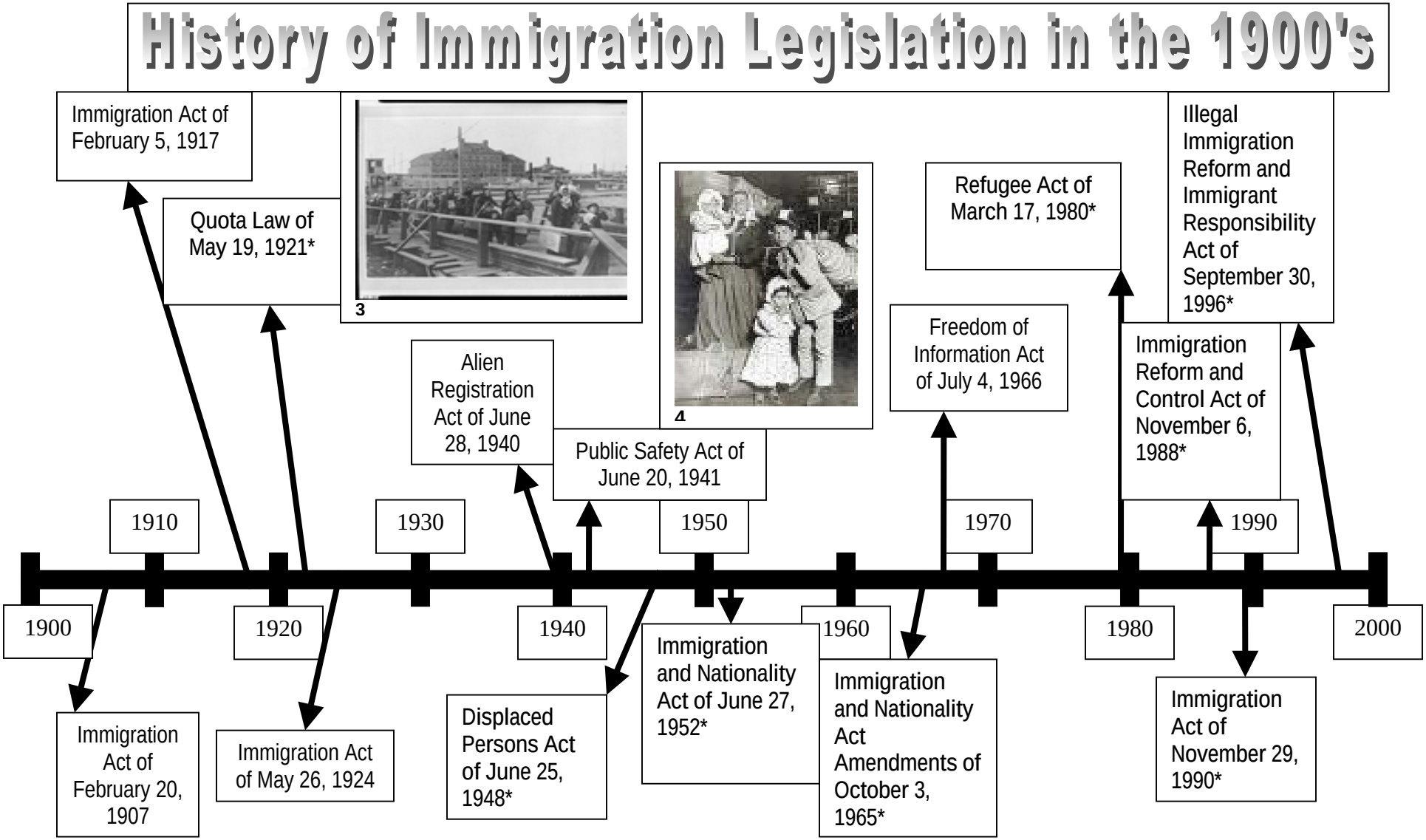
6.) Immigration Act of March 3, 1891

The Immigration Act established a Bureau of Immigration whose duties were to enforce all immigration laws except the Chinese Exclusion Act. This Act further restricted immigration by adding to the list of those denied admission, which had been established as a way to weed out unwanted people. It was legal to inspect people passing along the borders of the United States and deportation became a way to rid the United States of those who entered unlawfully.[32]

