

**HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT:
IMPACTS OF BORDER SECURITY AND IMMIGRATION ON WAYS AND
MEANS PROGRAMS**

CHAIRMAN BY: REPRESENTATIVE WILLIAM M. THOMAS (R-CA)

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HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. WILLIAM M. THOMAS (R-CA): Good afternoon. Time flies when you're having fun. I apologize for starting the hearing just a few minutes late. But the subject matter is I think important because the committee will examine the impact of immigration on programs in this committee's jurisdiction. This hearing is part of a broader effort to enact meaningful immigration reform that clearly begins at our borders.

The House and the Senate approved very different immigration bills in recent months. Both bills contain an important issue in the committee's jurisdiction, namely, the system by which employers would verify the employment eligibility of their employees. The Senate bill also includes other provisions within the jurisdiction of this committee.

Today what we're going to try to do is to begin with a broad look at the effect of illegal immigration, and its impact on our committee jurisdiction, to focus on modifying whatever proposals we deal with to be able to maximize those agencies and departments that are going to need to administer whatever it is that the House and the Senate finally agree to.

The last time -- and some folks weren't here -- the last time Congress addressed immigration reform was in the 1980s, and it was clear that because of what I believed to be fundamental flaws in the legislation ultimately that effort did not stem the tide of illegal immigration and produced, I believe, certain adverse effects that through experience we don't want to repeat.

Clearly, there are unanticipated consequences at times. What we're going to be trying to do through these and other hearings is to minimize the chance of that occurring. So, here we are again considering how to reform our lives, to better enforce our borders, and at the same time ensure our economy -- and this I assume is a point that people will not argue -- that our economy has a sufficient workforce to maintain the country's economic growth.

It goes without saying that this country was built by immigrants, with enormous contributions from native Americans. Today still immigrants are a critical part of our nation's history and our economy, and frankly I would say they are an important part of our psyche, in terms of a land of opportunity.

Part of the problem though is a nation state can't really be a nation state if it cannot provide external security and internal order. Internal order starts at the border. Our inability to enforce security of our own laws has contributed to a significant increase in illegal immigration. The amount of that increase is in large part in question, and it's obvious overwhelmingly illegal immigrants come here because they want to work.

Ultimately in dealing with Mexico, for example, the solution is to create an economic environment in Mexico so that the citizens of that country come here to visit because they want to, not because they have to. Some of them even pay taxes. Some of them are frankly exploited. But, frankly, some of them exploit America's public programs.

One of the things we want to examine is try to get fact out of an awful lot of myth that exists in terms of who uses resources and to what extent. All of these are issues that should be examined. We obviously have to strike some kind of a balance that understands the role of immigrants. It will go so far as to examine the current laws in which immigrants are legally admitted, as well as dealing with issues trying to address illegal immigration. Respect for law is extremely important, but good stewardship of public benefit programs is as important as well.

This general hearing is hopefully going to produce some additional either subcommittee hearings or more focused hearings on the part of the full committee in the direction of those areas of jurisdiction of subcommittees that would allow us to shed some light.

And with that I recognize the gentleman from New York, Mr. Rangel, for any opening statement he may wish to make.

REP. CHARLES B. RANGEL (D-NY): Thank you, Mr. Chairman.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

First of all, when you talk about the contributions of immigrants and native Americans you excluded the slaves which in some of our opinions without that free labor the economy could not have -- the country and the economy could not have survived, I know.

REP. THOMAS: Will the gentleman yield?

REP. RANGEL: Yes.

REP. THOMAS: He's absolutely correct, and the chair appreciates the correction.

REP. RANGEL: Thank you.

And when I heard that we were going to join the rest of the House committees to talk about border security I could not think that you could have been as creative as you are now, and so with this distinguished panel, it may not have much to do with the political issue of border security, but it will be helpful for us to determine the impact of the various bills that are being debated in the House and the Senate, and one bill, of course, will just build a fence, and some concept is just to have low cost labor to come in in order to help out the recreational and the entertainment and the agriculture committees, and I guess others as a combination of both.

And so I guess we'll be able to find out from each of you what would the economic impact be on the programs under your jurisdiction, and Mr. Everson, I'm concerned with how we're going to tax whichever group of people are allowed to become legal, and I'm also concerned as to whether or not our immigration policy as it exists today, whether or not there's any investigation of those people that hire illegals on a large scale. I have the impression that we are really inviting people to come into the United States by giving them jobs, and we know where they work and what they do, and we know how essential that service is.

But knowing how sharp the IRS is in trying to get illegals to pay taxes, I'd be interested to know what effort, if any, is ever made to determine from employers whether or not the employees are illegal or should they be paying taxes. And then what would happen if they did come in under one of the programs, whether we could get some taxes from them if they had this quasi legal position.

So, this is going to be very, very interesting, and I thank the chair for his imagination. I was really prepared to deal with terrorists crossing the borders, but this may be more substantive, even though it won't have anything to do with border security, to find out just where the administration is on all of this and what the impact is going to be, and perhaps get some of your recommendations and suggestions as to which one of the programs you might think would be best for America as you see it.

I yield back the balance of my time, Chairman Thomas.

REP. THOMAS: I thank the gentleman, and I do want to remind my colleague from New York that although these hearings shouldn't be used for no personal reasons, the chairman voted no on the House bill, and I believe the structure of the Senate bill is not implement-able the way it's structured. And if we are honestly going to address the issue I think we have to examine the contents of the House bill and the Senate bill to make sure that when we act, we act in a way that we can actually address the problem instead of some kind of a political response to a very real human and economic problem.

I just want to put it on that basis because it was very difficult, as you might imagine, for the chairman of the Ways and Means Committee to vote "no" on the House proposal. So, although I appreciate -- and I don't mean this in a totally pejorative sense -- a degree of cynicism on the part of folk in terms of what we're doing, as far as I'm personally concerned I'm looking for answers, and this committee is partially structured and I think other hearings may need to be structured if we can't get some answers out of this hearing to be able to move forward in trying to resolve this issue, since so much of the impact of the question does hit the jurisdiction of this committee.

The gentleman from New York, I yield to you.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. RANGEL: I think you may have answered it by joining with me in saying that this hearing could help clarify for members that are here as to which one of the pending bills or concepts would be best for the country after we hear their answers.

REP. THOMAS: My vote primarily would not be to try to pick between pieces of legislation, one of which I expressed in a vote that I thought was flawed, and I've just indicated verbally to you the other one probably doesn't work either. I want to hear from the people who are responsible for implementing programs, the impact of illegal immigration on those programs, what they might have as a response to dealing with some of those issues, but also beginning to address the more fundamental conflict that we have in this system where we're to a very great degree schizophrenic, as the gentleman from New York indicated, in which we say we're supposed to not hire illegals, but frankly as the president said over and over again, especially in certain industries, we can't function without illegals, and I think that's schizophrenic. And I think we have to be honest in addressing what options we have in front of us that are real that will assist us in moving forward in as humanitarian way as possible of resolving the fact that the United States does not have control of its borders.

REP. RANGEL: Thank you.

REP. THOMAS: Thank you.

I want to thank the panel for being here, and I hope that additional response if you weren't quite clear on what we wanted to do was to begin a process, which as I said may require additional hearings, and in large part relying on what you have to say may indicate where we need to go.

The first member, and I'll just go from our left to your right, the honorable Wade F. Horn, assistant secretary for Children and Families, U.S. Department of Health and Human Services. The honorable Julie Myers, assistant secretary, U.S. Immigration and Customs Reform, U.S. Department of Homeland Security. The Honorable Mark W. Everson, commissioner, Internal Revenue Service. The honorable Jo Anne Barnhart, commissioner, Social Security Administration. And my friend Tom Gustafson, deputy director, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services. We will have a second panel following this panel.

Your written testimony has been submitted and made a part of the record, and you may address us in any way you see fit in the time that you have, and we'll start with you, Mr. Horn, and then we'll just move across the panel.

MR. WADE F. HORN: Well, thank you, Mr. Chairman.

Mr. Chairman, Mr. Rangel and members of the committee, I'm very pleased to appear before you today to discuss the benefits to immigrants under the Temporary Assistance for Needy Families program, or known as TANF.

The TANF program, as you know, is a \$16.5 billion block grant program to provide temporary assistance to those in need and to help move recipients to work. Eligibility of immigrants for TANF is restricted by broader provisions in the Personal Responsibility and Work Opportunity Reconciliation Act that cover the eligibility of non- citizens for a public benefit.

Under the statute eligibility for federal TANF welfare benefits is limited to a select group of legal immigrants. These "qualified" immigrants consist of lawful permanent residents, asylees, refugees, aliens paroled into the United States for at least one year, aliens whose deportations are being withheld, aliens granted conditional entry, Cuban and Haitian entrants, and aliens who or whose children or parents have been battered or subjected to extreme cruelty in the United States by a member of their household. Victims of severe forms of trafficking and certain family members also are eligible to the same extent as refugees.

States must verify that the applicant or recipient of a federal TANF welfare benefit has the necessary qualified immigration status to ensure eligibility for the benefit. Moreover, under PRWORA, most legal immigrants entering the country on or after August 22, 1996 are barred for their first five years as a "qualified" alien from receiving any federal TANF means-tested welfare benefit.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

Legal immigrants who are eligible to receive federal TANF assistance under these statutory provisions comprise a very small portion of the TANF population. Our most recent data for fiscal year 2004 show that eligible "qualified" immigrants make up only about 2.1 percent of the total recipient population of 4.8 million individuals.

For lawful permanent residents who immigrated through a family member or through employment with a close relative the sponsor must sign a legally enforceable Affidavit of Support.

If the sponsored lawful permanent resident applies for a federal TANF welfare benefit after expiration of the five year bar the state must consider or deem the income and resources of the sponsor and sponsor's spouse as available to the lawful permanent resident when determining eligibility for the payment of the benefit. Under most circumstances this requirement would result in a determination of ineligibility for the TANF benefits.

Moreover, in signing the affidavit, the sponsor agrees to assume liability for the non-reimbursed cost of any federal TANF welfare benefit that the sponsored lawful permanent resident actually receives. States can assist aliens who are not lawfully present in the United States in two very limited ways. First, states may use their federal or state funds to help with the cost of providing any non-citizen with an emergency non-cash benefit necessary for the protection of life or safety.

Second, states may use their own state funds to provide a particular welfare benefit, but only if the state has enacted a law after August 22, 1996 that allows for such eligibility, and to my knowledge, no state has passed such a law.

However, certain parents of children born in the United States, including both legal immigrants who have not satisfied their five-year waiting period and undocumented aliens, can and do apply for TANF assistance on behalf of their U.S. citizen children. In fiscal year 2004 a national total of 426,098 families were classified as child- only assistance cases with a parent in the household, meaning that only the needy child, and not the parent, received assistance. About 35.6 percent of these cases included parents of unknown citizenship or alien status because the parent or other caretaker relative is neither an applicant nor a recipient this data is not required to verify his or her citizenship or immigration status.

Of course, states may use their own funds to provide state-funded TANF assistance to an immigrant family who is subject to the five-year bar. So, for example, if a legal immigrant subject to this bar gave birth in the United States, then the state could provide assistance to the U.S. citizen child using federal TANF funds and provide the mother's share of assistance using state funds.

I hope my testimony helps to clarify the treatment of legal immigrants and undocumented aliens under the TANF program, and I look forward to your questions.

REP. THOMAS: Thank you, Mr. Horn.

Ms. Myers.

MS. JULIE L. MYERS: Thank you. Ranking member Rangel, members of the committee, I appreciate the opportunity to discuss with you what ICE is doing to enhance work site enforcement.

As we're all well aware, the magnet of employment fuels illegal immigration. Accordingly work site enforcement is a top priority for the department and the administration. With this in mind the administration has proposed a comprehensive overhaul of the employment verification and employer sanctions program in the INA as part of the president's call for comprehensive immigration reform.

Already as the enforcement arm in this area we are attempting to apply a key lesson learned from the 1986 bill. The enactment of IRCA placed the focus of enforcement on administrative employer sanctions. As a result, employer audits typically resulted in serving businesses with a Notice of Intent to Fine. Egregious violators of the

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

law viewed the resulting low and often mitigating fines as simply a "cost of doing business" and therefore the system did not serve as a true economic inducement for them to change their business model.

Today, however, ICE has begun to change the culture of illegal employment by pursuing the most egregious employers of illegal workers, who are educating the private sector to institute best hiring practices and garnering its support in identifying systemic vulnerabilities. And, of course, a large part of our effort continues to focus on preventing access to critical infrastructure sectors to prevent terrorism.

And just to be clear, we're finding that most employers want to do the right thing. Sometimes they just need more assistance or more help on how to follow the rules. With this in mind we have stepped up our efforts to educate employers about best hiring practices. In fact, just this morning we launched a new voluntary program aimed at strengthening overall hiring practices in the workplace. This program is called "IMAGE" or the ICE Mutual Agreement between Government and Employers. And this emphasizes enhanced employer compliance through corporate due diligence, training and sharing of best practices.

This program provides employers ways to prevent immigration violations. It also answers the need or the call that we've heard for clear standards of good conduct for employers by asking them to take certain reasonable steps, including reviewing employee documents, using the electronic verification system, and retaining all documents relevant to their employee's eligibility to work. ICE has also provided additional training and tools on its web site to help all employers avoid violations.

As I mentioned, part of our approach also includes supporting felony charges, and not just the traditional misdemeanor work site violations under section 274A of the INA. And let me give you some examples of what I mean by that.

In April 2006 ICE conducted the largest such work site enforcement operation ever undertaken. This case involved IFCO Systems. In that case we executed nine federal arrest warrants, 11 search warrants, and 41 consent search warrants at IFCO work site locations throughout the United States. In addition, ICE agents apprehended over 1100 unauthorized workers and charged nine employees at IFCO with conspiracy to transport and harbor unlawfully illegal aliens for financial gain.

In another recent work site case investigation in Baltimore, Maryland, owners of three restaurants who were really abusing illegal aliens, treating them poorly, and harboring them in an apartment above their house, they pled guilty to conspiracy to commit alien harboring and conspiracy to engage in monetary transactions with criminally derived property. At the end of the day they forfeited over a million dollars.

Now, under the old INS ways they would have been fined approximately four to 30,000 dollars, and that's even before the fines were mitigated. We believe that charging criminally these most egregious employers who hire undocumented aliens will create the kind of deterrents that previous enforcement efforts did not generate.

We are also identifying and seizing the assets that employers derive from knowingly employing illegal workers in order to remove the financial incentives to hire unauthorized workers and to pay them sub- standard wages.

One other approach that we're doing is that we've worked with the Department of Justice and other agencies, including the Social Security Administration, and really trying to crack down on the widespread use and acceptance of fraudulent identification documents. To that end, we've launched throughout the country 11 taskforces, document and benefit fraud taskforces, that really target this effort.

What more do we need? We need several things. First, we need more regulated access to social security no-match data. Second, a new and improved process for issuing civil fines. And, third, more resources as requested in the president's '07 budget. We're working diligently to partner with industry and to solve this problem, and I look forward to answering your questions on this important issue.

Thank you.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. JIM McCRERY (R-LA): Thank you, Ms. Myers.

Mr. Everson.

MR. MARK W. EVERSON: Commissioner McCrery, ranking member Rangel, members of the committee, I appreciate the opportunity to appear before you today to discuss the impact of immigration issues on tax administration.

Let me first say that comprehensive immigration reform is a national priority. I say that as a former deputy commissioner of immigration, understanding first-hand the importance of a system of immigration that functions effectively.

In fact, I oversaw the implementation of the '86 Act, both the amnesty and the enforcement elements of that law.

As commissioner of Internal Revenue I am also sensitive to the interaction between the immigration system and the tax system. At the IRS our job is to make sure that everyone who earns income within our borders pays the proper amount of taxes, whether that income is legally obtained, and whether the individual is working here legally.

