

# CRS Report for Congress

## Point Systems for Immigrant Selection: Options and Issues

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**Prepared for Members and  
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## Summary

Replacing or supplementing the current preference system for admitting legal permanent residents (LPRs) with a point system is garnering considerable interest for the first time in over a decade. Briefly, point systems such as those of Australia, Canada, Great Britain, and New Zealand assign prospective immigrants with credits if they have specified attributes, most often based on educational attainment, skill sets used in shortage occupations, extent of work experience, language proficiency, and desirable age range.

President George W. Bush has stated that comprehensive immigration reform is a top priority of his second term, and his principles of reform include increased border security and enforcement of immigration laws within the interior of the United States, as well as a major overhaul of temporary worker visas, expansion of permanent legal immigration, and revisions to the process of determining whether foreign workers are needed. The Bush Administration is reportedly among those advocating to replace or supplement the current legal immigration preference system with a point system that would assign prospective immigrants with credits if they have specified attributes.

Proponents of point systems maintain that such merit-based approaches are clearly defined and based on the nation's economic needs and labor market objectives. A point system, supporters argue, would be more acceptable to the public because the government (rather than employers or families) would be selecting new immigrants and this selection would be based on national economic priorities. Opponents of point systems state that the judgement of individual employers are the best indicator of labor market needs and an immigrant's success.

Opponents warn that the number of people who wish to immigrate to the United States would overwhelm a point system comparable to those of Australia, Canada, Great Britain, and New Zealand. In turn, this predicted high volume of prospective immigrants, some say, would likely lead to selection criteria so rigorous that it would be indistinguishable from what is now the first preference category of employment-based admissions (persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multinational executives and managers) and ultimately would not result in meaningful reform.

The bipartisan compromise proposal for comprehensive immigration reform introduced in the Senate on May 21, 2007, as S.Amdt. 1150 to S. 1348, the Comprehensive Immigration Reform Act of 2007, includes a point system. This report will be updated as events warrant.

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# Point Systems for Immigrant Selection: Options and Issues

## Introduction

### Issue Definition

President George W. Bush has stated that comprehensive immigration reform is a top priority of his second term, and his principles of reform include increased border security and enforcement of immigration laws within the interior of the United States, as well as a major overhaul of temporary worker visas, expansion of permanent legal immigration, and revisions to the process of determining whether foreign workers are needed. Some are advocating to replace or supplement the current legal immigration preference system<sup>1</sup> with a point system that would assign prospective immigrants with credits if they have specified attributes (e.g., educational attainment, work experience, language proficiency).

Replacing or supplementing the current preference system for admitting legal permanent residents (LPRs) with a point system is garnering considerable interest for the first time in over a decade. Briefly, point systems such as those of Australia, Canada, Great Britain, and New Zealand assign prospective immigrants with credits if they have specified attributes, most often based upon educational attainment, skill sets used in shortage occupations, extent of work experience, language proficiency, and desirable age range.

**Pro/Con Summation.** Proponents of point systems maintain that such merit-based approaches are clearly defined and based upon the nation's economic needs and labor market objectives.<sup>2</sup> A point system, supporters argue, would be more acceptable to the public because the government (rather than employers or families) would be selecting new immigrants and this selection would be based upon national economic priorities. Such a system would distribute qualifying points from various

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<sup>1</sup> CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*, by Ruth Ellen Wasem. (Hereafter, CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*.)

<sup>2</sup> U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, May 1, 2007; and U.S. Senate, Committee on Health, Education, Labor, and Pensions, *Hearing on Employment-Based Permanent Immigration: Examining the Value of a Skills Based Point System*, September 14, 2006.

“merit-based” categories, thereby making the system analogous to the “skilled immigration” point systems of other countries.<sup>3</sup>

Opponents of point systems state that the judgement of individual employers are the best indicator of labor market needs and an immigrant’s success. Some warn that the number of people who wish to immigrate to the United States would overwhelm a point system that is comparable to those of Australia, Canada, Great Britain, and New Zealand. In turn, this predicted high volume of prospective immigrants, some say, would likely lead to selection criteria so rigorous that it would be indistinguishable from what is now the first preference category of employment-based admissions (persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multinational executives and managers) and ultimately would not result in meaningful reform.<sup>4</sup>

## Current Criteria for U.S. Permanent Residence

Four major principles underlie current U.S. policy on permanent immigration: the reunification of families, the admission of immigrants with needed skills, the protection of refugees, and the diversity of admissions by country of origin. Each of these four principle constitutes its own stream, or column, of immigrants. Thus, for example, the queue for family-based immigrants generally functions independently of the queue for employment-based admissions. The Immigration and Nationality Act (INA) specifies a complex set of numerical limits and preference categories that give priorities for permanent immigration reflecting these principles. Prospective immigrants must first meet the eligibility requirements for the specific visa category, and then form a queue based upon numerical limits set by visa category and country of origin. These preference categories are detailed in **Appendix A**, Current U.S. Legal Immigration Preference System.

Under the INA, immigrants are legal permanent residents (LPRs) who are foreign nationals living lawfully and permanently in the United States. During FY2005, a total of 1.1 million aliens became LPRs in the United States. Of this total, 57.8% entered on the basis of family ties. Other major categories in FY2005 were employment-based LPRs (including spouses and children) at 22.0%, and refugees/asylees adjusting to LPR status at 12.7%.<sup>5</sup>

## Features of Point Systems

A point system is a criteria-based immigrant selection process wherein each criterion is assigned a certain value or range. Those qualities in an applicant which are valued more highly, or are more sought after, are given a higher point value. In order to qualify, or “pass,” an applicant must receive a predetermined number of points or fall within the top end of the point distribution. The scope and complexity

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*.

of point systems offer a range of possibilities. Three elements are central to devising a point system: the factors/criteria; the scoring/scaling dimensions; and the possible use of tiers.

**Factors.** As noted above, points systems are based upon a list of criteria or factors. Most often, the factors are based upon the prospective immigrant's educational attainment, work experience, language proficiency, occupation, and age. Other factors that arise, albeit less frequently, link a prospective immigrant to the destination country, such as offers of employment, close family ties, prior work or educational experience in the destination country. These factors are typically focused on criteria that predict economic success, but also might include factors that are geared toward adaptability, social acculturation or assimilation.

**Score/Scale Dimensions.** Another element of points systems is how they are scored or scaled. For example, the factor of education may be scaled according to the years of schooling (e.g., 2 points for each year of schooling beyond high school) or scored according to a specific number of points given to the prospective immigrant who meets the educational requirements (e.g., 25 points for an advanced degree).

**Tiers.** A tiered approach to points systems organizes the factors into separate streams. For example, there might be a tier for shortage occupations, a tier for recent graduates in science, technology, engineering, and mathematics, and a tier for extended family of U.S. citizens. Within each of these tiers there might be separate scoring mechanisms that assign points, for example, according to age, work experience, or language proficiency.

**Constellation of Elements.** As the discussion below reveals, points systems may be devised to draw on a constellation of these elements. That is, within a tier, there may be factors and sub-factors given differing weights. Or, some factors may be scaled and other factors may be scored within the same tier or overall point system.

## Theoretical Considerations

There are theoretical approaches that underlie the debate over any system to select immigrants, and these theories particularly arise in the context of point systems. There are a variety of economic, social, and public policy theories that often shape the discussion.

By adjusting the point values to favor admissions of immigrants with skill sets that are in highest demand, the point systems rooted in classical economic theory might aim to maximize the probability that the migrant will be a net contributor to the country's economy — both in the short and long term.<sup>6</sup> Moreover, by keeping

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<sup>6</sup> Testimony of Queen's University Professor of Economics Charles M. Beach, in U.S. Congress, Senate Committee on Health, Education, Labor, and Pensions, *Employment-Based Permanent Immigration: Examining the Value of a Skills-Based Point System*, 109<sup>th</sup> Cong., (continued...)

the immigrant labor force supply at or slightly below market demand, a point system based upon economic theory might attempt to approximate a labor market equilibrium without the potential for severe adjustment costs (e.g., “overheating” housing market) or exogenous shocks to the labor market (e.g., large influx of foreign nationals). Classical economists would note that despite such governmental efforts at pinning down labor market demand for skill sets, the use of a government agency to determine market forces will incur the loss of efficiency. The most efficient outcome, classical economists argue, is always going to be achieved through the free flow of individuals in an open market (and thus by having open borders). Yet, scholars will also note that such inefficiency may serve as incentives in the marketplace for desirable economic change, such as technological innovation and wage growth.<sup>7</sup>

The objective to maximize the likelihood of immigrant assimilation might lead to a point system which values those social factors correlated to acculturation. Family ties and relatives residing in the United States might be highly valued for the community and social linkages they provide to the immigrant. Some factors (such as being within a certain age range, higher levels of education and language skills) might be chosen for social assimilation as well as economic reasons. If the societal goal is to increase the ethnic and racial diversity of the immigrant stream, then a point system might add credits for immigrants coming from countries that are traditionally under-represented in the migrant flow.<sup>8</sup>

Finally, a point system might be designed with a public policy underpinning to maximize public support. In theory, an immigrant selection system might be more efficacious with the public if it is one in which elected officials (rather than individual employers or families) are establishing priorities at the national level to choose new immigrants. One strand of recent research characterizes point systems as potentially inspiring public confidence by appearing to use universal, data-driven, and objective selection criteria that convey to the public that the government is being proactive in ways that put national economic interests first.<sup>9</sup>

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<sup>6</sup> (...continued)

2<sup>nd</sup> Sess., September 14, 2006, S.Hrg. 109-775 (Washington: GPO 2007).

