NEGATIVE: State Based Visas

By Katherine Baker

***Resolved:* *The United States federal government should substantially reduce its restrictions on legal immigration to the United States.***

This plan enacts State Sponsored Visa Pilot Program Act of 2017. SSPPVA was proposed by Sen. Ron Johnson (R-Wisc.) in 2017 but never enacted. SSPPVA allocates visas to the states (some to all states and some based on population) that States can then choose to use to sponsor guest workers who can work and reside only in their state. States that don't want more immigrants will simply decline to use any visas, others may use some but not all of their visas, while some States will use their entire allocation  
  
Negative will argue that devolving immigration policy to the states is unconstitutional and unworkable. It's too easy to cross state lines once they get into the country, and that will defeat the original purpose of state-level policy. And then there are the usual disadvantages that increased immigration causes, in social costs, competition for jobs, and failure to assimilate.

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Negative: State Based Visas

OPENING QUOTE / NEGATIVE PHILOSOPHY

Atrocities of optics

Fred Bauer, 2017. (writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

The atrocities of optics presented by state-based guest-worker programs would also be legion: tenements swollen with guest-workers and their beleaguered families, young children denied visits to the doctor, companies laying off Americans to hire phalanxes of underpaid guest workers, and tearful U.S. citizens waving goodbye to their guest-worker parents, who have to leave the country because they’ve lost their jobs. In one of the great perversions of the free market, current guest-worker programs often tie visa-holders to a given employer. State-based visas would replace that tie to an employer with a tie to the land. In celebrating bloodlines over much else, current legal immigration policies often exhibit the imperatives of the Romanov dynasty; the serfdom of state-based guest-worker programs would be an unfortunate complement to that model.

INHERENCY

Guest worker program not struggling: numbers *increasing*.

Dan Charles, 2018. (Dan Charles is NPR's food and agriculture correspondent. Charles graduated magna cum laude from American University with a degree in economics and international affairs.) “Government Confirms A Surge In Foreign Guest Workers On U.S. Farms” May 18, 2017. https://www.npr.org/sections/thesalt/2017/05/18/528948143/government-confirms-a-surge-in-foreign-guest-workers-on-u-s-farms

The numbers are out — and they confirm what we've been hearing from farmers and immigration lawyers. More and more farmers are turning to foreign "guest workers" to plant and harvest the country's crops. Farmers have to get permission from the U.S. Department of Labor to bring in foreign workers using a category of visa called H-2A. During the first three months of 2017, the Department of Labor approved applications to fill 69,272 farm jobs with workers on H-2A visas. That's up from 50,887 positions approved during same period a year ago, an increase of 36 percent.

More guest workers promised

Jonathan Allen, 2018. (Reporter for NBC News) “Trump says U.S. to 'let your guest workers come in' in appeal to farmers” Apr.28.2018. https://www.nbcnews.com/politics/politics-news/trump-says-u-s-let-your-guest-workers-come-appeal-n869841

President Donald Trump said Saturday that he would let more guest workers into the U.S. to help farmers whom he said may suffer "a little pain for a little while" because of his own efforts to renegotiate trade deals with several foreign partners.

Numbers increased two years in a row.

Nick Miroff, 2018. (Nick Miroff covers drug trafficking, border security and transnational crime on The Washington Post’s National Security desk. He was a Post foreign correspondent in Latin America from 2010 to 2017, and has been a staff writer since 2006.) “DHS to issue 15,000 more guest worker visas amid clamor over labor shortage” May 25, 2018. https://www.washingtonpost.com/world/national-security/dhs-to-issue-15000-more-guest-worker-visas-amid-clamor-over-labor-shortage/2018/05/25/04f8d602-6058-11e8-a4a4-c070ef53f315\_story.html?noredirect=on&utm\_term=.29af13780f62

The Department of Homeland Security said Friday it will issue 15,000 additional guest worker visas for 2018, facing an outcry from business owners who say they’re being hurt by the country’s labor squeeze. It was the second year in a row that DHS agreed to allocate an extra 15,000 guest worker visas, on top of the 66,000 annual cap established by Congress. Lawmakers have granted DHS the authority to exceed the cap, and in recent weeks they have urged Nielsen to allow more foreigners to alleviate the tight labor market, with the unemployment rate at 3.9 percent.