If someone is working without authorization in this country he or she is not absolved of tax liability. The oversight and social security subcommittees have held two hearings over the past three years on issues associated with ITINs and the mismatch of SSNs and W-2s. At those hearings I testified about our ITIN program. Last year over 2.5 million tax returns were filed that included an ITIN for at least one person listed on the return.

In calendar year 2006 so far we have received 1.6 million new applications for ITINs. That's up 25 percent from this time a year ago. We estimate that for tax periods 1996 to 2003 that the income tax liability for ITIN filers totaled almost \$50 billion.

Of the 231 million W-2s in IRS's tax year 2004 file approximately 223 million had matching names and social security numbers. After analysis there were about 7.9 million W-2s with no valid name and social security number match. There are two interesting aspects to the data on mismatches. The first is geographical. Over 50 percent of the mismatches are found in four states, California, Texas, Florida and Illinois. California has by far the greatest number of mismatches, totally 2.3 million or approximately 29 percent of the mismatch total.

The second is economic. Based on IRS's own analysis about 75 percent of all mismatched W-2s report wages of less than \$10,000. Concerning employers the social security administration has no enforcement power and cannot impose penalties on employers for failure to correct SSN mismatches. The IRS, however, does have enforcement power and can assess penalties.

Under section 6721 we may impose a \$50 penalty on an employer for each W-2 or 1099 that omits or includes an inaccurate SSN/TIN unless the filer shows reasonable cause for the omission or inaccuracy. From a tax compliance perspective, violations of these provisions are generally identified as part of an overall employment tax examination. We would not ordinarily institute an examination against an employer solely on the basis that he or she had reported a high number of mismatches. This is a function of both resources, and the fact that the employer can easily demonstrate that he or she has performed the due diligence required under the law.

Turning to the pending immigration legislation, we are well aware that both the Senate and House have adopted bills that take different approaches to addressing this immigration issue. It is neither my role nor my desire to express a preference for either version. I merely wish to offer some observations concerning tax administration.

The one common approach in both the House and Senate immigration bills is the requirement that employers verify the work eligibility of potential employees with DHS from information provided by the Social Security Administration. The Senate bill amends section 6103 of the Internal Revenue Code relating to the privacy of taxpayer information and requires us to send to DHS the identities of employers who among other things have a significant number of SSN mismatches.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

The Senate bill also allows aliens unlawfully present in the U.S. to adjust their status to legal permanent resident status if they meet certain criteria, including demonstrating payment of any liability for federal taxes owed during the required pre- and post-enactment periods of employment. The IRS is mandated to cooperate with aliens by providing documentation to establish the payment of all federal taxes required.

We are continuing to study the provisions of the Senate bill, but based on what we see thus far, we do have some concerns. I am confident, however, that as we progress toward the goal of comprehensive reform we can iron out these potential issues.

Thank you.

REP. McCRERY: Thank you, Commissioner Everson.

Commissioner Barnhart. If you could turn your microphone on?

MS. JO ANNE B. BARNHART: Mr. Chairman and members of the committee.

The president has proposed a comprehensive approach to immigration reform that addresses the need to secure our borders, enforce work site employment practices, and address the economic issues of immigration. This approach calls for the creation of a true temporary worker program that allows individuals to achieve legal status by paying their taxes, learning English and gaining employment in our society.

Within this context I appreciate your invitation to appear before you to discuss how and when we assign social security numbers and issue social security cards to non-citizens, as well as to issues relating to benefit eligibility for non-citizens. My written testimony describes in some detail our current responsibilities and activities to safeguard the integrity of the social security system, including the work we perform with the Department of Homeland Security and the Internal Revenue Service.

Currently, as required by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, we provide DHS extensive information about every non-work social security number where earnings were reported. Non-work SSNs are issued to individuals who are not authorized to work in the U.S. but who have a valid reason for obtaining a social security number. These cards include the legend, "Not Valid for Employment".

Social security is also an integral part of the DHS Basic Pilot program which allows employers to verify both the social security numbers and work authorization status of persons they hire. Of course, we continue to provide social security number verification services to employers, including our web-based Social Security Number Verification System, commonly known as SSNVS.

Currently we have the authority to use information from W-2s only for the purposes of determining eligibility for and the amount of social security benefits. The administration supports allowing disclosure of this data in the interests of national security and for law enforcement purposes.

At SSA we have a proven performance record and can and will do what we are called upon to do. This year alone we will process over 6.7 million claims for benefits, process almost 245,000 Medicare Part D subsidy applications, make decisions on over 575,000 hearings, issue 18 million new and replacement cards, process 265 million earnings records for workers' earnings, handle approximately 59 million transactions through our 800-number, serve 42 million visitors in our field offices, and process millions of actions to keep beneficiary and recipient records current and accurate, as well as conducting 1.6 million continuing disability reviews and over 1 million non- disability Supplemental Security Income re-determinations.

I have worked closely with the Social Security and Human Resources Subcommittees in our efforts to improve service, most notably through the Disability Service Improvement initiative and related improvements to the disability process. I know that this committee is well aware of the challenges we face at SSA.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

The president's budget for FY 2007 proposed an increase in SSA's administrative budget of 4.2 percent over the enacted level for this year. House and Senate appropriators have proposed reductions of 200 to 400 million dollars in the president's budget request for SSA administrative costs. From my perspective as commissioner I am concerned that these reductions will jeopardize our ability to improve service and eliminate backlogs, even without new responsibilities.

Before I close let me say again, SSA is ready, willing and able to do its part to provide support for DHS and its immigration enforcement activities. The men and women of social security area dedicated, hard working and productive public servants who will do everything they can to carry out SSA's responsibilities, whatever they may be.

I want to publicly thank this committee for your support for SSA and its programs over the years. I look forward to continuing to work with you as we serve the American people.

REP. McCRERY: Thank you, Commissioner.

Dr. Gustafson?

MR. THOMAS GUSTAFSON: Chairman McCrery, Representative Rangel, thank you for inviting me to speak with you about the Centers for Medicare and Medicaid Services' effort to assist hospitals and other providers that provide health care to the uninsured, particularly to undocumented immigrants.

I am going to concentrate on two provisions that are of particular interest in this area. The first is the Emergency Medical Treatment and Labor Act, commonly known as EMTALA, which requires hospitals to address any person seeking emergency care, regardless of the payment method or citizenship status of the individual. The second is section 1011 of the Medicare Modernization Act, which provides a billion dollars over four years to help hospitals and other providers with the burden for caring for undocumented immigrants.

EMTALA was designed to ensure that people who request treatment for emergency medical conditions will receive appropriate screening and emergency treatment, regardless of their ability to pay. The law creates obligations for hospitals in connection with individuals making these requests. These obligations do not vary by whether the individual is a citizen.

CMS' regulations implementing EMTALA require that hospitals with dedicated emergency departments provide an appropriate medical screening examination to any person who comes to the hospital emergency department and requests treatment or examination of a medical condition. The same requirement relates to any person who presents on hospital property, even in areas other than the emergency room, requesting evaluation or treatment of an emergency medical condition. If the examination reveals an emergency medical condition, the hospital must also provide either necessary stabilizing treatment, or arrange for an appropriate transfer to another medical facility.

EMTALA applies to all Medicare-participating hospitals with dedicated emergency departments, and applies to all individuals who present requesting examination or treatment of a medical condition, not just those who receive Medicare benefits. Hospitals with specialized capabilities also have a responsibility under EMTALA to accept appropriate transfers, regardless of whether the hospital has a dedicated emergency department. A hospital that violates EMTALA may have its ability to participate in Medicare terminated, and may be subjected to civil money penalties of up to \$50,000 per violation. The law also provides a private right of action against a hospital that violates EMTALA.

Hospitals are also required to maintain lists of physicians who are on-call for duty after the initial examination to provide necessary stabilizing treatment. Hospitals have discretion to develop their on-call lists in the way that best meets the needs of their patients requiring services required by EMTALA. Under CMS' regulations, EMTALA does not apply after an individual has been admitted for inpatient hospital services.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

In order to provide a detailed review of how EMTALA is implemented, the MMA required us to establish a technical advisory group. This TAG, which has already met four times, and which has a very active set of subcommittees, is taking a detailed look at EMTALA policies and procedures, including both CMS' regulations and the interpretive guidance outlining hospitals' responsibilities. This TAG includes hospital, physician and patient representatives, and I sit on it as the CMS' senior representative. Its report is expected in October of 2008.

Turning now to section 1011, under this provision, Congress provided a total of \$1 billion -- 250 million a year over four years -- to help hospitals and certain other providers cover their otherwise un-reimbursed cost of providing emergency services for undocumented immigrants, which could include some of the cost resulting from the EMTALA provisions I just spoke of. Payments are made directly to eligible providers, and include hospitals, qualifying physicians and ambulance providers. CMS established guidelines for determining who is eligible for these benefits, and providers are responsible for making these determinations.

Section 1011 provides funds for 2005 through to 2008. Each year, two-thirds of the \$250 million allocated, or 167 million, is allocated across the states based on their relative percentages of undocumented immigrants. All 50 states and the District of Columbia are eligible for this pot of money. The remaining \$83 million is allocated to those six states that have the highest number of undocumented apprehensions in each fiscal year. The payments are made to the extent that the care was not otherwise paid for, thus if an individual has Medicaid, for instance, the payments would be taken into account in making the section 1011 payments.

In fiscal year 2005, CMS made payments in excess of \$58 million to providers under this section. Since approximately 192 million allocated in FY 2005 was not paid, CMS rolled these excess funds over to be used into FY 2006. This concludes my remarks, and I'd be happy to answer any questions that you may have.

REP. McCRERY: Thank you, Dr. Gustafson.

Ms. Myers, I talk to employers occasionally about this issue of verification of eligibility to work, and they often express frustration with the current law that governs their ability to determine whether a prospective employee is, in fact, eligible for employment in the United States. And the DHS and Social Security Administration kind of jointly operate the Basic Pilot program which, as I understand it, is designed to help employers verify eligibility for work. Can you describe for us the current law with respect to what tools are available to employers to verify eligibility for work, and how, if at all, the Basic Pilot program alters that for those employers who volunteer for the program?

MS. MYERS: Thank you, Chairman McCrery.

The Basic Pilot program is a voluntary program that is administered jointly by SSA and the United States Citizenship and Immigration Services as the Department of Homeland Security, not ICE, but Basic Pilot, we believe, helps provide employers with some tools for verifying that employees, when they bring in documents, can know whether or not the employee is legally entitled to work here.

What it doesn't do is if someone is using my name and Social Security Number and provides those documents, that can't tell you that. So, it's not a perfect system, but it is one step. One of the reasons that we launched the IMAGE program today is we believe that there are other things that employers can do to try to protect themselves from being tricked by individuals who might want to come in and provide them with false documents, and those are some of the best practices which we've placed on our website. And those include such things as making sure that the individuals who are viewing I-9s actually have training, that you conduct an internal audit twice a year to make sure that the individuals who are viewing I-9s know what they're doing.

You also can work with ICE in other ways to make sure that you are complying with the law, but we realize that Basic Pilot is not the entire solution, and that's why we're working with other law enforcement agencies in cracking down on the problem of document fraud. And we've established these taskforces throughout the country to go after franchises, like the Castorena franchise that had locations in many cities, really document mills that were providing

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

false documents to employers. So those are some of the tools that we're using to help guide employers who want to follow the law.

REP. McCRERY: So it's my understanding that the administration believes that a mandatory program like the Basic Pilot program ought to be in place eventually for employee verification, is that correct?

MS. MYERS: Yes. Yes, Chairman.

REP. McCRERY: And I suppose that means that you all have reached the conclusion that the Basic Pilot program works and that it actually facilitates identification of potential employees who are, indeed, eligible for employment in the United States and also the converse, would help identify those people who are not eligible for employment in the United States who are seeking employment. Is that right?

MS. MYERS: We do believe the Basic Pilot program and a mandatory electronic employer verification system have some value. Now, it's not a panacea.

It can't be looked at as the only thing, the only tool for employers, or as the only way that we're going to weed out illegal immigration, but we have seen it have value. For example, in some employers, we hear examples that if they advertise that they're using Basic Pilot, illegal aliens don't come in to apply, because they know that the employer is using Basic Pilot, that their documents are going to be checked. So there's some things like that which are helpful, but certainly Basic Pilot is not a perfect tool, but I would defer to Commissioner Barnhart as well, if she has anything to add on the Basic Pilot program.

REP. McCRERY: Well, I think the key question here is, because I know Commissioner Barnhart, she and I have talked about this before, and there are added costs to the Social Security Administration for administering their end of the Basic Pilot program. So I guess the question we need to broach here is the added advantage that we're getting from the Basic Pilot program worth the added expense that we're paying through administrative costs at DHS and Social Security Administration. Commissioner Barnhart, do you have any --

MS. BARNHART: I'm having trouble with this. As you know, Mr. Chairman, what the Basic Pilot does is it verifies the Social Security Number, the date of birth. We also provide a death indicator, and then the citizenship status as we know it, and if they're not American citizens, it goes back to DHS to talk about the citizenship status of the individual. The bulk of the work that's done through Basic Pilot, in terms of approvals and verifications, I think 88 percent were handled by SSA last year, and only 12 percent, I believe, had to be deferred to DHS for further follow-up.

So I do think it's a tool. If you look at the way that the employers have increased, the numbers that are using it. We have over 10,000 employers who are using it now, that's an increase over the past. We have it at 35,000 employer sites around the country, they're using it. So I think employers are looking for any tool that could be available and helpful to them, and they do like it. They're also using our Social Security Number verification system, which, as you know, matches name and Social Security Number, and doesn't go as far as citizenship, but does at least give a preliminary indicator if the individual is presenting appropriate and accurate information for purposes of the W-4 that they complete.

REP. McCRERY: Thank you, Commissioner.

Mr. Rangel?

REP. RANGEL: Thank you so much, Mr. Chairman.

I don't know what this has to do with pending immigration legislation, but I have to admit it is very informative, and I'll take my questions wherever the testimony leads me.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

I want to thank IRS for the great job that you do over the years, for the thankless work that you do. But there was some implication from Secretary Myers and you, Commissioner, that this enforcement as existing law as it relates to undocumented workers. I don't -- you said something about --

MR. EVERSON: Yes, sir. I think probably what you were responding to is the penalties, the enforcement of penalties in this area. What Secretary Myers was talking about is right now, if --

REP. RANGEL: No, no, I don't want to talk about what she's talking about. I want to talk about you saying that illegal workers are liable for taxes.

MR. EVERSON: Yes.

REP. RANGEL: And there was some vague implication that you going after the worker and the employer. Someone gave me this saying that we've got between 11 and 12 million illegals unauthorized population, that two-thirds of them have been in the country for 10 years or less, that 30 percent of them -- where is it now -- the industries that they work in, the hotel industry, the agricultural industry -- here it is here. Seven million of them work a standard of labor force of 148 are legal. And one-third of the unauthorized workers are in service occupations. Nineteen of the illegals employed in construction and extracted to 15 in production, insulation and repair, 4 percent in farming. As a matter of fact -- then we have percentages in cleaning and all the service industry, butcher, food, landscaping. And the president has implied that if we got rid of all the illegals, it would have an outstanding negative economic impact on these industries, and that's why we have to do something to legalize them.

That means that we know where they are, where they're working, the industries, and the political position is, we not only cannot want to deport them, but we can't afford to deport them. We can't do it, and we can't afford to do it. Now, how does the IRS fit into this? You know where they are. You know where they're working. You know the industries. Are you suggesting that you're enforcing the tax laws as it relates to illegal workers in the United States of America?

MR. EVERSON: What I said, sir, and perhaps I wasn't as clear as I ought to be is that the tax laws do not distinguish between status as a citizen or a legal resident or as an illegal undocumented worker in this country.

REP. RANGEL: I know the law. I want to talk about --

MR. EVERSON: So what we're trying to do --

REP. RANGEL: Let me ask you, are you --

MR. EVERSON: We try to get the taxes.

REP. RANGEL: -- attempting to enforce the law as it relates to illegal workers as it relates to illegal workers in the United States of America?

