

**The Case for
Foreign Worker Advisory Commission**

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April 18-19, 2013

Highlights

- Getting immigration right: DOL: a federal agency should check worker legal status and issue codes to workers that they present to employers; reduce discrimination, reduce employer power
- 3-pronged immigration reform: enforcement, legalization, and “future flows” or guest workers
- FWAC: monitor labor markets, make trade offs
 - Dynamic labor markets: move from fixing quotas in law to having FWAC monitor data and set numbers
 - Independent FWAC could study and make trade offs in migration policy, Congress to accept or reject like base-closing commissions

FWAC

- Analyze data on labor markets to provide the basis for recommendations on visa numbers
- Consider trade offs when making recommendations on permanent and temporary migration
- Conduct and sponsor research to improve economic migration policies, labor market tests, and other items associated with guest worker programs

FWAC Goals

- Maximize value added by immigrants and migrant workers, minimize wage competition between foreign and US workers
- Coordinate migration and other socio-economic policies & improve protections for foreign & US workers
- Monitor the impacts of immigrants and temporary workers on US workers

Labor Shortages: High-Skilled Workers

- Marshall: demand for college-educated workers is rising, but quick exhaustion of H-1B visas does NOT mean shortage. Why not? H-1B workers are indentured
- Supply of skilled foreign workers is NOT just new H-1Bs—also H-1Bs already here, L-1s, J-1s, OPT
- Marshall—slow wage growth for college educated US workers and rising U rate suggest no overall shortage of college educated workers
- FWAC: move from generalization to specifics

Labor Shortages: Low-Skilled Workers

- Demand for low-skilled responds in part to wages. Rising wages = lower demand
- Marshall: bringing more low-skilled workers into US does not support high-wage, high value-added inclusive economic development
- Low-skilled workers: harder to protect from exploitative employers, may be more expensive to social safety net
- Should US import more low-skilled as newly legalized move up the US job ladder or force employers of unauthorized to adjust?

Measuring Labor Shortages

- British MAC: 4 types of shortages
 - Cyclical, demand growing faster than supply
 - Structural, when mobility is limited by institutional factors (job-growth in high-cost London)
 - Wage restraints prevent adjustments (London care)
 - Skills shortages: rare and often temporary
- Use both top-down labor market indicators & bottom-up evidence from employers, unions and others to determine shortage occupations
- What role for sensibility, that is, for analyzing data **and** making the trade offs?

Criticisms of Commissions

- Employers: we know who is best suited to fill particular jobs
 - But Marshall: employers weigh narrow interests, not broader social interests
 - In high-wage countries, employers can select the “NFL” from global labor supply (can a US apple farmer reject US workers who can pick apples fast enough to earn the minimum wage, but not as fast as H-2A Jamaican workers?)
- Could a FWAC remain apolitical, professional, and avoid “regulatory capture?” Marshall—look at BLS, ITC, FRB

Border Security, Economic Opportunity, and Immigration Modernization Act of 2013

- 844 pages, introduced April 16, 2013
- 3 major components:
 - Stepped-up border security & all employers must use E-Verify to check the legal status of new hires within 5 years of enactment
 - Registered Provisional Immigrant status after paying \$500 fee IF in US before December 31, 2011, renewable after 6 years for another \$500 fee. After 10 years, another \$1,000 & English = immigrant visa
 - New guest workers: W-visa program for low-skilled nonfarm, new H-2A, H-1B visas up, new points-based immigrant visas