HARMS / SIGNIFICANCE

SOLVENCY

1. Existing Flaws Remain

Doesn’t fix existing flaws

Laura D. Francis, 2017. (Lead reporter/editor of Workplace Immigration Report, covering aspects of immigration law at the federal, state, and local levels as they relate to labor and employment for Bloomberg BNA. B.A. from the University of Maryland ; J.D. from George Washington University Law School.) “The Feds Had Their Turn. Time for State-Based Visas?” May 12, 2017. https://www.bna.com/feds-turn-time-n73014450862/

But the bill doesn’t “get rid of” or “fix the existing flaws” in our current guestworker programs, Naomi Tsu, deputy legal director of the Southern Poverty Law Center, told Bloomberg BNA May 9. “One of the major flaws in the guestworker program is that workers come in in debt” from paying recruitment and other fees, said Tsu, who spoke as a member of the International Labor Recruitment Working Group. And because of that debt, they have a “real fear of speaking up to enforce their workplace rights,” she said. Johnson’s bill would allow states to require workers to pay a bond, which would be returned to them once they go back to their home countries, Tsu said. But actually getting that money to the workers could be a tall order, she said.

Plan doesn’t address abuse

Laura D. Francis, 2017. (Lead reporter/editor of Workplace Immigration Report, covering aspects of immigration law at the federal, state, and local levels as they relate to labor and employment for Bloomberg BNA. B.A. from the University of Maryland ; J.D. from George Washington University Law School.) “The Feds Had Their Turn. Time for State-Based Visas?” May 12, 2017. https://www.bna.com/feds-turn-time-n73014450862/

A similar system existed under the Bracero program, an agricultural guestworker program from the 1940s and 1950s, Tso said. Many of those workers never received their bond money even though they returned to Mexico, she said. It’s “extremely difficult to cash checks from the United States” in Mexico, Tsu said. And nothing in Johnson’s bill “even starts to wrestle with that problem,” she said. Not only that, but there remains a “power imbalance” in the proposed program that would make it very difficult for any workplace abuses to be addressed, she said.

1. Vital Questions not answered

Birthright citizenship problems

Fred Bauer, 2017. (Fred Bauer is a writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

Birthright citizenship complicates all guest-worker programs in the United States and means that the nation as a whole would be even less insulated from the consequences of a state-based guest-worker program. As the law stands now, the hypothetical American-born child of state-based guest workers would be granted immediate U.S. citizenship and access to federal benefits. At the age of 21, a U.S. citizen can sponsor his or her parents to become permanent residents and, eventually, citizens. And what happens in the first 21 years of this child’s life makes even thornier the problems of state-based guest-worker programs. Because this proposal would limit workers to the issuing state, if the guest-worker parents of an American child could not find work in that issuing state, they could be forced either to either leave the country or break the law by working in another state. That these guest workers would be limited in where they could work means they would be more likely to run into employment challenges and thus to face that difficult choice. (The Johnson proposal might mitigate this danger somewhat by allowing states to form compacts that would permit guest workers to work across state lines, but they would still face fewer economic prospects than those who can move anywhere in the United States to work.)

State participation problems

Laura D. Francis, 2017. (Lead reporter/editor of Workplace Immigration Report, covering aspects of immigration law at the federal, state, and local levels as they relate to labor and employment for Bloomberg BNA. B.A. from the University of Maryland ; J.D. from George Washington University Law School.) “The Feds Had Their Turn. Time for State-Based Visas?” May 12, 2017. https://www.bna.com/feds-turn-time-n73014450862/

There are also concerns with how states participate, Jacoby said. There may be some states that choose not to set up their own visa program—even if employers in that state want it—while others might seek only to allow a particular type of visa to the exclusion of other industries, she said. Moreover, multi-state companies might have to apply multiple times for the workers, depending on how many states are involved, she said.

3. Unconstitutional

Plan would likely be found unconstitutional and overturned: Constitution grants exclusive role to Congress, not States

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies. Dan Cadman is a retired INS / ICE official with thirty years of government experience; served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

Finally, let us return to the question of "whether the federal government should maintain its near-complete monopoly over legal immigration": I thought that question was resolved in 1789 when our founders brought the Constitution into force, specifying in Article I, Section 8, Clause 4, that "The Congress shall have Power To ... establish an uniform Rule of Naturalization," which has repeatedly been construed by the Supreme Court to include immigration generally. Immigration is one of the few powers assigned singularly and exclusively to the federal government, owing in no small part to recognition on the part of our forefathers that any other system of maintaining sovereignty and border control was unworkable. They had, after all, already seen the Articles of Confederation fail abjectly in no small measure because too much control had been left to the states, each of which then felt free to go their own way with little or no regard to one another or the commonweal of all of the citizenry. Perhaps the collateral question is this: Can Congress give its powers over immigration away to the states? Surely the answer is "No," as certainly as it would be were the question: Can Congress give away to the states the power over the federal purse, or the power to coin money? But however constitutionalists might argue it, the answer most assuredly should be a resounding no.