MR. EVERSON: No, we are trying to enforce the law as it relates to the tax obligations of illegal workers in this country.

REP. RANGEL: Let's try it again. Are you going after illegal workers who don't pay taxes in the United States of America?

MR. EVERSON: Yes, we do, sir. We have in this country an absolute obligation to pay your taxes.

REP. RANGEL: I know the obligation.

MR. EVERSON: And that doesn't matter whether you're legal or illegal.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. RANGEL: Are you going after employers who hire illegal workers who don't take taxes away from these illegals?

MR. EVERSON: They are subject to the same scrutiny that other employers are subject to.

REP. RANGEL: Okay. Commissioner, I know they're subject to, but do you have any statistical data -- can you give me any idea of the number of cases that you're going after? I mean, all of this statistics, and the President of the United States -- no one challenges you can go to any restaurant, chain of restaurants, chain of hotels, agriculture, landscaping, and we know where the illegals are. Could you tell me what percentage of the estimate of illegals that you've prosecuted for non-payment of tax?

MR. EVERSON: I can give you one statistic that I think will answer your question, and perhaps rebut the inference that we're singling this population out. When you look at our --

REP. RANGEL: I don't want you to rebut it. I mean, if you know they're illegal, why rebut it if they have a legal obligation --

MR. EVERSON: Let me give you one statistic.

REP. RANGEL: Go on.

MR. EVERSON: The audit rate for all individuals is a little less than 1 percent.

If you look at the audit rate for non-IETC claimants, with an income under \$25,000, that is 0.12 per cent. In other words, we are doing very little in that area, in contrast to a 5 percent audit rate for people with a million dollars of income or more. These people are not being singled out. That's because, at the level that we're talking about, and if you look at the mismatched W-2s, as I indicated, three- fourths of them are for amounts of 10,000 or less. The ramification of all that is they are -- we tread very lightly in this area, because it does not generate a lot of money.

REP. RANGEL: Okay. But I wish you could send me something as soon as you can. If we know that -- do you really believe that illegal aliens are generally paying tax -- federal taxes?

MR. EVERSON: Well, it's a very difficult thing to estimate, but, as I indicated, this year so far, we've received 2.6 million returns that have an I-10 on a return. Now, that can be an I-10 for a dependant or for a spouse, but probably there are 2 to 3 million illegals who are paying taxes, I would say, out of -- you mentioned an estimate which I guess is the general consensus, of about 7 million in the workforce. So clearly there is a very significant contribution of tax by that population, sir.

REP. RANGEL: Thank you for your leniency, Mr. Chairman.

REP. McCRERY: You're quite welcome, Mr. Rangel.

Mr. Shaw?

REP. E. CLAY SHAW JR (R-FL): Thank you, Mr. Chairman.

I'd like to start with Dr. Horn. I have an interesting question, I think. In your testimony, you provide, correctly so, that the TANF payments paid on behalf of the child, and if the child is an American, regardless of whether the parents are illegal or not, should be entitled to some TANF payments. Also, under the welfare reform law, certain work is required and time-limited welfare reform. How do you work this out where somebody's an illegal and is required or having work requirements with regard to a condition of receiving TANF payments?

MR. HORN: If the adult is an undocumented immigrant, then they are not eligible for an adult assistance payment under any circumstance, and because they are not eligible for adult assistance, they are not covered under the

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

work requirement. So in cases where an illegal immigrant has a U.S. born citizen child, that benefit is paid on behalf of the child, but the adult is not eligible for federal payment.

REP. SHAW: The child is not eligible for federal --

MR. HORN: The child is, but not the parent, if the child is a U.S. citizen.

REP. SHAW: Well, where do you pay the TANF funds?

MR. HORN: Well, it goes to the family.

REP. SHAW: To the illegals?

MR. HORN: The check -- since children generally don't have bank accounts, it goes to the parents.

REP. SHAW: That's interesting.

Mr. Everson, I -- listening to the exchange that you had with Mr. Rangel, it calls to mind a bill that I think Mr. English has filed, and that is a question -- of which I think I'm a cosponsor, and that is a question of matching Social Security Numbers with employees with regard to the W-2 forms that are filed for these employees. And the question is, what effect would it be to tell the employer that, unless they can come up with a legitimate Social Security Number, that they would not be able to deduct from their income tax the cost of the labor payments made to illegals?

MR. EVERSON: I think that this could be enforced, Congressman, but we'd need to consider that carefully, I would suggest, because the real trick here is we need to get the comprehensive reform so that we dry up the demand and the flow of illegals into the country, as we've all talked about. If that's not done, you could have, if you put in a provision like that, a real impact where businesses decline to organize in the legal sector at all. They go into the underground economy and they don't pay taxes at all. They are not paying the employment taxes, they are not paying the income taxes, and because of that real economic charge that they would get if you went that way. So I'd be very careful before we did something like that, sir.

REP. SHAW: That's interesting. And I would assume, though, that most of the illegals don't really reach the point where they have to pay -- where they have any income tax liability.

MR. EVERSON: I think that's probably, by and large, true. I talked about the billions that are -- that do come in, but if you look at all those mismatches that I mentioned before, the preponderance of them is for amounts below 10,000. Right now, it takes about 8,000 as a single filer before you have any tax obligation, and \$16,000 if you're filing jointly, so you're right, a lot of folks are under that limit.

REP. SHAW: Commissioner Barnhart, I -- for some time, and I think we've talked about this maybe over the years, it's been a very great concern of mine that somebody can be amassing Social Security payments under really a false number that they had made up and actually, in many cases, is part of identity theft, and then they can come back, if they were legalized and had a legal Social Security Number, they can come back then and claim the moneys that they've paid in under an assumed name or quite -- or due to fraud and identity theft of one other.

Do you think we ought to reevaluate that position, and exactly what -- it seems basically wrong to me to allow somebody to enjoy our Social Security system who has actually defrauded the system for so many years, and then going back and claim the benefits of the fraud that they have perpetrated on the system as well as, in some cases, the employer. What would be the effect of changing this policy? How much money is out there that's estimated that would be forfeited in the event we were to change this policy?

I think the situation over in the Senate was pretty much tracking a lot of the law that's already on the books in their immigration bill.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MS. BARNHART: Yes, Mr. Shaw.

As you know, there have been, you know, several changes that have made relative to the issue of who can collect Social Security benefits. I mean, in the 1996 legislation, it was required that you had to be legally residing in the United States in order to -- be legally authorized to be in the U.S. to collect benefits if you were residing here. In the Social Security Protection Act that this committee passed a few years that went through this committee, it required that for anyone who was issued as Social Security Number after 2004, they had to be work-authorized at some point or they would not -- the earnings that they had accrued would not count towards that.

The difficulty that we run into in looking backwards and trying to discern whether the person was work authorized or not work authorized is that, to the best of my knowledge, there is no electronic database or file where it chronicles a person's status for specific periods of time. For example, a person could come into the country legally and be working, and then not be authorized to work, and therefore being in an unauthorized status, and then come back into being in an authorized status again. It's my understanding, and I would defer to Ms. Myers, but my understanding is that the Department of Homeland Security does not, in an automated fashion, track that data longitudinally. And so it's not readily available for us to go back and make determinations at Social Security about which portion of earnings were earned during a work authorized period and which portion of earnings were earned under an unauthorized period.

In the case of just strict identity theft -- and I described that as I did because I believe that's what you were talking -- I mean, I believe that was the -- but I just want to point out that in the case of strict identity theft, misuse of a Social Security Number is a felony. And we would refer to that to our inspector general for investigation and prosecution.

REP. SHAW: Would the Senate bill have changed that?

MS. BARNHART: The Senate bill --

REP. SHAW: Senate Immigration Bill.

MS. BARNHART: My understanding is that the Senate Immigration Bill does not change the requirements currently on the books related to who's eligible to receive Social Security and not eligible to receive Social Security. Rather, what it does is it gets into making more people potentially eligible.

REP. SHAW: Thank you.

REP. MCCRERY: Mr. Stark.

REP. FORTNEY PETE STARK (D-CA): Thank you, Mr. Chairman.

Secretary Myers, in your enforcement of these immigration and customs laws, do you use informants?

MS. MYERS: Yes, we do.

REP. STARK: Okay. My opponent has suggested a program of offering bounty payments to citizens for turning in undocumented workers or illegal residents. Would you -- would the administration support that? Would you support that idea?

MS. MYERS: Well, Congressman, we certainly are looking at kind of all creative ideas at this point, in order to ensure --

REP. STARK: Have you considered bounty payments?

MS. MYERS: We have not specifically considered so-called bounty payments. There are certain occasions --

REP. STARK: Commissioner Everson, you use rewards in collecting?

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MR. EVERSON: We do, sir. We have a whistle blower program, you're right.

REP. STARK: I doubt if you get many people in the five and 10 percent bracket getting turned in, but you may. With your experience, would offering bounties to the average citizen help you or be useful in this kind of enforcement?

MR. EVERSON: I don't want to get into that, if I can avoid it. Chairman Grassley's a very strong advocate of expanding the whistle blower program, and we're working to do that. But where you apply that I think is more towards the top end, sir.

REP. STARK: That's what I thought, too. One other idea that my opponent has -- and as far as I know, and I guess I could ask Dr. Horn, he suggests that we revoke the citizenship of all of the children who were born here of illegally resident parents. And I'm not a lawyer, but I'm not sure that short of a constitutional amendment that that would be possible? Does anybody -- are you a lawyer, Mr. Everson?

I don't think that's constitutional, do you?

MR. EVERSON: I'm a psychologist, not a lawyer.

(Laughter.)

MR. (?): I believe that would require a constitutional amendment, sir.

REP. STARK: Thank you very much.

Now, Secretary Myers, you're familiar with both the Senate and the House bill?

MS. MYERS: Yes, sir.

REP. STARK: Which do you prefer, and how -- which would be more helpful in your work?

MS. MYERS: We enforce the law, and whatever law is passed, that's the law --

REP. STARK: I'm asking, you're a professional law enforcement person. We have two bills that we're discussing, we may compromise between them. I'd like to know which of the bills would be more useful to you in fulfilling your duties.

MS. MYERS: Well, there's certain core things that we need in order to be more effective in enforcing -- but in particular, the work site enforcement law. And one, we believe, would be more regularized access to the Social Security Number match data.

REP. STARK: Which bill does that better? I'm --

MS. MYERS: Well, sir, you know, we would -- the administration I think has worked very closely, we would be happy to continue to work on that, because --

REP. STARK: Let me try -- is anybody else -- Commissioner Everson, between the bills -- Secretary Barnhart in Social Security, which bill would make your job easier? I'm not -- I don't think we can get either one in its -- as it stands, but I'm curious which one would help you more?

MS. BARNHART: From my perspective, Mr. Chairman, Social Security doesn't get involved, as Mr. Everson said earlier in his opening remarks, Social Security doesn't get involved in strict enforcement of immigration law. And so from my perspective, both bills address the issue of Basic Pilot in terms of either expanding the current Basic Pilot to make it mandatory to all employers, or actually amending Basic Pilot and including more elements.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

What I'm mainly concerned about is making sure that the wages that are reported to Social Security are credited accurately to the appropriate Social Security Number. And this goes back to the question that I was asked --

REP. STARK: Dr. Gustafson, one of the concerns in the House bill that the Senate bill doesn't have is that there's a -- that the emergency room workers who help illegal residents or aliens might be arrested for providing care that under EMTALA they're required to provide. Do you -- have you looked into that part of the House bill? Would you have any comment on that?

MR. GUSTAFSON: Not in depth, sir.

REP. STARK: Pardon?

MR. GUSTAFSON: We have not looked at that provision in any depth.

REP. STARK: You're familiar with it?

MR. GUSTAFSON: It has been called to our attention recently, sir.

REP. STARK: And you don't -- you think it would help?

MR. GUSTAFSON: I think we would have to voice concern about a provision which interfered with the public health role of America's hospitals, sir.

REP. STARK: Thank you.

Thank you, Mr. Chairman.

REP. MCCRERY: Mr. Herger.

REP. WALLY HERGER (R-CA): Thank you.

Commissioner Barnhart, just following up on some questioning that Congressman Shaw asked earlier, do you have any estimates to the number of children receiving SSI benefits whose parents are in the U.S. illegally?

MS. BARNHART: No, sir, I do not. I can tell you that approximately 1 million children receive SSI disability benefits, and unfortunately, for the purposes of answering your question, we don't -- whether or not the children are in the country illegally themselves or are, as in the case that Dr. Horn described, American citizens because they were born here but their parents are here illegally, we don't capture that kind of data, I'm sorry.

REP. HERGER: Secretary Horn, your testimony notes that in 2004, about 152,000 temporary assistants to needy family child only cases included parents of unknown citizenships. That is an alarming figure. Is this group a rising share of the welfare case load? If so, what, if anything, can we do through future TANF policy reforms to address this issue?

MR. HORN: If you look at the number and the percentage of cases in which a child is receiving a benefit and residing with a parent who is not receiving a benefit and where the parent is either of unknown citizenship or alien status, back in 1996 there were about 160,000 such cases, and in 2004 there were 151,000. So in terms of absolute number compared to the last year of AFDC, the number has gone down. Although if you compare it to 2000, the number was about 91,000 in 2000 and -- it's 151,000. So it depends on what your comparison here is.

If you look at the percentage of those cases, in '96 under the last year of AFDC it was 16 percent of all child only cases, and in 2004 was 18 percent. And if you compare to 2000 instead, it was 12 percent in 2000 and 18 percent in 2004. So if your comparison is to the last year of AFDC, both the number and the percentage has -- well, the number has gone down, certainly. But if you compare it to 2000, the number and the percentage has gone up slightly.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. HERGER: And is that considering the fact that our case load has gone down by over 60 percent?

MR. HORN: Well, that's where the percentage would --

REP. HERGER: Since '96?

MR. HORN: If you look at the overall number of child only cases on the case load, the number has stayed relatively constant since the enactment of TANF. But the percentage has grown pretty dramatically in the entire category of child only cases. In 1997, there were about 900,000 child only cases, and in 2004 there's about 164,000. As a percentage of the total case load, however, it's grown from 21 percent to 44 percent.

Now, not all of those child only cases are in the category that we're discussing. A lot of them are residing with a parent who's gone SSI, and some of them are residing with parents who are in sanction status. So it depends on which category of child only cases you're thinking about.

REP. HERGER: Does the welfare -- again, Dr. Horn, does the welfare system now expect illegal alien parents to work for these benefits or otherwise place a time limit on them?

MR. HORN: Illegal aliens are not eligible to receive a cash assistance payment.

REP. HERGER: But again, referring to the children who are receiving, who have been born in the United States, even though their parents are illegal, they are legal, and if those children are receiving, are the parents working?

MR. HORN: In cases of child only cases, regardless of the status of the adult, the -- at least until very recently, child only cases, the adult in those child only cases was not subject to the work requirement. That has changed for some categories of child only cases with the publication in late June of our interim final TANF regulations, but we did not include in the subject to the work requirement category children whose parents are either immigrants under their five year bar for receive to recipients, nor illegal immigrants -- parents.

REP. HERGER: Thank you.

REP. MCCRERY: Mr. Johnson.

REP. SAM JOHNSON (R-TX): Thank you, Mr. Chairman.

Ms. Barnhart, following up on the chairman's earlier question, do you have the ability to have instantaneous confirmation of someone with a Social Security Number?

MS. BARNHART: (Off mike.)

REP. JOHNSON: Turn on your mike, please.

MS. BARNHART: Thank you.

Mr. Johnson, what we have is the ability for an employer, through our Social Security Number verification system, to get a PIN password, be able to sit down on a web-based system, plug in Jo Anne Barnhart and my Social Security Number, and instantaneously it comes back that either it's a match or it's a no match.

Now, that does not say -- going back to a point Ms. Myers made earlier -- that I'm actually Jo Anne Barnhart. It can't do that. But it can say that the name and the number match, but not necessarily the individual who provided that name and number to the employer, in this instance, is actually the --

REP. JOHNSON: Yeah, it could be a false number. But it matches whatever the name is.

