



The Cost of Illegal Earnings Under Totalization With Mexico

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Summary

On June 29, 2004, the U.S. Social Security Administration (SSA) signed a totalization agreement with Mexico. To date, it has not yet been signed by the president or sent to Congress for final review. Totalization with Mexico is highly controversial because of the millions of Mexicans working in the United States without authorization. The agreement raises concerns that millions of such workers and their dependents would become newly eligible for Social Security benefits, worsening the long-term solvency of the program. In addition, substantial new costs could trigger benefit cuts and higher taxes for both retirees and workers. The agreement also raises questions as to whether it would act as an incentive for more illegal immigration from Mexico in the future.

In order to review the agreement, the Social Security Act requires the President to submit to Congress the text of the agreement and a report that includes the estimated number of individuals who would be affected by the agreement, and the estimated financial impact of the agreement on the programs. In March 2003 the Social Security Chief Actuary estimated that the cost of the Mexican agreement would be \$78 million in the first year and would grow to \$650 million in 2050. That estimate assumed the initial number of newly eligible beneficiaries would be the equivalent of 50,000 beneficiaries and would grow to 300,000 by 2050.¹

Prior to the signing of the agreement, the U.S. General Accounting Office, now the Government Accountability Office (GAO), evaluated SSA's cost estimate and sharply criticized it, saying that "*the cost of such an agreement is highly uncertain,*"² because it did not take into account the large number of current and former unauthorized immigrants from Mexico who would receive benefits under the agreement.

Because of the potential high costs to Social Security and because the agreement had not been made publicly available by the federal government, in 2005 TREA Senior Citizens League (TSCL) filed a request for a copy of the totalization agreement with Mexico and related documents, including cost estimates, under the Freedom of Information Act. As a result of a lawsuit brought by TSCL, in December 2006 the federal government released the first public copy of the agreement and other pertinent documents to TSCL. No complete cost estimates, and no estimates done after 2003, however, were among the documents released.

¹ "Proposed Totalization Agreement With Mexico Presents Unique Challenges," GAO, September 2003, GAO-03-993.

² Ibid.

This study attempts to fill in the gaps in that 2003 estimate of the cost of totalization with Mexico. This study reviews the number of Mexicans who worked in this country illegally without authorization, but who nevertheless could become entitled to totalized Social Security benefits under an agreement with Mexico, and projects the costs through 2040.

Summary of Major Findings

This study finds that a totalization agreement with Mexico would increase the number of beneficiaries and costs to the program, both under current law and under immigration reform legislation that provides work authorization to individuals who formerly worked illegally. It would potentially add more than 1.6 million additional Mexican workers, and dependents on their accounts, and would cost more than \$207.1 billion by 2040. Under current law, totalization would add more than 827,000 Mexican workers, and dependents on their accounts, and would cost more than \$110.3 billion by 2040. Immigration reform legislation that provides work authorization, totalization would potentially add another 809,000 Mexican workers, and dependents on their accounts, and would cost an additional \$96.7 billion through 2040.

Background

On June 29, 2004, the U.S. Social Security Administration signed a totalization agreement with Mexico. The agreement is subject to Congressional review, but it has not yet been signed by the President or sent to Congress.

Such agreements allow workers who divide their careers between two countries to combine (or totalize) their work credits under both systems to qualify for benefits if they lack sufficient coverage under either system. In addition, totalization agreements allow alien workers and their dependents or survivors to receive payments while living outside the United States.