4. Hard to enforce

Enforcement issues

Laura D. Francis, 2017. (Lead reporter/editor of Workplace Immigration Report, covering aspects of immigration law at the federal, state, and local levels as they relate to labor and employment for Bloomberg BNA. B.A. from the University of Maryland ; J.D. from George Washington University Law School.) “The Feds Had Their Turn. Time for State-Based Visas?” May 12, 2017. https://www.bna.com/feds-turn-time-n73014450862/

There also are likely to be enforcement issues, although that’s always the case with temporary visas, Spiro said. There are “different kinds of challenges” associated with foreign nationals in the U.S., as opposed to those coming across the border, he said.

DISADVANTAGES

Big Link: Current system foreshadows AFF plan

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies. Dan Cadman is a retired INS / ICE official with thirty years of government experience; served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

There is little reason to think that the state- or regional-system(s) urged by the Cato Institute would be run any better or more honestly than the cornucopia of malfeasance that has attended investor visa programs. They are more likely simply a foreshadowing of what we could expect from visa schemes devolved to states or their political subdivisions.

1. Tax Dollars Wasted

Link: Strain on state budgets

Laura D. Francis, 2017. (Lead reporter/editor of Workplace Immigration Report, covering aspects of immigration law at the federal, state, and local levels as they relate to labor and employment for Bloomberg BNA. B.A. from the University of Maryland ; J.D. from George Washington University Law School.) “The Feds Had Their Turn. Time for State-Based Visas?” May 12, 2017. https://www.bna.com/feds-turn-time-n73014450862/

“From a practical perspective, there’s a vested interest” in states getting more workers, Peterson told Bloomberg BNA. But from a budgetary perspective, the program could be problematic, she said. States would be given a lot of latitude under the bill, Peterson said. That means they would be responsible for administering the guestworker programs, overseeing them and ensuring compliance—including making sure the workers don’t violate the terms of their visas, she said. And that’s going to cost money, adding to already strained state budgets, Peterson said.

Link: Drains federal and local tax dollars

Fred Bauer, 2017. (Fred Bauer is a writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

Transferring such programs to the states only compounds the problems they pose at the federal level. The modern administrative welfare state means that, when a state chooses to admit more residents, its decisions have implications far beyond its borders. Minor children are allowed to go with guest workers, and those children will be able to go to public schools, which in part are financed by federal tax dollars. So, when a state chooses to admit guest workers, it is making decisions that very much have a bearing on the federal coffers. Moreover, an expansive guest-worker program would almost certainly ignite a huge effort to ensure that guest workers and their families have access to at least some federal benefits, health care likely chief among them. The idea that the United States will be able to import hundreds of thousands of long-term guest workers (some of them low-income) and NOT have a debate about whether they should have access to federal benefits is somewhat far-fetched. And that could be a politically damaging debate for Republicans, too: If they tried to withhold benefits from guest workers, they would be smeared as cold-hearted and “anti-immigrant,” while if they supported expanding benefits, they would vitiate the promises made by Johnson, Buck, and others. Thus, decisions made by the states on immigration could have substantial effects on broader federal budgetary commitments.

Link: Medicaid expansion

Fred Bauer, 2017. (writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “What the Libertarian Argument for State-Based Guest-Worker Programs Gets Wrong” May 18, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-programs-undermine-civic-belonging/

A few other points could be made in response to Bier. He criticizes my NRO piece for speculating about some of the consequences of a huge guest-worker program, especially my claim that this program would ignite a political debate about whether to give government benefits to guest workers and their families. Since this plan has not gone into effect yet, my speculation about its effects was, of course, purely hypothetical. But serious policy discussion sometimes requires thinking about the hypothetical consequences of any given measure. Because Senator Johnson’s state-based visa proposal does not count family members against its 500,000-visa annual cap, well over 3 million guest workers and their families could enter the United States in just its first three years if it were passed into law. Adding a population the size of Chicago to the national population would almost certainly give new urgency to efforts to expand government programs for guest workers and their families, especially minor children. Last year, California extended the benefits of its Medicaid program to the foreign-born children of illegal immigrants. If the children of those here illegally are gaining government benefits, the idea that the children of guest workers, who have been invited into the country, will forever be barred from the same benefits seems dubious.