<sup>7</sup> Testimony of Princeton University Professor of Sociology Douglas S. Massey, in U.S. Congress, Senate Committee on Health, Education, Labor, and Pensions, *Employment-Based Permanent Immigration: Examining the Value of a Skills-Based Point System*, 109<sup>th</sup> Cong., 2<sup>nd</sup> Sess., September 14, 2006, S.Hrg. 109-775 (Washington: GPO 2007).

<sup>8</sup> Carnegie Endowment for International Peace, *Balancing Interests: Rethinking U.S. Selection of Skilled Immigrants*, by Demtrios G. Papademetriou and Stephen Yale-Loehr, 1996.

<sup>9</sup> Migration Policy Institute, *Selecting Economic Stream Immigrants through Points Systems*, by Demtrios G. Papademetriou, May 2007.



## International Point Systems

Among the countries that currently employ a merit-based point system, the four highest profile systems are those of Canada, Australia, New Zealand, and the United Kingdom. Generally, such merit based criteria are referred to by these countries as “skilled immigration.” Each of these countries employs a point system in assessing candidates for skilled immigration. In the four different systems, those skilled immigration applicants with the most points according to various characteristics would immigrate ahead of applicants with lower point totals. In addition, each of these four countries employs a preference system for family-based immigration. They also employ quotas to determine levels of family and humanitarian immigration. These family and humanitarian immigrants are thus placed in separate immigration queues.

Although the categories vary for each country, each of these countries generally requires that the potential applicant demonstrate some sort of official language competence, educational qualifications, and be within a certain age range. Although failing to meet one of these qualifications may automatically disqualify applicants in some countries, these criteria are not basic requirements in every country. While the United Kingdom, for example, requires a basic knowledge of English for every applicant, skilled immigrants to Canada can technically qualify without knowledge of either of the country’s official languages (English or French). Generally, an applicant who receives a passing mark in any of the four countries discussed below is believed to possess skills that are in sufficient demand to ensure ample employment opportunities (if such an offer has not already been extended).

### New Zealand<sup>10</sup>

In New Zealand, which has skilled immigration criteria that are detailed in **Appendix B**, an applicant for skilled migration must accumulate 140 points (out of a possible 290 points) to qualify for permanent admission. In order to even be assessed on these criteria, the applicant must meet health, character, and basic English language requirements, in addition to being under the age of 56. The New Zealand immigration service evaluates a candidate for skilled employment on the basis of four broad criteria: (1) existing skilled employment, or an offer thereof; (2) work experience; (3) educational qualifications; and (4) age. During adjudication, he or she can receive a minimum of 50 points and a maximum of 95 points, including bonus points, for the skilled employment criterion. Additionally, candidates who have at least two years of previous employment can receive a minimum of 10 points and a maximum of 65 points, including bonus points, depending on length and type of experience. Candidates with basic educational qualifications may receive a minimum of 50 points, while those with higher qualifications may receive up to a maximum of 100 points, including bonus points. Finally, all skilled employment applicants who pass the basic requirements receive points for their age, from a

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<sup>10</sup> Information in this section is compiled from the New Zealand Immigration Service, *Operations Manual: Part 3, Residence*, April 10, 2007, pp. 87-1,87-2, at [<http://www.immigration.govt.nz/migrant/general/generalinformation/operationsmanual/>], visited May 10, 2007.

minimum of five points for the age group of 50-55, to a maximum of 30 points for 20-29 year-olds.

Although the qualifying point total for skilled immigration may appear permissive (with a qualifying mark of less than half of the available points under New Zealand's point structure), the prospect is difficult without an employment offer. Many of the categories include a large number of bonus points for immigrants attempting to settle in low growth and rural areas, or for previous experience in New Zealand. Achieving a maximum score *without bonus points* in the non employment offer categories (totaling 115 points) will not net an applicant a passing mark for skilled immigration. Thus, the distribution of points and the level of the passing mark for New Zealand's skilled immigration makes an employment offer or existing New Zealand employment a de facto requirement for skilled immigration. However, an applicant may still qualify to submit an expression of interest for skilled immigration, and the New Zealand government may choose to admit some of these applicants if its skilled immigration quotas are not met.

## United Kingdom<sup>11</sup>

In the United Kingdom, which has skilled immigration criteria that are detailed in **Appendix C**, an applicant for skilled migration must accumulate 75 points (out of a possible 125 points) to qualify for permanent admission. In order to even be assessed on these criteria, the applicant must meet health, character, and basic English language requirements, in addition to being able to support himself without recourse to public funds. Current British policy assesses high skilled migrants utilizing a point system known as the "Highly Skilled Migrant Program" (HSMP). The HSMP is designed to be a flexible system for attracting well qualified individuals to the British labor market.<sup>12</sup> Under the HSMP, an applicant can receive between 30-50 points for educational qualifications, between 5-45 points for past earnings, between 0-20 points for age, and five points for any previous work or educational experience in the United Kingdom.<sup>13</sup> A passing mark under the British system is 75 points. Additionally, the United Kingdom has a basic English language qualifying requirement for the HSMP, wherein the individual must receive a

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<sup>11</sup> Information in this section is compiled from the Testimony of Foreign Law Specialist at Law Library of Congress Clare Feikert, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007), and United Kingdom Home Office, *A Points-Based System: Making Migration Work for Britain*, Cm 6741, March 2006, at [<http://www.homeoffice.gov.uk/documents/command-points-based-migration?view=Binary>], visited May 10, 2007.

<sup>12</sup> Testimony of Foreign Law Specialist at Law Library of Congress Clare Feikert, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007).

<sup>13</sup> United Kingdom Border and Immigration Agency, *Information about the Highly Skilled Migrant Programme*, March 2006,

certificate of level six or above on the International English Language Testing System (IELTS) examination.

A distinction with the British skilled immigration system is that it contains a special Master of Business Administration (MBA) provision. Graduates from one of the 50 eligible MBA programs from around the world who graduated since December 2004 are automatically granted the 75 points necessary to qualify. Yet, these candidates must still meet any other basic requirements of the visa, such as English language skills.<sup>14</sup> This MBA provision was put into effect in 2005, and the website listing the eligible MBA programs the British Treasury maintains is included in **Appendix C**.

**Proposed Changes.** The United Kingdom's immigration system additionally distinguishes itself from other points systems in that it is scheduled to become an entirely tiered point system. Under the planned scheme, there will be five new tiers to replace all existing worker and student visa categories and replace them with a point system. These five tiers would include (1) high skilled workers, (2) medium skilled workers, (3) low skilled workers, (4) students, and (5) temporary workers and youth mobility.<sup>15</sup> Family reunification and humanitarian immigration would not be affected by the point system. The new point system is set to take effect in April 2008.<sup>16</sup>

## **Australia<sup>17</sup>**

The Australian skilled immigration program, which uses criteria that are outlined in greater detail in **Appendix D**, does not have a universal set of points to serve as a qualifying mark. Instead, the passing mark varies between 110-120 points, depending upon the type of skilled immigration the individual is attempting to qualify for. Additionally, Australian authorities maintain a reserve pool of applicants who score between 70-120 points. If the immigration quotas are not filled by passing applicants, Australian authorities may choose to fill the quota with applicants from

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<sup>14</sup> Testimony of Foreign Law Specialist at Law Library of Congress Clare Feikert, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007).

<sup>15</sup> United Kingdom Home Office, *A Points-Based System: Making Migration Work for Britain*, Cm 6741, March 2006, at [<http://www.homeoffice.gov.uk/documents/command-points-based-migration?view=Binary>], visited May 10, 2007.

