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What Biden Has Gotten Right on Immigration

By David J. Bier

President Biden's handling of immigration is the subject of intense scrutiny and criticism from all sides. Much of this criticism is right, but the president has also implemented many positive policies. While it often acted too slowly and has much more to do, the new administration has already reversed the most important restrictionist policies imposed by the Trump administration.

Major Big Picture Actions

1. Ending the "security" travel bans

On January 20, 2021, President Biden **fully rescinded** President Trump's ban on immigration and certain travel for nationals of Iran, North Korea, Somalia, Libya, Syria, and Yemen (the original group from 2017) as well as for Nigeria, Eritrea, Tanzania, Sudan, Kyrgyzstan, and Myanmar (the second group added in February 2020).

2. Rescinding the labor protectionist immigrant visa ban

On February 25, 2021, President Biden **fully rescinded** President Trump's worldwide ban on permanent immigration by almost everyone other than spouses and minor children of U.S. citizens. The ban was based on the fear that they would compete for jobs with U.S. citizens.

3. Rescinding the "public charge" rule

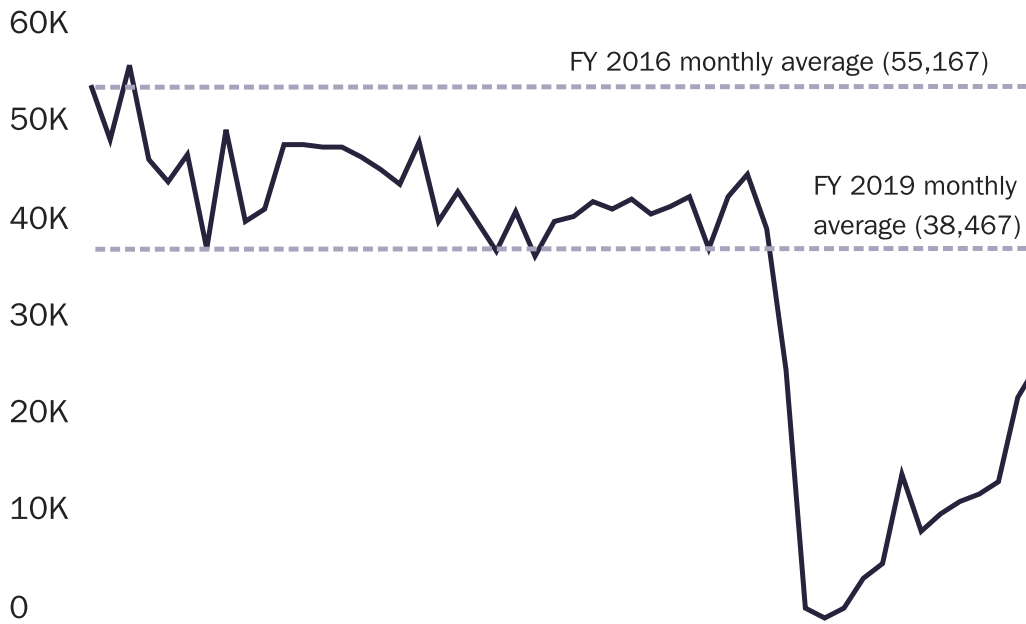
In February 2020, the Trump administration **implemented** a rule that, in effect, banned most family-sponsored and diversity lottery immigrants with low incomes. In March 2021, the Biden administration **rescinded** this rule.

4. Recovering immigrant visa processing

Overall immigrant visa issuances have recovered to their pre-pandemic level and—for two months—even exceeded the pre-Trump level.