Impact: Tax-payers cover cost of ill-thought immigration

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies. Dan Cadman is a retired INS / ICE official with thirty years of government experience. Mr. Cadman served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad. Within the immigration law enforcement field, Mr. Cadman's knowledge and experience encompass, among other things, criminal aliens, employer sanctions, and national security and terrorism matters.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

Although Mr. Bier poses this question in the context of the libertarian advocacy of "individual liberties" for both Americans and aliens seeking entry to work, it seems to me that the reality is significantly different. Outside of investor visa programs that give green cards to the ultra-rich in return for their cash "investments" in America, the aliens recruited to work in state or regional ventures would, for all intents and purposes, be the modern-day equivalent of indentured servants for any other temporary visa category. How could they not be? After all, what good would it do to create a program in which a state — say, Michigan — places thousands of alien workers in a city of crumbling infrastructure, hoping to turn it around, only to permit them to leave for greener pastures elsewhere in the country when they arrived and saw what they had gotten into? And if they did so, in violation of the terms and conditions of the program, whatever it might be, who would be expected to clean up the mess, find the aliens, and deport them? The states they had fled from? They have neither the power nor constitutional authority. So at that point, the states or their subdivisions would most assuredly hand the mess over to the federal government and say, "not my problem any more," leaving it to taxpayers nationally to cover the cost of their ill-thought-out schemes.

1. Unemployment

Link: Cheap labor

NEW YORK TIMES 2018 (journalist Miriam Jordan, national immigration correspondent.) “What Are H-1B Visas, and Do They Hurt American Workers?” April 6, 2018. https://www.nytimes.com/2018/04/06/us/what-are-h1b-visas.html

But there are questions about who’s benefiting, collectively. About 20 companies accounted for 32 percent of approved H-1B petitions, according to an analysis by the Migration Policy Institute. Many of the employers are global outsourcing companies from India that supply entry-level workers to retailers, insurance companies and banks. Not all. Among them are also American firms who appear to be using the program to create a pool of cheap labor. “Big household-name American companies are just as culpable as the outsourcing companies of abusing the program,” said Norman Matloff, a professor at the University of California, Davis, who studies the H-1B program.

Link: Guest worker programs damage work culture

Fred Bauer, 2017. (writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

As Nicholas Eberstadt noted in a recent cover story for Commentary — a piece that Senator Johnson himself referenced in his remarks at Cato — the United States has experienced a growing crisis of work over the past 15 years. Wages in many sectors have stagnated, workforce participation is down, and young people face ever-larger obstacles in trying to make it on their own. Reforming government programs so that they do not disincentivize employment could be part of addressing that problem, but so could tightening the labor market. Guest-worker programs weaken the viability of the average worker, and in so doing they damage the culture of work.

Link: Hurts unemployed Americans’ chances

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies; retired INS / ICE official with thirty years of government experience; served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

Such schemes also do little to resolve the lingering problems of un- and under-employment, especially among those at the bottom of the economic ladder, a fact noted by Rev. Horace Sheffield III who, in response to the Michigan governor's proposal, told CNS News that even if it does not take a specific job away from native-born job-seekers, it makes immigrants "more marketable than educated current residents. ... What does that do to displace people who are born here and who don't have the education and are already competing for scarce jobs?" As the U.S. Bureau of Labor Statistics (BLS) notes, when workers are unemployed, their families lose wages, and the nation as a whole loses their contribution to the economy in terms of the goods or services that could have been produced. Unemployed workers also lose their purchasing power, which can lead to unemployment for other workers, creating a cascading effect that ripples through the economy.