<sup>16</sup> *Ibid.*

<sup>17</sup> Information in this section is compiled from the Testimony of Foreign Law Specialist at Law Library of Congress Lisa White, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007).

the reserve pool.<sup>18</sup> In order to even be assessed on these criteria, the applicant must meet health, character, age and basic English language requirements, in addition to education and work requirements.

Australia has the most diverse set of categories of the point systems discussed in this report. Australian authorities maintain a skilled occupations list (SOL) that assigns a certain number of points (between 40-60 points) to each occupation considered as skilled. Every applicant for skilled immigration must have a nominated occupation that appears on the SOL and have the necessary work experience in this occupation. A candidate who has work experience in skilled employment may receive between 5-10 points depending on type of experience. If the nominated occupation is on the government's Migration Occupations in Demand List (MODL), the individual may receive between 15-20 points. Moreover, an applicant must be under the age of 45 to qualify, and will receive between 15-30 points in the age category, with the points awarded decreasing as age increases.

In addition to such work and skill-related criteria, there are also a number of points that are distributed specifically on the basis of involvement in Australia and ability to adapt. One of these criteria is for regional study or residence, wherein an applicant may receive five points for having lived in a designated region or low population growth metropolitan area. An additional five points may be provided for either (1) providing a minimum \$100,000 (AUS) capital investment in Australia, (2) Australian work experience of six months or more within the previous four years, or (3) fluency in one of Australia's community languages, other than English. Moreover, if an applicant has received educational training in Australia, the applicant may receive between 5-15 points, depending upon the type of education. An applicant may also receive five points if his or her spouse receives qualifying marks in a sufficient number of categories.

The final category for which an applicant may receive points is for competency in the English language. Although basic skills in the English language is a fundamental requirement for receiving a skilled immigrant visa, greater levels of competency will receive a higher number of points. Applicants who receive a score of at least five on all components of the International English Language Testing System (IELTS) will receive 15 points, while native speakers and those scoring six and higher on all component of the IELTS receive 20 points.<sup>19</sup>

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<sup>18</sup> Testimony of Foreign Law Specialist at Law Library of Congress Lisa White, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007).

<sup>19</sup> Ibid.

## Canada<sup>20</sup>

In Canada, which has skilled immigration criteria that are detailed in **Appendix E**, an applicant for skilled migration must accumulate 67 points (out of a possible 100 points) to qualify for permanent admission. In order to even be assessed on these criteria, the applicant must meet health and character requirements, as well as demonstrate that he will be able to support himself without recourse to public funds. Current Canadian skilled immigration policy depends on a set of six selection criteria — education, language, experience, age, arranged employment, and adaptability — for determining admission eligibility for skilled immigrants. The categories of education, language, and experience in an approved occupation are seen by Canadian authorities as the key elements to integrating into Canadian society and becoming a productive member of its economy. Therefore these three categories account for up to 70 points cumulative maximum — three points above the passing mark. Having an actual employment offer<sup>21</sup> accounts for an additional ten points.<sup>22</sup> Age and adaptability criteria can each net an applicant up to an additional ten points, respectively.

In terms of competence in the official languages, Canada is the only country considered in this section that does not require a certain competence level. Applicants that are fluent in both official languages may receive up to 24 points for their language skills, but even those without any language qualifications are still eligible to qualify. However, because of the way in which the points are distributed, an individual with no competence in either official language would have to have a confirmed permanent job offer in order to qualify. Additionally, this individual would have to receive some adaptability points to receive a passing mark. Thus, while a de jure prerequisite for official language skills does not exist, achieving a passing point score without these skills would be difficult for most applicants.<sup>23</sup>

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<sup>20</sup> Information in this section is compiled from the Testimony of Senior Foreign Law Specialist at Law Library of Congress Stephen F. Clarke, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007), and Citizenship and Immigration Canada, *Overseas Processing Manual: Federal Skilled Workers*, no. OP 6, July 17, 2006, pp. 11-28, at [<http://www.cic.gc.ca/manuals-guides/english/op/op06e.pdf>], visited May 22, 2007.

<sup>21</sup> Citizenship and Immigration Canada, *Overseas Processing Manual: Federal Skilled Workers*, no. OP 6, July 17, 2006, pp. 11-28, at [<http://www.cic.gc.ca/manuals-guides/english/op/op06e.pdf>], visited May 22, 2007.

<sup>22</sup> If an applicant does not have an actual employment offer, he must demonstrate that he has sufficient funds on hand to qualify. These fund levels vary depending on household size and are outlined in **Appendix E**.

<sup>23</sup> Testimony of Senior Foreign Law Specialist at Law Library of Congress Stephen F. Clarke, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007).

For those potential migrants who wish to settle in Quebec, there are special provisions that require the potential migrant to apply directly to the government of Quebec. Under terms of the Canada-Quebec Accord on Immigration, Quebec is able to establish its own immigration requirements for admission into the province.<sup>24</sup> Currently, these requirements are not the same as those of the Canadian authorities. Immigrants who wish to go to Quebec as a skilled worker must first apply to the Quebec government to receive a *Certificat de sélection du Québec* (Quebec selection certificate). Once this has been completed, the applicant must submit a separate application for permanent residence to the Canadian government for consideration under the Canadian requirements. Once an applicant has cleared each of these stages, he or she will be admitted as a skilled worker to Quebec.<sup>25</sup>

## Category Weighting Comparison

As demonstrated in **Figure 1** below, the points for qualifying for skilled employment immigration vary across the four different countries. For example, in Australia having an employment offer (and the bonus points associated with it) represents 53.3% of the points available, as compared to 32.8% in New Zealand and 10.0% in Canada. Canada places a greater emphasis on the work experience category, which comprises 21.0% of the points available, while in Australia it represents 6.7% of the available points and 22.4% of New Zealand's skilled immigration points. The United Kingdom does not grant points for employment offers or work experience among its first tier applicants.

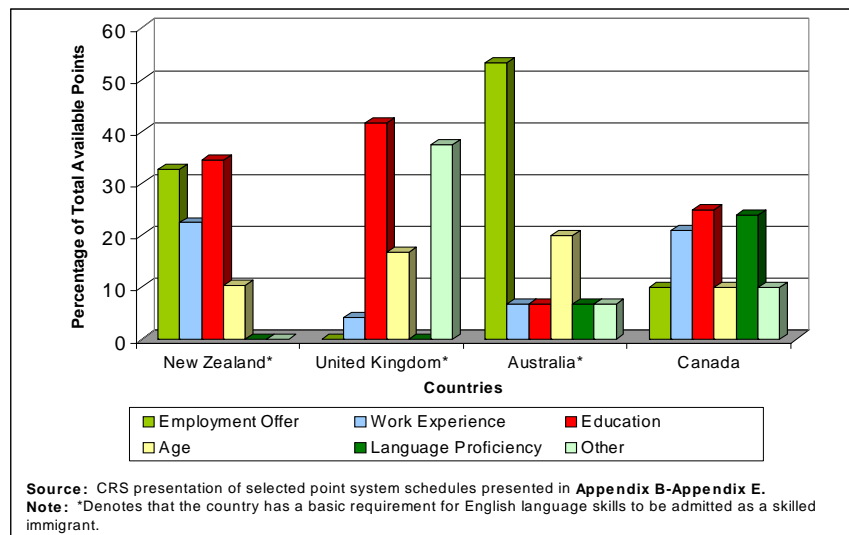
As **Figure 1** below demonstrates, there are six major categories which are used by most of the countries discussed in this section that employ a point system for skilled immigration: employment offer, work experience, education, age, language proficiency, and other criteria. All four countries do grant points for the age, education, and work experience categories, while the United Kingdom is the only country that does not give points directly for previous work experience. Instead, it grants points for previous earnings (which comprises the entire "other" category for that country). Canada and Australia both give points for language competency, which in Australia is in addition to the basic language requirement for skilled immigration.

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<sup>24</sup> Citizenship and Immigration Canada, "Immigrating to Quebec as a Skilled Worker," October 26, 2006, at [<http://www.cic.gc.ca/english/skilled/quebec/index.html>], visited May 22, 2007.

<sup>25</sup> Ibid.

**Figure 1. Percentage of Points Distributed Across Major Categories for Select Countries with Point Systems**



When looking at the patterns across **Figure 1**, it is evident that the point distribution in each of the selected countries is different and therefore reflects different preferences for applicant attributes. Australia, for example, has 53% of its points tied to employment offers, and 20% of the points distributed for age. The remaining four categories receive 6.7% of the points each. Australia’s relatively large point range between categories stands in contrast to that of Canada, which has the most even distribution of points across categories. The Canadian skilled immigration system grants 25% of available points to the education category, 24% to language proficiency, and 21% to work experience. The remaining 3 categories are each granted 10% of the available points.

