



United States Conference of Catholic Bishops Government Relations

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Weekly Update on Immigration and Refugee Legislative Matters 111th Congress, First Session

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The House and Senate have both begun their respective August recesses. Congress will return to Washington on September 8, 2009, at which time the primary focus in both chambers will be the resumption of the consideration of health care reform legislation and completion of the fiscal year 2010 appropriations bills, including the four regular appropriations bills that fund the federal government's immigration-, refugee-, and border security-related functions and activities.

This Week's Hearings

With Congress in recess through September 7, 2009, no hearings have been scheduled for this week at which significant immigration- or refugee-related matters are expected to be discussed. ◇

This Week's Conference Activity

With Congress in recess through September 7, 2009, no immigration- or refugee-related bills are pending in conference committees. ◇

This Week's Markups

With Congress in recess through September 7, 2009, no committee actions that have implications for immigration- or refugee-related matters are scheduled for this week in the House or Senate. ◇

This Week's Floor Activity

With Congress in recess through September 7, 2009, no measures containing significant immigration- or refugee-related provisions are scheduled for floor action this week in the House or Senate. ◇

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This Week's Executive Activity

President Confirms No Action on Comprehensive Immigration Reform Bill in 2010: President Barack Obama this week confirmed what has been conventional wisdom for sometime: that there will be no action in Congress this year on a comprehensive immigration reform bill. The President's confirmation of that fact came during a August 10, 2009, press conference at the end of a summit in Guadalajara, Mexico between the leaders of the United States, Mexico, and Canada.¹²⁵⁶ The President stated his expectation that there would be a comprehensive immigration reform bill introduced in Congress by the end of 2009 and that Congress would act on it sometime in early 2010. He repeated earlier assertions that Secretary of Homeland Security Janet Napolitano is coordinating discussions between Democrats and Republicans in Congress that is aimed at producing an immigration reform bill. But he said that consideration of a comprehensive immigration reform bill would have to be put behind several other high-profile issues, such as health care reform, energy reform, and financial regulatory reform. He asserted that it would not be easy to reach consensus on a comprehensive immigration reform bill, a matter that he said would be subject to much demagoguery from opponents. But he stated the issue was important to him and the nation.

Affirmative Statement. President Obama addressed immigration in his opening statement at the concluding press conference, saying that the common prosperity of the United States, Canada, and Mexico "depends on orderly, legal migration. All three of our nations have been enriched by our ties of family and community. I think of my own brother-in-law who's Canadian. I think of the many Mexican Americans from Jalisco who found a home in Los Angeles and Texas and in my hometown of Chicago. At the same time, Americans, Mexicans and Canadians all expect their borders to be safe and secure. And that is why my administration will continue to work to fix America's broken immigration system in a way that is in keeping with our traditions of being both a nation of laws and a nation of immigrants."

Response to Question. The most news about immigration that came out of the summit, however, came in response to a question asked by the New York Times during the summit's concluding press conference. In response to a question about the prospects for enactment of comprehensive immigration reform, President Obama answered, "I continue to believe that is also in the long-term interests of the United States. We have a broken immigration system. Nobody denies it. And if we continue on a path we're on, we will continue to have tensions with our Mexican neighbors; we will continue to have people crossing the borders in a way that is dangerous

for them, unfair for those who are applying legally to immigrate; we're going to continue to have employers who are exploiting workers because they're not within a legal system, and so oftentimes are receiving less than minimum wage, or don't have overtime, or being abused in other fashion. That's going to depress U.S. wages. It's causing ongoing tensions inside the United States. It's not fair and it's not right, and we're going to change it."

President Obama said that he had a lot of legislative matters on his plate and that "it's very important for us to sequence these big initiatives in a way where they don't all just crash at the same time." He said that "in the fall when we come back, we're going to complete health care reform. We still have to act on energy legislation that has passed the House, but the Senate, I'm sure, is going to have its own ideas about how it wants to approach it. We still have financial regulatory reform that has to get done because we don't want a situation in which irresponsible actions in the global financial markets can precipitate another crisis. That's a pretty big stack of bills."

President Obama spoke of efforts that are already underway, saying that "we've been able ... to begin meeting with both Democrats and Republicans from the House and the Senate. Secretary Napolitano is coordinating these discussions, and I would anticipate that before the year is out we will have draft legislation along with sponsors potentially in the House and the Senate who are ready to move this forward, and when we come back next year, that we should be in a position to start acting."