The Social Security Act requires the President to submit to Congress the text of the agreement and a report that includes the estimated number of individuals who would be affected by the agreement and the estimated financial impact of the agreement on the programs. The Social Security Act specifies that a totalization agreement automatically goes into effect unless the House of Representatives or Senate adopts a resolution of disapproval within 60 session days of the agreement's transmittal of Congress.³

Unlike previous agreements with nations having economies similar to ours, the agreement with Mexico is highly controversial because of the millions of Mexicans working without authorization in the United States. Some 69%⁴ of an estimated 12 million illegal immigrants in the United States come from Mexico.⁵

The totalization agreement raises concerns that millions of such workers would become newly-eligible for Social Security benefits, thus worsening the long-term solvency of Social Security, and triggering benefit cuts and higher taxes for future retirees and workers. In addition, the agreement raises questions as to whether it would act as an incentive for more illegal immigration from Mexico in the future.

³ "Social Security Benefits for Non-citizens," Congressional Research Service, July 20, 2006, RL32004.

⁴ Ibid, page 11.

⁵ "Estimates Of The Unauthorized Migrant Population," Pew Hispanic Center, April 26, 2006.

GAO Finds Cost “Highly Uncertain”

The Social Security Office of Chief Actuary estimated that a totalization agreement with Mexico would have a negligible long-range cost for the Social Security.⁶ The chief actuary estimated that costs to the U.S. Social Security system would average about \$110 million per year over the first five years.⁷

The GAO has called SSA’s estimate into question, saying that “*the cost of such an agreement is highly uncertain,*”⁸ The GAO said that the SSA’s estimate failed to account for the large number of current and unauthorized immigrants from Mexico. Further, the GAO pointed out that such an agreement could provide an additional incentive for more unauthorized workers from Mexico to come to the United States in the future.

SSA’s cost estimate assumes the initial number of newly eligible Mexican beneficiaries was equivalent to 50,000 beneficiaries and would grow to 300,000 by 2050.⁹ This number appears quite low, given that the number of illegal immigrants from Mexico in the U.S. today may exceed 5 million.¹⁰ Because of the substantial costs to Social Security, and because the agreement had not been made publicly available by the federal government, in May 2005 TREA Senior Citizens League (TSCCL) filed a request for a copy of the totalization agreement with Mexico, together with related documents and cost estimates, under the Freedom of Information Act.

As a result of a lawsuit brought by TSCCL, in December 2006 the federal government released the first public copy of the agreement and other pertinent documents to TSCCL. No complete cost estimates, however, and no post-2003 estimates at all, were among the documents released.

This study attempts to fill in the gaps in that 2003 SSA estimate of the cost totalization with Mexico. This study reviews the reported number of Mexicans who worked in this country illegally without authorization, but who nevertheless could become entitled to totalized Social Security benefits under an agreement with Mexico, and projects the costs through 2040. Limited data about unauthorized workers makes any estimate of the costs of a Mexican totalization agreement uncertain. Yet, had Social Security actuaries attempted to account, even in part, for current and former unauthorized Mexican workers, the estimated cost of a totalization agreement with Mexico would show a very significant and long-term financial impact on the Social Security Trust Fund.

This study found that under current law an average of 34,000 Mexicans who worked illegally without authorization would potentially become eligible for totalized benefits every year through 2040, costing more than \$469.5 million over the first five years. Should immigration reform that provides work-authorized Social Security numbers pass, an additional 36,500 illegal Mexicans per year would join them, more than

⁶ Ibid.

⁷ Question for the Record Submitted to Secretary of State Condoleezza Rice by Congressman Culberson, House Appropriations Committee, released under the Freedom of Information Act to TREA Senior Citizens League, December 22, 2006.

⁸ “Proposed Totalization Agreement With Mexico Presents Unique Challenges,” GAO, September 2003, GAO-03-993.

⁹ Ibid.

¹⁰ “Estimates Of The Unauthorized Migrant Population,” Pew Hispanic Center, April 26, 2006.

doubling the number of Mexicans coming onto the rolls every year. By 2040, as many as 1.6 million Mexican workers, and dependents on their accounts would potentially receive benefits which would cost more than \$207.1 billion.

