

JUDY CHU, Ph.D.
27TH DISTRICT, CALIFORNIA
WASHINGTON OFFICE:
2423 Rayburn House Office Building
Washington, DC 20515
(202) 225-5464
(202) 225-5467 (Fax)
PASADENA DISTRICT OFFICE:
527 South Lake Avenue, Suite 250
Pasadena, CA 91101
(626) 304-0110
(626) 304-0132 (Fax)



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April 26, 2022

Chair Patrick Leahy
Senate Committee on Appropriations

Chair Rosa DeLauro
House Committee on Appropriations

Chair Chris Murphy
Subcommittee on Homeland Security
Senate Committee on Appropriations

Chair Lucille Roybal-Allard
Subcommittee on Homeland Security
House Committee on Appropriations

Dear Sen. Leahy, Sen. Murphy, Rep. DeLauro, Rep. Roybal-Allard:

We respectfully request you include language in the Fiscal Year 2023 Homeland Security

Appropriations bill to: (1) recapture unused green cards lost to bureaucratic and COVID-related delays; (2) make visas available for persons who were selected through the Diversity Visa program lottery but who were impacted by the former administration's executive actions on immigration; (3) require the government to end the practice of counting derivative visas towards the Immigration and Nationality Act's numerical limits; and (4) appropriate funds to the U.S. Department of State to address this backlog.

Every year, thousands of immigrant visas Congress allocated under the Immigration Act of 1990 go unused, contrary to Congressional intent. In FY21, only 65,452 family-sponsored green cards were issued, out of 226,000 available. Nearly 4 million people are currently waiting in the family-based immigration backlogs. The wait time for a U.S. citizen sponsoring a sibling from

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the Philippines currently takes nearly 20 years for the visa to even become available.¹ Wait times for US Citizens sponsoring unmarried adult children from Mexico increased more than 1,700% since 1991, reaching nearly a 22 year wait.² Families remain needlessly separated, and the public continues to lose trust in existing pathways for green cards, which already are so limited.

First, we recommend the inclusion of language to recapture unused green cards lost due to bureaucratic and COVID-related delays. The attached proposed language recaptures unused employment visas from FY1992 through FY2021. FWD.us estimates that recapture going back to 1992 could provide more than 220,000 previously unused green cards for aspiring immigrants in the backlogs, enabling the government to process these visas for the individuals currently in the family-based and employment-based visa backlog.³ For future years, unused visa numbers will automatically “roll over” to the next fiscal year, as the language fixes a technical issue in the law that propagates the backlog.

Secondly, we should provide green cards to people who were selected through the diversity visa lottery but did not receive a green card due to the former administration’s executive actions on immigration. A group of diversity visa applicants, numbering in the tens of thousands, were selected during the FY2017 through FY2021 diversity visa lotteries and lost their opportunity to immigrate to the United States due to executive orders under the prior administration. The proposed language below restores these individuals with the opportunity to come to the United States.

Thirdly, we should end the practice of counting derivative visas towards the Immigration and Nationality Act’s numerical limits. This language fix will change how families are counted for the purpose of visa caps. Under the current administrative practice, a primary beneficiary of a permanent visa can bring in their spouse and children to the United States, but those individuals count against the numerical limit of that immigration category. There is nothing in the statute requiring this practice, and ensuring derivatives are not counted against the numerical limit will significantly help reduce the visa backlog.

Finally, we should appropriate funds to manage the increased consular processing of visa

1 “Visa Bulletin for January 2022,” Department of State, Dec. 8., 2021, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2022/visa-bulletin-for-january-2022.html>.

2 “Family-Based Immigration Backlogs: 5 Things to Know,” Fwd.US, Feb. 10, 2022, <https://www.fwd.us/news/family-based-immigration-backlogs/>.

3 “Green card recapture and reform would reduce immigration backlogs,” FWD.us, April 13, 2021, <https://www.fwd.us/news/green-card-recapture/>.

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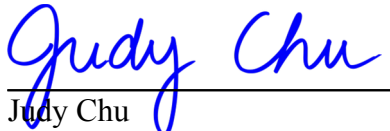
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applications at the Department of State both to address the current backlog and the increased processing required of visa recapture. There is currently a backlog for visa processing at the consulates that requires this infusion of funds to clear the existing backlog and expand the number of visas processed.