New Zealand and the United Kingdom each have point distributions with weighting schemes that fall between those of Australia and Canada. For New Zealand’s system, 34.5% of the points distributed go towards the education criteria, while 32.8% goes towards employment offers. Work experience accounts for an additional 22.4% of the points total, while age has the lowest share with 10.3%. In the United Kingdom, 41.7% of the points total is allocated for the education category, while 16.7% is distributed for age. An additional 37% is allocated for past earnings (classified in the chart under the category heading of “other”). Lastly, the current British point system allocates 4.2% of its points for having a United Kingdom qualification or work experience — listed in **Figure 1** under the category heading of “work experience.”

Although the distribution of points across categories is important for the filtering of applicants, the placement of the passing mark will also affect the ability of these categories to determine immigrant eligibility. For example, skilled immigration to Australia requires that an applicant accumulate between 73.3%-80% of the available points. Such a high passing mark ensures that applicants must receive high qualifying marks in most categories. New Zealand requires that an individual accumulates 48.2% of all available points. Yet, because the country offers

a large number of bonus points for employment in rural and targeted areas, achieving a passing mark becomes more difficult for individuals who wish to settle outside these areas. The Canadian point system requires an applicant to accumulate 67% of available points, thereby ensuring that an individual must score points in at least three categories. For the United Kingdom, achieving a passing mark requires receiving at least 62.5% of all available points.

## **Prior U.S. Considerations of Point Systems**

The United States has weighed the option of a point system for selecting immigrants in the past, but thus far has not elected to enact one. The discussion below provides the highlights of the most recent periods when points systems were elements of major efforts to reform legal immigration. It specifically focuses on the policy debates of the 1980s that culminated in the Immigration Act of 1990.

### **Select Commission on Immigration and Refugee Policy**

During the 1980s, point systems were one of the focal points during the debate over the proposals to reform legal immigration to the United States. The Select Commission on Immigration and Refugee Policy (SCIRP), which Congress established in 1978, did not endorse a point system as part of its comprehensive package of immigration reform recommendations in 1981. The SCIRP offered this explanation for its position:

Despite considerable support for a point system, it became clear that it would be difficult for Commissioners, not to mention Congress, to decide on criteria and the specific value of points to be awarded for each. Fundamental value questions are at issue. For example, if points are given for English-language ability, certain countries would clearly be favored. Administration of a point system could also be difficult. For example, if educational achievement is given points, how does one compare among societies vastly different educational systems. For these and other reasons only two Commissioners [out of a total of 16 Commissioners] voted for a point system as a selection mechanism for independent immigrants.<sup>26</sup>

Interest in devising a point system for selection of immigrants continued nonetheless, and options appeared in a variety of the immigration reform bills in the 1980s.

### **Immigration Act of 1990**

Prior to the current debate, the most extensive debate on a U.S. point system occurred as Congress considered the legislation that ultimately became the Immigration Act of 1990 (P.L. 101-649). During the late 1980s, the Immigration and Naturalization Service (INS) proposed that 100,000 visas would be available for aliens according to a 150-point system. Aliens with the most points according to

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<sup>26</sup> Select Commission on Immigration and Refugee Policy, *U.S. Immigration Policy and the National Interest*, Staff Report, 1981, pp. 404-405.



various characteristics would immigrate ahead of aliens with lower point totals.<sup>27</sup> These proposed characteristics included points for arranged employment in a desired occupation, knowledge of English, age, education and experience or training in an occupation that was in demand. One version of the INS recommendation added a category that would have given points to citizens of an “underrepresented” country.

The legislation that would become Immigration Act of 1990 was S. 358, and many consider it the most recent comprehensive overhaul of legal immigration. As introduced, S. 358 would have allocated 55,000 visas according to a point system based on age, education, English language ability, occupational demand, occupational training and work experience. During the Senate Committee on the Judiciary consideration of S. 358, the point system was a major issue. According to a report of that mark-up session, the selection criteria debate was especially noteworthy.

The most spirited portion of the mark-up concerned an amendment by Sen. Simon to delete from the point system points for knowledge of the English language. After nearly an hour of debate, in which several Senators told stories about personal relatives who had arrived in this country not speaking English, the amendment passed by a 12-2 vote....<sup>28</sup>

As passed by the Senate in 1989, S. 358 would have allocated 54,000 visas annually according to a point system. A total of 90 points would have been credited as follows:

- age — 10 points for age 21-35 and 5 points for age 36-45
- education — 10 points for high school, an additional 10 points for a bachelor’s degree, and further 5 points for a graduate degree;
- occupational demand — 20 points;
- occupational training or work experience — 20 points; and
- pre-arranged employment — 15 points.

Twenty percent of the visas in the “selected immigrant” category would have gone to those who scored the highest total points; the other 80% would have been distributed randomly to qualifying aliens who had at least 60 points. Labor market tests (such as requirements to recruit U.S. workers or offer prevailing wages) would not have been mandated for aliens entering through this point system under this bill. The House-passed version of S. 358 differed from the Senate bill, and the conferees on S. 358 ultimately opted not to include the point system in the Immigration Act of 1990 (P.L.101-649).

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<sup>27</sup> The INS proposal would also have eliminated the family-based preference for brothers or sisters of U.S. citizens (at that time — fifth preference). The replacement point system would have credited 20 points for brothers or sisters of U.S. citizens. To ease the impact of the fifth preference category elimination, the first three years after enactment the INS would have granted an additional 30 points to pending beneficiaries of fifth preference visa petitions. This “double-hit” of 50 points aimed to ensure that brothers or sisters of U.S. citizens would have dominated the independent category the first three years.

<sup>28</sup> *Interpreter Releases*, vol. 66, no. 23, “Senate Judiciary Committee Approves Compromise Legal Immigration Bill,” June 19, 1989.

Instead, the Immigration Act of 1990 established the current 5 tiered employment-based preference system and labeled the following as the first preference “priority workers”:

- persons of extraordinary ability in the arts, science, education, business, or athletics;
- outstanding professors and researchers; and
- certain multi-national executives and managers.

LPRs who meet these criteria are permitted entry without the labor market tests required of most other employment-based LPRs, and the law allocates up to 28.6% of the 140,000 employment-based LPRs for these priority workers. The 1990 Act also amended the INA to enable certain members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business to enter without labor market tests if it is deemed to be in the national interest. It allocates up to 28.6% of the 140,000 LPR visas for the second preference category.<sup>29</sup>

In 1995, the U.S. Commission on Immigration Reform recommended “that immigrants be chosen on the basis of the skills they contribute to the economy,” but it did not endorse a point system as the basis for this selection.<sup>30</sup> The House and Senate immigration reform bills that received legislative action in the mid-1990s likewise did not include provisions for a point system.<sup>31</sup>

## Current Proposal for Immigration Point System

S.Amdt. 1150 to S. 1348 — entitled the “Comprehensive Immigration Reform Act of 2007” — offers a proposal for a “merit-based” point system to replace the current employment-based preference system’s first three categories.<sup>32</sup> This point system proposal, which is detailed in **Appendix F**, would involve two tiers, namely a tier for merit-based legal permanent residents, and a supplemental second tier for

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<sup>29</sup> CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem.

<sup>30</sup> U.S. Commission on Immigration Reform, Report to Congress, *Legal Immigration: Setting Priorities*, Washington, DC: Government Printing Office, 1995. The Commission was established as a result of a mandate by the Immigration Act of 1990 (P.L. 101-649). It is often referred to as the Jordan Commission for its original chairwoman, the Honorable Barbara Jordan.

<sup>31</sup> CRS Report 96-149, *Immigration: Analysis of Major Proposals to Revise Family and Employment Admissions*, by Joyce C. Vialet and Ruth Ellen Wasem, February 14, 1996, available upon request.

<sup>32</sup> **Appendix A** details these preference categories. S.Amdt. 1150 to S. 1348 also would eliminate most of the family-based preference categories. For a full analysis, see CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*.

unauthorized workers who have as a prerequisite qualified for a proposed new Z visa category.<sup>33</sup>

## Admissions Levels for S.Amdt. 1150's Point System

It appears that S.Amdt. 1150 would establish 3 different worldwide ceiling levels for the “merit-based” system. For the first five fiscal years post-enactment, the worldwide ceiling would be set at the level made available during FY2005 — a reported total of 246,878.<sup>34</sup> Of this number, 10,000 would be set aside for exceptional Y visa holders; and 90,000 would be set aside for reduction of employment-based backlog existing on the date of enactment.

