



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration

REPORT

OCTOBER 2011

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Treasury Department Says Illegal Aliens Collect Billions in Tax Credits

People filing tax returns using Individual Tax Identification Numbers (ITINs) collected \$4.2 billion in Additional Child Tax Credits (ACTC) in 2010, according to the Department of Treasury Inspector General (IG). The vast majority of people filing ITIN returns are illegal aliens who are ineligible to receive Social Security numbers (SSNs). The ACTC allows low income earners to receive a credit of \$1,000 per child, and if they owe no taxes, like virtually all illegal alien households, they get that \$1,000 per child paid to them.

According to the IG report, 72 percent of tax returns filed by ITIN users claimed

the ACTC, compared with just 14 percent of returns filed by people using SSNs. The report, which was issued September 1, states, "The payment of federal funds through this tax benefit appears to provide an additional incentive for aliens to enter, reside, and work in the United States without authorization, which contradicts federal law and policy to remove such incentives."

The IG's hypothesis is borne out by the sharp increase in payouts from the Treasury under the ACTC program, rising from \$924 million in 2005 to \$4.2 billion last year. One of the likely reasons for the dramatic increase in ACTC claims by ITIN

AT A TIME WHEN CONGRESS AND THE PRESIDENT ARE DEBATING WAYS TO CUT TRILLIONS OF DOLLARS IN FEDERAL SPENDING, AND MILLIONS OF AMERICANS ARE OUT OF WORK, IT IS UNCONSCIONABLE FOR THE IRS TO TURN A BLIND EYE TO ABUSE OF A PROGRAM THAT RESULTS IN BILLIONS OF DOLLARS IN PAYMENTS BEING MADE TO ILLEGAL ALIENS.



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Mandatory E-Verify Clears First Legislative Hurdle

In a straight party-line vote, the House Judiciary Committee gave its approval to the Legal Workforce Act, H.R. 2885. The bill, authored by Chairman Lamar Smith (R-Tex.), would require all U.S. employers to check the work eligibility status of new workers using the E-Verify system. All 22 Republican members of the committee voted in favor of the bill; 13 Democrats voted against the measure, with two not voting.

FAIR strongly supports requiring all U.S. employers to use E-Verify as part of the hiring process. The availability of jobs is the single greatest magnet that draws illegal aliens to the United States. Employer sanctions laws, first enacted in 1986, have failed to prevent the widespread employment of illegal aliens because all employers currently are required to do is attest that they have visually inspected any of about two dozen documents workers may submit to prove they are legally eligible to work in the U.S. This gaping loophole in

the law has led to widespread document fraud and identity theft, while an estimated 7 million illegal aliens continue to hold U.S. jobs.

E-Verify has proven itself to be a reliable and accurate system that allows employers to verify that workers' Social Security numbers are valid and were issued to the people presenting them. Currently, participation in the

penalties against businesses that employ illegal aliens. Earlier this year, the U.S. Supreme Court upheld an Arizona law requiring all employers in the state to use E-Verify, or face state imposed penalties.

The provision of H.R. 2885 that preempts the ability of state and local enforcement was included to satisfy the demands of the U.S. Chamber of

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E-Verify program is voluntary, with nearly 300,000 employers enrolled. Requiring all employers to use E-Verify, as called for in H.R. 2885, would make it far more difficult for illegal aliens to get away with presenting fraudulent documents, or engaging in identity theft, to gain employment in the U.S.

While making E-Verify a mandatory program for all U.S. employers would be a significant step forward in the effort to combat mass illegal immigration, H.R. 2885 would also strip state and local governments of the hard won right to impose their own

Commerce and other business lobbies which have consistently sought to weaken enforcement against the employment of illegal aliens. The Speaker of the House, John Boehner (R-Ohio), insisted that the provision preempting local enforcement laws be included in the bill. Given the long-term failure of the federal government to effectively enforce laws in the workplace, and the current administration's outright refusal to enforce many immigration laws, FAIR believes it is critical that state and local governments retain enforcement powers.