Link and Impact: Workers harmed throughout the nation, even if the visas are issued locally

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies; retired INS / ICE official with thirty years of government experience; served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

And therein lies the first problem. State governors and legislatures, as a function of their jobs and their interests, focus solely on issues within their respective states and political subdivisions. What governor (or legislature or political party for that matter) wouldn't want the ability to cater to the powerful interests in the state, thus forever keeping their campaign coffers full? The idea of national interest falls secondary to them, if at all, and were Congress to attempt to devolve its responsibilities onto the states, then it is likely that no one would attend to the overarching national interest as it exists beyond their narrow geographic boundaries. It is not that our federal legislators are not also subject to such interests or pressures, but at least in a national setting they are obliged to negotiate and counterbalance one another. Multiply the 50,000 in Detroit by the number of states, cities, and even small towns that would lobby for such programs, and one can readily see the American labor market flooded with alien laborers willing to work for less and less, thus depressing wages nationally in any sector of the economy in which they became prevalent. American workers already face such situations with the H-1 and H-2 visa programs. We could multiply such abuse many times over, to the deficit of American workers, were regional visa giveaway schemes to be adopted.

Impact: Unemployment affects everyone

Elvis Picardo, Updated 2018. (Portfolio Manager at HollisWealth®, a division of Scotia Capital Inc. Prior to joining HollisWealth, he was Vice-President Research and a Portfolio Manager at a leading independent investment dealer in Vancouver. He brings a global perspective to investment research and portfolio management, obtained through more than two decades of international capital markets experience in diverse disciplines; Chartered Financial Analyst® and Canadian Investment Manager designations, as well as degrees in engineering and management studies.) “How The Unemployment Rate Affects Everybody” Updated January 17, 2018. https://www.investopedia.com/articles/economics/10/unemployment-rate-get-real.asp#ixzz5H1JHfYrh

Unemployment even affects those who are still employed. When workers are let go, it increases the amount of work those who are still employed have to cover. And because unemployment usually increases when companies are trying to cut costs, those expected to pick up the slack are not receiving any additional compensation for extra hours worked. Unemployment can also have a negative mental effect on those who are still working. They may become more concerned about losing their own jobs or be hesitant to look for something better because they "are lucky" to be employed at all. They may even feel guilty about having a job when their co-workers are out of work.

1. Corruption

Link: Widespread corruption when States get involved in immigration. It happened with EB-5 visas

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies; retired INS / ICE official with thirty years of government experience; served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

In addition, the question of widespread corruption raises its ugly head. In the case of Michigan, the governor (using factoids from dubious studies) was speaking specifically about modifying and using one of the EB visa investor programs. Other programs, using the EB-5 investor visa, are already run by various consortiums in certain states, and are pushed mightily by private middlemen with favored investment schemes in which they have fiduciary interests. The result has been a shocking series of scandals and ripoffs all over the country, including South Dakota, Vermont, and California, among other places. The fraud has been so rampant that my colleagues here at the Center have created an interactive map of places in the United States affected by program abuses. The scandals have resulted in lawsuits, criminal prosecutions, and frequent enforcement actions by the Securities and Exchange Commission, which has taken a responsible attitude toward attempting to curb the corrupt practices by stepping into the vacuum left by inactivity at the agency responsible for overseeing EB visa approvals: U.S. Citizenship and Immigration Services (USCIS), a subordinate agency in the Department of Homeland Security (DHS). Even when the EB-5-related projects have not been overtly corrupt, the regions in which they operate, which are supposed to be created in economically depressed zones, have been gerrymandered out of recognition and have a depressing pay-to-play look and feel to them.

Link and Impact: Workers harmed throughout the nation, even if the visas are issued locally

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies; retired INS / ICE official with thirty years of government experience; served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

And therein lies the first problem. State governors and legislatures, as a function of their jobs and their interests, focus solely on issues within their respective states and political subdivisions. What governor (or legislature or political party for that matter) wouldn't want the ability to cater to the powerful interests in the state, thus forever keeping their campaign coffers full? The idea of national interest falls secondary to them, if at all, and were Congress to attempt to devolve its responsibilities onto the states, then it is likely that no one would attend to the overarching national interest as it exists beyond their narrow geographic boundaries. It is not that our federal legislators are not also subject to such interests or pressures, but at least in a national setting they are obliged to negotiate and counterbalance one another. Multiply the 50,000 in Detroit by the number of states, cities, and even small towns that would lobby for such programs, and one can readily see the American labor market flooded with alien laborers willing to work for less and less, thus depressing wages nationally in any sector of the economy in which they became prevalent. American workers already face such situations with the H-1 and H-2 visa programs. We could multiply such abuse many times over, to the deficit of American workers, were regional visa giveaway schemes to be adopted.