MS. BARNHART: Correct, it does.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. JOHNSON: Okay. And you coordinate with them on that? With ICE?

MS. BARNHART: Yes, we do. That is part of what we do. And in addition to the SSNVS program that's available to all employers on a voluntary basis, we also worked through the Basic Pilot with the Department of Homeland Security.

REP. JOHNSON: Okay. You've got a non-work alien file, I think, that tracks earnings. Is that true?

MS. BARNHART: We do have a non-work alien file, yes, sir.

REP. JOHNSON: With a non-work Social Security Number. If the Congress were to pass a new law stating only earnings from citizens or those with a green card were to be credited to Social Security, is there any way to go back to previous years and make sure that no wages paid to illegals would every be credited with Social Security benefits?

MS. BARNHART: That would be extremely difficult, Mr. Johnson. And as I was discussing with Mr. Shaw earlier, the issue for us is that there is no longitudinal database that tracks a person's work authorization status at specific points in time. So, for example, let's say that I was here illegally in this country working, and then I went through whatever channels are necessary to go through, got sponsored, whatever, and I became a work authorized individual.

It is my understanding that the database at Department of Homeland Security actually overrides and then says, as of today, July 26, I am now work authorized and in this country and legal to work. So the data that would be necessary to go back and say, that work authorization just started that day and anything prior to was unauthorized, to the best of my knowledge, does not exist, but I would invite Ms. Myers to comment.

REP. JOHNSON: Okay, but you do know that they're earning wages and you apply them to Social Security?

MS. BARNHART: We do know that they're earning wages, and if the name and Social Security Number match our files, we apply it to Social Security.

REP. JOHNSON: Okay. Do you coordinate with IRS on those wages?

MS. BARNHART: The coordination that takes place with IRS is actually done through our no match. Every year, when we receive wage reports, which are the W2s that are submitted with this summary W3, we record those. The IRS -- I mean, Mr. Everson can obviously describe what they do better than I can, but they actually get the W2s -- on the W2s, the income.

If we end up with wage data that doesn't match what IRS has, we contact them, and if they end up with more wages reported than what showed up through the no match file, then they contact us.

REP. JOHNSON: Well, what happens if you don't get a match?

MS. BARNHART: If we don't get a match, it goes into the earnings suspense file, something that's been in existence since 1937. There are currently over 200 million, I believe -- 255 million items, I believe, in the earnings suspense file. Wage items, not dollars, but wage items, unreported instances of wages -- reported wages that could not be attributed to a correct Social Security Number.

REP. JOHNSON: Do you now coordinate with ICE on those kind of items?

MS. BARNHART: We send to the Department of Homeland Security information on the numbers where wages were earned on a non-work file.

REP. JOHNSON: Okay, let me ask you --

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MR. (?): If I could add something to that?

REP. JOHNSON: Okay.

MR. (?): Sir, this gets to the nub of the issue on 6103. Those mismatches, those 8 million mismatches or so, that's taxpayer information, it's generated off a W2, a W2 is taxpayer information. So this is what the administration is proposing would be addressed through the mandatory verification system, a change to 6103 that would allow what you're talking about to happen, sir.

REP. JOHNSON: Thank you.

And one quick question for Dr. Gustafson. Does CMS have an understanding as to why there was money left over in 2005 for Section 1011 funding, and was it a lack of education on a provider's part, or were hospitals reluctant to verify status of citizenship, and what were the main barriers?

MR. GUSTAFSON: Not all the money was expended in 2005, as you indicated, that rolls over to be available in 2006. We believe that the principal thing to point to here is that this was a new program. So that we were getting it up and running, providers were enrolling in it, everybody was getting used to the new business. We've seen -- we have no evidence I could provide you indicating any reluctance on the part of providers to participate.

REP. JOHNSON: Thank you, sir.

Thank you, all of you.

Thank you, Mr. Chairman.

REP. MCCRERY: Thank you, Mr. Johnson.

Mr. Levin.

REP SANDER LEVIN (D-MI): Thank you.

Welcome, welcome to all of you.

Ms. Barnhart, I think there was a Social Security actuary estimate on the Senate bill. Are you familiar with that?

MS. BARNHART: Yes, sir, I've read that estimate. That was performed and done by our independent actuary, yes, sir.

REP. LEVIN: I was sure with your diligence you had. So why don't you briefly tell us what it said about the impact in terms of the solvency of the fund?

MS. BARNHART: The actuaries' memo that was provided to Chairman Grassley explained that due to significantly increased revenue, because of the temporary worker program provided for in the S. 2611, the trust fund exhaustion date would actually be moved out at least two years from 2040 to 2042, I believe.

REP. LEVIN: Thank you. You also -- when we were talking about the child only cases, and you mentioned the availability of SSI. I think the record should be clear, if the child's illegal, there's no benefit, right? There has to be legality of somebody, is that correct?

MR. HORN: Yes. It's complicated, and I may have made it overly complicated. There are different categories of child only cases. One category is that the parent is a legal immigrant, a qualified immigrant who's under their five year bar from receiving assistance, so the child is a U.S. citizen and getting assistance. Another category would be a U.S. citizen-born child whose parents are here illegally and therefore ineligible for a cash benefit.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

There are other categories. One of them is that the child is -- that the parent is on SSI and the child is receiving a benefit. My assumption is, to get SSI you have to either be a U.S. citizen yourself as an adult -- is that correct?

MS. (?): Actually, the limitations on SSI to citizens became extremely strict and limited after the 1996 legislation, absolutely, Wade. The fact of the matter is that unless you are a legal citizen, you really don't get SSI, except in very, very limited circumstances. For example, in the case of refugees or asylees, and only then for a limited period of time, in order to allow you to apply for naturalization.

REP. LEVIN: Just so the record should be totally clear, let me ask you another question about the Senate bill. Would guest workers be entitled to any benefits under the Senate bill? Does anybody know that?

MS. (?): What I can tell you is that absent some change -- depending how the Congress decides to deal with that, workers who earn credits and who pay into Social Security would be entitled to benefits under Social Security, unless the legislation decided to change that. I mean, right now if you earn money working in this country, you're covered under Social Security and you pay taxes into Social Security, then you are covered by Social Security.

REP. LEVIN: Now, have you looked through at the guest worker provision in the Senate bill?

MS. (?): Not specifically to that degree, Mr. Levin, but I'd be happy to do that and provide a response for the record.

REP. LEVIN: Good.

Dr. Horn, the psychologist, I won't ask you a legal question. Just so we're clear again, the child only cases, so what percentage of the overall beneficiaries relates to child only cases? Just give us a -- because you talked about the increase, but in terms of the total work load, what proportion is involved with child only cases?

MR. HORN: The total category of child only as a percentage of the total TANF case load in 2004 is 44 percent. But that is not the same thing as the percentage of child only cases where the adult is an illegal or a qualified immigrant under the five year bar, that's a much smaller percent.

REP. LEVIN: So it's clear, what the number of cases now of people on TANF?

MR. HORN: The number of people on TANF in 2004 was 1.98 million. Of that, there are -- 864,000 are child only cases. If you subtract out families with non-parent caregivers or those who are in sanctioned status, that number drops from 864,000 to 426,000. And within the 426,000, 152,000 have either a parent who is a qualified alien, who's ineligible, usually that means they're under a five year bar for assistance, or they could be an illegal alien, so just to be clear on those numbers.

REP. LEVIN: So it's out of a total of how many, it's how many?

MR. HORN: So out of 1.98 million, the number of cases in which the child is receiving a benefit and which they reside with a parent who is either of unknown citizenship or alien status is 152,000. So it's out of 1.98 million, that category's 152,000.

REP. LEVIN: Thank you.

REP. MCCRERY: Just to clarify, Commissioner Barnhart, on Mr. Levin's question about non-citizens receiving Social Security benefits, they had to be here legally in order to claim Social Security benefits and collect those Social Security benefits, isn't that correct?

MS. BARNHART: Absolutely, sir. I interpreted Mr. Levin's question as speaking specifically to people who'd be authorized as temporary workers under the Senate bill.

REP. MCCRERY: Yeah, I think he was, I just wanted to make that clear.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MS. BARNHART: Absolutely.

REP. MCCRERY: That people who are not here legally, even though they may have paid Social Security taxes, cannot collect Social Security benefits unless they subsequently become legal workers or citizens here.

MS. BARNHART: That's absolutely true, as passed in the Social Security Protection Act a few years ago.

REP. MCCRERY: Thank you.

Mr. Lewis.

REP. LEWIS: Thank you, Mr. Chairman.

Ms. Barnhart, as we've been discussing here, most illegal aliens work. But many granted amnesty under the Senate bill may be disabled or otherwise unable to support themselves in this country, and many may seek benefits under programs under our jurisdiction like the SSI and Social Security disability, welfare checks. How would the amnesty program affect the eligibility of formerly illegal aliens for SSI and Social Security programs?

MS. BARNHART: Thank you, Mr. Lewis. Obviously it would depend ultimately on the specifics. But just to generally try to answer your question, even if you had an increase in the number of lawfully present aliens, it wouldn't necessarily have a big effect on the SSI program or Social Security, because people still have to qualify under the existing rules of the program.

For example, in Social Security, in order to receive retirement benefits, you have to have 40 quarters of work. In other words, the equivalent of 10 years. And so simply looking at automatically legitimizing the person's presence in the United States does not guarantee that. Further, when you combine it with the provision that the chairman just referenced from the Social Security Protection Act, which requires if that person did not have a legal Social Security Number or a Social Security Number issued prior to 2004, they would have to have one that showed they were work authorized in order to be able to collect benefits.

REP. LEWIS: Okay, thank you.

I yield back my time, thanks.

REP. MCCRERY: Mr. Foley.

REP. MARK FOLEY (R-FL): Thank you very, very much.

A couple of questions, first either to Internal Revenue or Social Security. I've enquired to some employees, who are here to be obviously working in our area. However, I don't believe they're using an accurate number. And when I asked the question -- because I was curious how they cashed paychecks, how they were paid by their employers, and one of them said, well, we all use one number. Five or seven of us use one number in order to facilitate our payments, so we use a Social Security Number belonging to another individual.

How is it the service cannot determine if there are that many entries into a person's payroll record? Five different jobs. It would seem physically or humanly impossible to have five simultaneous jobs, but that's apparently how they're working the system in order to receive a paycheck.

MS. BARNHART: Well, I would defer to Mr. Everson to give details about how W2 information is reported, but from my knowledge, W2s do not express the time period in which the earnings were accrued, other than the year. So it's possible, we do have individuals who have multiple W2s for perfectly legitimate reasons. They may work for a contractor, they may be stevedores that work all over the place.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

I mean, there are a number of circumstances under which it is perfectly plausible that the individual does have multiple W2s. Individuals change jobs more and more. The current generation now changes jobs way more than, say, the boomers did or our parents before us.

I don't know --

REP. FOLEY: So let me understand. So you're saying that the W2 would reflect the aggregate payments over the course of the year, not individual payments?

MS. BARNHART: It does not -- well, what it doesn't say is that Jo Anne Barnhart earned these from January to March of 2006. What it says is, these were the earnings that were paid to her by this employer for tax year 2006. So it -- we can't discern from the information reported to us that they were concurrent earnings.

REP. FOLEY: Mm-hmm.

MS. BARNHART: To get to what I believe your initial --

REP. FOLEY: Well, I'm trying to figure out, on a weekly basis, as they report their Social Security payments, the payments, you know, on a quarterly basis, the employer, whoever that happens to be. There's no cross system that shows inputs from employers, collected from employees, that then verify where those two --

MR. (?): If maybe I could get in here, sir? There are something like 230-plus million W2s that are issued each year for about 150 million employees. That indicates that the typical employee gets more than one W2. That's the first point I would make. As I've indicated, there are about 8 million mismatches a year, largely probably associated with this population of folks working illegally. Within that, it's very likely that there is a higher multiple of people working in more than one job.

Part of the problem you have here is that all that information flows into us well in arrears of when the work takes place, because we don't get it from Social Security until some months after the end of the calendar year, and in many instances this population is -- if you look at these employers, their total turnover is more than 100 percent of employees during the course of the year.

So trying to get to currency on this -- which is what the administration is really suggesting -- with the upfront verification is much more effective than trying to track it down afterwards because of the nature of this population, if you will.

REP. FOLEY: But I guess ultimately if five people are using the same number, then one person's going to have a more plentiful Social Security check at the end of their working --

MR. (?): I can -- let me make a comment as to the tax and then defer to my colleague. This is a problem where there's identity theft. We estimate something like about 30,000 returns a year come in with identity theft. That's where my name and Social Security Number is being used by somebody else. So to us, it appears that there are multiple wages coming in on my account.

If there's just a mismatch, our systems screen that out so that if someone's using my Social Security Number but not my name, I'm not going to be dinged by the service, gee, you've got a lot of extra income here but haven't enough withholdings.

We screen that out and adjust for that.

MS. MYERS: And if I could just add there, we have found on some case by case occasions that W2s are useful. In the IFCO case, which is the case I cited in my opening example, it actually came to our attention because the illegal aliens were ripping up their W2s. And another employee said, you know, why are you doing that? They said, we don't need those, we're not paying taxes.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

So five to seven individuals posting against one number, you know, may not be the big thing. In cases where we have hundreds, two hundreds, those are the kinds of things that often come to our attention through other means and are very useful in building a case.

MS. BARNHART: And I would just add too from Social Security's perspective, if the individuals are using, say, my number, there are seven people who somehow happen to come up with a number that's a legitimated number issued to a person who is authorized to work, when that person receives their statement from us, which we provide to all workers over aged 25 every year, approximately two months before their birthday, it shows the earnings for each of the preceding years.

And we urge people, obviously, to read the statement, pay attention to it, and we find that people actually do from the surveys we do. So I obviously know how much I earned in a particular year, and I could look, and if I all of a sudden saw enormous numbers, you know, of earnings, because all these numbers had been posted to it if they had my name and number. Then I would know that individuals were using my number, and I'd be able to contact us and we'd sort through that.

MR. (?): It might help you get a loan though.

MR. (?): Well, that was the irony of it all, was, you know, who is going to end up reporting the excess income if they don't have a tax penalty, they'll simply have more aggregate of a Social Security check at the end of their working years? So it just seemed a system fraught with problems.

MS. BARNHART: What we do at the end of -- say this situation would continue throughout a person's work year. Odds are, when they come to apply for benefits -- going back to the chairman's point -- they would not be eligible for benefits because they're probably still residing illegally in this country, which would make them de facto and eligible for benefits.

If in fact they did have a work-authorized Social Security Number, we would go through and actually do what we call unscramble the earnings, and we do this with some degree of regularity. And sometimes it's for purely legitimate reasons. A woman gets married and doesn't -- and changes her name but forget to tell Social Security, so an employer reports earnings differently.

There are all kinds of reasons why earnings end up being scrambled, but we would actually make the individual provide information from the employer, wage stubs, you know, proving that they had earned those earnings and being able to document it. It's quite a process that people must go through in order to show that past earnings that were recorded on a number used by many were actually theirs, for purposes of determining the benefit.

REP. FOLEY: Thank you.

REP. MCCRERY: Dr. McDermott.

REP. JIM McDERMOTT (D-WA): Thank you, Mr. Chairman.

Article 14 of the Constitution says that all persons born in the United States are citizens and no law shall make or enforce any law which shall abridge the privileges of immunity. Now, you've heard questions asked here about, how do the children of illegals get TANF benefits, as though there's something wrong with that, as though there was something wrong.

Well, I'd like to expand this a little bit. Let me give you a specific example. Tommy Clark came over from Ireland for a visit to his brother in Boston. Stayed on, got a job, laid bricks. First year he paid his income tax on his I-10, next year he paid his I-10, paid his I-10 for 10 years.

And then, well, he married Mary Quinn along the way and they had two little boys, Sean and Lachlan. And then Tommy was killed on the job. Would his children be eligible for survivor benefits under Social Security?