Figure 1

Immigrant visas issued by month to prospective legal permanent | March 2017-September 2022



5. Allowing the labor protectionist nonimmigrant visa ban to expire

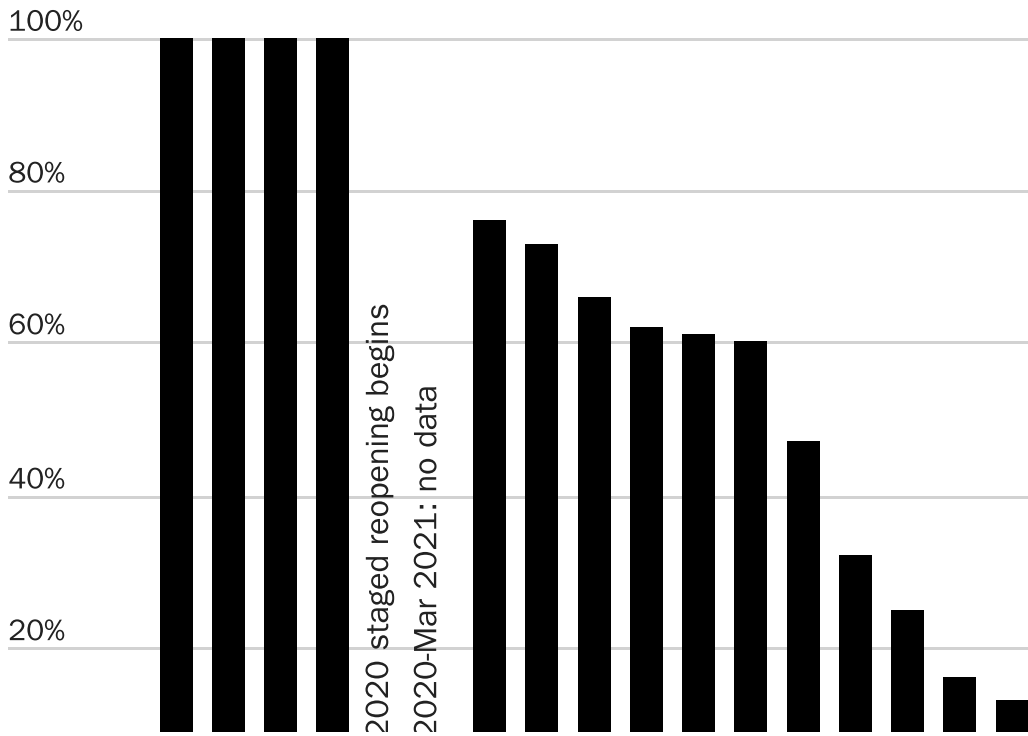
On April 1, 2021, President Biden **allowed** President's Trump's worldwide ban on most nonfarm temporary work visas to expire on the terms originally set by President Trump. The ban was based on the fear that these workers would compete for jobs with U.S. citizens.

6. Reopening most U.S. consulates to process visas

The State Department moved slowly to reopen consulates, but now most U.S. consulates are fully open for nonimmigrant visa processing.

Figure

Share of U.S. consulates partially/fully closed or emergency only



7. Expansion of nonimmigrant visa interview waivers

In March 2021, the State Department **waived** most nonimmigrant visa interviews for individuals renewing visas expired in the last 4 years, and it **authorized** interview waivers for many work visa applicants. About half of all nonimmigrant visa applicants no longer need a visa interview. This has helped to partially recover the nonimmigrant visa processing.

Figure

Nonimmigrant visa issuances by month 2019-2022

8. Ending country-based travel bans

President Trump banned anyone traveling from certain countries during the COVID-19 pandemic. This list included China, Iran, Brazil, and nearly all of Europe. President Biden maintained and even expanded the list in 2021 to include India and South Africa, but finally, in November 2021, he **replaced** all these bans with a much simpler (albeit still unnecessary) vaccination requirement.

9. Ending the nonessential travel ban with Mexico and Canada

In November 2021, Biden **replaced** the Trump administration's nonessential travel ban on noncitizen travelers through the land borders with Mexico and Canada with a vaccination requirement.