Defending himself from potential attack from those who fear that he is moving too slowly on immigration reform, President Obama said, "Now, am I going to be able to snap my fingers and get this done? No. This is going to be difficult; it's going to require bipartisan cooperation. There are going to be demagogues out there who try to suggest that any form of pathway for legalization for those who are already in the United States is unacceptable. And those are fights that I'd have to have if my poll numbers are at 70 or if my poll numbers are at 40. That's just the nature of the U.S."

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¹²⁵⁶ [Click Here](#) to see a transcript of the August 10, 2009, press conference of President Barack Obama, Canadian Prime Minister Harper, and Mexican President Calderon at the conclusion of their summit meeting in Guadalajara, Mexico

This Week's Executive (continued)

immigration debate." He went to say that, "ultimately, I think the American people want fairness. And we can create a system in which you have strong border security, we have an orderly process for people to come in, but we're also giving an opportunity for those who are already in the United States to be able to achieve a pathway to citizenship so that they don't have to live in the shadows, and their children and their grandchildren can have a full participation in the United States. So I'm confident we can get it done."

Response from Immigration Reform Advocates. While President Obama's assertion about when Congress will take up comprehensive immigration reform legislation may be a statement of conventional wisdom, at least one leader of the immigration reform movement in Congress expressed disappointment. Representative Luis V. Gutierrez (D-IL), who chairs the Congressional Hispanic Caucus' Immigration Task Force, said that it was "a serious disappointment" that Obama doesn't foresee enactment of a comprehensive immigration reform bill in 2009. He said that, "[e]very day that passes without comprehensive immigration reform means another U.S. citizen child is separated from her mother, and another husband is torn from his wife." He went on to say that "[t]he American people want this done, and the political will exists to do it." But Representative Gutierrez's remarks were tempered by praise for the President, saying, "[w]hile it is a serious disappointment that the White House does not foresee a resolution by the end of this year, it is clear that the president understands the perils of our current immigration crisis. "

Reaction from players off of Capitol Hill ranged from bitter disappointment from some to spin by others, who sought to highlight the fact that the President predicted introduction of a bill in 2009. ☀

Secretary Napolitano to Detail Border Security and Immigration Enforcement Strategy: Secretary of Homeland Security Janet Napolitano will deliver remarks this week outlining what she says will be "a cohesive strategy" on border security and immigration enforcement efforts. Secretary Napolitano's remarks will be delivered on Tuesday, August 11, 2009, at the University of Texas at El Paso's Sixth Annual Border Security Conference.

In announcing her upcoming speech, Secretary Napolitano said that "[i]n the six months since President Obama's inauguration, we've instituted policies that reflect the reality that border security, enforcement of immigration laws in the interior of the country, and counter-narcotics enforcement are inextricably linked. In my remarks today I will discuss a new strategy, one that relies on simultaneously addressing all these challenges." She said that the approach the Administration plans to embark on "uses the laws we have in ways that are smart, tough, and effective." ◇

Last Week's Legislative Activity

Last Week's Hearings

There were no hearings last week in either the House or Senate at which significant immigration- or refugee-related matters were discussed.

Last Week's Markups

There were no committee actions last week on matters containing significant immigration- or refugee-related provisions.

Last Week's Floor Activity

There was floor action in Congress last week on one immigration- or refugee-related matter:

- Nomination of Alejandro Mayorkas. The Senate last week confirmed the nomination of Alejandro Mayorkas to head the U.S. Citizenship and Immigration Services.

Senate Confirms Mayorkas Nomination to Head

USCIS: The Senate last week confirmed the nomination of Alejandro Mayorkas to be Director of the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). The Senate acted on the nomination on Friday, August 7, 2009, by unanimous consent.¹²⁵⁷ ☀

Last Week's Conference Activity

There were no actions hearings last week in conference committees on measures containing significant immigration- or refugee-related provisions. ◇

Last Week's Executive Activity

There were no significant executive branch actions last week impacting immigration- or refugee-related legislation. ◇

Recently Introduced Legislation

The following bills containing significant immigration- or refugee-related provisions were introduced last week:

House

The House was not in session last week. Accordingly, no bills containing significant immigration- or refugee-related provisions were introduced last week in the House.

¹²⁵⁷ See Pages 870-872 of the [August 3, 2009, edition of the Weekly Legislative Update](#) for a complete analysis of previous Senate action on the nomination of Alejandro Mayorkas to be Director of U.S. Citizenship and Immigration Services

Senate

Detention

- **Secure and Safe Detention and Asylum Act:** Senator Joseph I. Lieberman (I-CT) has introduced S. 1594, a bill to provide safeguards against faulty asylum procedures, to improve conditions of detention for detainees.