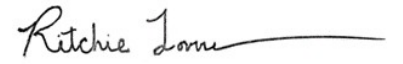
These measures will help reunite many American families with their loved ones, prevent prolonged family separations, and provide redress to people who were denied visas based on discriminatory immigration bans.

For questions, please contact Kristen Torres at Kristen.Torres@mail.house.gov with Rep. Chu's office or Zach.Grossman@mail.house.gov with Rep. Torres' office.

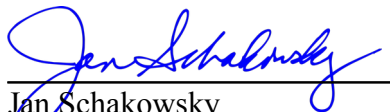
Sincerely,




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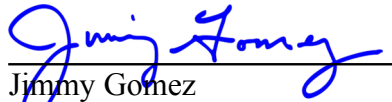
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Jimmy Gomez
Member of Congress

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Appendix: Suggested bill language

SEC. ____ . RECAPTURE OF UNUSED IMMIGRANT VISA NUMBERS.

(a) ENSURING FUTURE USE OF ALL IMMIGRANT VISAS.—Section 201(c)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(1)(B)(ii)) is amended to read as follows:

“(ii) In no case shall the number computed under subparagraph (A) be less than the sum of—

“(I) 226,000; and

“(II) the number computed under paragraph (3).”.

(b) RECAPTURING UNUSED VISAS.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:

“(g) RECAPTURING UNUSED VISAS.—

“(1) FAMILY-SPONSORED VISAS.—

“(A) IN GENERAL.—Notwithstanding the numerical limitations set forth in this section or in sections 202 or 203, beginning in fiscal year 2023, the number of family-sponsored immigrant visas that may be issued under section 203(a) shall be increased by the number computed under subparagraph (B).

“(B) UNUSED VISAS.—The number computed under this subparagraph is the difference, if any, between—

“(i) the difference, if any, between— “(I) the number of visas that were originally made available to family-sponsored immigrants under section 201(c)(1) for fiscal years 1992 through 2022, setting aside any unused visas made available to such immigrants in such fiscal years under section 201(c)(3); and

“(II) the number of visas described in subclause (I) that were issued under section 203(a), or, in accordance with section 201(d)(2)(C), under section 203(b); and

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“(ii) the number of visas resulting from the calculation under clause (i) issued under section 203(a) after fiscal year 2022.

“(2) EMPLOYMENT-BASED VISAS.—

“(A) IN GENERAL.—Notwithstanding the numerical limitations set forth in this section or in sections 202 or 203, beginning in fiscal year 2023, the number of employment-based immigrant visas that may be issued under section 203(b) shall be increased by the number computed under subparagraph (B).

“(B) UNUSED VISAS.—The number computed under this paragraph is the difference, if any, between—

“(i) the difference, if any, between— “(I) the number of visas that were originally made available to employment-based immigrants under section 201(d)(1) for fiscal years 1992 through 2022, setting aside any unused visas made available to such immigrants in such fiscal years under section 201(d)(2); and

“(II) the number of visas described in subclause (I) that were issued under section 203(b), or, in accordance with section 201(c)(3)(C), under section 203(a); and

“(ii) the number of visas resulting from the calculation under clause (i) issued under section 203(b) after fiscal year 2022.

“(3) DIVERSITY VISAS.—Notwithstanding section 204(a)(1)(I)(ii)(II), an immigrant visa for an alien selected in accordance with section 203(e)(2) in fiscal year 2017, 2018, 2019, 2020, 2021, or 2022 shall remain available to such alien (and the spouse and children of such alien) if—

“(A) the alien was refused a visa, prevented from seeking admission, or denied admission to the United States solely because of [Executive Order 13769](#), [Executive Order 13780](#), [Presidential Proclamation 9645](#), or [Presidential Proclamation 9983](#); or

“(B) because of restrictions or limitations on visa processing, visa issuance, travel, or other effects associated with the COVID-19 public health emergency—

“(i) the alien was unable to receive a visa interview despite submitting an Online Immigrant Visa and Alien Registration Application (Form DS-260) to the Secretary of State; or

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“(ii) the alien was unable to seek admission or was denied admission to the United States despite being approved for a visa under section 203(c).”

SEC. __. ADDRESSING VISA BACKLOGS.

(a) NONCITIZENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)) is amended by adding at the end the following:

“(H) Noncitizens described in section 203(d).”