Current Policy

To qualify for totalized U.S. Social Security benefits, a worker must have at least 18 months (6 coverage credits), but *less than* ten years (39 coverage credits) of U.S. earnings.¹¹ Workers who have ten years of earnings are fully vested or “insured” and thus receive full benefits rather than totalized benefits. Full benefit recipients are not in the scope of this study, and the costs of benefits payable to them are not included.

Social Security benefits are based on the portion of time a foreign citizen worked in the U.S. Thus, totalized benefits are almost always lower than full Social Security benefits. This study used an average estimated totalized monthly Social Security benefit for retired workers of \$247.80 starting in 2008, assuming an agreement would go into effect by the end of 2007.

Totalization agreements like the one with Mexico add individuals to the rolls who worked less than ten years in the United States. According to the GAO, the number of Mexican unauthorized workers that might receive totalized benefits could be substantial because various studies show that less than one-third of Mexican immigrants stay more than 10 years in this country, the minimum amount of time needed to qualify for full Social Security benefits.¹² Thus, as many as two-thirds of Mexican immigrants work less than ten years in this country and then return to Mexico. Those individuals would benefit under totalization.

How Illegal Immigrants Can Become Entitled To Social Security

The Social Security Protection Act of 2004 imposed new restrictions on the payment of Social Security benefits to illegal immigrants. Nevertheless, Mexicans who worked illegally currently or at some time in the past could become entitled to totalized Social Security benefits.¹³ Under the 2004 law, non-citizens who apply for benefits with a SSN assigned after 2003 must have work authorization at the time their SSN is assigned *or at some later time* before applying for benefits, in order to become entitled.¹⁴

Despite tightening the law for persons who received their Social Security number after 2003, Congress did not fix a policy loophole. When determining entitlement for insured status and in calculating the initial retirement benefit amount, the Social Security Administration uses *all* reported earnings from covered employment in the United States, even if the earnings are from illegal or “unauthorized” work.¹⁵ Thus, workers who receive work authorization at some later point for example, under future immigration reform can become entitled to, and receive, Social Security benefits based on illegal work.

¹¹ Coverage credits are based on a calendar quarter, 1 quarter of coverage = 3 months.

¹² “Proposed Totalization Agreement With Mexico Presents Unique Challenges,” GAO, September 2003, GAO-03-993.

¹³ Additional Actions Needed to Prevent Improper Benefit Payments Under Social Security Protection Act,” GAO, April 2006, GAO-06-196, page 16.

¹⁴ “Social Security Benefits For Non-citizens,” Congressional Research Service, July 20, 2006, RL 32004.

¹⁵ *Ibid.*

The provisions of the Social Security Protection Act, however, *do not affect* aliens with SSNs assigned *prior to* January 1, 2004.¹⁶ They could become entitled to Social Security benefits without ever having worked with legal authorization, if they can show evidence of employment and wages earned, although, they cannot collect such benefits unless they are either legally present in the United States, or living in a country where SSA is authorized to pay them benefits. Mexico, however, is such a country.¹⁷

Social Security Numbers Issued to Non-citizens

In order to lawfully work in the United States, non-citizens must have *both* a valid Social Security number (SSN) *and* legal work authorization from the Department of Homeland Security (DHS).¹⁸ Nevertheless, millions of non-citizens are working in this country without legal authorization, and their employers are reporting their wages to the Social Security Administration.¹⁹

Government data suggests that millions of non-citizens are working with neither a legitimate SSN nor work authorization. There are also millions who have worked at least for some part of the time under a legitimate SSN, but without legal work authorization. In addition to widespread document fraud (use of counterfeit or stolen SSNs), non-citizens work by using Social Security numbers that are not authorized for work purposes, known as “non-work” SSNs. Aliens may also work illegally under SSNs issued for temporary work visas that have expired.