After other provisions in S.Amdt. 1150 enabling authorized aliens to adjust begin to go into effect (in three or four years), the bill would set the worldwide level at 140,000. Of this number, 10,000 would again be set aside for exceptional Y visa holders, and 90,000 would again be set aside for reduction of employment-based backlog existing on the date of enactment.

After the provision in the proposal allowing unauthorized aliens to legalize (Z visa) and the supplemental tier goes into effect, the worldwide level would be set at 380,000. The provision would again set aside 10,000 for exceptional Y visa holders.

## Point Distributions Proposed in S.Amdt. 1150

Both tiers of the S.Amdt. 1150's point system would include multiple factors. Although most factors would be one-dimensional (where scores would be based upon either meeting or not meeting a factor requirement), some factors such as “employment” would be multidimensional. These multidimensional factors would include scores as well as scales depending on the level of the applicants qualification for the factor. According to the legislative proposal, adjustments to the weighting scheme of the immigration factors and the level of the “passing mark” for applicants would each be set by a newly established Standing Commission on Immigration and Labor Markets.<sup>35</sup>

**Merit-Based Points.** S.Amdt. 1150's point system for merit-based immigrants would be based upon a total of 100 points divided between four factors:

- employment experience in the United States,
- educational attainment,

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<sup>33</sup> The Z visa is a proposed new nonimmigrant (or temporary) visa category for individuals who are unlawfully present in the U.S. This proposed visa would allow applicants to adjust status to lawful temporary presence, and eventually gain legal permanent residence under earned adjustment provisions, provided that the applicant qualifies. (S.Amdt. 1150 § 601).

<sup>34</sup> U.S. Department of Homeland Security, Office of Immigration Statistics, *2005 Yearbook of Immigration Statistics*, table 6, 2006.

<sup>35</sup> S.Amdt. 1150, §502(b)(1)(C).

- English language and civics proficiencies, and
- extended family residing in the United States.<sup>36</sup>

Across these four categories it would include several sub-factors, such as “age” within the “employment” factor, that would be meant to capture an applicant at an optimal time in terms of human capital. Additionally, the proposal emphasizes skill sets in the fields of science, technology, engineering, and mathematics (STEM), and would grant an individual up to 16 points for having a STEM-related education and employment. Individuals who complete a Department of Labor Registered Apprenticeship would also receive 8 points.<sup>37</sup>

For the merit-based immigrants, S.Amdt. 1150’s point schedule would grant the largest number of points for the employment factor. This category would grant up to a maximum of 47 points, based upon occupation,<sup>38</sup> employer endorsement, and experience — *all with U.S. firms* — as well as age and national interest criteria. Additionally, an applicant would receive up to 28 points for education, depending upon level of completed education and the field of study.<sup>39</sup> Moreover, the English and civics proficiencies factor would yield up to a maximum of 15 points. The factor for extended family already in the United States would yield up to a maximum of 10 points.

**Z Visa Point Supplement.** For individuals wishing to qualify for LPR status under a Z visa, S.Amdt. 1150’s proposed point system includes a supplemental point schedule. Although the legislative language is not precise, it appears that individuals applying under the Z visa requirements would be assessed using the same schedule as the merit-based LPRs in addition to the supplemental schedule, thereby adding fifty additional points from various qualifying factors for a cumulative total of 150 points. These proposed additional factors, which are also detailed in **Appendix F**, are

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<sup>36</sup> S.Amdt. 1150, §502(b)(1)(A).

<sup>37</sup> The Senate bill proposes to create a new student visa category for students intending to study in a STEM-related field. These students would not have to demonstrate an intent to return to their country of residence when applying for a student visa. This proposal also includes a provision to allow for off-campus employment and an extension of the optional practical training period to a length of 24 months subsequent to graduation. It is not clear from the current Senate bill whether STEM students could receive immigration points for this training under the employment category or as a registered apprenticeship for education.

<sup>38</sup> An applicant with U.S. employment in a “specialty occupation,” as determined by the Department of Labor, would be granted 20 points. An applicant with U.S. employment in a “high demand occupation,” including the top 30 occupations on the 10-year job growth list from the Bureau of Labor Statistics, would be granted 16 points.

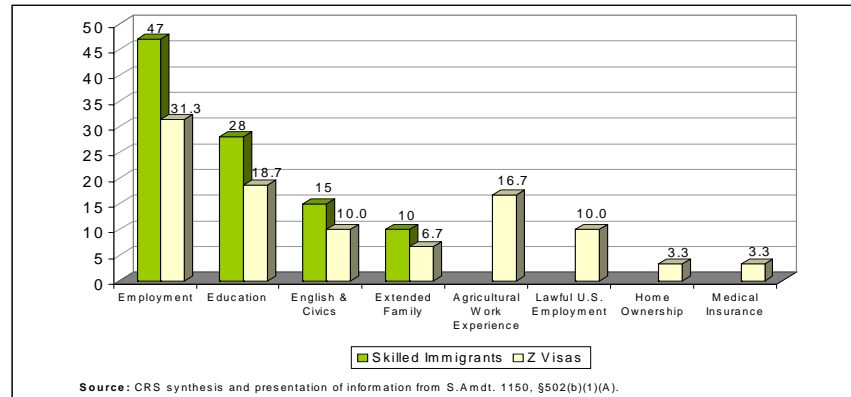
<sup>39</sup> Graduate or professional degree would receive 20 points, bachelor’s degrees would receive 16 points, associate’s degrees would receive 10 points, high school diploma would receive 6 points, and a completed certified Perkins Vocational Education program would receive 5 points. An additional 8 points are available if the applicant has an associates degree or above in a STEM field, or if the individual completes a Department of Labor Registered Apprenticeship.

- recent agricultural work experience,
- authorized U.S. employment experience,
- home ownership, and
- medical insurance.

Legal U.S. employment experience and home ownership would each be scored on a scale dimension, where each qualifying year would yield one point, while agricultural work experience would score 21, 23, or 25 points depending upon if the applicant had been employed in agriculture for three, four, or five years, respectively. The U.S. employment experience would yield up to 15 points, while the home ownership would grant the applicant up to a maximum of 5 points. Applicants with medical insurance would receive an additional 5 points.

**Tier Comparison.** As **Figure 2** demonstrates, it appears that the percentage weighting of S.Amdt. 1150's point system would vary depending upon which tier an applicant was applying under. For merit-based immigrants, 47.0% of the available points would be in the employment in the United States category, while for Z visas the analogous employment category would account for 31.3% of the available points. Additionally, education would be weighted less for Z visas, accounting for 18.7% of available points, as opposed to 28.0% for merit-based immigrants. For Z visas, the points credited for agricultural experience would account for approximately 16.6% of the total available points. Additionally, the other three factors exclusive to Z visas — a set of factors seemingly aimed at applicant adaptability to the U.S. — would add up to 16.7% of the points total for applicants under the Z visa tier. Lastly, English and civics, as well as extended family, would both be relatively stronger weighted factors for the merit-based LPR visa tier than for the Z visa tier.

**Figure 2. Percentage Weighted to Each Factor in S.Amdt. 1150-Proposed Point System, by Tier**



## Current Themes

The current comprehensive immigration reform proposal embodied in S.Amdt. 1150 is sparking a lively discussion, and the point system is among its controversial features. The themes highlighted below are illustrative of the multifaceted aspects of this debate.

### From Encouraging Migration to Managing Demand

Nations currently using points systems, such as thus discussed above, typically seek to tailor the selection process to recruit immigrants most likely to invigorate their economies. The stated objectives are generally to encourage migration that complements shortfalls and skill mismatches in their labor forces, coupled with other factors that are thought to correlate with success. The challenge for policy makers is adapting a point system — a method that is typically used to encourage migration — to manage the high-demand migration context of the United States. In this debate, “passing marks” and per-country ceilings will become key elements.

### From Personal Relationships to National Priorities

The current preference system for selecting LPRs to the United States is largely based upon relationships that are personal. More specifically, prospective LPRs qualify either through marriage and close familial relationships and through the employer-employee relationships. A point system might well move the selection process away from the judgements of individuals and needs of local labor markets to a standardized set of criteria based on national priorities. At issue in this context is who/what is perceived to be the proper people/optimal entity to determine who will be permitted to come to the United States.