In a cynical attempt to prevent the

Immigration REPORT

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FAIR Injects “Substance” Into GOP Debate About Immigration

At the invitation of Fox News and Google, hosts of the nationally televised Republican presidential debate which took place in Orlando, Florida, on September 22, FAIR had the opportunity to pose a question to the candidates about immigration. FAIR is a non-partisan organization that does not support or oppose candidates for elective office. However, as an educational organization, FAIR had a unique opportunity to put the GOP field of presidential hopefuls on record about what they would do to protect struggling U.S. workers from losing jobs and wages to illegal aliens.

In a videotaped question to the candidates, FAIR’s Communications Assistant, Kristen Williamson, asked them to state their positions on requiring businesses to use the E-Verify system to ensure that the workers they hire are legally entitled to hold jobs in the U.S:

Struggling U.S. workers continue to compete with millions of illegal aliens. Do you support legislation to require all employers to use E-Verify in order to ensure that the people that they hire are actually legally authorized to work in the U.S.? And will you impose penalties against employers who continue to hire illegal workers?



View the debate footage and Kristen Williamson’s videotaped question at youtube.com/fairfederation.

Immigration, a key concern of voters all across the country, has been raised repeatedly during debates held around the country. For the most part, candidates have given vague answers, expressing support for securing the border, reaffirming their support for legal immigration and opposition to illegal immigration, or recalling their immigrant ancestors, but have not laid out how they would handle immigration should they be elected.

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FAIR Welcomes William W. Chip to Board of Directors

FAIR is pleased to announce that William W. Chip has agreed to join the organization’s Board of Directors. Bill has been associated with FAIR since its earliest days and has been a long-time member of our Board of Advisors.

In addition to his dedication to the cause of immigration reform, Bill’s professional skills will be an invaluable asset to our organization. Bill is an international tax lawyer and a senior partner in the Washington, D.C., office of Covington & Burling. He advises international banks and other multinational enterprises on cross-border tax matters and has served as General Counsel to a number of prominent nonprofit organizations, including the Marine Toys for Tots Foundation and the National Football League Alumni.

Bill earned his B.A. and J.D. degrees at Yale University and holds an M.A. in Economics from Cambridge University. Before attending law school, he served as an officer in the U.S. Marine Corps, attaining the rank of Captain. His writings on the economic and ethical issues raised by U.S. immigration policy have been published in political and religious journals such as *The American Conservative* and *First Things*.

California DREAM Act Approved by Legislature

How does a legislature with a \$15 billion state budget shortfall finish up its legislative session? Well, if it's the California Legislature, it is by approving \$40 million in new benefits to illegal aliens. In party line votes — Democrats in favor, Republicans opposed — both Houses of the Legislature passed AB 131, the California DREAM Act, which makes illegal aliens eligible for taxpayer-subsidized grants, fee waivers and other financial assistance to attend public colleges and universities.

Gov. Jerry Brown has until October 9 to sign or veto the bill, but has indicated that he is “favorably inclined” to sign it. The governor earlier signed a companion bill, AB 130, which makes it possible for illegal aliens to receive an esti-

mated \$88 million in privately funded scholarships to be administered by state colleges and universities. These new benefits come on top of California's policy of offering in-state tuition subsidies to illegal aliens, which is estimated to cost California taxpayers an additional \$88 million annually.

The new benefits for illegal aliens come at the culmination of a session that saw dramatic cuts in California's higher education budget and hefty tuition increases for students pursuing their educations at public colleges and universities. Passage of AB 131 also coincided with an announcement by the California Department of Finance that tax revenues for the first two months of the current fiscal year (which began in July) fell \$596 million short of projections. ■

Judge Blocks Effort to Deny New Mexico Driver's Licenses to Illegal Aliens

New Mexico, along with Washington, is one of only two states that continue to issue driver's licenses to illegal aliens. (Utah provides “driving certificates” to illegal aliens.) Gov. Susana Martinez would like to change New Mexico's policy, but the two houses of the state legislature, both controlled by Democrats, could not come to an agreement earlier this year on legislation that would have barred illegal aliens from obtaining licenses.