Senate Gang of 8: will their trade offs sell? Republicans on top

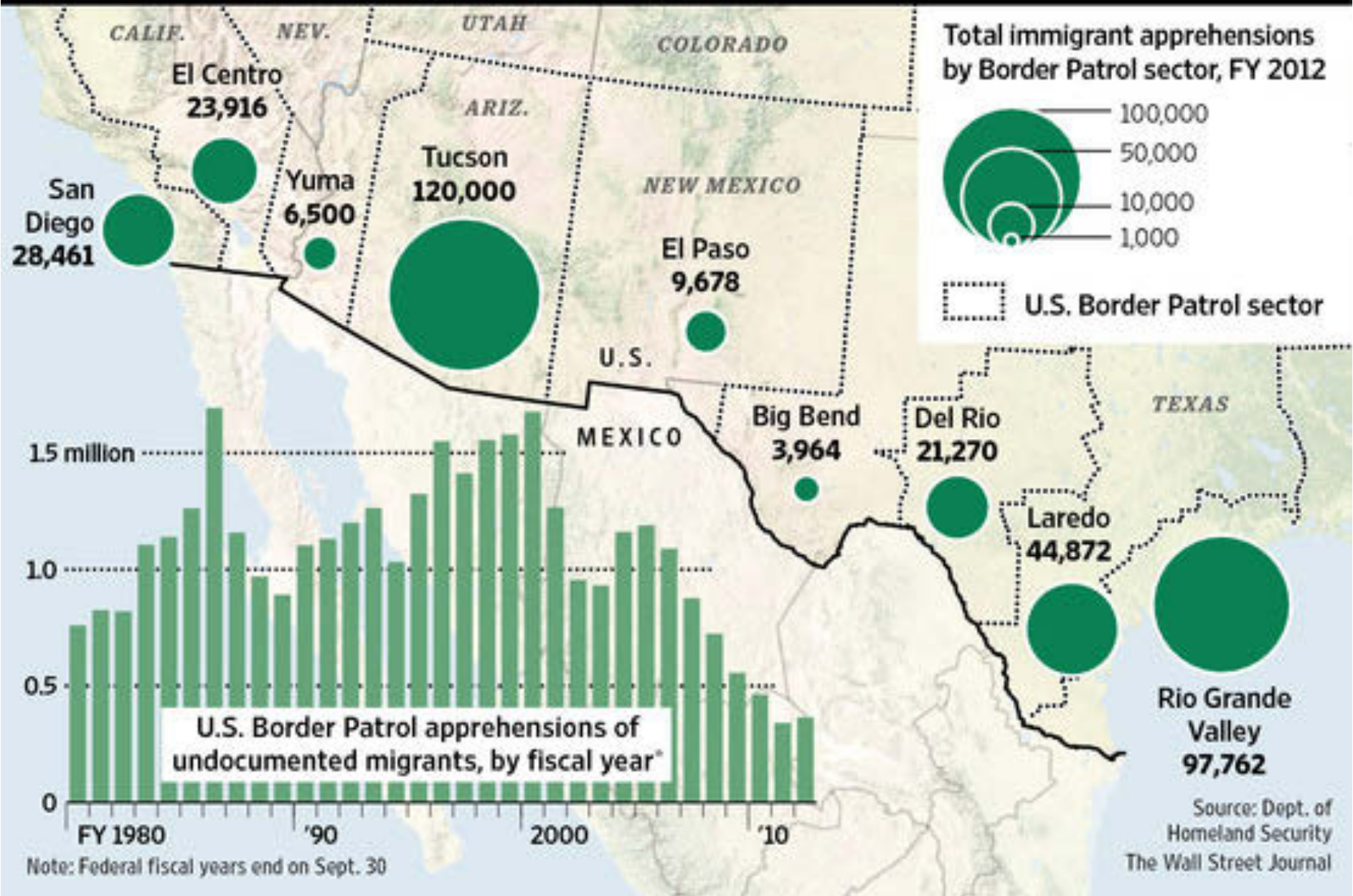


Border and Interior Enforcement

- DHS: has 6 months to develop a Comprehensive Southern Border Security Strategy
 - Within 5 years, DHS must be apprehending >90% of those attempting entry in border areas with > 30,000 apprehensions a year (what is base?); up to \$6.5 bil
 - If border NOT secure, a Border Commission takes over (Border governors & experts)
- E-Verify: mandatory for all US employers (>5000 employees, 2 years; >500 3 years)
 - 450,000 US employers participate, up 1,500 a week
 - FY12: 98.7% of 16 million employer submissions were confirmed as work-authorized within seconds

