

## Charging More for Immigration Closing Financial Loopholes in the U.S. Migration Process

By David North

“Why not a cover charge?”

— Jon Stewart, February 1, 2010, regarding the nation’s fiscal woes

### Summary

The U.S. Government, fighting two wars and one huge recession, badly needs additional revenues to move toward a balanced budget.

Meanwhile, migration to (and, to a lesser extent, visitation of) the United States offers remarkable financial benefits to the individuals involved and these visitors are not currently paying their fair share to the U.S. Treasury. The following package of revenue-raising proposals would close many of the existing financial loopholes that silently hurt all of us.

While I do not think that massive, loosely controlled international migration, particularly illegal migration, is a good idea, the nation could secure considerable additional income from this process until migration can be better managed. The proposed extra federal funds, if all the elements were implemented, would total more than \$5 billion annually for the Treasury. (See Tables 1 and 4.)

One premise behind this proposal is that some migration/visitation transactions are currently covered by adequate fees (such as some of the application fees paid by legal immigrants and non-immigrants), other transactions are not taxed at all (such as crossings by people and vehicles over the land borders), and a third group are taxed much too lightly (i.e., the fees connected with the immigrant investor and the H-1B programs).

Another premise is that all of these transactions should be regarded as potential sources of revenue and should be tapped accordingly. The current fee structure, where it exists, is designed *not* as a revenue-raising system, but simply as a way to finance the costs of, for instance, issuing visas to tourists. (The charges described in this paper all relate to the movement of persons, not commodities, which is a totally different subject.)

The third premise governs the size of the proposed fees. Most are designed to lightly tax existing transactions (such as charging border-crossing pedestrians a quarter at a turnstile) without reducing the number of such transactions, but a few others, such as a substantial fee to corporations with H-1B workers, may diminish such transactions, which would be fine.

The last premise is that these new or enhanced fees are designed primarily to fall on nonresidents of the United States, but in some instances (such as border crossers) both citizens and non-citizens will pay. In these instances, it is both fair and more efficient to charge the same quarter, for instance, to citizen and non-citizen pedestrians alike.

Generally, newcomers to the United States, whether investors or, more likely, blue collar workers, probably should see themselves as members of a forgetful country club, or union, in which the organization largely failed to collect its dues. The following revenue proposals are a remedy for that.

### I. Rationale for the Proposed Program

As everyone knows, the government of the United States is deeply in debt, and is headed toward huge annual deficits in the years ahead. There is no need to either document this point, or to dwell on it.

While the most obvious and discussed financial need of the government is either more income or less out-go or some combination thereof, there also may be a need in the not-so-distant future for additional supplies of borrowed funds, particularly if China should decide to invest a smaller portion of its profits in U.S. bonds. This revenue proposal is designed, in part, to create some relatively modest, but continuing, programs to give the

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Treasury low-interest loans, and to see to it that some federal income tax payments are paid well ahead of the current schedules.

Thus the program is designed both to raise revenues for the government and to enhance its cash flow.

This paper describes a largely neglected potential source of revenue — the international migration process. There are large amounts of money in and near that process, most of them untapped for public purposes.

## A. International Migration Is Usually Driven by Economics

Most people coming to the United States permanently are seeking a better life, which usually means a greater income. Political refugees, fleeing for their lives and/or

their convictions, are always a minority in U.S. migration streams.

People coming on nonimmigrant visas to hold “temporary” jobs, such as in the H-1B program, or to work as Treaty Traders (E-1) or Treaty Investors (E-2), are usually doing so for financial reasons. Clearly the H-1B workers, though they may be underpaid by U.S. standards and are shouldering Americans out of some labor markets, are better off than they would be in their home countries. In addition, the employers who reach beyond the U.S. borders to hire H-1B or L-1 workers are clearly doing so for economic reasons; despite the current level of fees, they make money in the process.<sup>1</sup> Illegal aliens, similarly, are here because the pay levels are much better here than at home. Let’s call all the people described in this paragraph as sojourners.

**Table 1. Proposed Immigration Transactions Charging More: Estimated Number of Each, Unit Costs, and Total Cash Flow**

<b>Proposed Transaction</b>	<b>Proposed Unit Cost</b>	<b>Expected Number</b>	<b>Average Annual Cash Flow</b>
Additional Fees to Corporations Using the H-1B Program, per Visa	\$10,000	125,000	\$1.3 billion
Payment of Payroll Taxes by Ex-Foreign Students in OPT Program	15.3 %	\$5.3 billion	\$810.9 million
Mandatory Purchase of Low-Interest Federal Bonds <sup>1</sup> by Immigrant Investors, per Visa	\$50,000	10,000	\$500 million
Admission Fee for Visa Waiver Holders	\$20	18.5 million	\$370 million
Entry Fee for Visa Lottery	\$20	12.5 million	\$250 million
Withholdings <sup>2</sup> Related to Wire Transfers of Overseas Remittances	1 %	\$25 billion	\$250 million
Advance Income Tax Withholdings for New Immigrants, Aged 16-65	\$200	860,000	\$172 million
Border-Crossing Fees			
Pedestrians	\$0.25	45.3 million	\$11.34 million
Passenger Cars, Trucks	\$1.00	118.3 million	\$118.3 million
Buses and Trains, Each	\$20.00	433,000	\$8.7 million
Total Border Crossing Fees			\$138.3 million
Advance Income Tax Withholdings for Some Working Nonimmigrants	\$500	160,000	\$80 million
<b>Total Anticipated Additional Yearly Cash Flow</b> (Includes Bond Receipts, Payroll Taxes, Withholdings, and Fees)			<b>\$3.8 billion</b>

<sup>1</sup> These would have an interest rate half that of 10-year Treasuries and would be due after 10 years. The revenue estimate above is the sum of the bonds. The mandatory purchase of the bonds would be in addition to current requirements to invest in the U.S. economy.

<sup>2</sup> The withholdings would be credits towards paying the federal income tax, and thus no one paying his or her income taxes would incur any cost.

**Note:** The expected numbers shown are the author’s estimates except for the border crossing data which are based on the 2008 traffic at the nation’s land borders and rounded. These are the latest available from the Bureau of Transportation Statistics, U.S. Department of Transportation, [http://www.transtats.bts.gov/BorderCrossing.aspx?Sel\\_Fields=Pedestrians](http://www.transtats.bts.gov/BorderCrossing.aspx?Sel_Fields=Pedestrians).

Visitors to the United States, be they well-to-do European or Japanese tourists or poor Mexican nationals with border-crossing cards, are coming to the United States voluntarily — because they want something that they can get here that they cannot get at home. Sometimes there are economic reasons for these visits, and sometimes there are other ones, but there are always strong motivations, otherwise they would not go to the trouble of crossing the border. Our contention is that most migrants in the three categories of immigrants, sojourners, and visitors have strong economic motives for coming to the United States. Similarly, corporations have equally strong economic motives for using the migration process to hire workers, so it is appropriate that all the above should pay a little, or maybe a little more, to make use of these practices.

Further, while most of the benefits of international migration accrue to private individuals (and corporations), most of the costs, direct and indirect, are borne by the public. These costs include the enforcement of immigration law, government programs for migrants with special needs (e.g., refugees), and all the indirect costs created by large numbers of less-skilled migrants who cause unemployment of (and lower wages for) American workers. Whether one regards these costs as major or minor, they are costs to a hard-pressed government, costs that can be, to some extent, balanced by larger revenues drawn from the migration process.

Finally, there is the matter of congestion pricing; the concept that while the current population can rock along for a while with the current infrastructure, ailing though it may be, additional inputs of people will tip that balance and cause costs that are more than proportional to the numbers of the new arrivals. I would argue that international migrants play that role.

## ***B. Why Has the Migration Process Been Ignored as a Source of Public Funding?***

There are several reasons for this. First, there is the widespread perception, one with elements of truth in it, that migrants are poor and are an unlikely source of government funds, an image vigorously promoted by the not-so-poor people who practice immigration law.

Second, there is the anti-government mood of many in the nation. The notion that there are too many taxes and too much government is widespread and encouraged by, among others, most leading Republicans. So, for these people, any new charges are inappropriate.

Thirdly, and most importantly, there is a lack of imagination among our decision makers. Frankly, we suspect that no one in the establishment has thought

about tapping into the finances connected with the migration process to raise billions for the federal government. Some discuss the rather more revolutionary notion that marijuana should be decriminalized and either taxed heavily or made a government monopoly (as is the sale of alcohol in many states).<sup>2</sup> But we know of no research, or even press releases, on the broad subject of migration and government revenues.

This is strange, because the governmental cash flow increases we have in mind would fall largely on a population that does not vote, which should make them less worrisome to politicians.

## ***C. Existing Taxes, Fees, Bonds, Loan Repayments, and Fines***

There is an existing patchwork of taxes, fees, bond-posting, loan-repayment requirements, and fines, all related, in different ways, to the migration process. Each element has its own history and rationale and, with the exception of the income tax, none is levied with the motivation of meeting the general expenses of the federal government. State-level taxes on the migration process are just about nonexistent. Our suggestion is that all these systems should be kept in place, but be supplemented by other revenue-enhancing measures.

**Taxes.** The federal income tax has special provisions for short-term residents of the United States, but these are taxes on a transiently resident population, rather than on transactions in international migration. Nevertheless, out of a desire for completeness, it is useful to outline the special rules for what the Internal Revenue Service calls nonresident aliens.

Just to complicate things, the IRS definition of nonresident alien is different from that of the Department of Homeland Security. Skipping over some of the intricacies, IRS usually defines nonresident aliens as those who are in the United States, legally or illegally, and who have not been here long enough (usually five years) to become (in the IRS's eyes) resident aliens. Nonresident aliens file the IRS form 1040NR, and resident aliens file the 1040 form so familiar to all of us. After five years in the United States aliens should file the 1040. Legal immigrants also file the 1040, no matter how long they have been in the United States in that status.

The different forms have different rules, mostly favoring resident aliens and citizens.<sup>3</sup> The most obvious difference is that 1040NR taxpayers cannot claim the standardized deduction of \$5,700 (for a single person in tax year 2009), they can only claim itemized deductions, and that is rarely for more than just the state

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tax payments, a much smaller sum than the standardized deduction. Further, most nonresidents with dependents cannot claim exemptions for them. The 1040 filers have neither of these restrictions.

Similarly, earned income tax credits, which provide useful tax breaks for low-income, working residents, are not available to nonresidents.

On the other hand nonresident students do not have to pay Social Security taxes, nor are they covered by that system's benefits. There are many other complications in the field of income taxes levied on nonresidents.

For example, there is a group of tax treaties, usually with the world's older nations. These offer differing levels of tax breaks to some nonresidents, but not to others. The tax breaks rarely bring the recipients' tax rates down to the levels of 1040 taxation. An exception can be found among the people from the Peoples Republic of China who have university fellowships, which are not taxed, while university employment is partially taxed. Chinese on fellowships pay no federal income taxes at all.

Some states with income taxes honor the tax breaks created by the treaties; some, such as Maryland, do not. No state, to my knowledge, taxes any migration transaction, such as arriving in the United States.

**Fees.** A substantial amount of money is raised, largely from aliens, by both the State Department and the USCIS. The nature of these fees, and the extent to which they contribute to the funding of the various migration-management agencies is summarized below in Section D.

**Bonds.** Under certain circumstances individual migrants have to post bonds to assure a U.S. agency that they will do what they say they will do, such as avoiding becoming a public charge, or not skipping out on a deportation order. Similarly, some employers of nonimmigrant workers are required to obtain modest bonds to assure the government that they will abide by federal rules.

The bonds typically are not large ones. A bond supporting a petition for a stay of deportation has a minimum value of \$1,500, for example — a remarkably modest figure.<sup>4</sup> The money would be paid to the government if the migrant defaulted on his or her commitment.

These are one-at-a-time financial encounters, and given the government's apparent lack of interest in enforcing its own public charge rules,<sup>5</sup> the possibility of seriously enhancing federal revenues by doing something in this field strikes me as unlikely.

**Repayment of Loans.** One of the more intricate migration-government-finance linkages works like this:

- 1) The United States makes a contribution to the International Organization for Migration, known informally as the refugees' travel agency (in 2008 it was almost \$123 million);
- 2) IOM buys, hopefully on a mass-ticket basis, air travel for refugees heading to the United States;
- 3) IOM tells the refugees that they owe the cost of the tickets to the voluntary agency (volag) that has resettled them in the United States;
- 4) Six months later the volag begins collection efforts with varying degrees of vigor;
- 5) The volag keeps 25 percent of the receipts it gets and turns the balance over to IOM;
- 6) To the extent that these (net) payments help pay the travel costs, the United States makes a smaller contribution to IOM the next time around.

In 2008, according to the IOM annual report,<sup>6</sup> the repayments came to a little less than \$23 million, leaving Uncle Sam \$100 million in the hole for that year. The IOM report says that the repayment rate for such loans that were at least seven years old — there is no interest — was 71 percent. This presumably is a gross figure and did not back out the volags' 25 percent.

Were the refugee travel repayment rate to increase in the future, there would presumably be a smaller call on the United States for future contributions to IOM.

This, too, looks like only a minor potential player in the effort to secure more money for the U.S. Treasury from the migration process.