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MS. (?): Obviously I'd have to maybe have a little more information about whether or not he was --

REP. McDERMOTT: If you want to know, I can make it up.

(Laughter.)

MS. (?): Was he legally working in this country at the time that he was making --

REP. McDERMOTT: No, no. He was an illegal.

MS. (?): He never had a Social Security -- a legally issued Social Security Number?

REP. McDERMOTT: He never had a Social Security Number, he used an I-10 the whole time.

MS. (?): He used an I-10 the whole time. For purposes of the child, if the child were born in this country --

REP. McDERMOTT: The children were both born here. Born in Boston. Mass General.

MS. (?): Well, I think the difficulty would be in the fact that the individual, based on the Social Security Protection Act provisions, would not have had a legally authorized to work Social Security Number. But I'd have to check on that, Mr. McDermott, just to be sure before giving you a definitive answer.

REP. McDERMOTT: Well, you're saying that -- but aren't you saying, Mr. Everson, that you keep a record? I mean, they -- he pays taxes on his wages, he pays the payroll taxes, doesn't he? He pays Social Security and pays Medicare, right?

MR. EVERSON: I think that what you're getting to is there is a divergence under the law between treatment for Social Security benefits and your income tax obligations, sir.

REP. McDERMOTT: You just left me hanging out in the middle of a diversion. What does that mean?

MR. EVERSON: It means that while the information is collected and shared between the two agencies, that just because you've paid your income taxes, that doesn't entitle you to Social Security benefits. That's a different set of standards.

REP. McDERMOTT: But you put money into an account, you've done your 40 quarters of work. I worked him for 10 years, so he has his 40 quarters done, it's all recorded by you, and she's got the data, right? You sent it over to her.

MS. MYERS: I would have the data based on the W-2s that are reported, the employer wage reports that were posted against that individual's number. But you indicated that in this case, that the individual you're presenting here wouldn't have a legally authorized Social Security Number.

MR. EVERSON: There'd be a mismatch here, sir, this is the nub of what we're getting to, because Mr. Clark wouldn't have used his I-10 at his employer. He would have used a false Social Security Number in order to have been hired.

MS. MYERS: So he would go into our no match files, Mr. McDermott.

REP. McDERMOTT: You mean -- and why didn't you give that information to the Homeland Security people to get him thrown out of the country? How could he -- how could an Irish immigrant last 10 years in this country and you not give his name to her and boot him? What -- I mean, if he's using a false Social Security Number, doesn't -- isn't somebody going to pick that up?

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MR. EVERSON: Well, again, the basic presumption is the protection, the actual privacy of the tax return information, so that right now it is not shared with Homeland Security so that they can go find this person and, to use your words, boot them. That is what is the nub of the issue here that needs to be considered, because there will be a tax administration impact on changing 6103, albeit with the goal of having better protection and better workforce enforcement, if you will. Workplace enforcement.

MS. MYERS: And if I could just add, sir, something I believe is interesting in this situation as well, this whole notion of reporting when someone's not work authorized and so forth. Based on our reviews that we do, at any given point in time, about 36 percent of the people who are not work authorized at the time that the no match is initially discovered, meaning when the wage report's filed, either in February or March of each year, about 36 percent eventually become work authorized and are work authorized within that year.

And so the situation changes quite a bit, and I think that also elaborates on some of the complexities that you're speaking about, Mark.

REP. McDERMOTT: Doesn't the employer have to fill out an I-9 as well, and you're supposed to go collect them? Do you go and collect all the I-9s from all the employers?

MS. MYERS: No, the employer keeps those on file. So we do not --

REP. McDERMOTT: But you go --

MS. MYERS: We audit them and do investigations.

REP. McDERMOTT: How often do you audit? I mean, this guy's working for 10 years for a construction company, and you haven't audited his company in 10 years?

MS. MYERS: Well, certainly we have a number of challenges. You know, we only have about 5,700 agents in the entire country who not only do work site but also do criminal aliens, who do customs violations, who do kind of a number of things. And we're really increasing our work site efforts and we're targeting kind of the most egregious employers.

REP. McDERMOTT: How do you increase them? I mean, you don't have any more people.

MS. MYERS: Well, we've increased them by trying to do it smarter, because we used to just focus on the I-9 audit, and we found at the end of the day that sometimes people would have their paperwork clean but it wasn't good paperwork. And so we focus on using confidential informants, using other sources, working with other problems to kind of develop cases.

REP. McDERMOTT: What does it mean to have your paperwork clean but it isn't clean? That's -- sounds political to me, a little.

MS. MYERS: Certainly, Congressman, I mean that if you own the construction company and you had six employees and they -- and you had all of their documentation listed on the I-9, but it was actually us, and in fact you knew that, and that would be the kind of problem that we would see, where sometimes the I-9 paperwork is fine but in fact we have reason to know that the employer actually knows that they're not hiring me, they're hiring the individual that you named.

REP. McDERMOTT: But does the I-9 have my Social Security Number or something on it, so I know that -- I'm the employer. How do I know that this person is illegal?

MS. MYERS: Well, certainly there are challenges for the employers, and so that's why we are providing them with best practices. And so for -- if I came in to you and I said I was Wade Horn, and I said I was Wade Horn and I

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

claimed to be a Caucasian man with a moustache but I looked just like me, and I gave you my documents, you filled it all out. If you didn't look askew at that, that's a problem.

Now, if I came in and said I was Julia Smith, you might not have any reason to know based on the documents, based on a fake document I've presented to you. And so that's why we use things in addition to just looking at I-9s, which can be very helpful to bring cases.

What we do is we work with employees who sometimes -- sometimes they're whistle blowers. We got a good case the other day from a congressman -- one of the congressmen of Pennsylvania, who had heard that down in one of the grocery stores in North Carolina there were a lot of illegal aliens employed there. We actually conducted an investigation and made some arrests there.

So we used kind of a wide variety of sources. And then we're bringing criminal cases. We're not just focusing on small fines. It used to be we'd fine people \$150, and today that's not enough to keep employers from going out and hiring other illegal aliens. What is enough is if you bring a criminal charge against them, where they can be subject to spending years in prison or forfeiting ill-gotten assets.

REP. MCCRERY: Mr. Brady.

REP. McDERMOTT: Could I just -- one second, just to say what's puzzling to me is I look at your work site enforcement data from 1999 to 2003 and you went from -- you said 182 cases down to four this year. It sounds like you're doing less to me.

MS. MYERS: Well, actually, that's --

REP. McDERMOTT: But I yield back the balance of my time, Mr. Chairman.

REP. MCCRERY: I'll give Ms. Myers a chance to respond that.

MS. MYERS: I appreciate that. That's actually the notice of intent to fine, the civil fine structure, which we found to be not effective. We actually would like to have a more robust civil fine structure. That is in the Senate bill, it's something we think would be helpful. This year we're actually up over 445 criminal arrests and we've apprehended over 2,700 illegal aliens. And so we think we've made great progress in the area since ICE was formed.

REP. MCCRERY: Mr. Brady.

REP. KEVIN BRADY (R-TX): Well, first, I hope Ms. McDermott will accept our condolences to the family, the widow and the son of the imaginary couple that she had.

REP. McDERMOTT: They got a good benefit.

(Laughter.)

REP. BRADY: There are a lot of emotional issues tied to the discussion of our temporary worker program, and if I could ask Commissioner Barnhart first, trying to get a little handle on social security impact. If I understand right, under current law those who work here illegally once they're legalized can claim benefits for work done illegally as long as they can prove through documents that they worked, is that correct?

MS. BARNHART: They actually have to have an authorization to work, a social security card, that was authorized to work. We provide social security cards with no legend, just your name, "Mr. Brady" for example. We provide a legend that says, "Authorized to work by DHS" you know, check with DHS, or "Not authorized to work". In the "Not authorized to work" category we only provide about 14,000 of those a year and they are largely so people can take advantage of programs like those that Dr. Horn operates because they are programs that require -- a state or federal program that requires a social security number and card in order to be eligible for the program.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. BRADY: So under current law they cannot go back and claim benefits if they are here illegally working, have filed under multiple cards for example, and then later are legalized? Is that -- I'm just trying to understand it.

MS. BARNHART: Well, if they are later legalized, if they have a social security number that was issued with authorization to work, then, yes, they can. They absolutely can, because the fact of the matter is that we credit the wages to their social security -- calculation of social security benefit, and the law does not distinguish in that sense. What it says is you must be legally residing in this country in order to receive benefits, or you must have a work authorized social security number after 2004 in order to receive benefits.

REP. BRADY: If under the Senate bill -- and they have sort of a three-tiered path to citizenship, but for those who end up working here legally do they then have a claim for those security benefits earned under -- if they have a social security card, whether it's a legal document or a multiple fraudulent document, do they -- I'm just trying to understand do they have a claim.

MS. BARNHART: Again, that would fall into that unscrambling of earnings because if in fact they had earnings that they -- while they were working illegally, odds are they were posted to a false social security number or an incorrect social security number falling into the mismatch category, the mismatch percent I've been describing, and if that were the case it would require unscrambling those earnings, we would not simply accept their personal attestation that, "Gee, I was working there and these are my earnings". And most individuals -- I daresay that happens in very few cases because most individuals don't keep wage subs and W-2s and things, particularly if you're working illegally, and as you pointed out, often times people try to destroy W-2s now who are here illegally because it's not to their advantage to have them.

REP. BRADY: If the Senate bill were eventually to become law, you know, there are different estimates on how many would end up being legalized. I don't know if it's five million or eight million or 12 million, but does SSA have any range of estimated costs to social security of what those past benefits may add up to, and I know there are a whole bunch. It depends on what the final product would be, obviously, but have you looked at or do you have experience? And in past cases, you know, what do those past claims tend to be?

MS. BARNHART: I don't believe we have, but I'd be happy to check for you, Mr. Brady. What we have looked at in terms of that legislation is the workload that would be required assuming that the majority of those individuals do not have legitimate social security numbers.

So, for example, if they were legalized, if they all of a sudden were legal and needed to get a social security number, would we likely be having to issue six million new numbers, nine million, 12 million new numbers, and we've looked at that in the context of the fact that we now issue between 12 to 17 million numbers, usually 17. Twelve replacement numbers, I believe it is, and five million new numbers a year. And so obviously it would add fairly dramatically on a short term basis to our what we call enumeration workload if in fact all those individuals did not have legally issued social security cards.

REP. BRADY: May I ask, how big is the suspension file for the no-match dollar-wise?

MS. BARNHART: The suspense file is 255 million separate items. In other words, wage reported items, and it totals \$519.6 billion, but what's important is -- to make the point -- that's wages, that's not taxes paid. So in other words, for those 255 million instances of individuals where the wages did not match their -- yes, their name and social security number did not match, those wages when you add them up total \$519.6 billion.

REP. BRADY: Is that cumulative or --

MS. BARNHART: That is -- absolutely. Since -- from 1937, I believe that's through 2004, FY 2004.

REP. BRADY: Any idea how much each year that's running --

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MS. BARNHART: Yes, I didn't bring that information with me but I could certainly -- in terms of the dollar value, I could certainly get you that. I think it's around 1.3 percent of the earnings each year, but don't hold me to that. I think that's right though. I think 1.3 percent of all earnings each year end up in the earnings suspense file.

REP. BRADY: Thanks, commissioner. Sorry I ran over time, chair.

REP. LEWIS: Thank you very much, Mr. Chairman. Mr. Chairman, I apologize that I had to be out of the room for a moment, a little more than a moment. But I heard each of -- each member of the panel's testimony.

Commissioner Everson, it is good to see you here, and I know that my colleague -- I believe Mr. Johnson touched on this issue while I was out of the room, but I want to be sure I follow up on some of the discussion that we had when you testified earlier this year.

MR. EVERSON: Yes.

REP. LEWIS: I think back in February.

MR. EVERSON: Yes, sir.

REP. LEWIS: You testified before the Oversight Subcommittee. I think that was a joint committee, social security and oversight. And during that hearing the Department of Homeland Security was seeking broader access to taxpayer's return information, which would require an amendment to tax code section 6103.

You testified then -- and I think you made it plain and somewhat clear that giving this information, turning this information over to the Department of Homeland Security, in your words, would have a chilling effect on participation in the tax system, and that everyone should have their eyes wide open before agreeing to such a proposal. Do you care today to discuss your concern about giving DHS access to tax return information?

MR. EVERSON: Certainly, sir, and I thank you for your welcoming words. I believe you correctly quoted me, but you've left out a part which is --

REP. LEWIS: What did I leave out, Mr. --

MR. EVERSON: -- which is to say that I advocated this sharing, but I said that there are times when concerns over tax administration can give way to a national imperative. But my point then and point now is that we, and particularly this committee, which has jurisdiction over the tax laws needs to have, as you just said and I said, its eyes wide open, that we are changing this very important element of privacy as to return information.

Let me just read you what the president said just two days ago. He said Congress is now considering legislation on immigration reform. That legislation must be comprehensive. All elements of the problem must be addressed together or none of them will be solved at all. I believe what I said in February and what I believe today is that we need to solve all the elements of this problem, and my concern would be if we have a cherry picking of solutions, some legalization efforts and not enough enforcement, or we don't ultimately get to the right balance here, then you will be left if you have information sharing with immigrant groups and others counseling aliens not to participate in the tax system. That remains a concern of mine. That's why I think it's so important to do what the president said and get all the elements that need to be included in this legislation handled. I support what the president is doing very vigorously, but I do think it needs to be done in a balanced way, and understanding that there will, sir, be this ramification on tax administration.

REP. LEWIS: I appreciate that very much, Mr. Commissioner. With your history and your background, your previous role in the government, do you believe that the Department of Homeland Security has done all it can to enforce immigration laws and use the laws already under its authority?

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MR. EVERSON: Well, I am reluctant to criticize sister agencies, especially when someone is sitting right next to me, so I'm -- if you'll bear with me I won't go down that road. What I will say is that the flaw in the '86 Act is one that we've been dancing around all afternoon. That is the fact that employers were able to just review the documents, and the documents of the employee could be false.

That's what has gutted the effect of the IRCA, the '86 Act. The fact that you as an employer could look at me and say, "Geez, those documents look good," and then you were off the hook. That's what gave rise to the decline in this interior enforcement, I would suggest, and that's what the administration is trying to address here, sir.

REP. LEWIS: Thank you very much.

MS. : If I can just add, I think as a department we are and have been striving to do better. As the secretary, Secure Border Initiative, develops kind of a comprehensive strategy for looking anew at interior enforcement and using the tools that we have, I believe that we had not adequately used all the tools that were existing, and that's why we're trying to enforce the law in new and better ways but there's much more work to be done.

REP. LEWIS: Thank you very much.

Thank you, Mr. Chairman, I yield back.

REP. MCCRERY: Thank you, Mr. Lewis.

Mr. Beauprez.

REP. BOB BEAUPREZ (R-CO): Thank you, Mr. Chairman.

Mr. Horn, are you aware of any cases where someone who thought probably did qualify for benefits, welfare benefits of one type or another, when they applied they found out that we're told, "Wait a minute, you've got a whole bunch more income than you're reporting here," or that they were on benefits and later were bumped off because of a -- at least an assumed reporting of too many -- too much income?

MR. HORN: Are you saying --

REP. BEAUPREZ: If somebody applies for a benefit, they meet the poverty guidelines, somebody does the check and says, "Wait a minute, we checked your social security number and you're reporting \$200,000 of income".

MR. HORN: I know that happens, and in fact we encourage that to happen by having the TANF agencies match against the National Directory of New Hires.

REP. BEAUPREZ: Good, I'm glad you do that check. I'm also familiar with -- I'm going to share with all of you some background information that I got recently from my state Department of Labor in Colorado. In the first quarter of 2006 alone, just inside one quarter, 304 different social security numbers were reported by 2819 different employers. This was a check for only numbers that were reported at least six or more times. It's certainly possible that somebody has six employers within a 90 day period, I grant that, but that seems like quite a few, especially for that many. They further found out that one number was reported by 57 different employers, one by 36, one by 24, 23, 22, 19, you get the picture. Some employers actually reported social security numbers, interestingly enough, with all nine digits the same digit, one, one, one, one, one, one, one, one. The same for two and three and four and nine, and I'm sure you're familiar with this. And some of those employers were extremely familiar employers to me, and I'm sure to you.