3. 1900's

a. Timeline

[29] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History.
[30] Chinese Exclusion Act of May 6, 1882 (22 Statutes-at-Large 58). Immigration Information. <http://www.uscis.gov/graphics/shared/aboutus/statistics/legishist/450.htm>
[31] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History.
[32] Immigration Act of March 3, 1891 (26 Statute-at-Large 1084). Immigration Information. <http://www.uscis.gov/graphics/shared/aboutus/statistics/legishist/450.htm>



Picture 3. Digital ID: cph3a38144 Source: b&w film copy neg. Reproduction number: LC-USZ62-31174
Picture 4. Available at: http://olemiss.edu/courses/his106/

***The Act will be discussed later in the paper**.

1.) Quota Law of May 19, 1921

The Quota Law "limited immigrants to 3% of each nationality present in the U.S. in 1910. This cut the immigrants from the southern and eastern parts of Europe to less than ¼ of those in the U.S. before WWI."[33] The Immigration Act of May 26, 1924 was the first permanent statute on immigration. This quota law benefited Northern and Western Europeans. There were many more immigrants who had arrived from these areas, therefore, allowing a higher quota because it was based on the population of the immigrants already in the United States. Border Patrol was established by the government.[34]

Figure 3 1925-1927

Northwest Europe and Scandinavia		***Eastern and Southern Europe***		***Other Countries***	
Country	**Quota**	**Country**	**Quota**	**Country**	**Quota**
Germany	51,227	Poland	5,982	Africa (Other than Egypt	1,100
Great Britain/ Northern Ireland	34,007	Italy	3,845	Armenia	124
Ireland	28,567	Czechoslovakia	3,073	Australia	121
Sweden	9,561	Russia	2,248	Palestine	100
Norway	6,453	Yugoslavia	671	Syria	100
France	3,954	Romania	603	Turkey	100
Denmark	2,789	Portugal	503	Egypt	100
Switzerland	2,081	Hungary	473	New Zealand and Pacific Islands	100
Netherlands	1,648	Lithuania	344	All Others	1,900
Austria	785	Latvia	142		
Belgium	512	Spain	131		
Finland	471	Estonia	124		
Free City of Danzig	228	Albania	100		
Iceland	100	Bulgaria	100		
Luxemburg	100	Greece	100		
Total (Number)	**142,483**		**18,439**		**3,745**
Total (%)	**86.5**		**11.2**		**2.3**

[33] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History.
[34] *U.S. Immigration History*. < http://www.fairus.org/site/PageServer?pagename=research_research9c29>
Figure 3 *Statistical Abstract of the United States.* (Washington, D.C. Government Printing Office, 1929), 100.

2.) Displaced Persons Act of June 25, 1948

The Displace Persons Act was the first policy enacted that allowed immigrants to enter the United States due to persecution from their home country. The Act allowed approximately 205,000 refugees to enter, that number later increased to 415,000. However, immigration was still limited by the Quota Act which established that 3% of the population of each nationality already living in the United States was allowed to enter the country a year.[35]

3.) Immigration and Nationality Act of June 27, 1952 (INA) (McCarran-Walter Act)

The Act itself was a revision of previous existing legislature on immigration and nationality law. "In addition to continuing the national origins quota system for the Eastern Hemisphere, the INA also established a four category selection system."[36] This law was the precursor of the current four point system regarding immigration that we have today. Instead of basing selection mostly on skilled workers, the system today places priority on family reunification. However, the Quota System was still in affect during the 1950's.[37]

4.) Immigration and Nationality Act Amendments, 1965 (The Hart-Celler Act)

One of the main accomplishments of this act was the abolishment of the quota system. Other things that this act included were that:

> 1) it eliminated national origin, race, or ancestry as a basis for immigration in the United States, 2) it established the allocation of immigrant visas on a first come, first served basis, 3) it established two categories of immigrants not subject to numerical restrictions[38], 4) and maintained the principle of numerical restriction based on the Eastern and Western Hemisphere.[39]

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[35] *U.S. Immigration History*.
[36] *Id* .Preference categories were based on, "Fifty percent of each national quota was allocated for distribution to aliens with high education or exceptional abilities, and the remaining three preference categories were divided among specified relatives of U.S. citizens and permanent resident aliens." The Preference categories placed emphasis on different types of skills that would be desirable in the United States.
[37] *Id*.
[38] *Three Decades of Mass Immigration: The Legacy of the 1965 Immigration Act.* September 1995. Center for Immigration Studies. < http://www.cis.org/articles/1995/back395.html > The two categories were not subject to numerical restrictions were "non-quota immigrants and immediate relatives (i.e., spouses, minor children, and parents of U.S. citizens over the age of 21)."
[39] *U.S. Immigration History*.