1. Indentured Servitude

Link: Guest worker program fraught with historical problems

Fred Bauer, 2017. (Fred Bauer is a writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “What the Libertarian Argument for State-Based Guest-Worker Programs Gets Wrong” May 18, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-programs-undermine-civic-belonging/

If European policymakers often want to avoid the mistakes of 20th-century guest-worker programs, it seems strange that American policymakers should now be trying to repeat them. The United States’ history of immigration differs from Europe’s, and the fundamental heterogeneity of American society means that guest-worker programs may play out differently here than across the Atlantic. But the American experience with large-scale guest-worker programs has still raised concerns about the way they contribute to the inequitable treatment of immigrants. (For example, civil-rights activists and worker advocates alike have attacked the mid 20th-century “bracero” program, which brought in agricultural guest workers from Mexico.)

Link: State visas = indentured servitude

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies. Dan Cadman is a retired INS / ICE official with thirty years of government experience. Mr. Cadman served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad. Within the immigration law enforcement field, Mr. Cadman's knowledge and experience encompass, among other things, criminal aliens, employer sanctions, and national security and terrorism matters.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

Although Mr. Bier poses this question in the context of the libertarian advocacy of "individual liberties" for both Americans and aliens seeking entry to work, it seems to me that the reality is significantly different. Outside of investor visa programs that give green cards to the ultra-rich in return for their cash "investments" in America, the aliens recruited to work in state or regional ventures would, for all intents and purposes, be the modern-day equivalent of indentured servants for any other temporary visa category. How could they not be? After all, what good would it do to create a program in which a state — say, Michigan — places thousands of alien workers in a city of crumbling infrastructure, hoping to turn it around, only to permit them to leave for greener pastures elsewhere in the country when they arrived and saw what they had gotten into? And if they did so, in violation of the terms and conditions of the program, whatever it might be, who would be expected to clean up the mess, find the aliens, and deport them? The states they had fled from? They have neither the power nor constitutional authority. So at that point, the states or their subdivisions would most assuredly hand the mess over to the federal government and say, "not my problem any more," leaving it to taxpayers nationally to cover the cost of their ill-thought-out schemes.

Impact: Forced to work in reprehensible conditions

Matt Murray, 2014. (Matt Murray is the creator and an author on the NH Labor News. He is a union member and advocate for labor and progressive politics.) “The H-1B Worker Program Is Creating Modern Day Indentured Servants” June 12, 2013. http://nhlabornews.com/2013/06/the-h-1b-worker-program-is-creating-modern-day-indentured-servants/

“Instead of securing three-year work visas, she (Navarro) got them visas for one year, and charged a fee for renewal.” Company StoreIn the Globe story, they highlighted one recruiter, Lourdes Navarro. They also found that “Navarro forced the teachers to live together in an apartment complex where they paid hundreds of dollars above market rate”. For those who know their history, this was a very common tactic used by mill owners in the early 1900’s. Workers lived in mill housing, shopped at mill owned stores, and racked up massive debt to the mill owners. The workers’ pay was so low that they could never pay off their food and housing debts, making them slaves to the mills. Teachers are not the only workers paying massive amounts of money to get the chance to work here. “Close to Slavery,” a report by the Southern Poverty Law Center, documents Jamaicans who paid $1,500 to clean hotels, Mexicans who paid $3,000 to pick tomatoes, Indian welders who paid $14,000 to fix ships after Hurricane Katrina. (The Indians thought they were getting green card cards. Instead, they got 10-month H-2B visas.)” There are countless horror stories of these workers being forced to work 20+ hour shifts for minimum wage. They have no recourse because the employer holds the visa. If they speak out against their employer they are fired. If they try to form a union, they are fired. Then they are reported to Immigrations Customs and Enforcement (ICE) as being here illegally. They have nowhere to go.

1. Civic polarization and immigrant marginalization

Link: Guest worker programs undercut civic belonging – creates an underclass

Fred Bauer, 2017. (Fred Bauer is a writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

From a civic and conservative perspective, using the states to expand guest-worker programs has many drawbacks. On a basic philosophical level, guest-worker programs drastically undercut civic belonging. It is probably not healthy for a republic to have a large class of residents who are viewed purely as economic resources with no stake in American society. In fact, conservatives interested in modernizing the GOP to face the challenges of the 21st century would in many ways be better off trying to reduce guest-worker programs.