Figure

Passengers and pedestrians crossing through U.S. land border

2018-2022

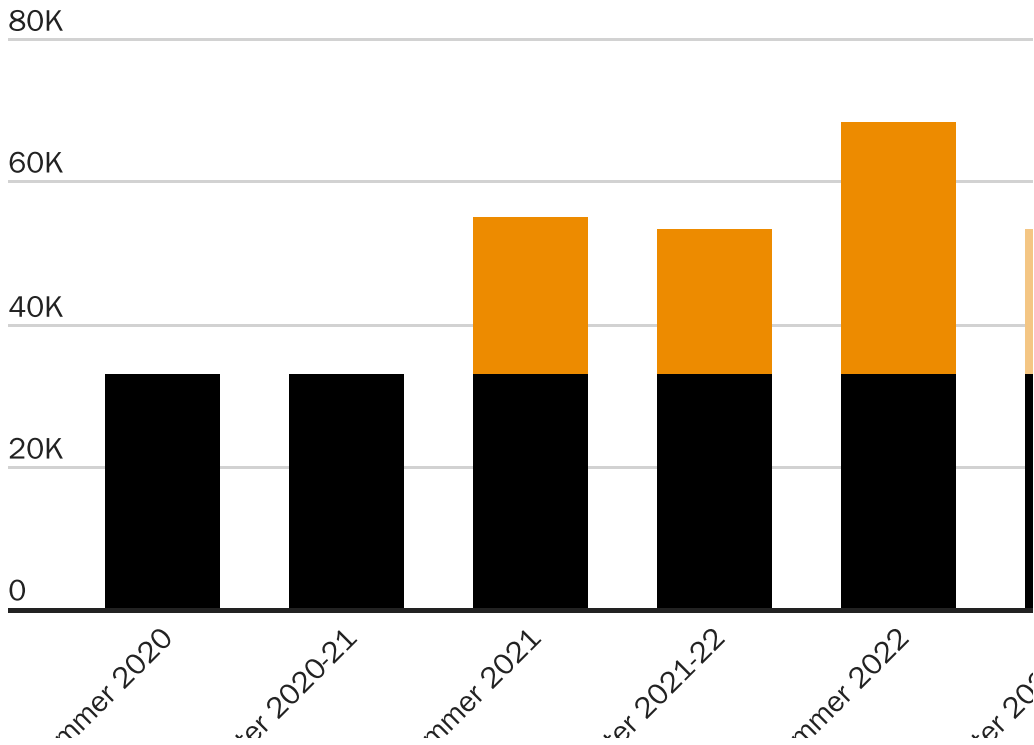
Employment-Based Issues

10. Increasing the H-2B visa cap multiple times

The Biden administration has acted—based on specific congressional authorization—to increase the H-2B cap in the **summer of 2021**, the **winter of 2021–22**, and the **summer of 2022**, and it has **announced** plans to use all the visas authorized by Congress for the first time in the winter and summer of fiscal year 2023.