**Fines.** Under some circumstances a migrant who has run afoul of the immigration law, or some other statute, has to pay a fine. Again this source of a little revenue is highly decentralized, and it would be difficult to use it to enhance the government's financial position. Fines, which relate to a judicial punishment, are different from fees, which are levied on everyone involved in a civil transaction. Unfortunately, the open-borders amnesty bill introduced by Rep. Luis Gutierrez (D-Ill.),<sup>7</sup> uses the term "fines" to identify the proposed payments to be made to obtain legal status; the term in the bill should be "fees." This is a bit of word-trickery that I have written about in the past.<sup>8</sup>

**D. The Extent to Which Migration-Management Entities Are Now Fee-Funded**

In general terms, most immigration-management functions are not funded by fees; instead, they are supported by appropriations. This central truth is never mentioned, and it is another good reason why a government-wide effort is needed to bring some rationality to the closing of the multitudinous financial loopholes in the migration process.

In most government departments the extent of fee-support for migration management is very clear, and the budgets provide useful information on the subject. This is the case with the Departments of Homeland Security, Health and Human Services, and Justice, as can be seen in Table 2.<sup>9</sup>

My sense is that it is useful to regard the concept of migration management broadly in this connection. The government, however, currently regards migration management, when it comes to levying fees, quite narrowly. This means that the government rarely collects any money from these sources unless it is doing something that is obviously quite helpful to the specific individual concerned, such as creating a document that will bestow a benefit. (Sometimes it happens that the fee is charged, but the benefit is denied.) Other migration-management activities, such as immigration law enforcement, judging the merits of immigration issues

in the courts, or refugee resettlement, do not generate much, if anything, in the way of government income.

In fact, of the five agencies covered in Table 2, only one, USCIS, gets a major part of its income from fees.

Meanwhile, the State Department does collect some fees on some of its migration-management activities, but I can find no useful information on how many fees are collected, and what costs they offset, in the State Department’s budget documents. It is there in other departments’ budget submissions, but I cannot find it in the comparable State documents.

One can get some glimmerings of data, however, from the State Department’s recent — and commendable — efforts to raise its migration-management fees. Announcements of these two sets of increases can be seen in the *Federal Register* for December 14, 2009, and February 9, 2010.<sup>10</sup>

Though the State Department did not bother totaling the receipts it is now securing from these fees, nor the total amount it expects to raise from the proposed higher level of fees, one can add up the raw numbers in the two *Federal Register* postings and estimate that the department was collecting migration-management fees at the rate of about \$978 million a year, and was aiming to raise that number to about \$1.087 billion annually. These fees, of course, do not do anything but fund the department’s own migration document-

**Table 2. Fees Do Little to Fund Most Immigration Management Agencies**

Government Organization	FY 2010		
	Budget Request (thousands)	Fees (thousands)	Fee Percentage
Department of Homeland Security Agencies			
Customs and Border Protection	\$10,049,424	\$1,387,493	13.8 %
Immigration and Customs Enforcement	\$5,458,000	\$304,800	5.6 %
Citizenship and Immigration Services	\$2,867,232	\$2,503,232	87.3 %
Department of Justice Agency			
Executive Office of Immigration Review	\$297,955	\$4,000	1.3 %
Department of Health and Human Services Agency			
Office of Refugee Resettlement	\$740,657	0	0 %

**Notes:** comparable data along these lines are not available from the Department of State, which also collects millions in fees from many (but not all) migration-related transactions. The total budget requests for two of the listed agencies (CBP and ICE) cover customs as well as migration functions. The \$4,000,000 in fees for EOIR is a transfer from USCIS and probably should be subtracted from that agency’s fee total above, but was not.

**Source:** Author’s calculations are based on FY 2010 federal budget documents cited in End Note 9.

issuing operations, and are not a contribution to the U.S. Treasury, as are most of the financial maneuvers that this report proposes below.

The anticipated level of fees from aliens of \$1.087 billion, incidentally, may be compared to a somewhat larger figure — \$1.197 billion — that it plans to raise from U.S. passport holders (i.e., citizens) each year. In other words, fees to be paid by citizens to the State Department exceed fees to be paid by aliens.

In summary, there appears to be about \$3.5 billion a year in migration-specific fees coming to the federal government currently, and another \$1.7 billion a year in a hard-to-untangle mix of customs and migration fees. To these figures the proposed program would add an additional cash flow of more than \$5 billion a year, in years of average migration.

## II. The Approach

While I disagree with the current policies that, in effect, encourage massive migration to the United States, legal and illegal, and while I would like to reduce and reshape the loosely controlled immigration that now persists, the U.S. government might as well make some money out of the current situation until it can be managed properly.

With that overall concept in mind, the suggested revenue enhancements are designed to be pragmatic. The approach is to seek funds from existing systems, usually not setting charges so high that they would interfere with current patterns. For example, the suggestion that the United States secure some funds from the wired transmittal of remittances overseas is designed to raise money, not to change the pattern of those flows of funds. There is no attraction in creating a situation in which individuals wanting to send money to relatives in Honduras, say, do so by hiring a courier to carry currency back on an airliner.

There is an exception to this general rule, and it relates to the H-1B program, the not-so-temporary worker program that brings scores of thousands of engineers and computer programmers to good jobs in the United States that could easily be filled by American workers were the wages and working conditions not depressed by the presence of large numbers of people working (legally) on H-1B visas. Many employers actively favor H-1B workers, on the multiple grounds of the recency of their training, their youth, and their willingness to accept what should be below-par wages and working conditions. In this instance a much higher fee for the H-1B visa would raise money for the government and, one hopes, prevent the program from expanding further, perhaps even contracting it.

The proposed cash-flow enhancements are to be extracted in different ways, adapted to the nature of the transactions and to the ability to pay. They include forced loans to the Treasury from a small group of rich immigrants (investors), early-on payments of future income taxes by many legal immigrants, and mandatory withholdings of remittances from a less wealthy (and largely illegal) population, together with a cluster of fees. Not all these charges will produce additional income for the government, but all will enhance the government's cash flow.

I quite specifically reject the prevailing notion that migration-based fees must only reflect the costs of specific agencies to handle specific functions, such as issuing a visa. The various proposed revenue-raising measures are designed to do that — raise money, not just to meet document-specific issuance costs.

The proposed measures suggested later in this paper are designed to supplement and complement the existing patchwork of fees and taxes that currently apply to the migration process, and to close existing financial loopholes in the system.

Most, but not all, of the suggested changes will require federal legislation. One set of proposed fees could be established by either the federal or state governments, and others would involve governmental regulation and/or policy direction.

Politically, some or all of these proposals may be regarded, appropriately, as robbing Peter to pay Paul. If that is the case, as I believe George Orwell pointed out, it is useful to enlist Paul as an ally. With that in mind, one or more of these revenue-enhancement proposals would create dedicated funding for some of the Pauls in America; some moneys are aimed at supporting the Social Security system, other might be used to bring investments to economically depressed segments of the nation.<sup>11</sup>

It is useful to mention in passing that there are different legislative techniques that may be implemented to reach these revenue goals, such as floor amendments (which avoid time-consuming committee mark-ups) and the use of specific revenue-raising measures proposed here to counterbalance tax cuts proposed in the halls of the Congress. But we leave the detailed legislative maneuvers to those better qualified to handle such matters.

In the next part of the report we explore, in some detail, nine major potential revenue streams related in one way or the other to international migration. In the final section we touch on half a dozen other, generally lesser, flows of people and funds that should also be considered.

### III. Major Potential Sources of Additional Cash Flow

Nine major potential sources of additional funds for the U.S. Treasury are explored in this chapter of the report. Each section opens with the summary of the program, shown in Table 1, and then describes the existing activity of interest, suggests an approach to raising more money from that activity, estimates the total value of the innovation, and closes with some comments on the politics of getting the proposal adopted. The topics are covered in the order seen in Table 1.

#### A. The H-1B Employer Program

**Proposed Transaction:** Additional fee paid by corporations using the H-1B program

**Proposed Unit Cost:** \$10,000

**Expected Number:** 125,000

**Annual Cash Flow in Average Years:** \$1.25 billion

**Current Activity.** Back in 1952 Congress went through one of its immigration-law-rewriting activities and passed the Immigration and Nationality Act of 1952. Though best known at the time for its preservation of the country-of-origin quota system, the law also created a nonimmigrant visa category, H-1, for aliens of “distinguished merit and ability” who came to the United States to fill vacancies regarded as temporary.<sup>12</sup>

As is often the case, the new category was not used much initially; in fact for FY 1969 there were only 8,941 admissions recorded in the 1969 Annual Report of the Immigration and Naturalization Service,<sup>13</sup> with the only occupational categories with more than 1,000 admissions being musicians (2,588), entertainers (1,564), and athletes (1,263). There was virtually no controversy about the program, though I do remember at the time that some of the theatrical unions objected to whole opera companies, including make-up people and stagehands, being admitted as a group, thus eliminating some work for U.S. union members.

There were only 193 engineers admitted under the program that year, and the word “computer” did not appear in the H-1 tables.

Subsequently, Congress split the program, with the H-1B category being for “temporary workers in specialty occupations.” The burgeoning computer industry found out about it and used it extensively, and

by FY 2001 the number of petitions approved hit a peak of 331,206.<sup>14</sup>

The program became controversial because of the perceived loss of jobs and the lowering of wages for U.S. residents. Congress began putting numerical limits on it (something new in the nonimmigrant field, if not in immigration generally), and currently the limits are these: 65,000 new visas a year for college graduates, 20,000 for workers with advanced degrees, and no limit at all for H-1B workers employed at universities.<sup>15</sup> As to the ongoing controversy about how the program has been abused by employers to the detriment of U.S. workers, see my colleague John Miano’s excellent Center for Immigration Studies *Background* on the subject.<sup>16</sup>

#### Obtaining Additional Government Funds.

Currently, the fees charged to a corporation seeking an H-1B worker are modest (if a bit confusing). There is a base USCIS filing fee of \$320 and a \$500 Fraud Prevention and Detection Fee; most, but not all, would-be employers also pay another \$750 (if they have 25 or fewer employees) or \$1,500 (if they have more). (Those using the seldom-used Singapore or Chile variations of the program do not have to pay the \$500.) Then there’s a State Department fee of \$131, at this writing, which is likely to go to \$150.<sup>17</sup> In addition, there is an optional, but often paid, expedited handling fee of \$1,000.

Assuming that the employer has to pay all of these fees at their highest variations, that adds up to \$3,470. For this the employer gets to pick a (presumably) talented, newly educated (probably U.S.-educated) young person from anywhere in the world and does not, in reality, have to worry about the American labor market. With luck the employer can hold onto the worker for as long as six years — all of this for \$3,470.

My suggestion is that the government replace the current cluster of fees with one overall fee of, say \$13,000 per visa, roughly a \$10,000 per-visa increase. This charge would be levied on new H-1B petitions as well as on the extension of existing petitions. This would produce, I would imagine, some second thoughts about the use of H-1B visas and reduce their use in years to come, which would be a good thing.

In order to keep another powerful lobby, that of higher education, out of the picture, I would levy the \$10,000 extra only on visas issued to corporations, not to universities. I would, however, see to it that the university exception applied only to H-1Bs working directly for the universities, rather than simply being located there; I gather that there is a controversy about this matter.

**Estimate.** Unlike most of the rest of the migration movements discussed in this paper, which tend to change slowly, the number of H-1Bs arriving in the country changes sharply, rising and falling much more drastically than the economy as a whole. For example, as noted above, there were 331,206 approvals of H-1B petitions in FY 2001; in most years the ceilings of 85,000 are more than filled in the first week of filing (which comes in April, for jobs to be filed in the following October); this spring the USCIS has announced that it received only approximately 19,100 petitions during the April filing period, a sharp drop from the 85,000 that been filed for the previous year.<sup>18</sup>

For estimation purposes let's add the 85,000 for FY 2010 to the 19,100 for FY 2011, which equals 104,100 and round that down to 100,000 and divide by two for, say, 50,000 new entrants in an average year; a conservative estimate given the record numbers admitted in immediate past.

Meanwhile there are, every year, a substantial number of re-filings, as employers ask that the work periods of H-1Bs already in the country be extended. There are no legislative limits on the number of extensions, so data on them are scarce and, to my knowledge, not routinely published. Two years ago USCIS conducted a study of the incidence of fraud in this program, and found that some 95,000 H-1B renewals were filed between October 1, 2005, and March 31, 2006, or at a rate of about 200,000 a year.<sup>19</sup>

So we have estimates of new petitions, at the rate of 50,000 a year, and renewals, at about 200,000 when fees are where they are currently, for a total estimate of 250,000 in an average year. Clearly it would be hard to predict what an additional \$10,000 per H-1B worker would do to the levels of employment, but for the sake of this exercise let's say it would reduce it by 50 percent. This produces, then, an extra \$10,000 x 125,000 a year, or \$1.25 billion a year.

**Politics.** The opposition will be fierce and well-funded, as the employers of foreign computer programmers and engineers will see their supply of docile, and I would argue, currently underpaid, workers become more expensive. The resident engineers and computer programmers who would benefit from these new fees are badly organized. The AFL-CIO has a small Professional Employees Department and might try to be helpful, but the organization as a whole has less clout than it did in the past. Further, organized labor in this country has never been as strong as it is in much of Europe.