More recently, Gov. Martinez has attempted to limit out-of-state illegal aliens from taking advantage of the state's policy through administrative action. The governor directed state officials to re-verify that all foreign nationals who hold New Mexico licenses are actually state residents. The Mexican American Legal Defense and Education Fund (MALDEF) sued the New Mexico Secretary of Tax and Revenue, who was charged with carrying out the re-verification process, alleging that the policy violates the equal

protection clause of the New Mexico state constitution. Ironically, MALDEF also charged that Gov. Martinez overstepped her constitutional authority by acting without approval of the legislature — an issue that did not seem to perturb MALDEF or any other illegal alien advocacy group when President Obama bypassed Congress and implemented a policy of administrative amnesty.

District Court Judge Sarah Singleton issued a temporary restraining order preventing the state from moving forward with the re-certification process. However, the court did permit the Tax and Revenue

Department to continue with investigations into cases in which letters to foreign nationals have already been mailed but have been returned as undeliverable. Out of 10,000 randomly selected letters to foreign nationals holding New Mexico licenses, about 3,200 could not be delivered by the postal system.



President's Jobs Plan Ignores the 7 Million Jobs Held by Illegal Aliens

In a speech to Congress and the American people on September 8, President Obama unveiled his plan to address the nation's unemployment crisis. The proposal calls for \$447 billion in federal spending that the president said will result in the creation of 1.3 million new jobs by the end of 2012. What the president refused to address, either in his speech or as he toured the country promoting his plan, are the estimated 7 million U.S. jobs that are currently held by illegal aliens.

The 7 million jobs now filled by illegal aliens do not need to be created. They already exist, and most would continue to exist and be filled by American workers if they were given the opportunity to do so. However, the Obama administration has made it clear that it will not enforce many U.S. immigration laws. Unless an alien has committed a serious crime in the United States, it is unlikely that he or she will be removed from the country. Moreover, the Department of Homeland Security (DHS) has indicated that aliens whose deportation cases are dropped will be eligible to apply for work authorization, allowing them to compete legally for scarce jobs.

Enforcing our immigration laws would not be a panacea for the nation's unemployment crisis. However, meaningful enforcement of laws against employing illegal aliens and removal of aliens found to be working illegally could yield much more positive results for the nation's unemployed and underemployed than the president's job proposal for a fraction of the cost. In fact, in the

absence of workplace immigration enforcement, many of the new jobs that might be created could be filled by illegal aliens.



IN ADDITION TO IGNORING THE IMPACT OF ILLEGAL IMMIGRATION ON THE NATION'S LABOR MARKET, PRESIDENT OBAMA'S PLAN DOES NOT TAKE INTO ACCOUNT THE IMPACT OF EXCESSIVE LEGAL IMMIGRATION AND BLOATED GUEST WORKER PROGRAMS.

Even if only half the jobs now occupied by illegal aliens were filled by American workers, nearly three times as many Americans would be put back to work as under the Obama plan. Newly employed American workers would likely command higher wages, which would be spent locally, stimulating the economy, rather than being sent by illegal aliens to their home countries as "remittances." They would be more likely to be working on-the-books and generating greater tax revenues for government at all levels.

At a price tag of \$447 billion, it would cost about \$344,000 of federal money to create each new job that is expected as a result of the Obama plan. By

comparison, DHS claims that it costs about \$23,000 to deport an illegal alien (other estimates place the cost far lower). Even at DHS's estimate, it could remove 15 illegal aliens from existing jobs for the cost of creating one new one under the president's plan.