5.) Refugee Act of March 17, 1980

The Refugee Act was the first Act that considered refugees separate from the preference system. The preference system is "a method, based on categories (or "preferences"), of distributing the limited number of immigrant visa numbers available each year."[40] A uniform rule was established that set the number of total immigrants that were allowed to enter the United States at 270,000. This number did not include refugees. However, only a certain number of refugees were allowed into the country.[41] This Act strictly defined the definition a refugee[42], and set up a program to help refugees resettle.[43]

6.) Immigration Reform and Control Act of November 6, 1986 (IRCA)

The Immigration Reform and Control Act changed a number of aspects of immigration law:

> 1) legalized aliens who had resided in the United States in an unlawful status since Jan. 1, 1982, 2) established sanctions prohibiting employers from hiring, recruiting, or referring for a fee aliens known to be unauthorized to work in the United States, 3) created a new classification of temporary agricultural worker and provided for the legalization of certain such workers; and 4) established a visa

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[40] The Preference System. <http://www.foreignborn.com/visas_imm/immigrant_visas/10preference_system.htm#preference >

[41] Refugee Act of March 17, 1980 (94 Statute-at-Large 102). Immigration Information. <http://www.uscis.gov/graphics/shared/aboutus/statistics/legishist/553.htm>

[42] *Eligibility for Refugee Assistance and Services through the Office of Refugee Resettlement.* U.S. Department of Health and Human Services. <http://www.acf.hhs.gov/programs/orr/geninfo/index.htm> The definition of a refugee according to the Act is "any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

[43] *Refugee Resettlement Program.* Code of Federal Regulations, (Title 45, Volume 2, Part 200 of 499). <http://www.acf.hhs.gov/programs/orr/policy/doc/400.1.txt> The Program is designed to allow refugees to resettle and achieve economic stability as quickly as possible. As part of this Program there are services that help refugees obtain employment and learn English skills.

waiver pilot program allowing the admission of certain non immigrants without visas.[44]

7.) Immigration Act of November 29, 1990

The government overhauled immigration law through the adoption of this Act. There were eight major changes to immigration law through the Immigration Act: 1) increased immigration to a flexible cap of 675,000 beginning in 1995, 2) created separate admission categories for family-sponsored, employment-based, and diversity immigrants, 3) revised grounds for exclusions and deportation, 4) authorized the Attorney General to grant temporary protected status to undocumented alien nationals of designated countries, 5) revised and established new non immigrant admission categories, 6) extended the Visa Waiver Program to the end of 1994, 7) revised the naturalization authority and requirements, and 8) revised enforcement activities.[45]

8.) Illegal Immigration Reform and Immigrant Responsibility Act of September 30, 1996

The Illegal Immigration Reform and Responsibility Act established measures to: "1) control U.S. borders, protect legal workers through worksite enforcement, and remove criminal and other deportable aliens, 2) placed added restrictions on benefits for aliens, and 3) established various other provisions in miscellaneous areas."[46]

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[44] *U.S. Immigration History*.
[45] *Id*.
[46] Illegal Immigration Reform and Immigrant Responsibility Act of September 30, 1996 (110 Statute-at-Large 3009). Immigration Information. < http://www.uscis.gov/graphics/shared/aboutus/statistics/legishist/553.htm>

4. 2000's

The U.S Patriot Act was enacted in 2001 as a result of the September 11th terrorist attacks that "amended the Immigration and Nationality Act to broaden the scope of aliens ineligible for admission or deportable due to terrorist activities."[47] The Patriot Act provides for:

> 1) authorization of vital information sharing to help law enforcement and intelligence officials connect the dots before terrorists strike, 2**)** eliminates double standards by allowing agents to pursue terrorists with the same tools they use against other criminals**,** 3) adapts the law to modern technology, 4) "Preserves our freedoms and upholds the rule of law. [48]

III. IMPACT OF ILLEGAL ALIENS ON THE UNITED STATES

Any social issue is always going to carry negative repercussions. To some, legal immigration is something that can help stimulate the economy and fill voids in the marketplace. However, with immigration, for every legal immigrant there will be a hoard of illegal aliens. For many illegal aliens, they feel that their situation is so dire that they need to resort to illegally entering the country, whether it is crossing the border without being detected or falsifying documents. Some are even killed trying to cross the border that lies between the United States and Mexico. The dramatic increase in illegal immigrants has many Americans searching for a solution.