On the other hand the resident engineers do have some friends on the Hill in this connection. The

idea of a cap on the number of H-1B workers was fiercely resisted by the software companies, but it came to pass, as did its reduction from a one-time high of 195,000 to the current 65,000 + 20,000 + no cap for the universities. So, maybe a \$10,000 fee could be imposed — all as a part of an effort to reduce the deficit and the debt.

On a scale of A+ (for the least difficult) to C- (for the most difficult, politically) this proposal warrants a C.

## *B. Payment of Payroll Taxes by Former Foreign Students*

**Proposed Transaction:** Payment of FICA and Medicare taxes by former foreign students

**Proposed Unit Cost:** 15.3 percent

**Expected Number:** \$5.3 billion in wages

**Annual Cash Flow in Average Years:** \$810.9 million

**Current Activity.** While many of the proposals in this report seek to add to the federal government's cash flow, this one would simply restore the level of funding to pre-2008 levels. That a \$800 million-plus gap in funding of the FICA and Medicare programs was opened by the Bush Administration is generally not known, and might be regarded as an unintended consequence of a governmental decision made in another field.

This tax loophole was opened as a by-product of a successful effort by the U.S. Citizenship and Immigration Services (USCIS), a former INS unit now with the Department of Homeland Security, to assist corporate employers get around the congressionally mandated 65,000 and 20,000 ceilings in the H-1B program described earlier.

USCIS did so by making use of a subset of another existing, nonimmigrant worker program, which is more or less hidden within the F-1 program for international students. This is the Optional Practical Training (OPT) program which extends an F-1 visa for up to 12 months to allow the graduated foreign student to work in his or her field of study. In many cases, both in the present and in the past, foreign students waiting for an H-1B visa would work for an intending employer as an OPT worker.

Given the reduction in the H-1B ceilings to 65,000 and 20,000 many would-be H-1Bs were left in a so-called "H-1B gap" in which though they had

graduated, and had used up their OPT year, they could not work legally until the H-1B visa came through.

One potential solution to the problem would be for the corporate employers to hire legal residents to fill these gaps; another one, favored by both industry and the then-administration, was to extend the OPT period for F-1 workers with a STEM degree (science, technology, engineering, or mathematics) by an additional 17 months, in the hopes that the H-1B gap would be closed during that time. So USCIS issued an executive order extending OPT for STEM people for 17 months.

How did this impact the Social Security and Medicare Trust Funds? Well both H-1B and legal resident workers (citizens and green cards) are covered by the usual payroll taxes. So when jobs that they might hold are switched to OPT workers (F1 students not paying FICA) payroll taxes are lost; the loss is 7.65 percent paid by the worker and 7.65 percent paid by the employer.

**Obtaining Additional Government Funds.** There are two approaches to restoring the FICA and Medicare funding:

- 1) The administration, and I think this unlikely, could simply withdraw the extension of the OPT program for 17 months, or
- 2) Congress could decide that people in the OPT program were no longer students and should be covered by the usual payroll taxes.

I prefer the second option because it would bring all OPT workers into the payroll tax programs, a larger population than one would have if the OPT extension were withdrawn.

**Estimate.** How much more would there be in payroll taxes were the OPT loophole to be closed? At the time that the new rule was announced, USCIS sent out a press release<sup>20</sup> indicating that 12,000 OPT students were expected to take advantage of the program; since the extension allows work for nearly 2.5 years, that means that about 30,000 OPT student years were involved. Add to that a year's work for each of the other 58,000 OPT students noted in the press release.

USCIS, unfortunately, does not publish data on the earnings of either of these two sets of OPT students, but happily the Department of Labor does for its H1-B program, which the 12,000 were about to enter. According to one compilation of that data,<sup>21</sup> the median

2009 salary offered by the top-50 of these employers was \$86,148. Let's round that down to \$80,000 for estimation purposes, and let's assume that the other 58,000 had salaries of \$50,000. The payroll excluded from the usual taxes was thus 30,000 x \$80,000 plus 58,000 x \$50,000 or a total of \$5.3 billion, which would routinely produce \$810.9 million in FICA and Medicare taxes.

**Politics.** This proposal will run up against the same powerful combination of open borders and corporate forces as the previous suggestion. But there will be one major difference — the tax loophole in this case hurts the interest of the nation's senior citizens and perhaps their lobbies could rally around this suggestion. (We know that AARP, at least at the staff level, is interested in closing this loophole.)

I would rate the politics of this one as a C+.

## *C. The Immigrant Investor Program*

**Proposed Transaction:** Mandatory purchase of low-interest federal bonds by immigrant investors

**Proposed Unit Cost:** \$50,000 per visa

**Expected Number:** 10,000

**Annual Cash Flow in Average Years:** \$500 million

**Current Activity.** Many nations have specific segments of their immigration laws designed to lure rich people (usually called investors or entrepreneurs) from other nations to their shores. Wealthy people living in Hong Kong in the days when it was about to cease being a protected British outpost were, at one time, a hot commodity.

In 1990 Congress created the fifth "employment-based visa preference category" or EB-5, for "immigrants seeking to enter the United States in order to invest in a new commercial enterprise that will benefit the U.S. economy and create at least 10 full-time jobs," to quote the current USCIS fact sheet on the program.<sup>22</sup>

Initially the program required a \$1 million investment; this in turn created a conditional immigrant visa for the investor, his or her spouse, and their unmarried children; for a family of five that would appear to make the visas, in this case, cost \$200,000 each. After two years, if the investment remained in place and everyone behaved themselves, the conditional visas became permanent green cards. (Similarly, a marriage

between an alien and a citizen must last for two years before the conditional marriage visa becomes a green card.) Given the usual lack of speed in a bureaucracy I estimate that the alien investor would be unlikely to be able to extract his money, if he wants to, in less than three years.

But, as I pointed out in a couple of CIS blogs,<sup>23</sup> the program has since been watered down in two significant ways; the minimal investment must now only be \$500,000 (per family) if it is placed through a state-government designated regional center and the 10-job requirement has been fuzzed to cover indirect and “induced” jobs. The USCIS still refers to it as an “employment-based” visa, but it has now become a way to award investors who put up half a million dollars for about three years in a government-approved investment, one that can be completely passive in nature.

A prominent British immigration agent, American Life,<sup>24</sup> currently is placing EB-5 investments in commercial real estate in what I gather is a low-rent neighborhood near Seattle. The investor need not ever visit the place, just send a check. The agent has hired an economist to figure out the number of “induced” jobs. American Life, for a fee, will handle the paperwork. The investor and family can settle anywhere they want in the United States and all of them can work legally as soon as they arrive.

If you run the numbers you will find that the actual cost of the transaction is considerably below \$1 million or even \$500,000. Let’s assume that our alien investor has one to several million dollars, a portion of which is invested in U.S. Treasuries now paying less than 4 percent interest; let’s say that he sells the Treasuries to raise the cash needed to become an EB-5 immigrant, and he does so at the half million level. The EB-5 investment, even assuming no return on it at all, would thus cost the investor about \$20,000 a year in foregone interest, thus \$60,000 over three years; American Life says that it is now paying 5 percent interest on such investments, but let’s assume that there is no return.

The total price, based on the \$60,000 in lost interest and costs noted by American Life, when extended over a five-member family, would look like this:

Foregone interest	\$60,000
Agents’ and legal fees	\$50,000 (estimated)
U.S. government fees	\$2,835
Medical exams	\$665
Total	\$113,500, or \$22,700 per visa

The cost per visa would be smaller with a larger family, and larger with a smaller one, but arguably it is a bargain for an opportunity to fully and legally participate in American life; it is available for those with neither the family connections nor the employment skills (nor refugee status) required in the rest of the immigration law — all you need is a little money.

Note that except for the application fees, the government gets nothing directly out of this deal. In this case, the investor is presumably helping, in a tiny way, to stabilize the commercial real estate market near Seattle, which has some minor social utility.

**Obtaining Additional Government Funds.** My suggestion is that an additional requirement be added to the current ones: The investor would have to buy a \$50,000 U.S. bond for each visa issued; that would be \$250,000 for our family of five.

The bond would be repaid in full in 10 years time, and it would carry a special, half-the-Treasury rate, thus the interest would be about 2 percent. After five years it could be sold on the open market, presumably at a discount. This would guarantee the Treasury an estimated flow of half a billion dollars in newly borrowed funds, with a below-market interest rate, each year. This assumes 10,000 visas a year, an estimate explained below.

Given the artificially low interest rate, at a loss of say 2 percent a year to the investor, this would mean, over 10 years, an additional foregone interest of \$10,000 per visa, raising the estimated unit cost to \$32,700 per visa for our hypothetical investor’s family of five (2 percent of \$50,000 = \$1,000 a year x 10 = \$10,000).

**Estimate.** In recent years, according to the DHS statisticians, the number of EB-5 visas admissions has gone from 806 in FY 2007 to 4,215 in FY 2009; that is an average rate of increase of 261 percent a year. This sort of rapid rate of growth in new visa categories has often been seen in recent years. Extrapolating that to FY 2010 (this year) would produce a figure of 11,001, but there is a 10,000 statutory maximum. My best guess is that the proposed increase in actual costs, per visa, by \$10,000 from the current \$22,700 (for a family of five) would not keep admissions below the 10,000 level.

**Politics.** The proposed increase falls directly on a population that wants to come to the United States, but is not here yet, and is years away from voting. This population, by definition, cannot claim to be poor. Most of the agents handling these deals seem to be overseas.

Unlike the Microsofts of the world, for example — the major domestic corporate interests that

benefit very directly from the H-1B program — the U.S. corporate interests that benefit (quite indirectly) from the EB-5 program are small and scattered. They own commercial real estate in the State of Washington, for example, or have an interest in skiing resorts in Vermont (another location of some EB-5 investments).

Besides, all that is being proposed is that some rich would-be immigrants who want to invest in the United States invest a little more in the United States. Even the U.S. immigration bar cannot protest too loudly. Further, the United States has already cut the announced price of admission from one million to half a million dollars.

The politics of this proposal are, in short, quite favorable, and easier to manage than many of the other suggestions in this report. Maybe I should suggest a \$100,000 bond per visa, not just \$50,000.

This proposal rates an A for political feasibility.

## *D. Modest Additional Fee in the Visa Waiver Program*

**Proposed Transaction:** Admission fee for visa waiver holders

**Proposed Unit Cost:** \$20

**Expected Number:** 12.5 million

**Annual Cash Flow in Average Years:** \$250 million

**Current Activity.** For years the United States has been offering an arrangement to potential visitors from high-income countries — they can be admitted as tourists without needing to obtain a formal visa from a U.S. embassy or consulate. It does not absolutely guarantee admission, though it is seldom refused and is called the Visa Waiver Program. It is available for both tourists and business visitors; there are Guam and Marianas Islands-only variations of the program as well. Tourists going from the United States to many nations do not need visas either — they simply show their U.S. passports and are admitted.

The visa waiver program is used extensively. According to a DHS publication,<sup>25</sup> about 15.2 million admissions were recorded for this program in FY 2006, 16 million in FY 2007, and 17.6 million in FY 2008. Thus it is both popular and growing. An admission is the act of a person entering the country; if an individual enters the country five times in a year, that counts as five admissions.

Currently there is a \$6 fee per admission, usually built into an airline ticket, but payable at the land ports-of-entry if used there. This supports the issuance of the Form I-94W, and the modest sums flow to USCIS.

The alternative for people from visa-waiver countries who want to visit the United States, and the only technique for people from non-visa-waiver countries, is to obtain a tourist visa. These now cost \$131 and will soon be at \$140. In recent years I have traveled to only one nation demanding a tourist visa, Russia. Their fees are higher than ours and their rules are more restrictive.<sup>26</sup>

**Obtaining Additional Government Funds.** My suggestion would be that instead of building \$6 into the airline ticket cost (where it is essentially hidden) we build another \$20 fee into the cost of the ticket, this time for the U.S. Treasury.

In this instance, as my colleague Jessica Vaughan has suggested,<sup>27</sup> at least some of the funds could be devoted to tracking down the visa-abusers who have misused the visa waiver program and are currently living illegally in this country. Visa-abusers, as opposed to those entering without inspection (EWIs) right at the border, are hard to track down because they tend to fade into the general population. Thus it would be helpful to Immigration and Customs Enforcement (ICE) to have some dedicated funds for this purpose. (Note: After this report was written we became aware of a decision by Congress to permit DHS to levy additional fees on visa waiver beneficiaries, the cost of the decision-making plus \$10 for the promotion of travel; this was signed into law on March 4, 2010.)

**Estimate.** Given the fact that visa waiver admissions have been increasing at the rate of about one million a year, about 19.6 million admissions could be projected for FY 2011, the first full year that the fee increase could be implemented. Assuming some small impact on the flow because of the extra \$20, I would estimate that, even with the new charge, there would be 18.5 million visa waiver admissions in 2011.