Figure

H-2B caps and cap increases by half year

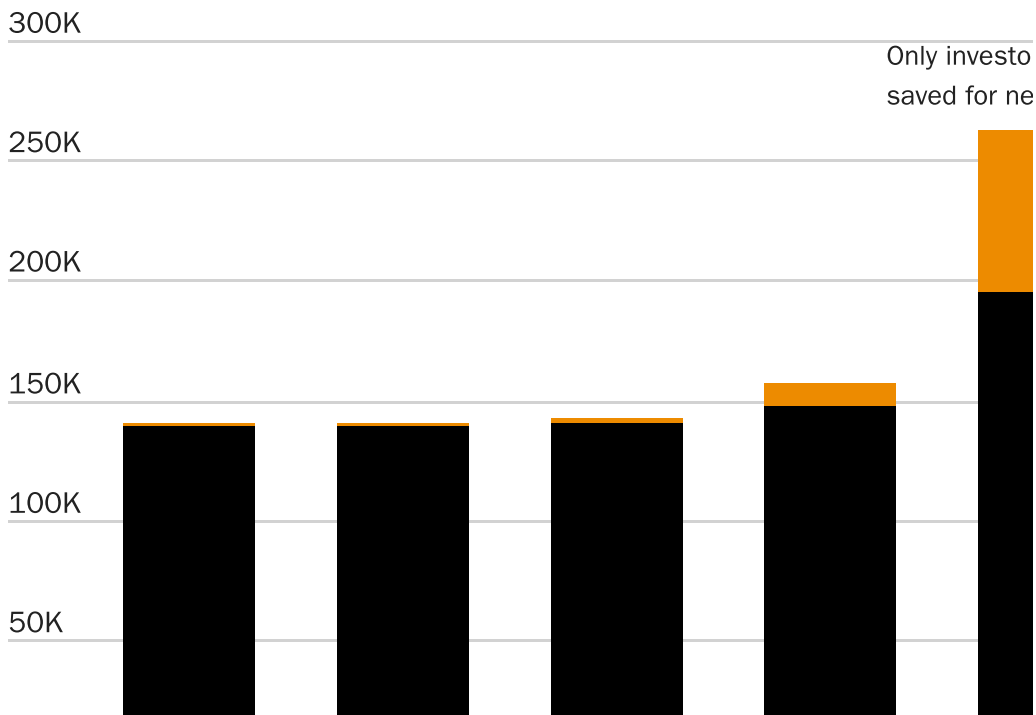


11. Ending the waste of employer-sponsored green cards in 2022

In 2020 and 2021, the government failed to process a significant percentage of employment-based green card cap spots (as a result of the higher cap, intentionally sabotage by the Trump administration, and poor execution by the Biden administration). In 2022, however, it **processed** the largest number ever and wasted none of the employer-sponsored cap spots.

Figure

Employment-based green card cap use by fiscal year



12. Suspending biometric requirement for certain status renewals

In March 2021, U.S. Citizenship and Immigration Services (USCIS) **suspended** the requirement to make fingerprint appointments to renew status for various nonimmigrant dependents (spouses and minor children). This Trump rule had caused a massive backlog for those appointments for green card applicants, leading to wasted green card cap spots.

13. Reinstating the prior deference memo

The Trump administration's USCIS rescinded the policy of deferring to a prior adjudication involving the same facts and parties. This policy meant that it could get to effectively "redo" old H-1B adjudications

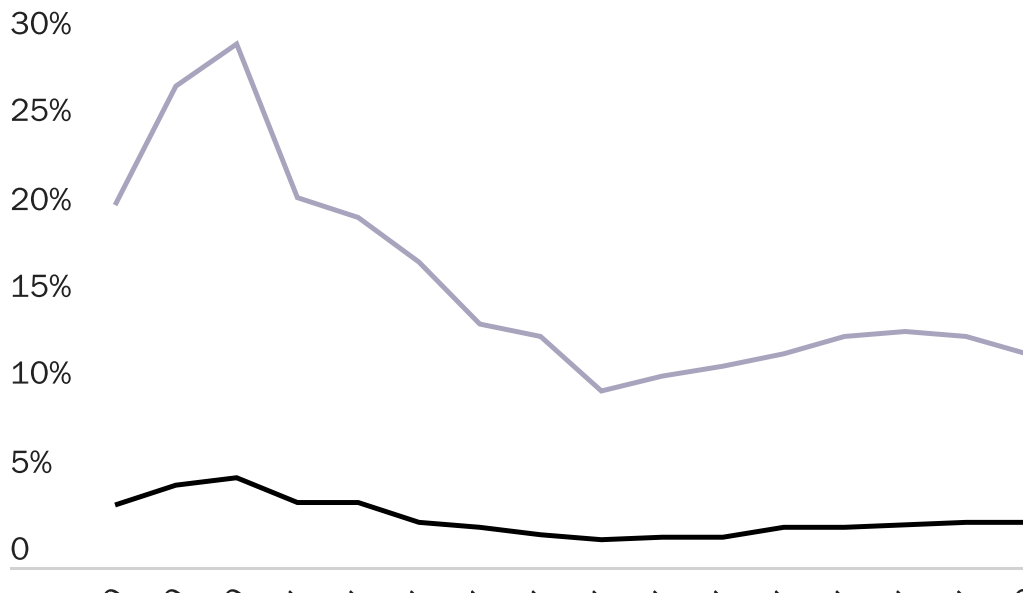
when the status came up for renewal, leading to a surge in denials and requests for evidence. In April 2021, USCIS **reinstated** the prior deference memo.