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[47] *A Brief Timeline of U.S. Policy on Immigration and Naturalization*. The Flow of History. <http://www.flowofhistory.org/themes/movement_settlement.uspolicytimeline.php. >

[48] *USA Patriot Act*. The White House. < http://whitehouse.gov/infocus/patriotact/>

Figure 5

Illegal Population from All Countries and Mexico, 2000

	Total Pop. In U.S.	Total Illegal	Percent of Illegal Pop.
Australia	61,000	1,000	-
Austria	-	-	-
Belgium	-	-	-
Canada	821,000	47,000	0.60%
Chile	81,000	17,000	0.20%
Finland	-	-	-
France	151,000	7,000	0.10%
Germany	-	-	-
Greece	166,000	7,000	0.10%
Ireland	156,000	3,000	-
Italy	473,000	10,000	0.10%
Luxembourg	-	-	-
Mexico	9,177,000	4,808,000	68.70%
Netherlands	95,000	3,000	-
Norway	-	-	-
Portugal	202,000	6,000	-
Spain	83,000	7,000	0.10%
South Korea	864,000	55,000	0.80%
Sweden	-	-	-
Switzerland	-	-	-
United Kingdom	678,000	7,000	0.10%
All Countries	**13,008,000**	**4,978,000**	
Total Foreign-Born	**31,000,000**	**7,000,000**	

Over the years, illegal immigration has impacted the United States extensively. In order to understand the impact of immigration; it is easier to look at important institutions within the United States while keeping in mind that some references may be biased because the topic is highly debated topic. Politicians are always in the public eye and subject to scrutiny, and illegal immigration has had an impact in the political realm. The country has two choices: "either continue to have record amounts of illegal immigration and therefore continue redistributing seats away from the states comprised mostly of American citizens to states with large numbers

Figrure 5 "Estimates of the Unauthorized Population Residing in the United States: 1990-2000," Office of Policy and Planning, U.S. Immigration and Naturalization Service, (January 2003.)

of illegal and legal immigrants, or better enforce immigration laws so as to reduce if not eliminate illegal immigration."[50]

The economy is a very important factor to the stability of the country. It is estimated that the United States has lost about $35 billion dollars in tax revenue from illegal aliens not paying taxes. Illegal immigrants have resorted to the underground labor market to avoid getting caught, while at the same time depriving the public and the government of precious tax dollars.[51] In addition, it is not uncommon for illegal immigrants to ship money they earn back to their home country instead of recirculating it back into United States economy.

Health costs in the United States have become important topics of discussion for Americans. It becomes even more complex when illegal immigration is thrown into the equation. According to the Center of Immigration Studies, it costs $2.8 billion annually for illegal aliens and their United States born children. The federal government spends $250 million dollars a year reimbursing states for emergency medical care to illegal aliens.[52] Illegal immigration is creating havoc for the budget of the United States government.

Illegal aliens tend to have children who are considered citizens because they are born in the United States. With these children comes the need for them to be educated. However, each year it costs federal aid $1.4 billion dollars annually to educate these children.[53] This not only costs the government money, but it is a burden on the taxpayers. If more money is being spent by the government, taxes for United States citizens are going to be higher.

The prison system is already overcrowded with convicted felons so how does illegal immigration affect the prison rates? Illegal immigrants comprise 17% of the federal prison

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[50] *Remaking the Political Landscape: The Impact of Illegal and Legal Immigration on Congressional Apportionment.* Center for Immigration Studies. (2003). <http://www.cis.org/articles/2003/back1403.html>
[51] *Tancredo: A Day Without Illegal Aliens Is a Boon to Taxpayers*. Press Release: April 30, 2006. <http://trancredo.house.gov/press/PFriendlyArticle.aspx?NewsID=1189 >
[52] *Id.*
[53] *Id.*

population. When all the costs of incarceration and court expenses are tallied together it costs the federal government $1.8 billion dollars per year.[54]

The above are examples of how illegal immigration affects the institutions negatively, however, some suggest that getting rid of illegal immigration could cause the stability of the country to falter. New York is comprised of 3 million immigrants, half of which entered illegally. If they were to be deported it is argued that the city would collapse as well as the nation. Deporting illegal immigrants would cause a domino affect starting with the largest cities which have been sustained largely in part to legal and illegal immigration. The New York mayor is proposing that immigration reform reflects allowing illegal immigrant to become legal citizens or implementing a guest worker program.[55]

Illegal immigration has had a profound effect on the very institutions on which the American public relies. Economically, the government has lost massive amounts of money as well as United States citizens. However, illegal immigration has contributed to the stability of major cities as well as the nation. Congress has been debating the illegal immigration issue to try to come up with a solution.