**Politics.** This proposal would not inflict a penny in taxes or fees on any American voters, or green card holders, which is politically very useful. It would be protested, of course, by the tourist industry. I would guess that only the program calling for extra fees for the investor-immigrants would be easier to pass than this one.

I give this one a B+.

## *E. More Money from the Visa Lottery*

**Proposed Transaction:** Entry fee for visa lottery

**Proposed Unit Cost:** \$20

**Expected Number:** 12.5 million

**Annual Cash Flow in Average Years:** \$250 million

**Current Activity.** Perhaps the least defensible, least rational element of the current immigration system is what the government calls the “Diversity Immigrant Visa Program;” I prefer to call it the “Casino Visa Program.”

In 2009 some 13 million aliens from countries that do not send us more than 50,000 immigrants a year filed applications for 50,000 green cards. They need not have any special skills or any connections to the United States; they simply must say that they are high school graduates (or have “qualifying” work experience), and are without serious criminal records; and they must file for the lottery.<sup>28</sup>

The apparent congressional thought process was that if we opened up the doors to the extra 50,000 our total flow of immigrants would not be so heavily tilted toward Mexico, China, Canada, and 16 other countries that dominate the immigration flow.

Assuming that a few years will pass before Congress eliminates this program, it is worth noting that currently only the successful 50,000 pay any fees at all in this casino; losing lottery entrants pay nothing. Somehow the U.S. government has not learned a key lesson from our state lotteries, and from our casinos — that is that the losers *should* pay for the thrill of the gamble.

**Obtaining Additional Government Funds.** My suggestion is that each entrant in the lottery should pay \$20 for the privilege.<sup>29</sup> To add one more incentive to join the lottery, the government might include a financial prize as well. Those not getting green cards would participate in a second-round lottery, with a \$1 million first prize, and say 20 \$100,000 second prizes, no more than one per nation. This would add \$3 million, plus some operating costs, but all that would be overshadowed by the total intake by the government, of about \$250 million.

**Estimate.** A chance of winning a green card when you have no plausible claim to one is a bonanza and well worth the \$20 I suggest. It would, however, be not quite

so attractive as paying nothing for such a chance, so I think there would be a small fall off from the 13-million-a-year pace to, say, 12.5 million.

**Politics.** As with the rich-investor bond purchase suggestion, this one would not cost a cent to any voter, or green card holder; most of the \$20 fees would be paid by people outside the United States. The only protest would come from some immigration professionals who would see it as a restrictionist ploy.

A considerably more severe measure, one to eliminate the program entirely, passed the House of Representatives on December 15, 2005, only to die in the Senate. The vote, on a floor amendment, was a thumping 273-148 victory, with 58 Democrats including then-Rep. Rahm Emanuel (D-Ill.), now chief of staff to the President, among those supporting the amendment.<sup>30</sup>

In short, the prospects for this proposal should be excellent, if it can get by, or around, the immigration subcommittees; they would not be likely to support it. Since it is clearly a revenue-raising proposal, perhaps it could travel through the Ways and Means and Finance Committees.

For political feasibility this one gets a straight A.

## *F. Withholdings from Remittances Wired to Other Nations*

**Proposed Transaction:** Withholdings related to wire transfers of overseas remittances

**Proposed Unit Cost:** 1 percent

**Expected Number:** \$25 billion

**Annual Cash Flow in Average Years:** \$250 million

**Current Activity.** There is a strong suspicion that illegal aliens working in the United States do not pay their full share of income taxes. I have not seen any documentation on this, but it certainly makes sense. Many illegals are, understandably, in the cash economy in which money changes hands for work done, but no withholding takes place. Others may not file income tax returns in the (totally uncalled for) fear that the IRS and what used to be INS are in close touch with each other. Further, some with reported earnings, for the same reason, may not file when they have refunds coming to them.

While the other eight proposed ways to raise money from the migration process flow relatively easily out of situations where the migrant or the employer

faces a public transaction with the authorities, there are few (by definition) such transactions between the illegal aliens and the government. There is, however, a set of formal arrangements within the private sector — sending money overseas — that could be tapped.

According to the World Bank, the total of outward remittances from the United States was \$32.8 billion in 2006.<sup>31</sup> Regarding this figure the bank says: “This table reports officially recorded remittances. The true size of remittances, including unrecorded flows through formal and informal channels, is believed to be larger.”

The \$32.8 billion, a number that has been rising at the rate of one billion a year since 2001, consists of moneys sent by both legal and illegal migrants, and there are no data kept on that distinction. Another source suggests that transfers made by Latino immigrants average \$300 each.<sup>32</sup>

There are a variety of informal ways that migrants can get money back to their families in the home country, none of which are presumably covered by the World Bank totals. Either the migrant or a trusted courier could carry the money back as cash; there probably are at least some transfers of currency by mail. There may also be arrangements in which migrant A pays migrant B \$500, with both being in the States; subsequently and consequently, migrant B's family back home then pays Migrant A's family \$500. None of these activities would appear to be easy, or indeed, possible, to tax.

The more formal transfers offer a better possibility for taxation. Among these are transfers arranged through banks, through wire transfers, and through electronic means, such as PayPal.

The costs of these of these systems vary, as does the nature of the service. I decided to price the transfer of \$500 to Mexico, and got these quotations either in person or through a 1-800 number: a local bank in Arlington, Va., \$50 (no matter the amount); another local bank \$45 (no matter the amount); Western Union, \$14.99 or \$9.99, depending on the nature of the service; and Money-Gram, \$10.40. PayPal, on the other hand, offers to send \$300 internationally for as little as \$1.50.<sup>33</sup>

There are other factors as well. Sometimes you need an account at the bank in question to use the bank transfers; and with PayPal you need both an account and some computer skills. My sense is that most migrants using a formal method use the wire transfers.

**Obtaining Additional Government Funds.** The suggestion: Let's impose a 1 percent mandatory withholding on all non-corporate wire transfers of

funds to other nations; more specifically, a \$5 fee on all amounts less than \$500, and 1 percent on the total transferred at or above the \$500 level.

The proposal specifies “non-corporate” because there are many international flows of money that have nothing to do with migration, and there is no point suggesting something impinging on corporate interests that will create needless political problems for this proposal.

I am also not proposing to attach the proposed withholding fee on transactions handled by banks or by PayPal. The banks' fee structure is such that if you want to send a few hundred dollars to a few thousand via the bank it is much more expensive than the wire transfers, even with a 1 percent fee attached. Hence banks are probably not used much by working migrants. Further, illegal aliens seem to me to be considerably less likely to use PayPal than others, though this may prove to be a significant loophole that should be closed later.

Finally, taking a lesson from the State of Oklahoma (more on that later), the charge would be a mandatory withholding for credit against one's future income tax payments; the 1 percent fee would cost nothing, then, to anyone paying their federal income tax; this would dull — but not eliminate — the argument that the 1 percent levy is discriminatory against migrants.

The 1 percent would be charged on all non-corporate international money transfers and, as a result, some citizens and perhaps many green card holders would pay it, as well as illegal aliens. It would be an income tax credit for all. The charge would not be levied in states where a similar program is already in place, but to my knowledge, Oklahoma is the only one with such a program.

The Oklahoma program, operative since July 1, 2009, is a little different from what is proposed here. It levies a 1 percent fee on all wire transfers from an Oklahoma location to any place in the world, including elsewhere in the United States. All of the funds collected by the program are used to fund a drug-enforcement program. Further, it is labeled a “fee” rather than a tax because the state constitution requires a super-majority vote in the legislature to impose a new or additional tax. The fee, in turn, is designed to be used as a withholding credit against the state income tax.

The program created the expected controversy with critics saying that it “will harm the ability of low-income people to send money to their families in other countries.” State Representative Randy Terrill introduced the legislation.<sup>34</sup>

In the first six months of the program, it brought in about \$3.9 million in receipts, and can be

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expected to gross about \$8 million a year.<sup>35</sup> The program is too new for anyone to know what portion of the fees will show up as income tax withholdings.<sup>36</sup>

**Estimate.** The projected financial harvest for this proposed program is 1 percent of an estimated \$25 billion in remittances. The \$25 billion is a conservative estimate, given the World Bank's figure of \$32.8 billion for 2006, and the likelihood that by 2011, the first full year it would be in operation, the volume of remittances would have increased from the 2006 level.

The Oklahoma experience offers a different benchmark, relating to a different base. Roughly one American in 85 lives in Oklahoma. Were the nation to adopt the Oklahoma law and get comparable results, one would multiply the Oklahoma intake of \$8 million a year by 85 and get \$680 million. That is two and a half times this report's estimate of \$250 million.

Both calculations support a projection of at least \$250 million.

**Politics.** Adding to government revenue is always hard, but in this case most of the burden will fall on nonvoters, and the "burden" will be another form of tax withholding rather than an additional tax — at least for those who pay their income taxes.

The proposal is also shaped in a manner that avoids conflicts with the banks of the country, and PayPal and its electronic business allies, and thus it should be politically viable.

Further, the proposal is less sweeping than the one that passed in Oklahoma.

Finally, while the objective of this proposal is to increase income tax collections from illegal aliens, it may have some politically attractive by-products. It might tap into cross border financial transactions by drug dealers and other criminals, as well as complicating life for coyotes (smugglers of human beings). According to a recent article in the *New York Times*, Western Union and the State of Arizona have agreed to work together — helped by a \$94 million grant from the company — to stop money laundering through wire transactions.<sup>37</sup>

I rate the political feasibility at B.

## *G. Advance Income Tax Withholdings for New Immigrants, aged 16-65*

**Proposed Transaction:** Advance income tax withholdings for new immigrants, ages 16-65

**Proposed Unit Cost:** \$200

**Expected Number:** 860,000

**Annual Cash Flow in Average Years:** \$172 million

**Current Activity.** There is no current activity in this field. Arriving new permanent resident aliens, of all ages, pay income taxes, as do other U.S. residents.

Approximately 860,000 persons in the 16-65 age group secured permanent resident status in FY 2008, according to DHS's *2008 Yearbook of Immigration Statistics*.<sup>38</sup> Of these, I estimate from other DHS data that 500,000 were new arrivals and the other 360,000 were already in the United States, many of them working, either legally or illegally.

The notion is that these new arrivals to the American labor market have just been awarded a bonanza — the ability to hold a legal American job — and that they should advance a little money to the government that granted them that boon.

**Obtaining Additional Government Funds.** The proposal is that everyone between the ages of 16 and 65 (i.e., of, or close to, working age) who gets an immigrant visa would make an advance income tax withholding of \$200. I recognize that some would have to borrow money to pay the \$200, but all in all, it would be an excellent investment.

The relevant document would be called the M-200, with M being for migrant. The would-be immigrant would get a receipt. It would not be levied on failed applications, nor on arriving refugees who are not yet in permanent resident alien status. The issuing authority would record it in an appropriate database linked to the Internal Revenue Service.

The M-200 could not be sold or redeemed, except as a payment for federal income taxes in the years following immigration. It could be used to help pay for one's income tax (or to enhance a refund) under the following circumstances:

- 1) An income tax filing for an adjusted gross income of \$10,000 or more;
- 2) A filing for the first full calendar year after the year of immigration or a subsequent year, or
- 3) As a tax credit for the holder of the M-200 or for another family member that migrated with him or her at the time.

For most holders, the M-200 would, if not used for taxes, expire five years after the purchase date. If

a migrant paid for the M-200 before his 18th birthday, the note would not expire until 10 years after it was purchased, giving the teenage immigrant a chance to go to college before using the M-200.

A secondary benefit of the program is that it will give arriving immigrants (and new adjustees) a bit of education about the American income-tax system.

The reason for the suggested delayed utilization — until income goes over \$10,000 and for the first full year after immigration — is simply to provide the Treasury with a loan over a slightly more substantial period of time. The cost of the M-200 would be \$200 but it would provide a \$210 tax credit when used so that the migrant would have some interest paid, but that interest would be less than that which the Treasury is now paying for its 10-year bonds — about 3.6 percent as of this writing. The payment of \$10 interest on \$200 over about two years comes to about 2.5 percent a year, which is much better than one can get on a savings account.

**Estimate.** Given the attraction of the United States, and given the current state of the immigration laws, the estimate assumes that the advance withholding will not dampen the interest in green cards, and thus the FY 2008 level of admissions and adjustments will continue in the years ahead. It should be noted that well over 40 percent of those who would be obliged to make the advanced withholding are already in the United States and most of them are probably working.

**Politics.** The withholdings will, of course, be regarded by open borders advocates as discriminatory against immigrants, though it will cost them nothing if they get a job and plan to pay their taxes. The argument will be made that some of these people are neither workers nor prospective workers; this is true, but in reply it can be said that the M-200s are transferrable to other members of the family arriving at the same time.

On the other hand, like so many of these suggestions, the entire burden of this proposal falls on people who are not voters, and will not be for years to come; further, those making these modest loans to the U.S. government, in 58 percent of the cases, are not yet even in the country.

This appears to be a B on the political feasibility scale.