## **From Augmenting to Replacing Existing Visa Categories**

Whether a point system (or any new mechanism for selecting immigrants) is augmenting an existing selection system or replacing an existing selection system, it affects the debate. Establishing a new stream of immigrants is likely to spark objections among those who oppose increasing immigration levels. If, alternatively, a point system replaces an existing set of immigration preference categories then stakeholders in the current system are likely to oppose it. If a point system creates an independent stream of immigrants it might reduce the control of employers over the selection process and bypass the labor market protections for U.S. workers. Given that many policy makers as well as observers view immigration policy as a “zero-sum game,” this aspect may be the most contentious of all.

## **Concluding Comments**

The challenge in formulating an immigration system is structuring it to represent the country’s values, priorities and needs. The difficulty in many countries is designing a system that effectively operationalizes these specific values, priorities and needs into immigration policy. Point systems are appealing to some because they may be structured to provide a parsimonious and transparent tool defining merit-based immigrant eligibility. Yet, paradoxically, these same attributes of point systems also make them more likely to be a politically charged instrument. The objective quantification of merit itself provokes debate over what human capital, personal traits and values prospective immigrants should bring to a country.

## Appendix A. Current U.S. Legal Immigration Preference System

Category		Numerical Limit
<b>Total Family-Sponsored Immigrants</b>		<b>480,000</b>
<i>Immediate relatives</i>	Aliens who are the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens	Unlimited
<b>Family-sponsored Preference Immigrants</b>		<b>Worldwide Level 226,000</b>
<i>1<sup>st</sup> preference</i>	Unmarried sons and daughters of citizens	23,400 plus visas not required for 4 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	(A) Spouses and children of LPRs (B) Adult unmarried sons and daughters of LPRs	114,200 plus visas not required for 1 <sup>st</sup> preference
<i>3<sup>rd</sup> preference</i>	Married sons and daughters of citizens	23,400 plus visas not required for 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>4<sup>th</sup> preference</i>	Siblings of citizens age 21 and over	65,000 plus visas not required for 1 <sup>st</sup> , 2 <sup>nd</sup> , or 3 <sup>rd</sup> preference
<b>Employment-Based Preference Immigrants</b>		<b>Worldwide Level 140,000</b>
<i>1<sup>st</sup> preference</i>	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain multi-national executives and managers	28.6% of worldwide limit plus unused 4 <sup>th</sup> and 5 <sup>th</sup> preference
<i>2<sup>nd</sup> preference</i>	Members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business	28.6% of worldwide limit plus unused 1 <sup>st</sup> preference
<i>3<sup>rd</sup> preference — skilled</i>	Skilled shortage workers with at least two years training or experience, professionals with baccalaureate degrees	28.6% of worldwide limit plus unused 1 <sup>st</sup> or 2 <sup>nd</sup> preference
<i>3<sup>rd</sup> preference — “other”</i>	Unskilled shortage workers	10,000 (taken from the total available for 3 <sup>rd</sup> preference)
<i>4<sup>th</sup> preference</i>	“Special immigrants,” including ministers of religion, religious workers other than ministers, certain employees of the U.S. government abroad, and others	7.1% of worldwide limit; religious workers limited to 5,000
<i>5<sup>th</sup> preference</i>	Employment creation investors who invest at least \$1 million (amount may vary in rural areas or areas of high unemployment) which will create at least 10 new jobs	7.1% of worldwide limit; 3,000 <i>minimum</i> reserved for investors in rural or high unemployment areas

**Source:** CRS summary of §§ 203(a), 203(b), and 204 of INA; 8 U.S.C. § 1153; excerpted from CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*.



## Appendix B. New Zealand Point System Requirements<sup>40</sup>

### Basic Requirements

Principal applicants under the Skilled Migrant Category are assessed against:

- health, character and English language requirements; and
- employability and capacity building requirements; and
- settlement and contribution requirements.

An application under the Skilled Migrant Category will be approved if:

- the principal applicant and family members included in the application meet health and character, and English language requirements where required; and
- the principal applicant qualifies for the points for employability and capacity building factors on the basis of which their Expression of Interest was selected from the Pool; or
- the principal applicant meets the criteria set from time to time by the Minister of Immigration on the basis of which their Expression of Interest was selected from the Pool; and
- the principal applicant is less than 56 years of age; and
- the principal applicant is assessed as having the ability to successfully settle in and contribute to New Zealand; and
- all necessary verification of the application has been completed.

### Summary of Points Distribution Factors

<i>PASSING MARK:</i>	<i>140 POINTS</i>
<i>EXPRESSION OF INTEREST:</i>	<i>100 POINTS</i>

**Table 1. New Zealand Point Distribution**

FACTORS	POINTS
<b>Skilled Employment (Maximum 95 Points):</b>	
<ul style="list-style-type: none"> <li>• Current skilled employment in New Zealand for 12 months or more</li> </ul>	60
<ul style="list-style-type: none"> <li>• Offer of skilled employment in New Zealand or current skilled employment in New Zealand for less than 12 months</li> </ul>	50

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<sup>40</sup> Information in this section is compiled from the New Zealand Immigration Service, *Operations Manual: Part 3, Residence*, April 10, 2007, pp. 87-1,87-2, at [<http://www.immigration.govt.nz/migrant/general/generalinformation/operationsmanual/>], visited May 10, 2007.

FACTORS	POINTS
<i>Bonus points for employment or offer of employment in:</i>	
<ul style="list-style-type: none"> <li>● An identified future growth area, identified cluster</li> </ul>	5
<ul style="list-style-type: none"> <li>● An area of absolute skills shortage</li> </ul>	10
<ul style="list-style-type: none"> <li>● Region outside Auckland</li> </ul>	10
<ul style="list-style-type: none"> <li>● Partner employment or offer of employment</li> </ul>	10
<b>Work Experience (Maximum 65 Points):</b>	
<ul style="list-style-type: none"> <li>● 2 years</li> </ul>	10
<ul style="list-style-type: none"> <li>● 4 years</li> </ul>	15
<ul style="list-style-type: none"> <li>● 6 years</li> </ul>	20
<ul style="list-style-type: none"> <li>● 8 years</li> </ul>	25
<ul style="list-style-type: none"> <li>● 10 years</li> </ul>	30
<i>Additional bonus points if work experience in New Zealand:</i>	
<ul style="list-style-type: none"> <li>● 2 years</li> </ul>	5
<ul style="list-style-type: none"> <li>● 4 years</li> </ul>	10
<ul style="list-style-type: none"> <li>● 6 years or more</li> </ul>	15
<i>Additional bonus points for work experience in an identified future growth area, identified cluster:</i>	
<ul style="list-style-type: none"> <li>● 2 to 5 years</li> </ul>	5
<ul style="list-style-type: none"> <li>● 6 years or more</li> </ul>	10
<i>Additional bonus points for work experience in an area of absolute skills shortage:</i>	
<ul style="list-style-type: none"> <li>● 2 to 5 years</li> </ul>	5
<ul style="list-style-type: none"> <li>● 6 years or more</li> </ul>	10
<b>Qualifications (Maximum 100 Points):</b>	
<ul style="list-style-type: none"> <li>● Recognized basic qualification (e.g. trade qualification, diploma, bachelors degree, bachelors degree with Honors)</li> </ul>	50
<ul style="list-style-type: none"> <li>● Recognized post-graduate qualification (Masters degree, Doctorate)</li> </ul>	55
<i>Bonus points for:</i>	
<ul style="list-style-type: none"> <li>● Recognized New Zealand qualification (and at least two years study in New Zealand)</li> </ul>	10
<ul style="list-style-type: none"> <li>● Qualification in an identified future growth area, cluster or area of absolute skill shortage</li> </ul>	5
<ul style="list-style-type: none"> <li>● Qualification in an area of absolute skill shortage</li> </ul>	10
<ul style="list-style-type: none"> <li>● Partner qualifications</li> </ul>	10
<ul style="list-style-type: none"> <li>● Close family support in New Zealand</li> </ul>	10
<b>Age (20 to 55 Yrs) (Maximum 30 Points):</b>	
<ul style="list-style-type: none"> <li>● 20-29</li> </ul>	30
<ul style="list-style-type: none"> <li>● 30-39</li> </ul>	25
<ul style="list-style-type: none"> <li>● 40-44</li> </ul>	20
<ul style="list-style-type: none"> <li>● 45-49</li> </ul>	10
<ul style="list-style-type: none"> <li>● 50-55</li> </ul>	5

## Appendix C. United Kingdom Current Point System Requirements<sup>41</sup>

### Basic Requirements

To qualify for immigration, the principal applicant must at a minimum demonstrate the following criteria:

- Applicant can work, or continue to work, in his chosen field in the United Kingdom. If necessary, he will need to show relevant qualifications and professional membership to work in certain occupations in the United Kingdom.
- Applicant can support himself without recourse to public funds (this can be demonstrated on the basis of either savings or earning potential)
- Applicant intends to make the United Kingdom his main home
- Applicant has either never been made bankrupt or is considered to be a discharged bankrupt.
- Applicant has never been convicted of any criminal offences
- Applicant is proficient in the English language.