IV. CONGRESSIONAL RESPONSE

In response to immigration, Congress has been working on policies that will hopefully offer a solution to the massive immigration problem. The House of Representatives, as well as the Senate, has proposed a main bill regarding immigration policy. The main points of these will be summarized and a table will diagram the bills compared to one another. The main issue that has been plaguing the Legislative Branch has been that a bill may be passed in one House but denied in the other.

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[54] *Id.*

[55] Hefling, Kimberly. *New York Mayor: Economy Would Fail if Illegal Immigrants were Deported.* <http://news.aol.com/topnews/articles/_a/new-york-mayor-economy-would-fail-if/n2006070522030 >

A) Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437)

In December, a bill on immigration titled "Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005," was proposed and passed by the House of Representatives. Originally constructed by F. James Sensenbrenner, Jr., a Republican from Wisconsin and Peter King, a Republican from New York, the bill consists of eight titles divided into sections.

There are key provisions that are being proposed within the text of the document. According to the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437), any "unlawful presence" in the United States would be considered a crime that may require jail time. An "unlawful presence" is considered an undocumented immigrant. These people would be banned from gaining legal status in the future as well as would be prohibited from re-entering the country. Second, any persons who are apprehended along an international border or at a port-of-entry would be held until the proper course of action was taken either deported or given immigration relief. The people in this category include: immigrants, asylum seekers, victims of human trafficking, victims of domestic abuse and children. [56]

Organizations who knowingly "'assists' and individual without documentation 'to reside in or remain' in the United States knowingly or with 'reckless disregard' as to the individuals legal status would be liable for monetary penalties and five years in prison."[57] Department of Homeland Security (DHS) enforcement personnel would be authorized to remove asylum seekers without giving them the chance to appear before an immigration judge. DHS would also be required to erect a 700 mile long fence on the Southwest border in order to reduce the number of immigrant casualties. Contrary to the Supreme Court ruling in Zadvydas v.

[56] *The Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005* (H.R. 4437). Migration and Refugee Services.< http://www.usccb.org/mrs/borderprotection.shtml >
[57] *Id.*

Davis, 533 US 678 (2001), DHS would have the authority to detain individuals who have served their sentences because they are considered a "dangerous alien."[58]

Law enforcement in cities has been included in H.R. 4437 by being given the authority to enforce immigration laws; those who refuse to participate could lose federal funding. Any crime committed by a refugee or asylum seeker for a minor offense is punishable by being barred from United States citizenship and legal residence. An aggravated felony by a refugee or asylum seeker will be deported and barred from re-entry. Any country who will not accept the people who commit crimes in the United Stated back into their countries would also be allowed to enter the United States such as China, Vietnam, and Cuba. Finally, the last major provision suggested is the disbandment of the visa lottery program which allows 50,000 immigrants into the country, who can permanently reside in the United States.[59]

B) Comprehensive Immigration Reform Act of 2006 (S. 2611)

On May 25, the Senate passed the Comprehensive Immigration Reform Act of 2006 (S. 2611). The bill was presented to the Senate by a key group of Senators. There are key provisions for immigration that have been suggested by this bill. The section on border security suggests that the federal government fix or replace any fencing that has been damaged. It also requires that an additional 370 miles of fencing be constructed where there is a high traffic area. A virtual fence would be constructed using the latest technology such as unmanned aerial vehicles, cameras, poles, and sensors. The number of border patrol agents would increase by 3,000 a year from 2006-2010. This also allows governors to send National Guard from their states to support Border Patrol.[60]

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[58] *Id.*
[59] *Id.*
[60] Fragomen, Austin T., Jr. *A Summary of Comprehensive Immigration Reform Act of 2006.* <http://west.thomson.com/keyauthors/AnalysisArticle_Fragomen.pdf >