## *H. Creation of Border-Crossing Fees at the Land Borders*

**Proposed Transaction:** Border Crossing Fees

**Proposed Unit Cost:** \$0.25 (pedestrians), \$1 (passenger cars and trucks), \$20 (busses and trains)

**Expected Numbers:** 43.3 million, 118.3 million, 433,000

**Annual Cash Flow in Average Years:** \$138.3 million

**Current Activity.** There are hundreds of millions of crossings of the nation's land border annually, and, for instance, the bridges in one poverty-stricken town in Texas (Laredo) collect about \$40 million a year from their sliver of this traffic,<sup>39</sup> but Uncle Sam gets nothing. It is a golden economic opportunity for the federal government, but one fraught with NIMBY-type political problems.

The nation has three distinct land borders. There is the very busy one to the south, with Mexico; there is the somewhat less busy one with Canada to the north of the Lower 48; and there is the nation's often forgotten, seldom-crossed eastern border, between Alaska and Canada.

Generally, where there are arbitrary borders, straight lines drawn by diplomats ages ago, no fees are charged at border crossing points. But where the border is defined by a river, it is different. A variety of bi-national, municipal, corporate, and even individual owners<sup>40</sup> control the bridges, and charge a toll for crossing — but nothing goes to the U.S. government. And it is the U.S. government that funds the ports of entry, i.e., the border-crossing points, and the Border Patrol.

There is an east-west division in this connection. From El Paso east, all the ports of entry are at bridges, and from New Mexico west they are all on dry land. From Maine to Minnesota there are a few dry-land crossings, but many with bridges, but from North Dakota west there are no rivers to cross. The Alaska-Canada crossings are all on dry land.

My point is that a lot of money is being collected in cross-border tolls on the eastern part of these two borders. The only free bridge I know about is the Bridge of Americas, between El Paso and Juarez, free because it was built when Lyndon Johnson was president, and he wanted it to be free of tolls.

The fees for crossing are set by the individual owners. Pedestrians are often charged a quarter (there

are about 100 pedestrians on the southern border for each one in the north.). Fees for cars range from \$1 to the more common \$3 or \$4.<sup>41</sup>

**Obtaining Additional Government Funds.** The proposal is to levy a federal fee on all crossings of 25 cents for a pedestrian, \$1 for a car or truck, no matter how many passengers, and \$20 for each bus and train (there are not many of these any more), again, no matter how many passengers.

Each proposed fee is modest, no more than, and usually much less than, existing bridge tolls, and each fee is set at a U.S. unit of currency for easy handling. In the cases of bridges with tolls, the collection process could be farmed out to the bridge owners. As to pedestrians I would simply install a subway stile, in which the visitor would insert a quarter. Note, that for simplicity's sake, the fees would be the same for citizens and aliens.

An alternative, suggested by my colleague Jessica Vaughan,<sup>42</sup> would be for the entry fee to be paid by tokens, with the government free to change the cost of those tokens as needed. Another possibility would be to create a debit card; this would be handy for the user and would make sure that the government was paid in advance, creating more cash flow for the Treasury. The Bureau of Customs and Border Protection, a unit of DHS, currently provides, for a \$122.25 fee, a fast-pass system through the ports of entry called SENTRI.<sup>43</sup> The cost is \$160 if a spouse and minor children are included. People with SENTRI cards would not be charged the proposed per-entry fee, which would, in turn, make that program more popular, and hence produce more funds.

The fees would be for entries to the U.S. Departures would not create fees.

**Estimate.** My assumption is that the additional fees are so minimal that they will not reduce the number of border crossings, and the crossings, as reflected in 2008 data, would continue at that rate.

**Politics.** This is probably the most difficult of the nine proposals to enact, largely because of the political geography involved. The business community on the U.S. side of the border at each crossing point will scream bloody murder at the prospect — no matter how remote — of reduced incoming traffic. There are, unfortunately, a total of 28 senators from the 14 states with land ports of entry.<sup>44</sup>

Further, unlike seven of the nine other proposals, rank-and-file U.S. citizens will also pay these fees, as they return from visits to Mexico and Canada.

Mexico will protest, as well, unless there could be some division of the income, with the Mexican share, perhaps, dedicated to Mexico's drug war.

A few years ago, as I recall, a somewhat similar proposal for entry fees made some headway in the Congress, only to run into fatal opposition from Sen. Max Baucus (D-Mont.).<sup>45</sup>

That a motley collection of corporations, municipalities, bi-national entities, and perhaps a couple of individuals, are happily collecting tolls at the many bridges — all of whose construction bonds have long since been retired — will probably not prove to be a very effective argument for Uncle Sam's getting his share.

On the other hand, as one of the reviewers of an early draft of this paper pointed out, small fees are routinely collected — as *baksheesh* — by corrupt border officials in many parts of the Third World; thus there are populations accustomed to fees at the borders.

I would give this one only a C- on the political feasibility scale.

## *I. Advance Income Tax Withholdings for Some Working Nonimmigrants*

**Proposed Transaction:** Advance income tax withholdings for some working nonimmigrants

**Proposed Unit Cost:** \$500

**Expected Number:** 160,000

**Annual Cash Flow in Average Years:** \$80 million

**Current Activity.** There is no current activity in this field. Arriving nonimmigrants, no matter what the level of income, pay income taxes as do others regarded by IRS as nonresidents of the United States.

The point is that they are getting a major break — a legal job in the U.S. economy, something that they are clearly seeking, and thus they should contribute a little to the hard-pressed government that has given them this opportunity.

There are prosperous nonimmigrant workers — and there are not so prosperous nonimmigrant workers. This proposal is aimed only at the first category.

Table 3 shows nine classes of what we regard as prosperous or near-prosperous nonimmigrant classes. In general terms, the workers in these classes (who probably do not think of themselves as workers) have above-average skills and above-average incomes. Further, all are distinguished by the fact that someone in

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the United States, an employer in most cases, sometimes a potential spouse, or an agent, has decided that the individual should come to the country and be able to work here, and will help them find an income. In short, a privileged group.

Among the nonimmigrant workers *not* covered by this proposal are nurses (H-1C), farm workers (H-2A), temporary nonfarm workers (H-2B), students (F and M), exchange visitors (J), and religious workers (R), all of whom can, under most circumstances, work. On average these classes do not appear as privileged as those in the visa classes shown in Table 3.

**Obtaining Additional Government Funds.** The proposal is that every arriving nonimmigrant in the

prosperous classes listed in Table 3 be obliged, at the time of the visa issuance, to make a \$500 advance income tax withholding payment. No such obligation would be imposed on those seeking, but not getting, the visas in question, nor on any dependent of the principal visa holder.

The prospective nonimmigrant would obtain an M-500, which would be somewhat similar to the M-200 mentioned earlier for arriving, working-age immigrants. The rules for the proposed M-500 would be about the same as those for the M-200 except that the tax credit would be worth \$525, and it could be applied as soon as the migrant filed a federal tax return. Some members of the M-500 classes may not stay in the country very long. Further, with the exception of M-500s held by K-1 and

**Table 3. Selected Classes of Working Nonimmigrants Subject to Advance Withholding of Federal Income Taxes (principals only; years of average migration)**

Visa Class	Expected Annual Flow of Workers	Withholding	Annual Cash Flow
E-1 Treaty Trader	2,000	\$500	\$1,000,000
E-2 Treaty Investor	8,000	\$500	\$4,000,000
H-1B Temporary Worker	25,000	\$500	\$12,500,000
K-1 Fiance(e) of U.S. Citizen	25,000	\$500 *	\$12,500,000
K-3 Certain Spouses of U.S. Citizens	7,000	\$500 *	\$3,500,000
L-1 Intracompany Transfer	60,000	\$500	\$30,000,000
O-1 Person with Extraordinary Ability	9,000	\$500	\$4,500,000
P-1 Internationally Recognized Athlete or Entertainer	20,000	\$500	\$10,000,000
TN NAFTA Professional	4,000	\$500	\$2,000,000
<b>Total</b>	<b>160,000</b>		<b>\$80,000,000</b>

\* The proposed advanced withholding document, the M-500, could only be used, for most of the visa classes, to pay federal income taxes for the individual admitted; but in the case of the K-1 and K-3 migrants, their M-500s could be used to pay their taxes or those of their spouses. The M-500 would be purchased for \$500, and would have a value of \$525 as an offset to taxes. The M-500 could not be transferred, and after five years from the date of purchase, if not already used, it would expire. Its acquisition would be required at the time of the visa issuance.

**Note:** All the estimates of visa issuances except for the first two are based on Table XVI(B) of the 2009 Annual Report of the Visa Office, U.S. Department of State. The numbers shown above have been rounded down from the numbers seen in the report for FY 2009. In the case of the first two categories, the Visa Office provides data for principals and dependents collectively, rather than showing only the principals. The E-1 and E-2 estimates shown above are, therefore, approximately one third of the visa issuances recorded in the Annual Report for each of these two classes. The H-1B estimate has been modified in the light of an additional fee on employers proposed in the text. The Visa Office report is at: [http://www.travel.state.gov/pdf/FY09AnnualReport\\_TableXVI\\_B.pdf](http://www.travel.state.gov/pdf/FY09AnnualReport_TableXVI_B.pdf).

K-3 visa recipients, M-500s could not be transferred to other members of the family; in the K instances, the M-500 credit could be transferred to the visa-holder's spouse.

**Estimate.** The number of nonimmigrants who would go through this procedure, 160,000 a year, is spelled out in Table 3. Given the prosperity — or the prospective prosperity — of members of these visa classes, I suspect that there will be little impact on the numbers of new arrivals except, perhaps, in the case of the H-1Bs whose employers will, if Proposal 1 above is implemented, have to pay per-case fees of about \$10,000 more than they do currently.

**Politics.** These fees will be paid by people who are neither voters nor prospective voters; who are largely out of the country; and who are getting a good deal from the U.S. government — all favorable factors.

The corporate interests that they relate to will pay nothing, but may be irked because the economic deal they offer their prospective nonimmigrant workers will be a hair less attractive than previously. Further, these corporations are not now linked to each other as the H-1B corporations are.

The politics of this proposal are, thus, relatively favorable. It would appear to rate a B on political feasibility.

## IV. Other Sources of Potential Additional Government Funds

None of the previous nine specific revenue suggestions can go forward without congressional approval.

The following suggestions are a mix: one would clearly need congressional approval, while most could be implemented by a strong-minded administration. The amount of money to be raised is much harder to estimate in these instances, varying from hundreds of millions of dollars in the case of enhanced income tax collections, to much, much smaller sums in others. In each of these suggestions I outline what is now known about the current situation, propose a related fund-raising reform, and then identify the entity that could take the suggested action.

The subjects to be covered include: the basic fees at DHS and DoL, the extent to which USCIS waives its fees, the repayment of refugee travel loans, a proposed new fee laid on illegals (EWIs) caught at the border, and most importantly, the collection of more income taxes from illegal aliens.

### A. Raising Document-Handling Fees at DHS

**Current Activity.** As noted earlier in this report, the State Department, at this writing, was in the throes of raising the fees it charges for handling migration-related documents and decisions. If the department goes ahead and implements its own proposal, which is likely, it would increase these fees by 11 percent. This is an excellent precedent for the rest of the government.

The Department of Homeland Security, meanwhile, has apparently not raised its migration fees, department-wide, since July 30, 2007.<sup>46</sup> The government, thus, has a very real opportunity to raise the DHS document-handling fees — using the standard government technique of recouping its own decision-making costs — by what probably would be a similar percentage. In March 2010, Alejandro Mayorkas, the new Director of USCIS, said during at least two public meetings that a fee increase proposal was “in clearance” at his agency.

**Proposed Fund-Raising Reform.** Were USCIS, the segment of DHS that handles migration-related decisions and documents, to raise its fees by a percentage comparable to State's proposed increase, it would raise an additional \$240 million. As Table 2 indicates, USCIS in its FY2010 budget request reported \$2.5 billion in fee receipts under current rules.

**Site of Decision Making.** If USCIS were simply to follow current practices, and estimate its costs and apply them to the fee structure, it could do it on its own, without a vote in Congress. If the agency were to impose a higher set of fees to raise money for the general good, which I think would be an excellent idea, then it would need congressional approval.

### B. Starting a Modest Fee Collection Program at the Department of Labor

**Current Activity.** The Employment and Training Administration of the Department of Labor issues labor certifications to employers seeking foreign workers in four separate programs. These are the permanent certifications for employers of people seeking green cards, and temporary ones for migrants doing agricultural jobs, unskilled non-agricultural jobs, and for those in specialty occupations (H-1Bs). I estimate that if the other proposals in this report are adopted the department would wind up handling about 310,000

labor certifications a year. (Needless to say, because of definitional matters, slippages, people changing their minds, the passage of time, and various other bureaucratic factors, the number of labor certifications does not equal the number of visas nor the number of admissions.)<sup>47</sup>

Although the State Department and the Department of Homeland Security both charge substantial migration-related fees, and retain them for departmental expenses, this is not the case with the Labor Department and its labor-certification work. Congress has allowed the Employment and Training Administration to charge minimal fees for its certification of foreign farm workers (a \$100 base plus \$10 per worker with a cap of \$1,000) but must send those fees to the Treasury; as to the other temporary worker programs, the department is not allowed to charge anything. (My sense is that since well-connected agri-business and corporate interests would pay these fees — rather than aliens — a conservative Congress decided to place the fiscal burden on taxpayers instead.)