### Summary of Points Distribution Factors

*PASSING MARK:*

*75 POINTS*

**Table 2. United Kingdom Point Distribution**

FACTORS	POINTS
<b>Qualification (Maximum 55 Points):</b>	
• Ph.D.	50
• Masters Degree or Professional Level Qualification (e.g., Chartered Accountant)	35
• A Bachelors Degree	30
<b>United Kingdom qualification or work experience (Maximum 5 Points):</b>	
• Either United Kingdom qualification or work experience	5

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<sup>41</sup> Information in this section is compiled from the Testimony of Foreign Law Specialist at Law Library of Congress Clare Feikert, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007), and United Kingdom Home Office, *A Points-Based System: Making Migration Work for Britain*, Cm 6741, March 2006, at [<http://www.homeoffice.gov.uk/documents/command-points-based-migration?view=Binary>], visited May 10, 2007.

FACTORS	POINTS
<b>Age (Maximum 20 Points):</b>	
• 27 or under	20
• 28 or 29	10
• 30 or 31	5
<b>Past Earnings (Maximum 45 Points):</b>	
• £16,000-17,999	5
• £18,000-19,999	10
• £20,000-22,999	15
• £23,000-25,999	20
• £26,000-28,999	25
• £29,000-31,999	30
• £32,000-34,999	35
• £35,000-39,999	40
• £40,000+	45

**Notes:** The past earnings are those for countries categorized as “Band A” countries, which includes the United States. The HSMP contains five different bands for distributing points for past earnings, depending on which country the applicant is applying from. These bands vary based on income levels in countries around the world. For example, while an applicant from Norway would use the Band A listing of salaries, an applicant from Afghanistan would use Band E. Thus, while the applicant from Norway would need past earnings of over £40,000 to attain the maximum points allotted for that category, the applicant from Afghanistan would need past earnings of over £3,600 to achieve the same number of category points. For band listings and further past earnings guidance, see United Kingdom Home Office, *Highly Skilled Migrant Programme: Guidance for Applicants*, June 1, 2007, at [<http://www.ind.homeoffice.gov.uk/6353/11406/49552/hsmp1guidancejune07.pdf>], visited June 5, 2007.

**MBA Provision.** The United Kingdom currently has a provision for graduates of 50 top MBA programs,<sup>42</sup> who have graduated since December 2004, to remain in the United Kingdom for up to 12 months in order to seek employment and gain the necessary points to qualify for permanent residence. The basic structure of the program will also be taken up in a Post-Study category for skilled overseas students who have chosen to study at an institution in the United Kingdom. These students would thus be given the same 12 month transitional opportunity.

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<sup>42</sup> The list of the 50 qualifying MBA programs may be found at [[http://www.hm-treasury.gov.uk./media/F2F/24/pbr04\\_50mbas\\_50.pdf](http://www.hm-treasury.gov.uk./media/F2F/24/pbr04_50mbas_50.pdf)], visited May 24, 2007.

## Appendix D. Australian Point System Requirements<sup>43</sup>

### Basic Requirements

In order to qualify for immigration, the principal applicant must at a minimum demonstrate the following criteria:

- under 45;
- English at least at “vocational” level;
- have a post secondary education;
- nominated occupation on skilled occupations list (SOL); and
- necessary work experience in his nominated occupation.

### Summary of Points Distribution Factors

*PASSING MARK:* *110-120 POINTS*

*RESERVE POOL:* *70-120 POINTS*

**Table 3. Australian Point Distribution**

FACTORS	POINTS
<b>Nominated Occupation on the Skilled Occupations List (Maximum 60 Points):</b>	
• Highly Sought Skills	60
• Very Sought Skills	50
• Sought Skills	40
<b>Age (Maximum 30 Points):</b>	
• 18-29	30
• 30-34	25
• 35-39	20
• 39-44	15
<b>English Language Proficiency (Maximum 20 Points):</b>	
• Native English speaker; or	20
• gained a tertiary degree from a University where English is the primary language of instruction; or	20
• achieved a band score of at least 6 on all four components of the International English Language Testing System (IELTS) test; or	20

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<sup>43</sup> Information in this section is compiled from the Testimony of Foreign Law Specialist at Law Library of Congress Lisa White, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007).

FACTORS	POINTS
<ul style="list-style-type: none"> <li>achieved a band score of at least 5 on all four components of the IELTS test</li> </ul>	15
<b>Specific Work Experience (Maximum 10 Points):</b>	
<ul style="list-style-type: none"> <li>Nominated occupation is worth 60 points and applicant worked in nominated occupation for at least the past three out of four years</li> </ul>	10
<ul style="list-style-type: none"> <li>Nominated occupation is worth 40, 50 or 60 points and applicant worked in skilled employment (in any occupation on the SOL) for at least the past three out of four years</li> </ul>	5
<b>Employment Offer/Occupation in Demand (Maximum 20 Points):</b>	
<ul style="list-style-type: none"> <li>Nominated occupation is found on the Migration Occupations in Demand List (MODL)</li> </ul>	15
<ul style="list-style-type: none"> <li>Nominated occupation is found on the MODL and applicant holds a job offer in nominated occupation from an Australian organization that has employed at least 10 people on a full-time basis for the previous two fiscal years</li> </ul>	20
<b>Australian Qualification (Maximum 10 Points):</b>	
<ul style="list-style-type: none"> <li>At least a one-year diploma from an Australian university</li> </ul>	5
<ul style="list-style-type: none"> <li>A Ph.D. (Doctorate) from an Australian university</li> </ul>	10
<b>Spousal Qualifications (Maximum 5 Points):</b>	
<ul style="list-style-type: none"> <li>Spouse (or de facto spouse) meets all the basic requirements and is able to nominate an occupation from the SOL and have his/her qualifications assessed as suitable for his/her nominated occupation</li> </ul>	5
<b>Other (Maximum 5 Points):</b>	
<ul style="list-style-type: none"> <li>Worked in Australia on a valid visa for at least six months out of the past four years in a skilled occupation (one found on the SOL)</li> </ul>	5
<ul style="list-style-type: none"> <li>Invest at least A\$100,000 in a Designated Government investment in Australia for a term of at least 12 months</li> </ul>	5
<ul style="list-style-type: none"> <li>Fluent (to the level of Professional Interpreter / Translator as set out by the National Australian Association of Translators and Interpreters) in one of Australia's community languages</li> </ul>	5

## Appendix E. Canadian Point System Requirements<sup>44</sup>

### Basic Requirements

In order to qualify for skilled immigration, the principal applicant must at a minimum demonstrate a sufficient number of points under the points criteria. If the applicant does not have an offer of employment, he must additionally show sufficient level of funds on hand to qualify. By household size, these levels of funds are:

- For a single person C\$10,168

*For a family unit consisting of the following:*

- 2 persons C\$12,659
- 3 persons C\$15,563
- 4 persons C\$18,895
- 5 persons C\$21,431
- 6 persons C\$24,170
- 7 persons or more C\$26,910

### Summary of Points Distribution Factors

*PASSING MARK:*

*67 POINTS*

**Table 4. Canadian Point Distribution**

FACTORS	POINTS
<b>Age (Maximum 10 Points):</b>	
• Between 21 and 49	10
• Either 20 or 50	8
• Either 19 or 51	6
• Either 18 or 52	4
• Either 17 or 53	2

<sup>44</sup> Information in this section is compiled from the Testimony of Senior Foreign Law Specialist at Law Library of Congress Stephen F. Clarke, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Hearing on An Examination of Point Systems as a Method for Selecting Immigrants*, hearings, 110<sup>th</sup> Cong., 1<sup>st</sup> sess., May 1, 2007 (Washington: GPO 2007), and Citizenship and Immigration Canada, *Overseas Processing Manual: Federal Skilled Workers*, no. OP 6, July 17, 2006, pp. 11-28, at [<http://www.cic.gc.ca/manuals-guides/english/op/op06e.pdf>], visited May 22, 2007.