Invalid and fraudulent SSNs: Each year SSA receives millions of W-2s from employers. When the name and Social Security number (SSN) do not match SSA’s records, the W-2 is held in the Earnings Suspense File (ESF). Newly released data indicates that in recent years the ESF is growing at an unprecedented pace and the cumulative wages represented total \$585 billion.²⁰ These wages can later be reinstated to valid Social Security numbers when immigrants gain legal work authorization, as they would under “guest worker” immigration reform. Once non-citizen workers obtain a valid SSN, they can provide SSA with evidence of earnings reports from unauthorized employment prior to receiving their SSN and those earnings will be reinstated under their valid SSN.

Non-work SSNs: To be issued a non-work SSN, non-citizens who are in the U.S., but do not have legal authorization to work, must have been found eligible to receive a federally – funded benefit or are subject to a state or local law that requires them to have an SSN to get public benefits, such as Supplemental Security Income (SSI), Medicaid and Food Stamps.²¹

¹⁶ Additional Actions Needed to Prevent Improper Benefit Payments Under Social Security Protection Act,” GAO, April 2006, GAO-06-196, page 16.

¹⁷ “Proposed Totalization Agreement With Mexico Presents Unique Challenges,” GAO, September 2003, GAO-03-993.

¹⁸ “Social Security Numbers,” GAO, February 16, 2006, GAO-06-458T.

¹⁹ “Better Coordination Among Federal Agencies Could Reduce Unidentified Earnings Reports,” GAO, February 2005, GAO 05-154.

¹⁷ “The Growing Cost of Illegal Immigration to Social Security,” Mary Johnson, The Senior Citizens League, March 2007.

²¹ “Procedures for Issuing Numbers and Benefits to the Foreign-Born,” GAO, March 2, 2006, GAO-06-253T.

Initially, SSA issued the same type of Social Security card to everyone regardless of whether they were legally authorized to work. In 1974, SSA began assigning SSNs for non-work purposes, but the cards were not specifically annotated as such. It was not until May of 1982 that SSA started issuing cards clearly printed with NOT VALID FOR EMPLOYMENT to non-citizens not authorized to work.²² As of 2003, SSA had issued a total of more than 7 million non-work SSNs.²³

Audits by the Social Security Inspector General have found these numbers are widely abused by illegal workers. According to the GAO “there are millions of non-citizens assigned non-work SSNs before 2004 who may qualify for benefits in the coming years” because the Social Security Protection Act of 2004 does not affect them.²⁴

The Social Security Administration maintains a Non-work Alien file of wage reports (W2s) received for persons illegally working under these numbers. According to a 2006 review of the Non-work Alien file by Social Security’s Inspector General’s Office, 61% of the individuals whose numbers appear in the file were working without authorization.²⁵

Department of Homeland Security-work authorized SSNs: A much less common type of Social Security number is issued to non-citizens who are eligible to work temporarily in the U.S. The cards are inscribed with “VALID FOR WORK ONLY WITH DHS AUTHORIZATION.” Non-citizens enter the country with work authorization, but then overstay their visa once their temporary work authorization expires. Martin Gerry of the Social Security Administration says that “The SSN only reflects an individual’s work authorization status at the time the card was issued — it’s a snapshot in time. An individual’s work authorization status may change...”²⁶

Family Benefits Under Totalization

Under a totalization agreement, dependent family members of covered Mexican workers would also become entitled to benefits based on insured workers’ accounts. Family benefits are calculated according to a formula and, based on an average totalized retiree benefit of \$247.80, would expand the total cost about 50%.

Totalization agreements waive Social Security’s “legal presence” rules that prevent payment to non-citizens’ dependents and survivors who are living outside the U.S. According to the copy of the agreement furnished to TSCL, Mexican totalization agreement appears to do so.²⁷ Dependent family members who might become entitled based on an insured Mexican worker’s account could include a spouse, divorced spouse,

²² Statement of Martin H. Gerry, Social Security Administration, Before Subcommittee on Social Security of the House Committee on Ways and Means, March 2, 2006.

²³ Ibid.