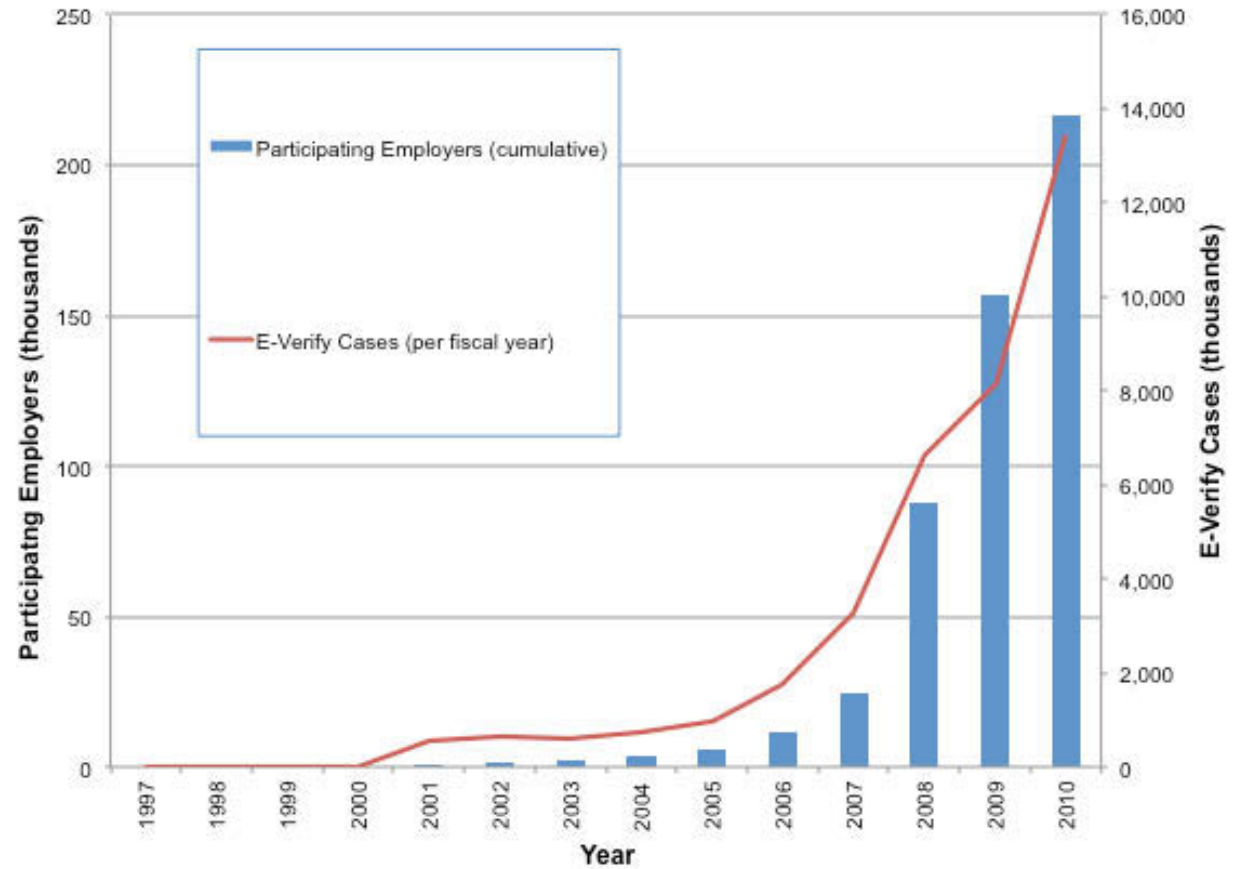
Airtight

A Senate plan wouldn't grant green cards to undocumented U.S. residents until illegal border crossings are slowed to a trickle





This Employer Participates in E-Verify



Legalization

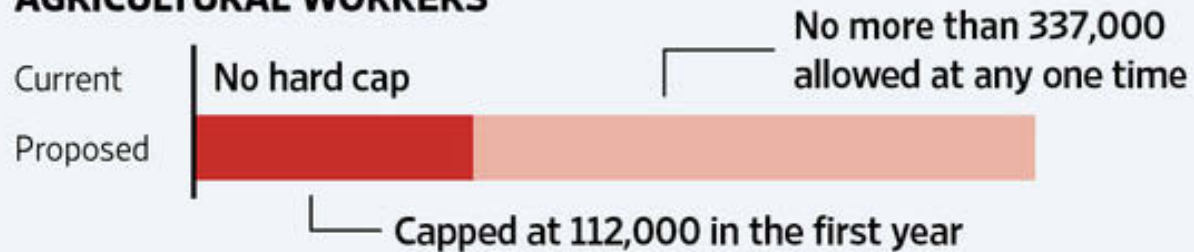
- After 6 months, unauthorized in US before December 31, 2011 can become RPIs
 - Pay \$500 plus USCIS app costs for 6-year RPI status
 - RPIs can sponsor spouses & children in US
- RPIs: have freedom in US labor market, can enter and leave US; generally NOT eligible for federal welfare benefits, including ACA health care
- After 10 years, IF border secure and no backlogs
 - RPIs can get immigrant visas by paying \$1,000 fee and passing English test
 - Could also obtain new merit-based immigrant visas