The point being something must be wrong, some of that is probably legitimate, people change jobs several times, but I mean it staggers the imagination. I don't know how much of this really goes to our illegal question or not because we don't know, but there's a problem here. And I think it was Ms. Barnhart, if I remember rightly, who

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

pointed out what I already knew, misuse of a social security number is a felony. Are we pursuing this kind of a problem or are we not?

MS. BARNHART: I can say that generally these kinds of issues do not rise to the level of demanding aggressive pursuit by U.S. attorneys.

REP. BEAUPREZ: Okay, let me tell you what I think is part of the problem, and this is the complexity I think of illegal immigration and identity theft and law enforcement that we're dealing with. There is at least some degree of identity theft going on here. I saw one case of a lady who had 529 -- I believe I've the number right, I'm working from memory -- over half a million dollars of income reported to her social security number in a year. She was a widowed lady and was legitimately trying to get benefits. Now, she's got to go hire an attorney, and you know the rest of the story, and wait a protracted period of time and literally live hand to mouth and be begging from relatives instead of getting her justifiable benefits. That's part of the problem we've got here, and I guess what I would ask, I've got a photo ID that is encrypted to get into my YMCA. Would it make sense, Ms. Barnhart, if our social security identification, which is the backbone of our ID in this whole country for citizenship and everything else, would it make sense that it got into something close to the 21st century technologically as opposed to more like the 19th century?

MS. BARNHART: There have been -- there's been a lot of interest expressed in what you're talking about, a tamperproof, or allegedly tamperproof hard card, whether it has biometrics in it or a photograph or whatever, so we have looked at that, and explored what that would mean for us in terms of workload particularly, and I know that was one of the subjects for this hearing and one of the questions posed to us specifically by the chairman.

REP. BEAUPREZ: Yes, that's why I'm asking it.

MS. BARNHART: Yes. The issue for us -- in issuing a card, the cost of the card itself is not the issue, the cost of the card is very inexpensive. Okay? The questions that have been asked to me by congressmen and senators are, explain to me, "Why can't you just issue a card like American Express does, it costs them nine cents a card?" And my response to that is, the reason is, because we spend about 30 minutes, 31 minutes to be precise, per person checking the evidentiary documents that are provided to us.

When someone loses a social security card and comes in for a replacement we don't just accept the fact that person is Mark Everson -- although in your case we might, Mark, but anyway -- we actually say, "Show us a passport, show a drivers license". You have two forms of documentation so at that time, and the estimate whether you use a photograph or biometrics or whatever is if we were to look at re- enumerating, which is what you're talking about in essence and reissuing cards, for just the working people that would be 300 million minus 60 million of the under-14s, so 240 million people. Trying to do that would cost about \$9.5 billion and require 67,000 work years.

To put that in perspective, I currently have a budget of \$9.4 billion and less than 65,000 employees with the agency, so it's really a matter of checking the evidence that stands behind the --

REP. BEAUPREZ: I accept that. I see I'm out of time, but only a follow-up comment. I would suggest for at least this committee and this Congress that the system we have is broken and unsustainable, and at some point when you've got this kind of problem out there when the social security number clearly doesn't mean anything anywhere we've got a problem and somehow have to address it, and I think technology somehow has to be your friend and ours and that of the legitimate legal citizen out there, and a person who is perhaps a victim of identity theft, which I know is an enormously growing problem in this country. And with that I'll just yield back, Mr. Chairman.

REP. MCCRERY: Thank you, Mr. Beauprez.

Mr. Neal, you just returned, but it's your turn to inquire if you'd like, or I can go to Mr. Becerra. I'd be happy to. Mr. Becerra.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. XAVIER BECERRA (D-CA): Chairman, thank you very much.

To all the witnesses, thank you very much for your patience and for your testimony. Let me make sure in all this conversation that I have this correct in terms of where we are so far on these immigration matters. First, if I hear correctly, any worker -- any immigrant who does not have the authority to be in this country is barred under law, federal law, from receiving any kind of federal benefit.

The only exception that I heard was emergency medical care. Any disagreement with that? Okay.

Secondly, legal immigrants, individuals who have the right to be in this country and are on their way to becoming U.S. citizens and have gone through all the process to have their documents certified, those with what we call the green card, they too are restricted from a lot of these federal benefit programs, and in many cases even if they're entitled -- are eligible for some they're means tested so they may not qualify based on their income. Any disagreement with that? Okay.

Social security and Medicare are programs that are earnings based. If you work and pay into these programs, then you've earned the right to receive those benefits. If you don't work, you don't get to receive social security or Medicare payments. Is that correct?

MS. BARNHART: Yes, it is.

REP. BECERRA: So, for any immigrant here in this country to qualify, first that immigrant would have to be here legally, correct?

MS. BARNHART: Correct.

REP. BECERRA: And secondly, the person would have to have worked and paid into the system for social security and Medicare to have any access to those programs, correct?

MS. BARNHART: For social security purposes, absolutely.

REP. BECERRA: My understanding, Commissioner Barnhart, is that the actuaries for the Social Security Administration have estimated that the Senate bill on immigration reform, the comprehensive immigration reform, would actually if it passed extend the solvency of the social security trust fund, as you pointed out earlier, and that it would reduce -- because it would increase revenues -- it would reduce the long rates deficit of the social security system by about six percent?

MS. BARNHART: That's correct, it would reduce it to 1.88 percent of payroll.

REP. BECERRA: So I'm assuming that what the actuaries are saying in these estimates is that if the Senate comprehensive immigration reform bill were passed that you would incorporate more of these immigrants who are probably right now in our underground economy or our shadow economy and maybe some paying taxes, maybe others not, but it would incorporate them more so that we would all get them within the legal system for paying their contributions into social security and Medicare, and therefore the trust fund for social security would have an increase in revenues.

MS. BARNHART: I've read the actuaries memo and that's what it says to me, Mr. Becerra.

REP. BECERRA: Okay. Now, we have all these folks that are the subject of this discussion about immigration reform because many are in this country without documents, and I think everyone on this panel, on this committee, would agree that no one has a right to be in this country without first having received the permission of this sovereign nation to be here.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

But the fact remains that we have some -- estimates are of some 10 to 12 million people who are in this country working without those documents, and that the issue -- the nut here that we haven't been able to crack is what do you do with so many folks? I know that some folks are saying, we just deport them all. And others are saying, let's be more rational and try to figure out how we figure out who's earned a chance to stay here, who will pay some fines and so forth, so they have an opportunity to stay here long-term and continue to contribute to this country.

The social security system, as you just mentioned I think to questions asked by the gentleman from Texas, my friend from Texas, Mr. Brady, has an earnings suspense file. That's a file or an account of money where you can't connect the contribution that you found from the W-2 form that was submitted to you with the name for someone who has a social security number. So that contribution that came in from that work documented through that W-2 form is now money in the social security system but you can't trace to whom it really belongs because it didn't match the names you have on file.

MS. BARNHART: That's correct.

REP. BECERRA: And that totals \$520 billion or so to date?

MS. BARNHART: Yes.

REP. BECERRA: And we don't know the source of all these discrepancies. We know in some cases it could be just a simple clerical error or a mistyped name, but in many cases it probably is due to the fact that there are many workers in this country who don't have documented status, are paying into the social security system, but you can't trace it to them because they don't have a legal or a legitimate social security number.

MS. BARNHART: That's right. And if they don't get that and come back and unscramble the earnings they will never be able to collect.

REP. BECERRA: So I guess my point here is not really a question. As we try to move forward in this debate -- and I've found this hearing to be somewhat constructive and helpful in this discussion -- is that -- what we find is that for the most part we're talking about a population of folks who don't have a right to be in this country but continue to work, in many cases I think as Commissioner Everson also mentioned, they're also paying taxes even though most of them won't get to file for a tax refund for any taxes they may have paid.

They are paying into social security in many cases yet they can't collect it because they can't legally apply through the system, and so we're trying to figure out what to do with folks who for the most part are working very hard, don't deserve to be here if they don't have documents, but we have to figure out a way to resolve this for some 10 to 12 million people, the size of the state of Ohio, to get this immigration nut cracked. And I hope that with your testimony you'll help us come to a rational way, a comprehensive way, of dealing with immigration reform. So I thank you for having taken so much time here to be with us.

I yield back.

REP. MCCRERY: Thank you, Mr. Hayworth.

Mr. Neal.

REP. RICHARD E. NEAL (D-MA): Thank you very much, Mr. Chairman. I was at a meeting with the National Transportation Safety Board and discussing the big dig, and apologize for coming back late.

What I was hoping the gentleman from Arizona might have stated, as the grandson of immigrants -- which probably qualifies half of Massachusetts, incidentally -- I remind people that all those immigrants, they raised two sons who gladly and proudly fought for America during World War II and raised families quite successfully, and nobody loved America more than those grandparents did. Nobody thought there was ever going to be a chance that would come close in any other nation to the chance that was presented to them by coming to America.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

Mr. Everson, just a couple of questions, and a note of congratulations to you on many of the reforms you've embraced. I think that not only is it healthy, but I think that the public interpretation of them has been balanced and fair, is really an achievement that you ought to take some satisfaction from.

MR. EVERSON: Thank you, sir.

REP. NEAL: But you spoke a couple of days ago before the House Government Reform Committee about the negative impact on tax administration if procedures are imposed on employers and employees that have the effect of driving economic activities underground. What you're referring to there is the underground economy, I assume?

MR. EVERSON: Yes, sir. What we were just discussing with your colleague, Mr. Lewis, is I am a strong advocate for what the president is trying to achieve, which is a comprehensive program of reform, so that you get this right. If you get this right, then you have an eligible legal workforce and you don't have the reason to go underground, then the system will be helped.

The problem that we have potentially, if we don't have a balanced solution, is that if we open up 6103 and make another exception -- and I would emphasize to you, there are already 50 exceptions, so it's not as if this has never been done before. But if we agree to share this information, but then there isn't the benefit of solving our illegal immigration problem, I do worry that there will be a price on tax administration that we should just all understand as we go through this process.

REP. NEAL: What would be a couple of examples that might encourage non-compliance?

MR. EVERSON: Well, you have a lot of businesses that may have competition that is not legal. They're not organized formally as a corporation, they're hiring illegal employees, they're not paying their taxes. The problem would be here if they know that there is a check that's going to be done by DHS, then they may just say it's not worth it to organize legally.

That's to say, if you haven't really stopped that flow of illegals in and that ready illegal workforce continues to be there, there will be some who will say, I'll just go underground and not participate in the system at all. That wouldn't be in the interests of tax administration. So you really have to solve this and stop that flow with enforcement at the border and strong interior enforcement as well, also with appropriate -- an appropriate legal workforce, which I think the president is trying to work towards as well, sir.

REP. NEAL: Good. The Senate bill disallows workers attempting to obtain legal status of the ability to file for a refund on over withheld taxes. Who would receive that excess tax revenue?

MR. EVERSON: Well, I think that would stay in the -- obviously in the Treasury. I haven't commented on this, but there are two points, there are two points here. One is the denial of the participation with certain credits, like the ITC. And that is, as your colleague, Mr. Becerra was saying, that's consistent with the denial of other benefits to illegals.

I am somewhat troubled with the specific provision you mentioned. If our goal is to have people get current with their taxes, if they do that, I'm not quite sure I understand the basis for saying that, you got current, you happen to be over withheld and you can't have that back. Because once you've evened out, you've fulfilled a tax obligation, I think the intent of what the Senate is trying to do is to say everybody should have fulfilled that obligation. So I think we ought to think about that one provision.

REP. NEAL: Are there any other groups of workers who are barred from filing for refunds of over withheld income taxes?

MR. EVERSON: I'd have to consider that more carefully, but I think the joint committee staff paper makes it clear that this is an aberration.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. NEAL: Okay.

Thank you, Mr. Chairman.

REP. MCCRERY: Ms. Hart.

REP. MELISSA A. HART (R-PA): Thank you, Mr. Chairman.

I want to thank the panel for coming before the committee, and your testimony actually demonstrates for us part of what the problem is with a behemoth government, and that is obviously that each of you are not in complete sync with the other in ways we can all get together and help enforce our immigration laws.

And that's not a criticism of you, it's obviously something that we need to focus on to help you do better, and we fully intend to do that. This sharing of information I want to address right upfront. Taxpayer information sharing, obviously between the Department of Homeland Security and the IRS. And I'm interested in your comments about the Senate proposal, because it permits the sharing of taxpayer information with the DHS.

I want to know, first of all, does the IRS have any concerns with that sharing on a limited basis with DHS?

MR. EVERSON: As I've indicated in several of the conversations, we do have concerns. But there are 50 exceptions to 6103. So the Congress very clearly takes a look at the broad prohibition, and then acts from time to time to allow that information sharing. It will have to be done properly. And again, I believe it should only be done if we can achieve a real reform, a comprehensive reform of our immigration laws.

If that's no the case and we haven't fixed our immigration system but we have tinkered with the tax administration system, you could have problems. I'm not saying don't do this, I support what we're trying to do here --

REP. HART: But in a comprehensive way.

MR. EVERSON: But I say, in a comprehensive way and with all the safeguards. There are standing protections now that are very important. When the IRS shares taxpayer information, we regularly audit the other agencies that have the information, be that a state tax system or another federal agency. That needs to be done.

REP. HART: That's fair.

I have very little time and I want to jump to Ms. Myers. Does the Department of Homeland Security have ideas or a mechanism now that they're using that kind of information that's accessible on a limited basis?

MS. MYERS: Well, right now, Congresswoman, we have access to the information on a case-by-case basis. And so sometimes we'll be working on an investigation for over a year and then Social Security Office of Inspector General joins in and then they're able to share that information with us.

And so it's very frustrating to us, we waste a lot of time where we could really target things upfront if we had this information in a more regularized fashion. We do -- oh, go ahead, I'm sorry.

REP. HART: Does the Senate proposal actually satisfy what you believe would be a good model for that sharing?

MS. MYERS: The Senate proposal we think goes a long way and takes us much further than where we are now --

REP. HART: So there's something good in the Senate proposal?

MS. MYERS: We'd be perfectly happy to kind of work with that and to continue to work with the Social Security Administration.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. HART: Okay. I want to yield 30 seconds to my colleague, Bob Beauprez, and then I'm going to come right back.

REP. BEAUPREZ: I thank the gentlelady, my good friend and colleague, for yielding.

I assume Ms. Barnhart is the right one to answer this question. I'm confused about Basic Pilot and the Social Security Administration's Number Verification Program. As I read them, for employers who want to verify especially new employees, Basic Pilot is the appropriate program. The NV program looks to me like it's got all kinds of signals on it that you should not use it because of privacy violation concerns.

Can you clarify for me? Because my state is one of the states who's looking at trying to give employers very clear direction as to how live better within the law.

MS. BARNHART: Actually, thank you for that question. We are constantly promoting the Social Security Number Verification system, as a matter of fact. We are trying to urge as many employers as possible to use it, and the usage has grown fairly dramatically in the last couple of years. It's only been around for about two and-a-half years and open to all employers.

The caution is that we are not allowed under the law to verify name and social security number until the person is hired. I believe that is the cautionary thing you were talking about.

MR. : That's exactly right.

REP. HART: And that's --

MR. : I yield back --

REP. HART: That's the issue.

MR. : -- to the gentle lady from Pennsylvania.

REP. HART: Thanks. I have a quick question actually and it's more or less -- I'll throw it quickly to the panel in general. There have been a lot of discussions about what we need to do to help fix the immigration system among my colleagues, informally, formally, proposals, you name it. One of the things that's been tossed out there, and I don't necessarily endorse it is that we end birth right citizenship in the United States, and I am interested in any feedback I can get, especially probably from the two gentlemen on the ends. If you believe your agencies are burdened because we have birth right citizenship, you know, as a result of these -- sorry, I see my time is limited. Can I have another second for them to answer? Okay, thank you, I appreciate that. Gentlemen, if you could quickly?