Link: Polarizing inequality, economic harm

Fred Bauer, 2017. (Fred Bauer is a writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

A radically federalist approach to immigration would probably lead to a more splintered United States. Immigrants would be allowed in some states but not in others. Guest-worker camps might dot the landscape of some states, which would be polarized by inequality; because of a tighter labor market, other states might be filled with middle-class communities. There is a good chance that the American economy would be less dynamic; it would be harder for a slice of the population to move fluidly within the country for work.

Impact: Unhappiness, illness, and death

The Equality Trust, contextually dated to 2015. (The Equality Trust is a registered charity that works to improve the quality of life in the UK by reducing economic and social inequality. We catalyse the work of the public by informing individuals and local groups about the damage inequality does and then support and empower them to take action to address it.) “Health” No date given, but cited information from 2015. https://www.equalitytrust.org.uk/health

Overall levels of health are far worse in more economically unequal societies. Research suggests that life expectancy is longer and rates of adult mortality, infant mortality, mental illness and obesity are lower in more equal societies. The strength of the relationship between inequality and health varies according to the health outcome in focus.

Impact: financial instability, debt, inflation, and crises

The Equality Trust, contextually dated to 2015. (The Equality Trust is a registered charity that works to improve the quality of life in the UK by reducing economic and social inequality. We catalyse the work of the public by informing individuals and local groups about the damage inequality does and then support and empower them to take action to address it.) “Economic” No date given, but cited information from 2015. https://www.equalitytrust.org.uk/economic

Increased inequality can lead to financial crises. High levels of income inequality are associated with economic instability and crises, whereas more equal societies tend to have longer periods of sustained growth. High levels of income inequality lead to higher levels of personal and institutional debt. There is substantial evidence to suggest that increased inequality was at least partially responsible for the increase in debt that precipitated the US financial crisis. Inequality may have played a role in the UK financial crisis by increasing debt and over-consumption, but these effects could also have been small. Increased inequality may increase rates of inflation.

Backup: Civic belonging grounded in history

Fred Bauer, 2017. (Fred Bauer is a writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “What the Libertarian Argument for State-Based Guest-Worker Programs Gets Wrong” May 18, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-programs-undermine-civic-belonging/

I would submit that my original argument about civic belonging is not quite so speculative as Bier asserts. After all, guest-worker programs are not new, and we can see their effects in countries across the world. This historical record suggests that the expansion of guest-worker programs has substantial effects on the civic fabric of a nation, often despite the claims of their proponents. In the post–World War II era, Germany and other European nations experimented with large guest-worker programs, which denied citizenship not only to guest workers but sometimes even to their native-born children. Many observers have argued that this heavy emphasis on guest workers fractured European societies and harmed the assimilation of immigrants. Even Angela Merkel, one of the most prominent immigration doves on the world stage, has criticized the mistakes of Germany’s mid-20th-century guest-worker programs. To be sure, all of Europe’s current struggles to assimilate immigrants cannot be laid at the feet of guest-worker programs, but some of them certainly can. While the plural of anecdote is not data, the personal testimony of the children of guest workers in Germany and elsewhere reveals some of the psychological effects of being welcomed as a mere laborer rather than a citizen.

Backup: Huge role of citizenship, regardless of whether a person votes

Fred Bauer, 2017. (writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “What the Libertarian Argument for State-Based Guest-Worker Programs Gets Wrong” May 18, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-programs-undermine-civic-belonging/

There is a huge difference between a guest worker and someone who moves from one state to another without updating his voter registration. The United States is a sovereign nation, so movement within its borders is categorically different from movement across them. Utopians might chafe at the bounds of the nation-state, but no one doubts that the nation-state still exists, or that it remains the primary means by which the world’s 7.5 billion people organize themselves into societies. There’s another categorical difference between someone who forgets to update his voter registration and a guest worker: The former may at any time register to vote, while the latter is forbidden to do so. A chasm stretches between choosing not to exercise a right and not possessing that right. A similar chasm separates guest workers from green-card holders: While legal permanent residents have a clear path to citizenship, guest workers are barred from this path.