Invited Over | A bipartisan Senate plan would change the system for awarding U.S. work visas

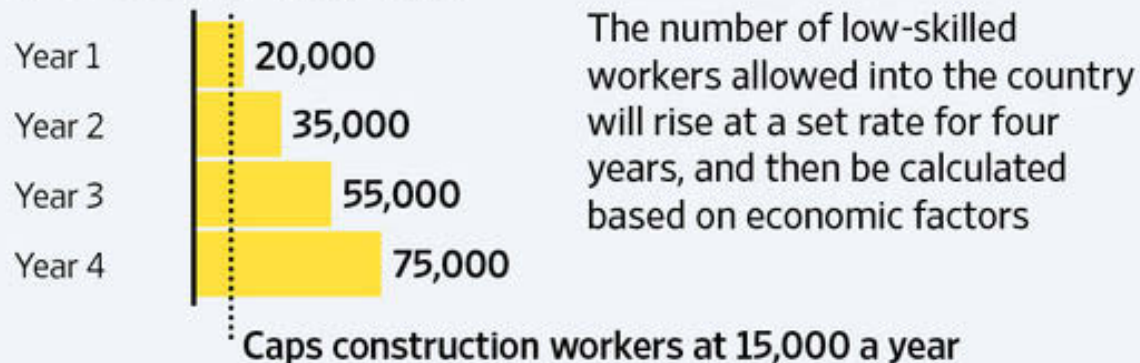
HIGH-SKILLED WORKERS (H-1B)*



AGRICULTURAL WORKERS



LOW-SKILLED WORKERS



*Doesn't include 20,000 (would change to 25,000) visas set aside for those who graduate from U.S. schools with advanced degrees. Sources: Senate aides; business groups The Wall Street Journal

H-1B Visas

- Number of “regular” H-1B visas: up from 65,000 to 110,000, and eventually up to 180,000 depending on a High Skilled Jobs Demand Index
- Foreigners who obtain advanced degrees from US Unis: from 20,000 to 25,000 a year
- All US employers (not just H-1B dependent) must certify that they did not lay off US workers to hire H-1Bs
- H-1B spouses can work if their country allows US
- H-1B dependent would pay higher wages and fees

Guest Workers: W-Visas for Workers & Families

- Bureau of Immigration and Labor Market Research in USCIS to determine # W-visas, help labor-short employers to recruit, & develop shortage occupation lists. Budget: \$20 mil + employer-paid fees
- Employers register their jobs to hire W-visa guest workers. Pay higher of actual or prevailing wage (OES), no layoff of US worker 90 days before and after registering the job to be filled with W-visa
- W-visas valid 3 years, renewable once, max 60 days U in US; family members can accompany

Guest Workers: W-Visa Mechanics

- W-visa holders can only fill low-skilled jobs (job cannot require a BA) in metro areas with U rate of less than 8.5%
- Employer advertises registered job at least 30 days; job remains registered for 3 years
- How many W-visas? (max 1/3 in construction)
 - 20,000 W-visas available in 1st year; 35,000 W-visas available in 2nd year; 55,000 W-visas available in 3rd year; 75,000 W-visas available in 4th year
 - Beginning 5th year: # determined by change in US job openings, change in U rate, Bureau rec, % change in W-visa requests from year to year

AgJOBS: Legalization and Guest Workers

- Legalization:
 - “Agricultural Cards” that confer RPI status available to unauthorized farm workers who did at least 150 days of farm work in the previous 24 months
 - Convert from RPI to immigrant status after 3-5 years by continuing to do farm work and paying \$400
- 112,000 new W-2 and W-3 visas replace H-2A
 - W-2: like the current H-2A program: guest worker is tied to US farm employer
 - W-3: new 3-year visa that allows guest workers to “float” within ag
 - W-2 and W-3 workers could work in year-round jobs; USDA could adjust # of visas after 5 years