Sanctions that would occur within the United States include harsher penalties for employers who employ illegal immigrants by using an electronic verification system. Employers could face hefty fines as well as criminal charges. Other ways of securing the interior of the United States is by "turning some civil status violations under current law into criminal misdemeanors, and denying asylum requests from anyone deemed inadmissible on terrorism related grounds."[61]

The major provision is the implementation of a guest worker program. This program would allow 200,000 new immigrants into the country each year. The visa would be valid for three years and would also be renewable. Immigrants could then seek permanent residence in the United States.[62]

The bill would increase the number of highly-skilled immigrants allowed to enter the country. Employment based visas would increase from 140,000 to 450,000 for the next ten years, however, these would drop back down in 2017. The cap does not include advance degree holders from a United States institution, anyone who is considered to have an extraordinary ability, or spouses and children.[63]

When comparing the two bills, they have many similarities between them. There are certain issues that the House addresses that the Senate does not. In the table below, it compares the House to the Senate bill, which is being scrutinized.

[61] *Id*.
[62] *Id*.
[63] *Id.*

Figure 6 Comparisons of Bills Passed by the House of Representatives and the Senate

Issue	House of Representatives	Senate
Border Security	1. Construct a 700 mile long fence 2. Secretary of Homeland Security must make a plan within 6 months for surveillance of land borders 1 year for a plan to secure border. 3. Hire 250 more port of entry inspection personnel between 2007 and 2010. 4. Funding for 25% more canine units used by HS. 5. Requires Inspector General to review contracts over $20 million. 6. Reimbursement to private property owners on border who has damage done to property by illegal immigrants, $50,000 available a year. 7. Radiation detection devices to be deployed at ports of entry and funds to do so.	1.Construct a 370 mile long fence 2. Repair or replace damaged fencing. 3. Increase number of Border Patrol Agents increasing by 3,000 a year 4. Governor's could send National Guard from their states to assist Border Patrol. 5. Border Infrastructure and Technology Modernization Act includes: a port of entry infrastructure assessment study, a national land border security plan and a port of entry technology demonstration program.
Interior Enforcement	1. Organizations who assist illegal immigrants could be subject to criminal penalties and up to 5 years in prison.	1. Penalties against employers for hiring illegal immigrants including fines and possibly 3 years in prison.
Combating Alien Smuggling and Illegal Entry and Presence	1. "Unlawful presence" considered a felony. 2. Voluntary Departure Program allows an alien to leave within 60 days and provides a penalty for those who violate it. 3. Gives smugglers the same penalties as illegal immigrants.	1. The bill has provisions to crack down on smuggling and gang activity.
Border Security Cooperation and Enforcement	1. Creation of plan of cooperation between Homeland Security and Department of Defense.	1. Border Tunnel Prevention Act- Provides criminal penalties for who construct, finance or use illegal border tunnels. 2. The bill does not focus on the enforcement of border security.
Detention and Removal	1. Mandatory detention for undocumented aliens apprehended at or between ports of entry. 2. Expedited removal to those who are apprehended within 100 miles of the border and 14 days of unauthorized entry.	1. Certain criminals may be detained if deportation is not immediate.
Effective Organization of Border Security Agencies	1. Establish an Office of Air and Marine Operations within the Department of Homeland Security. 2. Enhance border security coordination and management.	1. The Senate bill does not focus on this area.
Terrorist and Criminal Aliens	1. REAL ID Act ensures the removal of aliens tied to terrorist organizations. 2. May be subject to deportation or barred from becoming a permanent resident.	1. Requests are to be denied for asylum seekers who are deemed inadmissible due to terrorism related grounds.
Employment Eligibility Verification	1. Employers must verify that their workers are eligible to work in the United States via their social security number.	1. Electronic verification system. Employers must verify that all employees are of legal status.
Immigration Litigation Abuse Reduction	1. Making immigrants sign a waiver saying they will not contest admissibility.	1. Erosion of due process protections.
Guest Worker Programs	1. Not Considered by the House.	1. Create a temporary guest worker program that admits 200,000 new workers a year.
Citizenship	1. Not Considered by the House.	1. Allows for the opportunity to gain citizenship for illegal immigrants residing in the United States for more than 5 years.

Figure 6 Fragomen, Austin T., Jr. *A Summary of Comprehensive Immigration Reform Act of 2006*. *The Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005* (H.R. 4437). *S. 2611*. <http://en.wikipedia.org/wiki/S._2611>