14. Decreasing H-1B requests for evidence and denials

The H-1B denial rate and requests for evidence have both fallen under the Biden administration.

Figure

Share of H-1B petitions denied or processed with a request for evidence FY 2021–2022



Humanitarian Issues

15. Afghan evacuation parole program

President Biden waited too long to evacuate allies from Afghanistan, but the fact that his administration ultimately **managed** to bring about 70,000 Afghans to the United States in just a few weeks is unprecedented and far more than what the prior administration contemplated or would have done.

16. Uniting for Ukraine parole program

In February 2021, President Biden **announced** the intention to admit 100,000 Ukrainians. His administration created an uncapped, streamlined, online-based sponsorship program to grant “parole” (authorization to travel and enter the United States temporarily), and it **has already exceeded** 100,000 admissions.

17. Venezuelan parole process

In October 2022, in response to rising arrests of Venezuelans crossing illegally, the Biden administration created a **new parole program** for Venezuelans similar to the one for Ukrainians, but with a cap of 24,000. The government is making approvals **very quickly**. The cap could be lifted if demand exceeds supply.

18. Haitian asylum processing at ports of entry

In 2022, the Biden administration **began** to process asylum seekers at ports of entry in a serious way for the first time since the Trump administration had stopped processing in 2022 with a focus on Haitian asylum seekers. This change effectively ended illegal immigration by Haitians.

Figure

Haitians are now entering the country legally again after being ba



19. **Preserving and expanding Temporary Protected Status**

The Temporary Protected Status (TPS) program provides employment authorization and status to people already in the United States when their home country has a situation that makes it unsafe for them to return. The government has used it sparingly, and the Trump administration tried to terminate TPS for about 400,000 applicants. Court cases and President Biden's election has prevented that from happening, and his administration has opened up the program to twice that many applicants.

Table 1

Temporary protected status recipients, minimum length of U.S. residence

	U.S. Residence Since	Total Eligible	Active on Jan. 2021	New Biden designation
Afghanistan	15-May-22	72,500	0	72,500
Myanmar	25-Sep-22	3,890	0	3,890
Cameroon	14-Apr-22	11,700	0	11,700
Ukraine	11-Apr-22	59,600	0	59,600
Venezuela	9-Mar-21	323,000	0	323,000
Somalia	19-Jul-21	555	455	100
South Sudan	1-Mar-22	331	96	235
Syria	28-Jul-22	7,894	6,934	960
Yemen	5-Jul-21	2,126	1,646	480
Sudan	1-Mar-22	3,864	774	3,090
Haiti	29-Jul-21	155,338	55,338	100,000
El Salvador	13-Feb-01	247,697	247,697	0
Honduras	30-Dec-98	79,415	79,415	0

20. Rescinding Remain in Mexico and Title 42 expulsion policies

The Biden administration won at the Supreme Court in its long quest to **end Trump's Remain in Mexico policy** that had forced asylum seekers to wait homeless in Mexico for the outcome of their cases,

making it impossible for them to find attorneys or make an adequate defense. It also has announced that the Title 42 expulsion policy, which also sent asylum seekers back to Mexico but without the chance to apply for asylum, **will end** on December 21, 2022.

President Biden's management of immigration has left much to criticize, but although it often took too long or was insufficient, his administration has also accomplished a lot to restore the U.S. immigration system. This list is just a brief overview of the many changes and actions that this administration has taken to improve immigration procedures and processing. These actions have not gone far enough, and the administration **is still overseeing record backlogs**, but the actions it has taken should be recognized anyway. The situation could be far worse.

Further Reading

[Processing Backlogs in the U.S. Immigration System: Describing the Scale of the Problem](#)

[Deregulating Legal Immigration: A Blueprint for Agency Action](#)

[Reforming the Immigration System: A Brief Outline](#)

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