FACTORS	POINTS
<b>Official Language Proficiency<sup>45</sup> (Maximum 24 Points):</b>	
<i>First official language:</i>	
<ul style="list-style-type: none"> <li>• High proficiency</li> <li>• Moderate proficiency</li> <li>• Basic proficiency</li> </ul>	<p>16</p> <p>8</p> <p>2</p>
<i>Second official language:</i>	
<ul style="list-style-type: none"> <li>• High proficiency</li> <li>• Moderate proficiency</li> <li>• Basic proficiency</li> </ul>	<p>8</p> <p>8</p> <p>2</p>
<b>Work Experience (Maximum 21 Points):</b>	
<ul style="list-style-type: none"> <li>• At least 1 year</li> <li>• At least 2 years</li> <li>• At least 3 years</li> <li>• 4 or more years</li> </ul>	<p>15</p> <p>17</p> <p>19</p> <p>21</p>
<b>Employment Offer (Maximum 10 Points):</b>	
<ul style="list-style-type: none"> <li>• Applicant has a job offer approved by Human Resources Development Canada (HRDC). Applicant must have the abilities to perform the tasks of the job, and meet the educational and, where relevant, licensing and regulatory requirements for the job. Applicant may also gain the ten points in some circumstances he is already in employment in Canada.</li> </ul>	<p>10</p>
<b>Education (Maximum 25 Points):</b>	
<ul style="list-style-type: none"> <li>• Completed secondary school educational credential</li> <li>• One year post-secondary educational credential, other than a university credential, and at least 12 years of completed full-time or full-time equivalent studies</li> <li>• One year post-secondary educational credential, other than a university educational credential, and at least 13 years of completed full-time or full-time equivalent studies</li> <li>• One year university educational credential at the bachelor's level, and at least 13 years of completed full-time or full-time equivalent studies</li> <li>• Two year post-secondary educational credential, other than a university educational credential, and at least 14 years of completed full-time or full-time equivalent studies</li> </ul>	<p>5</p> <p>12</p> <p>15</p> <p>15</p> <p>20</p>

<sup>45</sup> Language skills are based upon reading, writing, listening to, and speaking skills. Each skill may be scored individually. For the first official language the applicant is given 4 points per high proficiency skill, 2 points per moderately proficient skill, and one point for each skill where basic proficiency is demonstrated. For the second official language, these skill scores are adjusted to 2 points, 2 points and 1 point, respectively. For both the first and second official language, a person may only be granted a maximum of 2 points from the basic proficiency category across all four language skills.



FACTORS	POINTS
<ul style="list-style-type: none"> <li>• A university educational credential of two years or more at the bachelor's level, and at least 14 years of completed full-time or full-time equivalent studies</li> </ul>	20
<ul style="list-style-type: none"> <li>• Three year post-secondary educational credential, other than a university educational credential, and at least 15 years of completed full-time or full-time equivalent studies</li> </ul>	22
<ul style="list-style-type: none"> <li>• Two or more university educational credentials at the bachelor's level and at least 15 years of completed full-time or full-time equivalent studies</li> </ul>	22
<ul style="list-style-type: none"> <li>• University educational credential at the master's or doctoral level and at least 17 years of completed full-time or full-time equivalent studies</li> </ul>	25
<b>Adaptability (Maximum 10 Points):</b>	
<i>Educational credentials of the accompanying spouse or common-law partner:</i>	
<ul style="list-style-type: none"> <li>• Completed a one or two-year post-secondary program and has at least 13 years of total education</li> </ul>	3
<ul style="list-style-type: none"> <li>• Completed a three-year post secondary program and has at least 15 years of total education</li> </ul>	4
<ul style="list-style-type: none"> <li>• Completed a three-year university degree and has at least 15 years of total education</li> </ul>	4
<ul style="list-style-type: none"> <li>• Completed a Master's or Ph.D. and has at least 17 years of total education</li> </ul>	5
<i>Previous study in Canada<sup>46</sup>:</i>	
<ul style="list-style-type: none"> <li>• Applicant or accompanying spouse or common-law partner completed a program of full-time study of at least two years' duration at a post-secondary institution in Canada, provided this occurred after the age of seventeen and with valid study permits.</li> </ul>	5
<i>Previous work in Canada:</i>	
<ul style="list-style-type: none"> <li>• A minimum of one year of full-time work in Canada on a valid work permit for an applicant or accompanying spouse or common-law partner.</li> </ul>	5
<i>Relatives in Canada:</i>	
<ul style="list-style-type: none"> <li>• Applicant or accompanying spouse or common-law partner has a relative (parent, grandparent, child, grandchild, child of a parent, child of a grandparent, or grandchild of a parent) who is residing in Canada and is a Canadian citizen or permanent resident.</li> </ul>	5
<i>Arranged employment:</i>	
<ul style="list-style-type: none"> <li>• Applicant has earned points under the Employment Offer factor</li> </ul>	5

<sup>46</sup> The applicant or qualifying spouse or partner is not required to have obtained an educational credential for these two years of study in Canada to earn the points, but simply to have completed at least two years of study.

## Appendix F. Proposed Point System in Senate Amendment 1150

Category	Description	Points
<b>Employment (Maximum 47 Points):</b>		
<i>Occupation</i>	<ul style="list-style-type: none"> <li>U.S. employment in Specialty Occupation (Department of Labor definition) U.S. employment in High Demand Occupation (Bureau of Labor Statistics' largest 10-yr job growth, top 30)</li> </ul>	20
		16
<i>National interest/critical infrastructure</i>	<ul style="list-style-type: none"> <li>U.S. employment in STEM or health occupation, current for at least 1 year</li> </ul>	8
<i>Employer endorsement</i>	<ul style="list-style-type: none"> <li>A U.S. employer willing to pay 50% of LPR application fee either 1) offers a job, or 2) attests for a current employee</li> </ul>	6
<i>Experience</i>	<ul style="list-style-type: none"> <li>Years of work for U.S. firm</li> </ul>	2 per year (max 10 points)
<i>Age of worker</i>	<ul style="list-style-type: none"> <li>Worker's age: 25-39</li> </ul>	3
<b>Education (Maximum 28 Points):</b>		
<i>Terminal Degree</i>	<ul style="list-style-type: none"> <li>M.D., M.B.A., Graduate degree, etc</li> </ul>	20
	<ul style="list-style-type: none"> <li>Bachelors degree</li> </ul>	16
	<ul style="list-style-type: none"> <li>Associates degree</li> </ul>	10
	<ul style="list-style-type: none"> <li>High School diploma or GED</li> </ul>	6
<i>Bonus Points</i>	<ul style="list-style-type: none"> <li>Completed certified Perkins Vocational Education program</li> </ul>	5
	<ul style="list-style-type: none"> <li>Completed Department of Labor Registered Apprenticeship</li> </ul>	8
	<ul style="list-style-type: none"> <li>STEM, associate degree and above</li> </ul>	8
<b>English &amp; Civics (Maximum 15 points):</b>		
<i>Skill Level</i>	<ul style="list-style-type: none"> <li>Native speaker of English or TOEFL score of 75 or higher</li> </ul>	15
	<ul style="list-style-type: none"> <li>TOEFL score of 60-74</li> </ul>	10
	<ul style="list-style-type: none"> <li>Pass USCIS Citizenship Tests in English and Civics</li> </ul>	6

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Category	Description	Points
<b>Extended Family (Maximum 10 Points):</b>		
<i>Scores Applied if Threshold of 55 in Above Categories</i>	<ul style="list-style-type: none"> <li>Adult (21 or older) son or daughter of U.S. citizen (USC)</li> </ul>	8
	<ul style="list-style-type: none"> <li>Adult (21 or older) son or daughter of legal permanent resident (LPR)</li> </ul>	6
	<ul style="list-style-type: none"> <li>Sibling of USC or LPR</li> </ul>	4
	<ul style="list-style-type: none"> <li>If had applied for a family visa in any of the above categories after May 1, 2005</li> </ul>	2

Category	Description	Max Points
<b>Supplemental Schedule for Z Visas (Maximum 50 Points):</b>		
<i>Agriculture National Interest</i>	<ul style="list-style-type: none"> <li>Worked in agriculture for 3 years, 150 days per year</li> </ul>	21
	<ul style="list-style-type: none"> <li>Worked in agriculture for 4 years (150 days for 3 years, 100 days for 1 year)</li> </ul>	23
	<ul style="list-style-type: none"> <li>Worked in agriculture for 5 years, 100 days per year</li> </ul>	25
<i>U.S. Employment Experience</i>	<ul style="list-style-type: none"> <li>Year of lawful employment</li> </ul>	1 per year (max 15 points)
<i>Home ownership</i>	<ul style="list-style-type: none"> <li>Own place of residence</li> </ul>	1 per year owned (max 5 points)
<i>Medical Insurance</i>	<ul style="list-style-type: none"> <li>Current medical insurance for entire family</li> </ul>	5