MR. : Well, if you look at -- first of all, I operate within a block grant environment, and so when -- if caseloads go up or down you still -- states get still the same amount of money in a block grant environment. Of the 1.9 million families on TANF a relatively small percentage of them are in child only cases where there is a -- where a U.S. citizen born child whose parent that they're residing with is illegal, we don't know the precise percentage because if the adult is not applying for assistance the adult is not required to provide proof of immigrant status.

REP. HART: Okay.

MR. : So a large -- it's unknown the percentage that -- we don't know their immigrant status where they're not part of the assistance unit, we don't know whether that's because their legal permanent residents under the five year bar or they're illegal immigrants.

REP. HART: Thank you.

Dr. Gustafson, are you familiar with any cases that you could --

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MR. GUSTAFSON: No, I don't really have anything to add.

REP. HART: Okay. But you do have under your agencies and under your jurisdiction benefits that actually are applied for by parents for children directly?

MR. GUSTAFSON: Well, it comes as part of the Medicaid program, and basically the benefits flow as a by-product of the welfare programs.

REP. HART: Okay. So it's pretty hard to measure?

MR. GUSTAFSON: I would believe so, yes.

REP. HART: Because on the state programs parents can apply for, for example, all kinds of assistance where they don't get any but the child --

REP. McCRERY: If the gentle lady would -- Mr. Everson, if you'd like to submit a response in writing --

REP. HART: If any of you have further responses we'll have it in writing, and I thank the chairman for his indulgence.

REP. McCRERY: We have two more members who would like to inquire and I'd like to get that before we leave.

Mr. Doggett.

REP. LLOYD DOGGETT (D-TX): Thank you, Mr. Chairman, and I would offer my sincere thanks for your comments. I know that the committee asked you to appear and you've been kind enough to appear, and we will benefit from your insight. My comments don't go to your role as individuals but to other failings of this administration and this Congress.

Of the many bizarre hearings I've been at in this room I think this one ranks fairly near the top. This committee played absolutely no role in the passage of the immigration bill that passed through the House. It was not referred to this committee. I think there have been some occasional hearings about the impact on social security not directly related to this bill. The bill that passed the House was a narrow impractical bill that will not address this problem, and it would not have passed the House without the vote of almost every republican on this committee.

The Senate passed a bill that dealt with this problem, and while it is an imperfect bill it appears to be a more comprehensive way of approaching the problem. I'm pleased that the president has belatedly endorsed it, though his administration also seemed to have kind words to say about the initial House bill. Now, I think any high school civics class member in Austin, Texas, would know that when the House passes a bill and the Senate passes a bill there is a way to resolve the differences if the administration and the Congress has the slightest interest in addressing this problem, and if it has any degree of the urgency that your testimony suggests that it does, and that's to convene a conference committee to adjust the differences between the House and the Senate. One of the first things you learn in understanding the legislative branch in high school civics.

The House has chosen not to do that. The Bush administration is in year six of dealing with this problem, or in fact not dealing with this problem, and so today's hearing while insightful and interesting and of some academic importance has very little relevance to whether or not we will see an immigration bill passed in this Congress, and apparently it is the intent of the House leadership which took such a narrow backward and impractical approach to immigration that it doesn't plan to do anything except use this for political purposes, and that would be consistent with the way the House has handled this issue in the last couple of years.

As we have heard in earlier questions, instead of having more border patrol officers we're going to turn our emergency room nurses into border patrol officers. Instead of having more border patrol officers we'll turn our bank tellers into border patrol officers. Instead of having more border patrol officers we'll turn our local police, who need

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

the confidence of every one in their community to be able to prosecute garden variety murders, rapes and robberies, we'll turn them into border patrol officers.

The problem is that this Congress back in 2004 approved 2000 additional border patrol officers, and this administration said, no, we don't need 2000, 210 will be enough. The problem became so serious in Texas that my republican colleagues in the Texas delegation, including two in this committee, wrote to the administration last September and said there was an emergency, a crisis, in Texas because the administration had taken our border patrol officers and transferred them out to Arizona.

This administration has come on board about this problem too little with none of the so-called political capital that the president claimed he had applied in a consistent manner to try to work out a solution. And so while I appreciate your comments, given the phony solutions and the whole phony situation that has been set up about immigration reform, I'm not sure they're going to advance us much closer to an answer that will make any difference in the lives of the people throughout America.

I represent the largest border section along the Rio Grande River in Texas of any member of Congress save one, and I can tell you that there is a broad consensus along that border where they're talking about a republican banker, a democratic farm worker or an independent small business person that there is a total lack of understanding of the realities of the border, and that many phony solutions that are being advanced like the ones I mentioned as well as more formal policies like the western hemisphere traffic or trade analysis, trade initiative, WHTI, that they are counter-productive to our local economy, that they will undermine our local economy and prevent legitimate business transactions and customers coming from Mexico to share, invest and contribute as they have in a very significant way.

As to the real comprehensive solutions, I will ask you if all of you agree that if the Senate bill with imperfections that it has were passed in its current form if you agree that it is actually a revenue raiser, not a revenue cost, according to the analysis that the Congressional Budget Office and others have done of the Senate bill.

REP. McCRERY: I thank the gentleman for his testimony.

REP. DOGETT: I have a question, if --

REP. McCRERY: The witnesses may present their answers in writing. Ms. Tubbs Jones, if you'd like to inquire, I'd like to get it in the next panel. We have one more panel of two witnesses and I'd like to get them in so they don't have to wait through the entire series of votes. Ms. Tubbs Jones?

REP. STEPHANIE TUBBS JONES (D-OH): Mr. Chairman, thank you very much.

Let me begin please with you, Mr. Horn. In my colleague, Ms. Hart's, question there was the implication that children born of illegal aliens in the United States -- illegal aliens, listen to me -- illegal immigrants in the United States of America cause a burden financially on the United States of America, can you tell me how much money there is that is paid to children born in the United States of America who are illegal immigrants, whose parents are illegal immigrants?

MR. HORN: We wouldn't know that because states are allowed the flexibility to provide different levels of benefits. All that we know is the number of children who fall into that category.

REP. TUBBS JONES: Well, can you tell me how many children there are then, sir?

MR. HORN: Yes, approximately 152,000 families are in child-only cases in which they reside with a parent have either unknown citizenship or alien status where the child is receiving a benefit and the parent is not, but not all of those cases are going to be -- not even all of those will be in the category that you're suggesting because someone may just simply refuse if they're not applying for a benefit to say whether they're a legal -- whether a U.S. citizen or an immigrant, in which case they would still fall --

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

REP. TUBBS JONES: Well, they're not applying for a benefit. We're not paying them money.

MR. HORN: We are paying a benefit on behalf of the child, the U.S. born citizen child, but not the adult, yes.

REP. TUBBS JONES: Right. So it is a small number in comparison what we pay for other children -- excuse me. Have you estimated how many illegal immigrants that are in the United States, even though you gave me this, I don't know, I'm sure that at some juncture the United States government has contacted every state in the United States of America and asked them to assess how many people are receiving some type of benefit that may be children of illegal immigrants.

MR. HORN: Under the TANF program?

REP. TUBBS JONES: Any program.

MR. HORN: Well, the only thing I could speak to would be the TANF program.

REP. TUBBS JONES: Under the TANF program then, sir.

MR. HORN: We have --

REP. TUBBS JONES: If you haven't done it I would suggest that you do. It makes -- it only makes sense to me if you're going to figure out numbers of people in the United States not receiving that information. I'm going to lose a lot of time with you, Mr. Horn. It would make sense. Wouldn't it make sense?

MR. HORN: The state wouldn't be able to tell us, and the reason they wouldn't be able to tell us is because they -- you cannot deny a child --

REP. TUBBS JONES: They can tell you how many people say they're not legal immigrants, right, or assess that? Where do you come up with the number of 152,000 if you can't -- if they don't tell you?

MR. HORN: Because some of them are legal immigrants who are under the five year bar. Some of them are --

REP. TUBBS JONES: Okay, tell me this. How many legal immigrants under the five year bar are families that are receiving money? Can you tell me that question?

MR. HORN: 37,000.

REP. TUBBS JONES: 37,000. Then of those 37,000 have you ever contacted the state to find out how much money is being paid for those 37,000 families?

MR. HORN: No.

REP. TUBBS JONES: Would you do that for me please and get back with me? I think it would help us determine how much money we're spending nationally. You shake your head. I want to know. Okay? Could you do that?

MR. HORN: There are limitations under the statute of what we can ask states to do under this program.

REP. TUBBS JONES: Mr. Horn, do what you can.

MR. HORN: I will do what we can.

REP. TUBBS JONES: Thank you.

Let me go to Ms. Myers. Ms. Myers, I recall you making a statement that -- with regard to prosecution. I lost my piece of paper. How many -- with regard to criminal prosecution of companies. How many criminal prosecutions have you done?

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

MS. MYERS: This year we've had 445 criminal arrests through June 30th.

REP. TUBBS JONES: And who was arrested? Are these owners of companies?

MS. MYERS: It varies. In some cases it was owners, managers. In some cases we had illegal aliens who were also crew leaders who brought people in. In some cases they were also criminal arrests of illegal aliens on work sites, so it's kind of --

REP. TUBBS JONES: Of those 445 how many of them emanate from this year? The original charge was brought this year?

MS. MYERS: Those are all this year. Those are all this year, congresswoman.

REP. TUBBS JONES: Now, previously we've had testimony that only three companies in the United States of America in the past few years have been charged with failing to provide appropriate notice with regard to use -- failing to provide the government social security numbers for people, accurate social security numbers.

MS. MYERS: Congresswoman, I think the number three that you're referring to reflects numbers of companies who were given a notice of intent to fine, and that's a civil -- that's a civil penalty system. We have shifted from that civil penalty system because we think that's not the place to bring criminals --

REP. TUBBS JONES: Okay, I understand what you're saying. So now previously of the ones that we only do three civilly, how many criminally do we do? Companies. I don't want to know all the other legal residents.

MS. MYERS: Well, in terms -- what I can tell you is that this year we've done 445 criminal arrests.

REP. TUBBS JONES: How many are companies, ma'am?

MS. MYERS: It's a mix of employers, crew leaders. I can get you that in writing, the breakdown.

REP. TUBBS JONES: Could you do me a favor? Could you do me a favor? Could you send me a notice of how many are companies? I don't want to know about the workers.

I want to know about the heads of companies that you have charged for failing to appropriately provide information with regard to their workers, particularly with regard to their social security numbers. Could you do that?

MS. MYERS: Absolutely, yes. Just yesterday, by the way, we had -- there were two --

REP. McCRERY: Ms. Myers, if you could get that to Ms. Tubbs Jones in writing that would be appreciated.

REP. TUBBS JONES: I think all the committee might like to hear it. Thank you, Mr. Chairman.

REP. McCRERY: That would be great. Yes, thank you very much for your testimony and for your patience today and answering all our questions.

We have one more panel. Michael Fix and Dr. Camarota. If you all would come forward. Members, we have about two or three minutes left on the clock to vote. We're going to recess the committee while members vote. We will return I hope in about 15 minutes. The committee is in recess.

(Recess)

REP. McCRERY: -- (In progress) -- Migration Policy Institute, and Dr. Steven A. Camarota, director of Research, Center for Immigration Studies. Gentlemen, welcome. Mr. Fix, we'll start with you.

MR. MICHAEL FIX: Thank you so much, Mr. McCrery.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

It's a great and somewhat daunting privilege to appear before you today. My name is Michael Fix, and I am the vice-president and director of studies at the Migration Policy Institute, a non-profit and non-partisan research organization here in Washington. You have a copy of my rather tardily prepared testimony so I'll simply summarize my main points, if you will.

First, I would say that it's an often overlooked fact that the fiscal costs of providing many means tested benefits to new or legalizing immigrants are going to be circumscribed by restrictions imposed by the 1996 welfare reform law, which as we've heard barred new legal immigrants from receiving SSI, from SCHIP, from Medicaid, from TANF, and food stamps.

The second point I would make is that the exacting demands that are written into proposed reform legislation and in combination with welfare reform policies are likely to forestall legalizing immigrant's eligibility for means tested programs for some time. CBO estimates until 2020. However, tax payments, including substantial potential payments for back taxes by the end document if they legalize would flow far sooner under the plan.

My third point is that while the public and the media often believe that immigrants are swamping benefit programs, as Figure 1 on page 4 in my testimony indicates, research at MPI, along with the Urban Institute, where I was formerly, indicates that low income legal non-citizen immigrant families with children actually use TANF, actually use food stamps and SSI at lower rates than their citizen counterparts, and that their use rates have fallen substantially over the course of the past decade.

Medicaid expenditures, if you look at that chart, follow a different path, in part because of what could be considered policy successes. I mean, there was strong outreach under the SCHIP program in the late 1990s to provide care to low income children. And partly, I think, as a function of pull backs in private insurance among many employers of low wage immigrant workers in particular, and all low wage workers in general.

My fourth point, as Figure 2 on page 5 of my testimony indicates, is that I would suggest that if you look at the settlement patterns of immigrants observed during the 1990s, which is essentially away from states with generous eligibility programs for immigrants on that map -- they're the blue states, and most notably California. Their settlement pattern has moved to high growth states such as Georgia, Tennessee and Colorado, which are shown on the map in red and frosty red colors.

Which indicates basically that these flows are labor driven and not welfare driven ones. My fifth point that I make in my testimony is that many commentators suggest that the new wave of immigrants are not going to experience the same kind of mobility as their predecessors, but as Figure 3 on page seven of my testimony shows, cohorts of immigrants who are in the United States for 10 years or more, which are the blue bars, had substantially higher incomes than those who'd been in the United States for less than 10 years, the yellow bars.

And we see that phenomenon reproducing itself when we decompose the immigrant population into refugees, they show great growth, into legal immigrants, you see substantial growth, and naturalized citizens, you see substantial growth. The incomes and the gains, though, among undocumented immigrants were far lower.

Taking a longer view of this question of mobility, at the MPI we recently commissioned a study by Roger Waldinger of UCLA, who found substantial -- and I think this is important -- intergenerational gains along almost all measures of economic progress that he examined, including, as Figure 4 on page (sic) indicates, incomes. And you see this for all broad immigrant groups studied, including Mexicans.

Sixth, and I guess my final empirical set of points go to the fact that income gains are of course linked to the payment of taxes, we've had a lot of discussion of that today. A variety of researches have documented the tax contributions that immigrants make, including Steve Camarota, but here I just want to highlight a recent study of taxes paid by immigrant households in the Washington metropolitan area that we conducted with the Urban Institute and with the Hispanic Research Organization.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

And what we found was that all households, including households led by the undocumented, pay substantial taxes. Tax payments of the region's immigrant populations were proportional to their share of the population. That is to say they make up about 18 percent of the regional population and they pay about 18 percent of the taxes.

Like income, the taxes again varied by legal status, with the lowest paid by the undocumented. In part, we estimate, as a function of compliance rates. And the results suggest to us that some form of legalization, whatever the norms around it, that mandates full tax compliance would lead to higher tax yields. Yields that would be felt immediately and not down the road, like most benefit costs. And reform legislation, like that passed by the Senate, also would raise the caps on skilled legal immigrants who are also likely to contribute and to boost tax revenue as well.

Mr. McCrery, I'm aware that these are only pieces of a much larger physical and still larger economic puzzle that surrounds this complex debate that we've heard today. For example, we found that immigrants are more likely than U.S. natives to be self employed, that immigrant entrepreneurship creates jobs and boosts tax payments in ways that many accounts don't capture.

The foreign-born population's willingness to follow jobs to other states and localities makes the U.S. economy run more efficiently, and high skilled immigrants innovate in key sectors of the economy that are very difficult to measure. But I would submit, though, that even if we limit our discussion to tax payments and benefits use, the trends that I've discussed here offer I think a realistic antidote to some of the most gloom and doom scenarios that we've heard in this discussion.