The Obama administration, without providing dollar figures, has suggested in its budget message that fees be charged for all of these activities, and the moneys retained by the department.<sup>48</sup> I agree.

**Proposed Fund-Raising Reform.** Rather than going through the elaborate methodology used by the federal government to set cost-based fees, my suggestion is that the whole proposed cost of the four labor certification programs in FY 2011, \$65,648,000<sup>49</sup> be charged to those using this service.

I would then divide the money needed by 310,000 and (after some rounding) get a proposed fee for a labor certification for a worker at \$210.

The explosion from the growers would be a loud one; they would be paying about \$200 more per worker than before. It might make some of them think about employing some of the millions of unemployed Americans.

**Site of Decision-Making.** This would have to be a congressional decision.

## *C. Reducing the Number of USCIS Fee Waiver Requests Granted*

**Current Activity.** USCIS has a large number of fees that it charges for various processes, ranging from \$2 for “certification of true copies” to \$3,470 for the

combination of fees, charged under some circumstances, for an H-1B worker, as spelled out earlier in this report. The full listing of these fees takes up more than four pages in the *Federal Register*.<sup>50</sup>

As Table 2 indicates, the USCIS FY 2010 budget request showed an expected fee income of \$2.5 billion for the agency.

During the current program for granting Temporary Protected Status (TPS) to Haitians illegally in the country, rather than forcing them to return to that earthquake-damaged nation, it has extensively publicized the fact that low-income persons seeking TPS status can seek waivers of the fees that can add up to, for working-age people, \$470.

While the agency, through electronic bulletins and teleconferences, has painstakingly described to advocates how they can apply for fee waivers in this connection, there is not a word in the congressional budget request from DHS about the extent to which fee waivers have been granted, the subject of one of my recent CIS blogs.<sup>51</sup>

In the course of one of these teleconferences, on February 27, 2010, I heard that the current TPS program, in the first four weeks or so of operation, had received about 15,000 TPS applications, with about 10 percent of them accompanied by requests for fee waivers. The USCIS staffer providing that information that day said she had no information on the disposition of the fee waiver requests.

Subsequently I learned from a USCIS press officer<sup>52</sup> that 64,245 of the 5,654,239 applications (of all kinds) received by the agency in FY 2009 were accompanied by approved fee waiver requests. This is about 1.1 percent of the traffic, or about \$27 million a year.

**Proposed Fund-Raising Reform.** The suggestion is that the agency should stiffen its spine a bit, and do what it can to reduce the incidence of fee waivers, where appropriate.

My sense is that USCIS, in an effort to be nice to low-income aliens, both illegal and legal, is unnecessarily reducing its own income. While there are clearly low-income applicants who do deserve a fee waiver, I perceive no USCIS effort to promote the fees as a sound investment. In the Haitian TPS program, for instance, a working-age Haitian (16-65) gets more than 16 months’ access to the legal part of the U.S. labor market for the fee. Many Americans borrow as much as a hundred times the \$470 to get a degree that will give them access to a labor market they covet — such as in the practice of law — a model that I think USCIS should bear in mind.

Further, there are many government-funded micro-loan programs, often linked to the Office of Refugee Resettlement, which should be encouraged to lend working-age aliens the sums they need to pay these fees. I doubt that this is now being encouraged by USCIS.

Some USCIS fees, of course, do not pay for documents that open up the American labor market for the holder, but almost all of them produce economic benefits. It would be useful, then, for the agency to seek to reduce this expenditure, of about \$27 million a year, by several million dollars.

**Site of Decision-Making.** This is an internal USCIS matter.

## *D. Encouraging More Refugee Travel Loan Repayments*

**Current Activity.** The convoluted financial arrangements for refugee travel loans were sketched earlier in this report. The latest data suggest a gap of about \$100 million a year between the advances and the repayments.

**Proposed Fund-Raising Reform.** These are no-interest-forever loans, and they are handled by the mild-mannered folks in the private refugee resettlement agencies, the volags. The suggestion is to leave the repayment function with the volags for the first three years, and then transfer the function to the IRS, with that agency using income tax refunds owed to the refugees to pay off the travel loans. Further, the no-interest provision would die after three years, and a modest interest, say 5 percent a year, would be imposed thereafter.

Given a three-year opportunity to collect a 25 percent commission on the repayment of the loans, the volags would be encouraged to do more in those first three years. Since most income tax returns include a refund, many of the refugee families would have refunds available for this purpose after a three-year stay in the country. In the state of Virginia there is a somewhat comparable program; if an individual receives a state income tax refund, but also owes money to a municipality, the state deducts the amount owed and sends it to the city or county.<sup>53</sup>

The proposed rules should whittle away at the current \$100 million-a-year gap caused by the current under-repayment of these loans, and by the lack of interest charged in the program.

**Site of Decision-Making.** It is not clear to me that the State Department, given a little willpower, could not take care of this alone. It certainly could do it prospectively, for new travel loans, as State has the full power to decide on what basis the loans are to be made. To change the collection method of loans already outstanding might take an act of Congress.

The International Organization for Migration would, presumably, accept whatever arrangements were made by the State Department.

## *E. Bed-and-Breakfast Fees for Border Apprehendees*

**Current Activity.** In FY 2008 there were 811,263 instances in which illegal aliens were caught, usually near the U.S.-Mexico border, and returned without formalities to Mexico.<sup>54</sup>

To the best of my knowledge, most of these returns relate to persons stopped by the Border Patrol, processed and often fingerprinted at a DHS facility, often kept overnight, and then driven in buses to the nearest port of entry and released to the other side. If kept for more than a few hours, these aliens are given a meal or two. My understanding, when I was doing research at the border, was that there were no monetary transactions involved at that time.

**Proposed Fund-Raising Reform.** The proposed reform would be to levy what I call a bed-and-breakfast fee on these apprehended aliens, many of whom are entering the United States for a second or a subsequent time, many of whom have worked in the United States illegally at earlier times.

The fee would be waived for those carrying less than \$50 cash. It would be \$10 for those carrying \$50 to \$100, and 10 percent for sums above \$100. Non-U.S. currency would be handled the same way. The fees would be collected on each apprehension, and no credit for fees paid earlier would be allowed. If the alien specifically asked for a document stating that the moneys seized could be used to pay his or her federal income tax, it would be provided.

If the apprehended alien protested, no moneys would be collected, but the alien would be put into formal deportation proceedings with potentially serious legal consequences, and presumably some jail time while the proceedings played out.

So, in the same sense that an apprehendee's escorted return Mexico is a "voluntary action" in the

eyes of DHS, so these bed-and-breakfast fees could and should be regarded as “voluntary.” (See End Note 54.)

The motivation for this program would be dual: It would collect some money for enforcement at the border and it would provide a financial disincentive for illegally crossing the border.

To the best of my knowledge, no one has collected data on the amounts of currency carried by EWIs, so the guesstimate that follows is a rough approximation at the very best. Let us suppose that 25 percent of the EWIs carry less than \$50, that 25 percent carry between \$50 and \$100, and that the other 50 percent carry, on average, \$200. Multiplying these percentages and numbers by a rounded-down total of 800,000 would produce these collection rates, annually:

25 percent with no fee	\$0
25 percent @ \$10 each	\$2 million
50 percent @ \$20 each on average	\$8 million
Total annual collection	\$10 million

There are some precedents outside the immigration field for jailers to charge fees to their prisoners. The Sheriff in Klamath Falls, Ore., for instance charges \$60 a day to those in his jail.<sup>55</sup>

The proposal probably should be to suggest a two-year experiment, to see if it was worth the trouble to the Border Patrol.

**Site of Decision-Making.** Since this would be a “voluntary” fee, I see no need for congressional involvement. It is DHS’s call.

### *F. More Vigorous Income Tax Collection Techniques vis-a-vis Illegal Aliens*

**Current Activity.** Illegal aliens have the same obligations as the rest of us do to pay federal income taxes, and their employers have the same obligation as other employers do to make appropriate withholdings.<sup>56</sup>

As noted earlier, IRS has different definitions of resident aliens than DHS has. Illegals here for the first five years are regarded as nonresident aliens and should file 1040NR tax forms; those here for more than five years get to file the more taxpayer-friendly 1040. This may seem like a trivial matter, but it is not, and I will return to this subject shortly.

I may be wrong — I hope I am — but I know of no special activity on the part of the Internal Revenue Service to collect these taxes from the illegal alien population. My strong sense, from decades of working

with various government agencies, is that IRS has only the most limited interest in curtailing illegal immigration and DHS has only the most limited interest in tax collection — hence there is, in fact, little cooperation between these two agencies on these two issues, despite, perhaps, some rhetoric to the contrary.

There are two basic problems with collecting taxes from employed illegal aliens (and most of them are employed).

The first problem is non-reporting and under-reporting of wages. Clearly, an illegal paid in cash is unlikely to pay income taxes on it, and clearly some exploitative employers, those paying cash, do not report these wages to IRS. This would appear to be a major problem, but one of unknown dimensions. The second problem is rarely discussed, and this is the faulty handling of income tax returns by those illegal aliens who, in fact, file them. This, I argue, is a more manageable problem than the first, and well worth managing.

Let me cite a couple of nationwide statistics from the *Statistical Abstract of the United States, 2007*.<sup>57</sup> In 2003 the Treasury collected about \$704 billion in withholdings and sent back \$202 billion in refunds nationwide. Presumably illegal aliens did not participate fully in the withholdings, particularly those in the cash economy, and other illegals may have participated too thoroughly in the refund process. While the withholdings figure is 3.5 times larger than the refunds total, the smaller number (\$202 billion) is still impressive. (The vast majority of both figures relates, of course, to legal residents.)

Before discussing how more income taxes can be collected from illegal aliens, it is useful to review some information on their estimated participation in the income tax system, based on an earlier CIS analysis of Census data.<sup>58</sup> While the thrust of Steven Camarota’s very useful report, based on material from the March 2003 Current Population Survey, was the imbalance between the relatively modest taxes paid by illegal aliens, and their major costs to society, there are three data points in the study that are also useful to this report.

The illegal alien families discussed in Dr. Camarota’s report had an average of 2.7 members, had an average 2002 income of \$30,019, and reported paying an average income tax of \$1,371. (Whether this was for both federal and state income taxes, or just federal taxes, was not clear to me, and perhaps not to the respondents.)

I decided to test the \$1,371 number against what a family with this income would have paid in federal income taxes had they claimed 2.7 exemptions and the standard deduction for a couple filing jointly.

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I used the Internet to bring up the 1040 and 1040NR income tax forms for 2002, as well as the tax tables for that year. I did that knowing that many aliens file the 1040 when they should be filing the 1040NR.<sup>59</sup>

This is what I found for 2002 U.S. income taxes owed for a family with \$30,019 income in three different scenarios:

1040 filers	\$1,511
1040NR filers (Mexico)	\$2,539
1040NR filers (other)	\$3,304
Census illegal population	\$1,371 (reported)

The report did not break out the responses by either the length of time in the United States (which would impact the 1040/1040NR variable), nor the nation of origin. The latter is significant because most illegal aliens are from Mexico, and those who file the 1040NR are treated more favorably than other nonresident aliens. (Mexican nationals can claim more than one deduction for dependents on this form and most of the other nonresidents cannot.)

What one would expect from this exercise, were illegal aliens paying income taxes properly, is that the census sample should have been shown an average payment of not \$1,371, and not \$1,511, but something substantially above \$1,511 because, surely, some of the respondents had not yet completed their fifth year in the country, and thus were not eligible to file the 1040. (And none of these calculations deals with the question of unreported or under-reported wages.)

What is really important in the set of numbers above is the large difference in the taxes owed, depending on the form used; the difference between 1040 filers and non-Mexican-national 1040NR filers at this income level is more than two to one.

It would help IRS to collect more money, probably much more money, if the agency had more information on who is eligible to file which form.

**Proposed Fund-Raising Reform.** First, it should be noted that earlier in this report there were two suggested revenue-raising programs, each of which touched on a different subpopulation within the illegal alien community: those wiring funds from inside the United States to overseas locations, and a less fortunate subset, those caught by the Border Patrol seeking entry to the United States. Each of these suggested programs would help encourage the payment of income taxes.

Second, I suggest that the government consider two other major programs to increase the payment of

income taxes by illegal aliens, and three lesser ones. One of the major suggestions deals with the problem of under- or non-reporting of taxable income, and the other with the question of which form should be used by the illegals. The lesser ones all deal with under-reporting of income.

**Under-Reporting of Income.** While most illegal aliens, once settled down and working in the States, actively avoid contact with the government, there are a very substantial number of contacts with the federal government that could be used to encourage the payment of federal income taxes.

More narrowly, I am thinking of illegals who want a benefit from USCIS, who are now in an ICE-run or -rented detention facility and want to get out, or someone who wants something from an Immigration Judge or the Board of Immigration Appeals. Currently, in some of these relationships, notably with USCIS, there are sometimes demands from the government that the applicant show one or two years of income tax filings; in some there are no such requirements.