1. Who’s coming in?

Link: Endless Number of aliens

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies. Dan Cadman is a retired INS / ICE official with thirty years of government experience. Mr. Cadman served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad. Within the immigration law enforcement field, Mr. Cadman's knowledge and experience encompass, among other things, criminal aliens, employer sanctions, and national security and terrorism matters.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

The corollary to this arrive-and-run scenario in which aliens leave before their period of "indenture" is up, of course, is that the states and regions would then demand to re-fill the now-vacated jobs, thus creating an endless slot system of escalating numbers of even more aliens, both legal and illegal ("illegal" in this case meaning those who violate the condition of their entry by leaving the assigned program), flooding the country.

Impact: Dangerous criminals welcomed

Dan Cadman, 2017. (Fellow for the Center for Immigration Studies. Dan Cadman is a retired INS / ICE official with thirty years of government experience. Mr. Cadman served as a senior supervisor and manager at headquarters, as well as at field offices both domestically and abroad. Within the immigration law enforcement field, Mr. Cadman's knowledge and experience encompass, among other things, criminal aliens, employer sanctions, and national security and terrorism matters.) “State-Based Visas: Unwise, Unworkable, and Constitutionally Dubious” May 9, 2017. https://cis.org/Cadman/StateBased-Visas-Unwise-Unworkable-and-Constitutionally-Dubious

Nor is it simply a matter of poor management and rip-offs of rich foreigners that has gone by the wayside. So have national security and public safety; ironic in that it is a DHS agency overseeing the current abysmal sham of a program. In a recent case in California, the couple running the scheme managed to get Chinese criminals fleeing from justice approved to come to the United States. The FBI raids that resulted in disruption of the scheme and several arrests led to a telling op-ed in a Vermont publication, The Green Mountain Daily: "Is California's new EB-5 scandal more scandalous than ours?".

1. Moves us away from the real solution

The real solution is Skills-based migration – State-based visas take us away from that goal

*Fred Bauer, 2017. (writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/*

Senator Johnson and Representative Buck are not wrong to highlight the problems with the current immigration system, which unfairly privileges dynastic bloodlines and does not take sufficient account of the needs (economic and otherwise) of the United States. There is a very real case for reforming the system so that it gives increased priority to the skills of potential immigrants. Because increasing the overall rate of legal immigration is quite unpopular (only about 21 percent of Americans support increasing it, according to Gallup), members of Congress who want a more dynamic immigration system might consider calling for legislation that replaces some current chain-migration visas with skills-based ones. A more skills-based immigration system could help cut down guest-worker programs, one of the more retrograde elements of current U.S. immigration law. Such a reform would do a lot more to advance the principles of economic opportunity and national solidarity than splitting the nation into different guest-worker territories.

1. Barriers between states

Link: Creates barriers between states

Fred Bauer, 2017. (writer for National Review. His work has been featured in numerous publications, including The Weekly Standard and The Daily Caller.) “The Perils of Immigration Federalism” May 11, 2017. https://www.nationalreview.com/2017/05/immigration-federalism-state-based-guest-worker-program-bad-idea/

A guiding principle of American policymakers for many decades was that the completely fluid movement of capital, labor, and goods across international borders was a utopian vision, and, like many utopian visions, probably could not be achieved. Instead, it was thought wiser to increase the fluidity of movement within the United States. The absence of trade and immigration barriers between states, the development of federal infrastructure programs, and other efforts were designed to realize that vision of internal fluidity. A radically federalized immigration policy would reverse it, making the internal movement of labor more difficult in order to increase movement across international borders.

Impact: Even a small additional barrier can cost billions

Steven G. Craig and Joel W. Sailors, 1987. (Steven C. Craig is Assistant Professor of Economies and Joel W. Sailors is Professor of Economies at the University of Houston) “INTERSTATE TRADE BARRIERS AND THE CONSTITUTION” Winter 1987. https://object.cato.org/sites/cato.org/files/serials/files/cato-journal/1987/1/cj6n3-6.pdf

There is no current estimate of the amount of trade that has been prevented due to the existing levels of trade barriers, but an additional barrier in the manufacturing sector of even one-tenth of 1 percent would amount to a tax of $2.2 billion on the economy. As a comparison, Magee (1972) determined that the economic loss to the United States from trade barriers it imposed on international trade is 8.8 percent ($197 billion) of the value of imports. Over 80 percent of the economic loss calculated by Magee is the result of administrative restrictions on trade, also known as nontariff barriers to trade. Under current U.S. trade policy, these nontariff barriers are the primary form of trade restriction

Works Cited: Open Immigration