²⁴ Additional Actions Needed To Prevent Improper Benefit Payments, GAO, April 2006, GAO-06-196, pages 13 & 14.

²⁵ The review also found that the other 37% had work authorization, but SSA’s records had not been updated to reflect the change in status. “Employers With The Most Wage Items In the Non-work Alien File,” Office of the Inspector General, SSA, June 2006, A-08-05-15138.

²⁶ Ibid.

²⁷ Agreement On Social Security Between The United States Of America and The United Mexican States, Article 3,#2, June 29, 2004, as released under the Freedom of Information Act to TREA Senior Citizens League, December 22, 2006.

widows or widowers, minor and disabled adult children, and even dependent parents, thus significantly increasing the cost of Totalization.

This study found that adding the value of totalized family benefits to the retiree benefits would increase the cost of totalization from an annual average of more than \$312 million over the first five years to an annual average of \$469.5 million over the first five years, and would increase total costs through 2040 from more than \$138 billion to \$207.1 billion.

Conclusion:

Responsible, comprehensive cost estimates of the totalization agreement with Mexico simply cannot afford to ignore the very large and significant cost of benefits based on illegal, unauthorized work. Doing so results in highly misleading and incomplete estimates that would jeopardize the future solvency of Social Security, leading to benefit cuts and higher taxes. Estimating the cost of a totalization agreement with Mexico is difficult because of the lack of verifiable data. However, the Social Security Administration maintains files from which plausible assumptions about unauthorized workers may be drawn, which can then be used to construct estimates.

To ensure the solvency of Social Security for retirees and disabled who live in the U.S. and pay into the system legally, this study makes the following recommendations:

- The President should not sign or send the current totalization agreement with Mexico to Congress. Should the President nevertheless do so, Congress should disapprove the agreement.
- Congress should enact legislation that would require greater Congressional review and approval of future totalization agreements.
- Congress should enact legislation that would prohibit the use of work credits based on unauthorized earnings from being used to determine entitlement for Social Security benefits.

Appendix I.

Methodology and Assumptions:

Current Law

Mexicans Who Illegally Worked Using Non-work SSNs Issued Prior To 1/01/04

Non-work SSNs issued prior to 1/01/04	7,000,000
80% assumed to have illegally worked	x .80
	5,600,000
75% assumed to have paid taxes	x .75
	4,200,000
40% assumed Mexican ²⁸	x .40
	1,680,000
66% assumed to have worked a minimum of 18 months and then returned to Mexico	x .66
	1,108,800
98% live to starting benefits	x .98
	1,086,624
Years in study period 2008-2040	32 yrs
Average per year	33,957, assumes 34,000 added to rolls each year

Guest Worker Immigration Reform

Mexicans who gain work authorization

Individuals adjusting immigration status By 2011 ²⁹	8,700,000
80% assumed to have illegally worked	x .80
	6,960,000
75% assumed to have paid taxes	x .75
	5,220,000
40% assumed Mexican	x .40
	2,08,800
50% assumed to have worked a minimum 18 months and plan to return to Mexico	x .50
	1,044,000
98% live to start benefits	1,023,120
Years in study period 2012-2040	28 yrs
Average per year	36,540 assumes 36,500 added to rolls each year

²⁸ "The Role Of Immigrants In The U.S. Labor Market," CBO, November, 2005.

²⁹ "Congressional Budget Office Cost Estimate of S. 2611, CBO, May 25, 2006.

Average Totalized Benefit

To determine an averaged totalized benefit, this study based the amount on average earnings data from the SSA's Earnings Suspense File because there are a number of detailed studies available from the GAO. This study found the average wage item per year from 1973 through 2006. That data was used to determine an average benefit using the Social Security benefit formula, which was then adjusted assuming a 2.2% annual cost-of-living adjustment. This resulted in a totalized age 62 retiree benefit of \$247.80 and a family benefit of \$371.70 in 2007.