We know that these are large, if somewhat overlapping, populations. A large proportion, but probably not a majority of the 5.5 million applications filed with USCIS are from illegal aliens; all of the 379,000 people detained by ICE<sup>60</sup> are charged with being illegally in the country, and a majority of those with cases before the Immigration Judges and the BIA are, similarly, illegal aliens. The annual report of the Executive Office of Immigration Review states that in 2008 these courts handled an input of 351,477 “Immigration Court Matters,” again assuming some overlap.<sup>61</sup>

For rough estimating purposes, let’s say that there is non-overlapping population of one million illegal aliens a year who are seeking a benefit from USCIS, from the immigration detention system, or from the immigration courts.

My thought is that it would be totally appropriate to say to all applicants to these three systems: if you want something from the U.S. government, as you do, show us that you have paid your federal income taxes in the past, or will in the future, if you stay here.

If people cannot show a copy of an income tax filing then they would be obliged to buy one of the M-200 documents mentioned earlier in this report. These would be \$200 certificates that could be used to pay \$210 worth of federal income taxes in the future, but which are largely not transferable or otherwise saleable.

For the minority who are actually deported, the M-200s could be turned into cash, at the U.S. embassy

or consulate in the home country if the holder appeared in person a year or so later, in response to an invitation by the embassy or consulate. It would be a minor award for staying deported for a year.

If half the million or so applicants that I estimate could not produce valid income tax returns, the resulting M-200s would lead to withholdings payments of \$100 million a year. The M-200 process would also make sure that this half a million was known to IRS, and that the half million, in turn, had had a meaningful bit of education about the U.S. income tax system.

**Using the Right Form.** As to the correct form, it strikes me that DHS (and EOIR) both have information on people who appear to be illegal aliens, including their name, Social Security number, a U.S. address, and the date of their first arrival in the United States. This information could be transferred from the DHS and EOIR computers to the IRS computers, much the way that dividend payments are sent by corporate computers to those of IRS.

Arrangements should be made between the two agencies to transfer the data, and to use it to make sure that the aliens involved file the right form. DHS should also tell IRS the dates of arrival of both illegal aliens known to the agency and newly arrived nonimmigrants with work permits. DHS would simply record names, addresses, SSNs, and dates of arrival. IRS would then flag 1040 filings that should be 1040NR filings, and hold any refunds until the aliens involved file the right forms, and reduce the size of the refunds when appropriate.

A little speculation about the potential financial significance of this suggestion: Let's assume that there are something like nine or 10 million illegal aliens in the country, grouped into something like four million families, of which half paid income taxes. Let's assume that, say, a half of the two million tax-paying families, or one million, were here for less than five years, and should be using the 1040NR form. Let's further assume that half do so and half underpay by using the 1040. That's a potential population of half a million families, all underpaying income taxes by, say, \$1,000 each. That's half a billion dollars right there.

In addition there are the annual admissions of about 1.8 million working nonimmigrants each year in such visa classes as E, H, J, K, L, O, P, R, NAFTA, and TN, and many in F and a few in M as well.<sup>62</sup>

Let's assume that the total population of working nonimmigrants (dependents excluded) with less than five years in the nation equals twice the annual admissions<sup>63</sup> for a nonimmigrant 1040NR population of about 3.6 million. Let us further assume that this

population is more likely to file the correct form than the illegals, and that only, say, 10 percent of it uses the wrong form. That would be about 360,000 working nonimmigrants filing the wrong form, again at the cost to the government of something like \$1,000 per filer per year for a total of \$360 million in lost revenue.<sup>64</sup>

## Three Lesser Suggestions

- There is, according to a recent *New York Times* article,<sup>65</sup> a laudable, ongoing effort by IRS to detect phony “contractor” arrangements in which employers seek to avoid payroll taxes by identifying workers not as workers, but as contractors. Since this is a gambit known to be used by employers of illegal aliens, a crackdown on those employers would help, in some cases, to limit the use of this technique with illegal aliens. At the local office level, ICE investigators should be encouraged (by DHS reporting systems, among other things) to routinely inform IRS investigators when they find employers using the contracting-out process.
- More broadly it would be helpful if ICE contacts with employers could often be converted into multi-agency visitations; so that while ICE people were checking on (if not deporting, sadly) the illegal alien work force, IRS people would be making sure wage and tax payments were made correctly, and, when it could be arranged, federal and/or state wage-hour investigators could be enforcing their laws. Multiple-agency visits like these, particularly if they are well-publicized, would cause more employer fear and behavior modification than simply visits by ICE alone; many people fear IRS more than any other government agency, and this fear should be used whenever possible to discourage the employment of illegal aliens.
- Further, when IRS finds that illegal aliens have underpaid their federal taxes, the agency should share that information with state income tax collection agencies. Many states have income tax systems that are based on the federal program, and one would expect that often the under-payment of federal income taxes would suggest under-payment of state income taxes as well. Maybe this kind of information sharing is already in place. While this report is addressed primarily at increasing revenues for the federal government, here is a proposal that might help state agencies collect more taxes from

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illegal aliens. One of the governmental systems that reaches the largest number of Americans is that of issuing license plates for cars. Having an up-to-date license plate is more important than having a driver's license, because the former is out in the open for all (including the police) to see. I sense that most people with enough money to own a car have enough money to pay state income taxes. So why not limit the issuance, or re-issuance, of a license plate to those households that are on record as having filed their state income taxes. If no such record exists, the license-plate applicant would be required to make a mandatory deposit of, say \$200, that he or she could use to pay the following year's income tax.<sup>66</sup> The notion being that there are probably people who own cars who should be paying state income tax, and are not doing so.

I have not made an effort to estimate the amount of additional money the government could raise by employing one or more of the three lesser techniques proposed above, but they are, presumably, large sums. Offsetting some of the income taxes not paid by illegal aliens, generally, are tax withholdings on accounts with scrambled names and SSNs, often deliberately scrambled by illegal aliens, that cannot lead to refunds to the workers concerned.

**Site of Decision-Making.** Most of the activities suggested above could take place without new legislation; most would require policy changes within DHS, EOIR, and IRS, at the federal level, and within various state government agencies.

The problem with all of these recommendations is that IRS, all else being equal, would rather seek

**Table 4. Rough Estimations of Additional Cash Flows from Agency Actions in Addition to Those Listed in Table 1 (listed in order of appearance in text)**

<b>Proposed Agency Action</b>	<b>Rough Estimate of Additional Cash Flow</b>
USCIS to Increase Its Own fees	\$240,000,000
DoL to Adopt Realistic Fee Schedule (with approval of Congress)	\$64,000,000
USCIS to Reduce Number of Fee Waivers	Some fraction of \$27,000,000
Department of State to Be More Active in the Collection of Refugee Travel Loans	Some fraction of \$100,000,000
The Bed-and-Breakfast Fee for EWIs Caught at the U.S.-Mexico Border	\$10,000,000
Enhanced Income Tax Collection Programs:	
From Those Seeking Benefits from the U.S. Government	\$100,000,000
From Illegals Using the Right Tax Forms in the Future	\$500,000,000
From Nonimmigrants Using the Right Tax Forms	\$360,000,000
From Existing Phony "Contractor" Program	no estimate
From Proposed Multi-Agency Visitation Program	no estimate
From IRS/State Income Tax Cooperation	no estimate
Total Enhanced Income Tax Program	\$960,000,000
<b>Grand Total</b>	\$1.3 billion plus some fraction of \$127 million

**Note:** These are the author's rough estimates; dollar figures include additional income tax payments, additional income tax withholdings, additional fees, and additional loan payments, in about that order. See text for details. Most of the actions in this table, except for the DoL fees, do not appear to require congressional approval. All the actions proposed in Table 1 do need acts of Congress.

bigger individual chunks of money owed than those encountered in the recommendations above. The agency would argue that a single agent working a day on moneys hidden in Swiss bank accounts would bring in more revenue than having that agent spend the day on illegal aliens, or even a week. For better or for worse, Congress overrode those IRS concerns some years ago and caused a lot of IRS attention to be paid to incorrect 1040 filings by low-income people seeking to maximize their Earned Income Tax Credit refunds. Maybe a congressional directive, in a funding bill, would be helpful to stimulate IRS along these lines. One of the attractions of such a move is that it could take place in a forum other than the immigration subcommittees of the Congress.

**Summary.** I have outlined above a series of largely administrative actions that can be taken to increase the government’s cash flow, notably in the collection of already-owed income taxes from illegal aliens.

As Table 4 shows, these suggested actions in Section IV should benefit the federal government by well over one billion dollars a year, all of which is addition to other proposed gains outlined in Section III.

Unfortunately — getting back to Jon Stewart’s suggestion of a cover charge for entering the United States — life is more complicated than that, and a series of sometimes complex measures need to be taken to bring these proposed revenues to the Treasury.

If all these measures are adopted, the additional cash flow for the government should exceed \$5 billion a year. It is well worth the effort.

## End Notes

<sup>1</sup> H-1B and L-1 visa holders are two classes of nonimmigrant workers who are admitted to the United States for temporary (but usually long) periods at the request of their employers or potential employers. For more on H-1Bs, see “The Bottom of the Pay Scale: Wages for H-1B Computer Programmers,” a Center for Immigration Studies *Backgrounder*, John Miano, December 2005, <http://www.cis.org/PayScaleH1BWages>.

<sup>2</sup> See Joel Klein’s article in the April 2, 2009, issue of *Time*, for instance, in which he estimates that putting a 10 percent tax on legalized marijuana would bring \$1.4 billion a year to California alone.

<sup>3</sup> I have had 10 tax seasons of exposure to these nuances, because, as a volunteer, I have organized and managed a free income tax counseling clinic for graduate students at the University of Maryland; it deals with about 400 graduate students a year, about half residents of the United States, and half international students. In the process I learned about the various treaties that establish special rules for nonimmigrants from some nations, but not from others.

<sup>4</sup> The application for the petition is at [http://www.ice.gov/doclib/pi/forms/iceform\\_i246.pdf](http://www.ice.gov/doclib/pi/forms/iceform_i246.pdf).

<sup>5</sup> See “Public Charge Doctrine: A Fundamental Principle of American Immigration Policy,” a CIS Backgrounder by my colleague, James R. Edwards, Jr., May 2001, <http://www.cis.org/PublicChargeDoctrineAmericanImmigrationPolicy>.

<sup>6</sup> See the IOM Financial Report for the year ending December 31, 2008, [http://www.iom.int/jahia/webdav/shared/shared/mainsite/about\\_iom/en/council/98/MC\\_2277.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/98/MC_2277.pdf), p. 38.

<sup>7</sup> H.R. 4321; See “New Immigration Bill Is Introduced in the House,” *The New York Times*, December 15, 2009, <http://www.nytimes.com/2009/12/16/us/politics/16immig.html>.

<sup>8</sup> See “Fuzzy Words Foul Up the Immigration Policy Debate,” a CIS blog, <http://www.cis.org/north/terminology>.

<sup>9</sup> For DHS agency budgets, see Budget-in-Brief FY 2010, p. 59 for C&BP; p. 69, for ICE; and p. 128 for USCIS at [http://www.dhs.gov/xlibrary/assets/budget\\_bib\\_fy2010.pdf](http://www.dhs.gov/xlibrary/assets/budget_bib_fy2010.pdf). For EOIR costs and fees: see Congressional Budget Justification, FY 2010,

U.S. Department of Justice, Administrative Review and Appeals pp. 32 and 36 at <http://www.justice.gov/jmd/2010justification/pdf/fy10ara.pdf>. For ORR costs and fees: see Justification of Estimates for Appropriations Committees, FY 2010, DHHS, Administration for Children and Families, p. 229, at [http://www.acf.hhs.gov/programs/olab/budget/2010/sec2e\\_refugees\\_2010cj.pdf](http://www.acf.hhs.gov/programs/olab/budget/2010/sec2e_refugees_2010cj.pdf).

<sup>10</sup> See *Federal Register*, Vol. 74, No. 238, December 14, 2009, pp. 60076-60079, at <http://edocket.access.gpo.gov/2009/pdf/E929722.pdf>, and *Federal Register*, Vol. 75, No. 26, February 9, 2010, pp. 6321-6330, at <http://edocket.access.gpo.gov/2010/pdf/2010-2816.pdf>.

<sup>11</sup> I am grateful to James MacDonald, Legislative Director for the American Engineering Association, for this and other useful suggestions made when he reviewed an earlier version of this paper.

<sup>12</sup> Wassem, Ruth E., “H-1B Visas: Legislative History, Trends Over Time, and Pathways to Permanent Residence,” Congressional Research Service, March 20, 2006, at <http://www.aila.org/content/default.aspx?docid=18974>.

<sup>13</sup> See Tables 16A and 16B.

<sup>14</sup> U.S. Department of Homeland Security, “Characteristics of Specialty Occupation Workers (H-1B): Fiscal year 2003,” November 2004, Table 1. The 331,206 petitions approved included 201,079 for initial employment and 130,127 for continuing employment of H-1B workers whose petitions had been approved earlier. In addition there were presumably several hundred thousand other H-1B workers who were working on papers that did not need DHS clearance that year. The report can be found at <http://www.shusterman.com/pdf/h1b704.pdf>.

<sup>15</sup> USCIS, “Cap Count for H-1B, H-2B and H-3 Workers for Fiscal year 2010,” <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=138b6138f898d010VgnVCM10000048f3d6a1RCRD>.