Thank you very much for your attention.

REP. McCRERY: Thank you, Mr. Fix.

Dr. Camarota. Or Camarota?

MR. STEVEN A. CAMAROTA: Camarota.

REP. McCRERY: Camarota.

MR. CAMAROTA: I'd like to thank the committee for inviting me to testify. My name is Steven Camarota, I am director of research at the Center for Immigration Studies in Washington. All of my comments can be found in detail at our website, CIS.org.

When it comes to immigrants and public coffers, there is a lot of agreement -- in fact, overwhelming agreement, that their fiscal impact depends largely on the education level of the immigrants in question. While other factors also matter, immigrants with a lot of education tend to pay a lot in taxes and use relatively little in services, while those with little education tend to have low incomes, pay relatively little in taxes and often use a good deal in public services.

In the case of illegal aliens, the public services are typically received on behalf of their U.S.-born children. Now, it should be pointed out that the fiscal drain that comes from less educated immigrants is not because they come to get welfare. In fact, use of cash assistance welfare programs is irrelevant to this debate. It's Medicaid, it's the food assistance programs, particularly WIC and Free School Lunch, where their use rates tend to be quite high.

Nor does the fiscal drain from unskilled immigrants come from an unwillingness to work. Legal or illegal, they mostly hold jobs. It is simply due to the fact that there is no single better predictor of one's income, tax payments or use of public services in the modern American economy than one's education level.

Now, all research shows that the vast majority of illegal aliens have very little education. It's estimated that some 60 percent of illegal aliens have not even completed high school, another 20 percent have only a high school

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

degree; that is, no additional schooling. Thus, the people who will be legalized under the Senate bill have significant negative fiscal implications.

One of the most detailed studies of the fiscal effects of immigration ever done was done by the National Research Council, it's called the New Americans. It found that the lifetime drain on public coffers from an immigrant who comes to America without a high school degree is negative \$89,000. That is, he'll use \$89,000 more in services than he pays in taxes in his lifetime.

The drain for an immigrant who has only a high school degree in his lifetime is \$31,000. However, an immigrant with education beyond high school is a net fiscal benefit of \$105,000. Again, educational attainment is the key to understanding fiscal effects.

Now, the fundamental problem with the Senate bill is that it ignores this basic insight. My research shows that in 2002, illegal alien families used \$26 billion -- or imposed, I should say, \$26 billion in costs on the federal government. But it's important to know that they also paid about \$16 billion in taxes for a net drain of \$10 billion at the federal level.

However, I also find that if illegal aliens were legalized and they began to pay taxes and use services like households headed by legal immigrants with the same level of education, the fiscal costs would explode to \$29 billion net drain. That is, the difference between what they pay in taxes and sue in services.

To understand why this happens, it might be helpful to look at a particular program like the earned income tax credit, which goes to low income workers. Right now I estimate that illegal aliens account for just 1.5 percent of that programs' total cost; a very small share.

But if they were legalized and had the income of legal immigrants with the same level of education, the cost of that program would increase 10-fold. Again, this dramatic rise in cost is not due to laziness or a net lack of work. In fact, only those who work get the credit. It simply reflects their education level.

Now, let me shift my comments very briefly to Social Security and Medicare. I've estimated that illegal aliens pay into those two systems and create a net benefit for those two programs of \$7 billion a year. But it makes little sense to focus just on those two programs, because illegals create a net deficit of \$17 billion in the rest of the federal budget, for a total net drain of \$10 billion.

Again, the benefits to those programs that should also be pointed out would largely disappear upon legalization. The benefit comes from the fact that they pay and don't use. But again, that's probably not the way to think about the program, since they create such large problems for the rest of the federal budget.

Now, speaking more generally of Social Security, it's very important to note immigration has only a very small impact on the aging of American society, mainly because immigrants age like everyone else and they don't have that many more children than everyone else, though they do have somewhat higher fertility.

The Social Security Administration's projections show that the dollar value of the Social Security deficit would increase by just 6.6 percent if net immigration was 350,000 a year versus 800,000 a year over 75 years. Put simply, an extra 34 million immigrants over 75 years has only a very tiny effect, and it's not even clear that this small net gain for Social Security even exists, because the Social Security Administration assumes that immigrants will have exactly the same incomes as natives immediately upon arrival, which is contrary to a very large body of literature.

It also ignores the fact that we have something called the Earned Income Tax Credit, again, which is explicitly designed to refund people some or all of their Social Security payments. My own research suggests that legal immigrants are almost twice as likely to get this program as natives. As a general proposition, immigration is largely irrelevant to the Social Security system because it has such a tiny impact on the aging of American society.

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

The bottom line is this. The Senate bill has large increases in legal immigration and is supposed to legalize some 10 million illegals. For the most part, the bill does not attempt to select new immigrants based on their skills and skills are also irrelevant to the legalization of the illegals. And there is the fundamental problem. If you take nothing else away from my testimony, it is simply this; it is not possible to fund social programs, including those for retirees, with large numbers of immigrants with relatively little education. Unfortunately the Senate bill ignores this basic common sense.

Thank you.

REP. McCRERY: Thank you, both, gentlemen, for your testimony.

You both spoke primarily about identifiable fiscal effects on the federal government. But what about a bigger economic effect? I hear quite often and read that these illegal immigrants are filling jobs that nobody else in this country will do and that the agriculture industry really needs these workers to go in fields and gather the crops, that the service industry really needs these workers to fill the jobs in the service industries, whether it's hotels or restaurants, that services for landscaping need these, and on and on and on.

Is that true, if either of you have any research on that or an opinion on that?

Microphone.

MR. FIX: Well, I think it's definitely true that there's a demand for the labor in these low wage occupations, low skill occupations. There's been an explosion in the numbers of people working in the low wage service sector. Agricultural workers have not declined significantly, as was expected. We didn't think we'd have 2 million fruit field workers, you know, 20 years ago, when we were thinking about the future.

So there's obviously a big demand here, and it's not met at any level with the number of legal visas or legal opportunities to enter, that is in any way commensurate with the number of jobs in the sector. And you've raised another -- suggested another point which is very important, which is that you have to step back from just the -- to think about the merits of a Senate bill, you have to think -- the fiscal impacts are very important, and I wouldn't discount them.

But the fiscal -- you know, as Gene Steuerle, a tax economist at the Urban Institute points out to me all the time, that, you know, the public sector represents about 10 percent of the total economy, and a lot of the contributions of these populations are -- even though they may produce a deficit in the -- a fiscal deficit, their larger economic impact may look really rather different.

MR. CAMAROTA: Let me answer it a couple of ways. One is that the most definitive study done on the economic benefits of immigration was done by the National Research Council, part of the National Academy of Sciences. That report's called the New Americans.

What they found was, look, you add more workers, the economy's bigger. But is it richer? The impact on natives was mainly to drive down the wages of the poorest 10 percent, but the benefit to natives was so small, they could barely measure it. One-tenth of 1 percent. You can't add lots of unskilled workers to an economy like ours which is mostly made up of skilled workers and capital and get a big economic boost.

And so what the lead author in that report, George Borjas at Harvard, who did the economic analysis for the National Research Council, pointed out is that the benefits that come from immigration would appear to be miniscule for natives but huge for the immigrants themselves, and that's something to think about.

What's happening generally in the U.S. economy is native-born Americans, who would compete at the bottom end of the labor market -- these are natives, the 16 or 17 million native-born Americans who don't have a high school education, and then there's about 10 million young natives who have only a high school education but they're in

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

their 20s, they have been dropping out of the labor market in droves. In just the last five years, 3 million fewer of those people hold a job.

The actual number of these people in the working age groups has gone up, but natives with little education have been leaving the labor market in droves. And these are precisely the kind of people who, until very recently, worked in construction, worked in food service and worked in hotel and restaurant maintenance.

In fact, the vast majority of workers in all those occupations are still native-born. When more educated and affluent people say, illegal aliens only take jobs Americans don't want, what they really mean is, they take jobs that I don't want as a more educated and affluent American, since the vast majority of people who do those jobs are native-born and their wages are down, their unemployment is up and their workforce participation has also fallen.

Things look very bad for less educated natives. All the objective economic evidence suggests that there simply is no shortage of high school drop outs in America or young people with only a high school degree.

REP. McCRERY: So if all of the illegal immigrants that are here were found and deported, you have no concerns that we could find the workforce to fill all these jobs?

MR. FIX: In fact -- I'm sorry, in fact the number of U.S.-born drop outs has been dropping quite rapidly over the years. And if I could add to that, there -- the most -- there is very little literature. We've just done a review of this, I have to say there's very little literature that supports a strong competitive wage effects. It's quite contested literature, but in the main these strong competitive effects are not found.

MR. CAMAROTA: What Mr. Fix is referring to is literature that tries to look at wages. You know, if you have lots of immigrants, does it seem to reduce wages?

I think the evidence on that -- we disagree on the literature. I think it's pretty significant, but it's confined to the poorest and most vulnerable American workers. But the bottom line is this. If there is no wage effect, then there is no economic benefit. You cannot argue that immigration creates large economic benefits for the United States, but wages in hotels and construction and so forth are exactly the same with or without immigrants.

You can't have it both ways. You can't be a single married man. Either immigration saves consumers a lot of money by holding down labor costs or it has very little or no effect on wages. If you say it has no effect on wages, then you're saying it has no significant economic benefits for everyone else, because businesses could do the same with or without them, is what you're saying. Their presence isn't having an effect.

In terms of, could we get rid of them and be okay? Yeah, I think we could. Look, it wouldn't happen overnight. As I understand the approach in the House bill, it's attrition through enforcement. Go after the employers, police the border, get the cooperation of local law enforcement and over time make many more illegal aliens go home on their own than come in. So that's the idea.

So even if there is any temporary disruption, it happens gradually. And there are millions -- let me just give you a statistic. There's 7 million native-born Americans of working age who don't have a high school degree, who aren't even in the labor market. There are something like 13 million natives of working age who have only a high school degree who aren't in the labor market. And these figures don't even include the unemployed.

REP. McCRERY: So why would they enter the labor market?

MR. CAMAROTA: Well, my contention would be in the absence of immigration, wages, benefits and working conditions would improve and we would expect that a larger share would go into the labor market.

Look, there's no such thing as a job Americans don't do, depending on the wage. When I worked in farm work in New Jersey 20- some years ago, that job paid over \$7 an hour. Adjusted for inflation, it would have to be over \$16

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

an hour today. Farm jobs pay, generally speaking, \$8 to \$12 an hour. There's been a significant decline in wages in the farm sector in the last 25 years. That's strong prima facie evidence there is no labor shortage.

REP. McCRERY: Well, there's a reason that I didn't study economics. You two are illustrating that quite well. I think you've just used both hands.

But anyway, just talk about -- I mean, I agree -- I don't think there's anyone who disagrees with Dr. Camarota's -- one of Dr. Camarota's principal themes, which is, given a choice, we'd rather have immigrate to this country people with higher educations. Clearly there's a bigger bang for the buck, so to speak, if we get a highly educated immigrant, a scientist, an engineer, than an immigrant with very little formal education.

And I'm hopeful that when we do get a comprehensive immigration policy reform in this country -- and I think we will, we have to -- we're certainly going to invite more highly skilled, highly educated immigrants to join us in this country. But I think it's a real question, and demonstrated by your conflicting testimonies and opinions, as to whether we should close the door on lower skilled, lower educated immigrants.

So if you would just kind of sum up, Mr. Fix, you talk about the ripple effects through the economy of immigration, positive impacts. Can you just kind of talk about that a minute?

And then, Dr. Camarota, if you want to respond about any negative ripple effects?

MR. FIX: Yeah, I would simply reiterate a number of the statements that I made earlier, that when you look at these cost accounts of the impacts of immigration on the economy, one of the problems is that they simply don't -- they can't take into account a couple of things.

First of all, entrepreneurship and the spillover effects of job creation that immigrant entrepreneurship generates. We know that immigrants are much more likely to be self employed than natives. As well as the tax effects of entrepreneurship. I think another piece of the puzzle which is often left out is the consumption of immigrants. We forget that immigrants spend a lot of money and their money ripples through the economy and creates jobs, creates jobs for natives as well.

Immigrants are more mobile than our natives and they move to jobs, and by moving to jobs, they make the economy more fluid and they make it more productive. And then finally, the point that you've just made, I just want to underscore the point that you've made, that high skilled immigrants are incredibly important to the economy and to the productivity of the economy, and in particular to innovation within the U.S. economy.

In terms of low skilled immigrants, I think we have to be -- you know, I think we have to be realistic. Our economy is structured in many ways so that it needs lots of low wage, comparatively low skilled workers.

It would be good if we could manage that supply, manage that flow, this is a global flow and we should regulate that flow.

And if we do regulate that flow, perhaps we can move to higher wages, as Steve has suggested. But to just ignore it, that these people are going to come and these jobs are going to be created and that we can kill them out through attrition I think is -- I don't think it's realistic at this stage in the game. Thank you.

MR. CAMAROTA: Well, let me answer it this way. If the argument is, look, we just can't enforce our law. People want to come to America and quite frankly it doesn't matter what this Congress -- if we want to let a million legal immigrants a year but another million foreigners want to break our laws and come, tough. We've got to accept that.

I would urge Congress to reject that fundamentally anti- democratic position. It is we who decide how many come in and then we enforce the law. We don't say, well, look, the willingness of foreigners to break our laws really

HEARING OF THE HOUSE WAYS AND MEANS COMMITTEE SUBJECT: IMPACTS OF BORDER
SECURITY AND IMMIGRATION ON WAYS AND MEANS PROGRAMS CHAIRED BY: REPRESENTATIVE
WILLIAM

should be the key determinant. Another million want to come on top of the legal million that we let in? We've just got to let them in.

I think that is a fundamentally undemocratic and a very dangerous argument to go down in a democratic republic. We decide how many come in and then we enforce. And if we want 2 million, then we should have 2 million a year instead of the 1 million. On the question of entrepreneurship, let me say, I believe Michael and I just have a fundamentally different review of this.

I think all the literature shows that now natives have slightly higher self employment rates than natives (sic). The current population survey shows this, the census shows this. For example, the 2005 current population survey showed that 11 percent of immigrants were self employed and 13 percent of natives were self employed. It is true that historically immigrants once had a higher entrepreneurship rate, that is no longer the case.

So on this point I guess we disagree, and it hasn't been true for a number of years now. Immigrant entrepreneurship has fallen a lot, partly because the education level of immigrants relative to natives has deteriorated. But on a larger question, let me sum up this way. When the National Research Council looked at this question, again, they found the economies bigger, the immigrants benefit, but the benefit to natives appears to be so small that they could barely find it.

One-tenth of 1 percent increase in the income or per capita GDP of natives. You can't get a big boost to the U.S. economy by increasing the supply of unskilled workers, and that's the big effect that immigration has on the U.S., because fully one-third of all the foreign-born in the U.S. have not completed high school.

REP. McCRERY: Well, thank you both for your testimony and your patience today.

I would just say, Dr. Camarota, that we're -- I don't think anybody's suggesting that we not enforce our laws. What some are suggesting is that we change our laws and we change our underlying policy, and I think that's a legitimate area for the Congress to explore, that's what we do. So we're certainly not suggesting that we not enforce our laws, but maybe we need to change our laws to accommodate more immigrants or a different mix of immigrants or whatever.

But clearly we need to be able to enforce our laws, and that's certainly part of the equation, protecting our border, being able to enforce our border is certainly part of the overall equation. But then I think we also have to look, as the president has suggested, at the other parts of the equation, which would include the mix of immigrants, the overall number of immigrants that we would like to join us here, and those are the questions that we're trying to explore.

And yes, we do need to know the impact of those various proposals for change on the Social Security system, on the other benefit programs, and that's why we appreciate your coming today and your sharing with us your expertise on those issues. So thanks very much.

The hearing is adjourned.

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