In addition to ignoring the impact of illegal immigration on the nation's labor market, President Obama's plan does not take into account the impact of excessive legal immigration and bloated guest worker programs. Regardless of the high unemployment, our legal immigration policies continue to admit some 1.1 million new immigrants annually, many of whom enter the workforce and compete directly with those most hurt by the recession. In addition, a similar number of foreigners enter the country each year under guest worker visa programs. And, in spite of the urgency to find jobs for Americans expressed by the president, neither he nor Congress has proposed cutting or eliminating these guest workers programs.

Enforcing laws against illegal immigration and reducing overall levels of immigration to the United States would not entirely solve the nation's unemployment problem, but it would make a significant difference in the lives of the 23 million Americans who are either out of work or reduced to part-time employment. It is virtually inconceivable that any jobs program that does not include enforcement of laws against employing illegal aliens and reductions in overall immigration can have the desired effect of substantially reducing unemployment.

President Obama's Uncle Held (and Released) as an Illegal Alien

Yet another presidential relative was taken into custody by Immigration and Customs Enforcement (ICE) for being in the United States illegally and for having defied a deportation order. In late August, President Obama's uncle, Onyango Obama, was arrested by police in Framingham, Massachusetts, after nearly crashing his car into a police cruiser outside the Chicken Bone Saloon. Mr. Obama's blood alcohol level was nearly twice the legal limit at the time of his arrest. Framingham police turned him over to ICE, which has sought Mr. Obama for having failed to comply with a 1992 deportation order. The Kenyan national is the brother of Zeituni Onyango, President Obama's aunt, who

was granted political asylum last year after years of living illegally in the U.S.

The case of Uncle Omar, as the future president fondly referred to him in his 1995 memoir, has attracted international attention because his nephew is in the White House. But his case provides a vivid illustration of how illegal aliens routinely defy our immigration laws and court orders without consequence. If he is found guilty on the drunk driving charge, his case will also provide a high profile test of how broadly President Obama's policy of not enforcing immigration laws will be applied. The administration's stated policy is to not enforce laws against "low priority" aliens who do not pose a threat to American society. No

one is clear whether, under the new administrative policy, a drunk driving conviction rises to the level of a deportable offense.

Commenting on the case, White House spokesman Jay Carney stated, "We expect it to be treated...like any other immigration case." Given that Onyango Obama has been in the country for a long time (albeit illegally), has strong family ties in the country, and that under Massachusetts law a first or second drunk driving conviction is treated as a misdemeanor, it could well mean that Uncle Omar can expect to remain in the U.S. for a long time to come. In the meantime, Uncle Omar is free on bail pending his trial on the drunk driving charge.

TAX CREDITS FOR ILLEGALS ALIENS *continued*

filers is the influence of illegal alien advocacy groups (some of which receive government funding). These groups counsel illegal aliens to file returns because doing so would be beneficial to them if amnesty were to be enacted, and to take advantage of provisions and loopholes in the tax law that allow them to receive billions of dollars from the government. In addition, it is virtually impossible for the Internal Revenue Service (IRS) to verify or disprove the existence of a dependent minor who resides outside the U.S.

Even more alarming is the IRS's laissez-faire attitude about illegal aliens claiming the ACTC. The IG notes that in 1996, Congress attempted to prevent ITIN filers from claiming the Earned Income Tax Credit (EITC) and most other public benefits by limiting them to people who file returns under a work-eligible SSN. Because the ACTC had not been created at the time, and is not specifically mentioned in the 1996 law, the IRS claims it has no choice but to dole out billions of dollars of government money to ITIN filers, absent new legislation. That position was

explicitly rejected by the IG.

The same report also faults the IRS for failing to notify and protect citizens who have had their SSN and identity stolen by an illegal alien. Even when the IRS finds irrefutable evidence that Social Security numbers are being used fraudulently, they fail to act, or even make unsuspecting Americans aware that their identity has been compromised.