<sup>16</sup> “The Bottom of the Pay Scale: Wages for H-1B Computer Programmers,” Center for Immigration Studies *Backgrounder*, John Miano, December 2005, <http://www.cis.org/PayScaleH1BWages>.

<sup>17</sup> For more on this see my CIS blog at <http://www.cis.org/>

north/NIVfees.

<sup>18</sup> See the USCIS press release “USCIS Continues to Accept 2011 H-1B Petitions” April 8, 2010.

<sup>19</sup> The document, which showed a substantial fraud rate of 20.7 percent in its random survey of H-1B extension documents, can be seen at [http://www.uscis.gov/files/nativedocuments/H-1B\\_BFCA\\_20sep08.pdf](http://www.uscis.gov/files/nativedocuments/H-1B_BFCA_20sep08.pdf).

<sup>20</sup> See “Question and Answers: Extension of Optional Practical Training Program for Qualified Students” April 10, 2008.

<sup>21</sup> “Top 1000 H1B Visa and Green Card Sponsors (2000-2009)” at [http://www.myvisajobs.com/Top\\_Visa\\_Sponsors.aspx](http://www.myvisajobs.com/Top_Visa_Sponsors.aspx).

<sup>22</sup> See EB-5 Immigrant Investor factsheet. For a detailed examination of USCIS’ latest guidance on the administration of this program, see “USCIS Guidance on EB-5 Regional Center Proposals and Associated I-526s and I-829s” in *Interpreter Releases*, Vol. 86, No. 48, December 21, 2009, p. 3069, and for the full text of the related USCIS document, p. 3116.

<sup>23</sup> See “Rich Immigrants, in Families of Five, Can Buy Green Cards for \$100,000 Each,” a CIS blog, January 11, 2010, <http://www.cis.org/north/sellinggreencards> and “Green Cards for Rich Family Actually Cost Less than Previously Reported,” a CIS blog, January 13, 2010, <http://www.cis.org/north/sellinggreencards2>. One reviewer of an earlier draft of this report, a sophisticated public official outside the immigration field, said he was surprised and appalled to learn that one could buy one’s way into this country.

<sup>24</sup> See American Life’s website, at <http://www.eb5visa.net/>.

<sup>25</sup> See Table 9 of the DHS publication “Nonimmigrant Admissions to the United States: 2008,” Office of Immigration Statistics, Washington, DC, 2009, at [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_ni\\_fr\\_2008.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ni_fr_2008.pdf).

<sup>26</sup> Russian visas come at two rates: \$169.95 if you can wait 6-10 business days for the visa, and an extra \$130 more if you want it in three business days. These visas provide one or two entries into the country in a one-month period. U.S. tourist visas last longer and allow, in most cases, multiple entries or admissions. For more, see the Russian rules, at [http://www.russiavisa.com/russian\\_visa\\_fees.php](http://www.russiavisa.com/russian_visa_fees.php).

<sup>27</sup> See Jessica Vaughan’s testimony before a U.S. Senate subcommittee on this subject: “Weaknesses in the Visa Waiver Program: Are the Needed Safeguards in Place to Protect America?” <http://www.cis.org/node/592>.

<sup>28</sup> See “Annual Diversity Immigrant Visa Program Entries Up,” Consular Affairs Update, Bureau of Consular Affairs, U.S. Department of State, October 2009, <http://www.shusterman.com/pdf/dv1009.pdf>.

<sup>29</sup> For more on this, see my blog “Taxpayers Losing Potential Quarter of a Billion Dollars in Casino Visa Program,” December 23, 2009, <http://www.cis.org/north/diversityapplicationfees>.

<sup>30</sup> A blog of mine on the subject can be found at <http://www.cis.org/north/visalottery>.

<sup>31</sup> World Bank data at <http://siteresources.worldbank.org>.

<sup>32</sup> Brenda Walker, “Should Immigrants Be Taxed?” *Washington Times*, December 2, 2002, at <http://www.limitstogrowth.org/WEB-text/taxremittances.html>.

<sup>33</sup> See PayPal’s home page at <http://www.paypal.com>.

<sup>34</sup> See Marie Price, “Officials in Oklahoma defend wire transfer fee,” *Journal Record*, Oklahoma City, July 6, 2009,

[http://findarticles.com/p/articles/mi\\_qn4182/is\\_20090706/ai\\_n32130889/](http://findarticles.com/p/articles/mi_qn4182/is_20090706/ai_n32130889/).

<sup>35</sup> Telephone conversations and exchanges of emails with Dawn Cash, Director of Research, Oklahoma Department of Taxation, February 2010.

<sup>36</sup> I am grateful to Sam Jojola, a retired federal investigator, for suggesting the concept of a tax on wire transfers of funds going to other nations. Out of that suggestion came the notion of tapping, more generally, the migration process as a source of needed federal funds.

<sup>37</sup> See: Randal C Archibold, “Western Union to Pay in Border Crime Deal,” *The New York Times*, February 12, 2010, p. A23, which reports “Of the four states bordering Mexico, Arizona has the highest number of arrests of people illegally crossing into the United States and *smugglers typically are paid through money wired to them by relatives and friends of migrants already in this country.*” (Emphasis added.) The article is at <http://www.nytimes.com/2010/02/12/us/12arizona.html>.

<sup>38</sup> This is the author’s calculation from age-specific data to be found in Table 9. The estimate of those adjusting status, as opposed to new arrivals, was, similarly, calculated from Table 7.

<sup>39</sup> Calculated from data in Francisco Diaz, “Laredo Bridge System Shows Recovery,” *Laredo Sun*, January 21, 2010, <http://www.laredosun.us/notas.asp?id=3163>.

<sup>40</sup> Although I have no current information on the subject, some 30 or more years ago when I used the crossing I was told that the U.S. end of the Presidio (Texas) bridge was owned by the man who “lived in the big white house near the bridge,” and that, further down the Rio Grande, the person owning the wonderful ferry at Los Ebanos (Texas) was “a dentist in Monterrey.” The ferry is a hand-pulled barge at a narrow point in the river with a maximum capacity of three cars. It is the least busy of all the border crossings and the only ferry of its kind at the edge of the United States. When I used it I made a foolish mistake; I noticed that while one part-time staffer handled the U.S. formalities, the Mexican government had wastefully sent half a dozen men to their border post. The six were playing cards and I took their photograph without asking permission. They did not like that and proceeded to inspect my rental car with great care, finding nothing.

<sup>41</sup> There is a lot of information on the Internet about the bridges.

<sup>42</sup> This is a system used by many subway systems.

<sup>43</sup> For more on SENTRI, see [http://www.cbp.gov/xp/cgov/travel/trusted\\_traveler/sentri/sentri.xml](http://www.cbp.gov/xp/cgov/travel/trusted_traveler/sentri/sentri.xml).

<sup>44</sup> New Hampshire, while it has a border with Canada at its northern tip, has no port of entry. The 14 states are: Texas, New Mexico, Arizona, and California on the southern border; Maine, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, and Washington on the northern border; and Alaska, on the eastern border.

<sup>45</sup> Montana has 13 ports of entry, most small, with names like Sweetgrass, White Tail, and Wildhorse.

<sup>46</sup> See “Temporary Adjustment of the Immigration and Naturalization Benefit and Petition Fee Schedule for Certain Adjustment of Status and Related Applications [72 FR 41888] [FR 37-07].”

<sup>47</sup> The 310,000 would consist of about 150,000 principals in the permanent, employment-based immigrant category, about 66,000 (the cap for) H-2B workers, some 44,000 H-2A farm

workers (about the number of visas issued in 2009), and a reduced flow of some 50,000 H-1Bs. Many of the certifications issued by DoL are done by groups, particularly among the farm workers, but the numbers above are of people.

<sup>48</sup> For the Department of Labor's 2011 Budget Justification's proposal to change the almost complete absence of fees paid to DoL by employers of those getting permanent or temporary labor certifications, see page ETA-11 at <http://www.dol.gov/dol/budget/2011/PDF/CBJ2011V103.pdf>.

<sup>49</sup> For the FY 2011 request, see page ETA-20 of the Department's Congressional Budget Justification at <http://www.dol.gov/dol/budget/2011/PDF/CBJ2011V103.pdf>.

<sup>50</sup> See the *Federal Register* at [http://edocket.access.gpo.gov/cfr\\_2003/pdf/8cfr103.7.pdf](http://edocket.access.gpo.gov/cfr_2003/pdf/8cfr103.7.pdf).

<sup>51</sup> For USCIS fee guidance, see <http://www.uscis.gov/portal/site/uscis/>. My blog on the lack of information available to Congress on fee waivers is at <http://www.cis.org/north/Haiti-TPS-fees2>.

<sup>52</sup> E-mail from Bill Wright, USCIS Office of Communications, February 19, 2010.

<sup>53</sup> I know about this because I am the chair of an obscure Arlington County (Va.) appeals board that settles the rare disputes in this program.

<sup>54</sup> See "2008 Yearbook of Immigration Statistics," Table 36. The report defines the activity as follows: "Returns are the confirmed movement of an inadmissible or deportable alien out of the United States not based on an order of removal. Most of the voluntary [sic] returns are of Mexican nationals who have been apprehended by the U.S. Border Patrol and are returned to Mexico."

<sup>55</sup> See Associated Press, "Jail fees increase inmates' debt to society", *Baltimore Sun*, May 23, 2004. formed," October 23, 2009, <http://www.irs.gov/businesses/small/international/article/0,,id=105085,00.html>.

<sup>56</sup> See IRS, "Pay for Personal Services Performed," October 23, 2009, <http://www.irs.gov/businesses/small/international/article/0,,id=105085,00.html>.

<sup>57</sup> Table 473, p. 316.

<sup>58</sup> See: Steven A. Camarota, "The High Cost of Cheap Labor: Illegal Immigration and the Federal Budget," Center for Immigration Studies, August 2004, <http://www.cis.org/articles/2004/fiscal.html>, Tables 1 and 2.

<sup>59</sup> In my volunteer work at the University of Maryland with graduate students (a very well-informed, bright group, needless to say) I keep running into international students who think they should file the 1040 when they should not. In one upsetting case, I found that an MBA student from China had sought income tax help from a professional preparer and he — despite her obvious newness to the nation — had prepared a 1040 for her. If there is confusion at this level of sophistication, think what it must be like for a population with less education.

<sup>60</sup> See the Office of Immigration Statistics publication "Immigrant Enforcement Actions: 2008," [http://www.dhs.gov/xlibrary/assets/statistics/publications/enforcement\\_ar\\_08.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/enforcement_ar_08.pdf).

<sup>61</sup> See page B7 of the "FY 2008 Statistical Year Book" published by EOIR, U.S. Department of Justice, <http://www.justice.gov/eoir/statspub/fy08syb.pdf>.

<sup>62</sup> These classes are: E, investors; F, academic students; H, temporary workers; J, exchange scholars; K, fiancés; L, intra-company transferees; M, vocational students; O, workers of extraordinary ability; P, athletes; R, religious workers; and NAFTA and TN, professionals admitted, mostly from Canada, because of NAFTA treaty provisions.

<sup>63</sup> The estimate of the annual admissions of these working nonimmigrants, all covered by the income tax law, and most employed, is based on my calculations from Table 25, "Nonimmigrant Admissions by Class of Admission FY 2008" in the "2008 Yearbook of Immigration Statistics." I have included all the principal admissions in the listed classes, but only half of those for E, F, and M categories. In the case of the Es, the table lists both principals and dependents together; in the case of the two student classes, F and M, many — I guess half — do not work. This produces a total of 1,823,516, which I have rounded down to 1.8 million. It is always difficult to estimate population (counts of people) numbers from admissions (agency actions) data. Others may disagree with my guesstimate that twice the number of annual admissions equals the population of interest, an estimated 3.6 million working nonimmigrants who have been in the United States for five years or less. (The statistical problem is that some aliens on temporary visas are admitted only once during a multi-year stay, while others are admitted several times in the course of a year.)

<sup>64</sup> The \$1,000 per filing shortfall estimate is based on the calculations shown earlier in the paper on the differential income tax levies laid on Form 1040 and Form 1040NR workers at about the \$30,000-a-year income level.

<sup>65</sup> See Steven Greenhouse, "A Crackdown on 'Contractors' as a Tax Dodge," *The New York Times*, February 18, 2010, p. 1, <http://www.nytimes.com/2010/02/18/business/18workers.html>.

<sup>66</sup> This idea grew out of a conversation with Kevin Appel, a Virginia lawyer with extensive tax-collection experience.



# Charging More for Immigration Closing Financial Loopholes in the U.S. Migration Process

By David North

The U.S. Government, fighting two wars and one huge recession, badly needs additional revenues to move toward a balanced budget.

Meanwhile, migration to (and, to a lesser extent, visitation of) the United States offers remarkable financial benefits to the individuals involved and these visitors are not currently paying their fair share to the U.S. Treasury. The following package of revenue-raising proposals would close many of the existing financial loopholes that silently hurt all of us.

While I do not think that massive, loosely controlled international migration, particularly illegal migration, is a good idea, the nation could secure considerable additional income from this process until migration can be better managed. The proposed extra federal funds, if all the elements were enacted, would total more than \$5 billion annually for the Treasury.

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