The IG report makes a series of specific recommendations aimed at ending the payout of these tax credits to illegal aliens using ITINs and calls upon the IRS to protect Americans whose identity has likely been stolen. At a time when Congress and the president are debating ways to cut trillions of dollars in federal spending, and millions of Americans are out of work, it is unconscionable for the IRS to turn a blind eye to abuse of a program that results in billions of dollars in payments being made to illegal aliens, while creating new incentives for more illegal aliens "to enter, reside, and work in the United States without authorization."

MANDATORY E-VERIFY *continued*

bill from moving forward, pro-amnesty Democrats on the committee sought to remove the preemption provision, not because they support the right of state and local governments to enforce immigration laws, but because they believed doing so would force Republicans to withdraw their support from the legislation. Led by Rep. Howard Berman (D-Calif.), pro-amnesty members offered an amendment

to delete the section of the bill that would preempt state and local enforcement. While Berman's motives were transparent, approval of his amendment would have offered critical protection to Americans workers. However, all but two Republican members, Steve King (Iowa) and Trent Franks (Ariz.), opposed the amendment and it was defeated.

The bill now goes before the full

House of Representatives where FAIR will continue to support amendments that would retain the right of states to enforce laws against employers who hire illegal aliens. FAIR will reserve support or opposition on final passage of H.R. 2885 until the final language of the bill emerges before the full House.

GOP DEBATE QUESTION *continued*

FOR THE FIRST TIME, FAIR'S QUESTION FORCED CANDIDATES TO MOVE AWAY FROM CANNED ANSWERS AND ADDRESS SOLUTIONS. IN ITS COVERAGE OF THE DEBATE, THE HUFFINGTON POST SINGLED OUT FAIR'S QUESTION, STATING, "THE MOST SUBSTANTIVE QUESTION WAS ABOUT E-VERIFY, AN EMPLOYMENT VERIFICATION PROGRAM ALREADY USED BY FEDERAL AGENCIES AND CONTRACTORS TO SCREEN FOR UNDOCUMENTED WORKERS."

For the first time, FAIR's question forced candidates to move away from canned answers and address solutions. In its coverage of the debate, the Huffington Post singled out FAIR's question, stating, "The most substantive question was about E-Verify, an employment verification program already used by federal agencies and contractors to screen for undocumented workers."

The invitation from Fox News and Google, and their decision to air the question during debate, reaffirms FAIR's central role in the immigration debate in the United States. The fact that the leading cable news organization and the leading online source for information solicited FAIR's input and posed the question to the candidates is a remarkable compliment to the work and reputation of our organization.

NEW MEXICO DRIVER'S LICENSES *continued*

The state's driver's license policy has been a boon to organized crime. In the past year, the state has indicted members of seven operations which helped people around the country and abroad obtain New Mexico licenses. For fees that ran into the thousands of dollars, the criminal operations flew illegal aliens into the state, provided them with addresses, and assisted them in taking the licensing tests.

According to polls, some 70 percent of New Mexicans support Gov. Martinez's efforts to repeal the state's policy of issuing licenses to illegal aliens. The governor, who was elected last November, pledged to repeal the policy and is carrying through on her campaign promise. New Mexico's current practice refutes the contention by illegal alien advocates that providing licenses to illegal aliens en-

hances public safety by ensuring that they obtain insurance. According to a study by New Mexico State University, the state has the second highest percentage of uninsured motorists on the road, 25.7 percent — a figure that did not change after former Gov. Bill Richardson instituted the policy of granting licenses to illegal aliens.

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- END ILLEGAL IMMIGRATION
- RESTORE COMMON SENSE TO IMMIGRATION POLICIES
- ENFORCE IMMIGRATION LAWS
- STOP TERRORISTS AT OUR BORDERS
- FIND A BALANCE BETWEEN PEOPLE AND RESOURCES

The immigration issue has never been bigger or hotter – and that means the challenges we face – and the opportunities – are greater than ever. As America approaches a defining moment in its immigration history, your pledge to FAIR in the 2011 Combined Federal Campaign is needed now more than ever. Look for FAIR under our full name in your CFC brochure.



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