As introduced, S. 1594 would mandate improved detention conditions, including prompt medical care that complies with accreditation requirements, unobstructed access to legal counsel, limits on the use of solitary confinement and other punitive treatment, and special standards for families and for victims of persecution and torture; substantially enhance the rights of asylum seekers and others to have their detentions reviewed promptly by an immigration judge and to be considered for release if they pose no risk to public safety; enhance alternatives to detention such as supervised release programs; require the recording of interviews with detained asylum seekers and other quality assurance measures to ensure these individuals are not erroneously returned to countries where they fear persecution; establish an Office of Detention Oversight within the Department of Homeland Security to audit and investigate detention facilities' compliance with standards and to report to Congress; and mandate the reporting and investigation of all deaths that occur in detention facilities.

It has been referred to the Senate Committee on the Judiciary. ◇

Bills in Development

The following is a listing of immigration- or refugee-related bills that are currently under development and that could soon be introduced in the Senate or House of Representatives. Items that were added or that have substantially changed since the previous edition of the Weekly Legislative Update was issued are marked with a double asterisk (**).

House

Representative Gutierrez Working on Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), who chairs the Congressional Hispanic Caucus' Immigration Task Force, has become the first member of the U.S. House of Representatives to stick his toe into the comprehensive immigration reform bill derby. Representative Gutierrez was quoted last week by the Capitol Hill newspaper Roll Call as saying he planned to draft a comprehensive immigration reform bill and would ready to introduce it sometime in September. The newspaper reported that Representative Gutierrez intends to combine provisions from the bill that Senate Judiciary Subcommittee on Immigration, Refugees,

and Border Security Chairman Charles S. Schumer (D-NY) is drafting with provisions from [H.R. 1645](#), legislation that Gutierrez introduced during the 110th Congress along with Representative Jeff Flake (R-A) that was known as the "Security Through Regularized Immigration and a Vibrant Economy Act of 2007" Act, or the STRIVE Act.

There was no word at the time of this writing whether Representative Flake will join Representative Gutierrez in cosponsoring the measure that Mr. Gutierrez is planning to introduce during the 111th Congress.

Members Working on Violence Against Women Technical Corrections Bill:

Representative Debbie Wasserman Schultz (D-FL) and Ted Poe (R-TX) are working on a measure that could contain several changes in law that would expand protections for aliens who are victims of domestic violence and sex trafficking. While no text was available at the time of this writing, the measure reportedly will be closely patterned after provisions in [S. 327](#), the "Improving Assistance to Domestic and Sexual Violence Victims Act of 2009", a measure that the Senate Committee on the Judiciary approved on May 7, 2009.¹²⁵⁸

As reported by the Senate Committee on the Judiciary, S. 327 contains four provisions that would expand protections for aliens who are victims of domestic violence and sex trafficking.

More specifically—

- **Extension of T Nonimmigrant Status.** Section 114 of S. 327 would amend section 214(o)(7) of the Immigration and Nationality Act to allow an alien to apply for an extension of her T nonimmigrant visa retroactively after the expiration of the visa.¹²⁵⁹

Advocates contend that the provision is necessary because a number of aliens who received T visas were unable to adjust their status in a timely way because it took the Department of Homeland Security (and its predecessor agency, the Immigration and Naturalization Service) eight years to issue regulations providing for adjustment of status of T visa holder.

- **T and U Nonimmigrant Protections.** Section 115 would amend section 107(b)(1)(E)(i)(II)(aa) of the Trafficking Victims Protection Act of 2000 to permit U visa victims to get work authorization while their case is being adjudicated if they can show prima facie evidence that

¹²⁵⁸ See Pages 475-477 of the [May 11, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the Senate Judiciary Committee's markup of S. 327

¹²⁵⁹ *The T nonimmigrant visa is available for up to 5,000 victims of "severe forms of trafficking" per year. Severe forms of trafficking include: the use of force, fraud, or coercion for sex trafficking and/or involuntary servitude, peonage, debt bondage, or slavery.*

they meet the qualifications of the visa. This would lower the standard in current law, which currently requires them show bona fide evidence.

- Nonimmigrant Adjustment of Status. Section 116 would amend Section 245(m)(3) of the Immigration and Nationality Act to permit an unmarried sibling (under the age of 18) of a U visa holder to adjust her status along with the victim.¹²⁶⁰
- Housing Assistance for Qualified Aliens. Section 117 would amend Section 214 of the Housing and Community Development Act of 1980 to permit alien victims of domestic violence to remain eligible for public housing if the perpetrators of violence against them have been evicted from or otherwise have left public housing.

Senate

****Chairman Schumer Working on Comprehensive Immigration Reform Bill:** Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY), last week said that he will have a broad outline of a comprehensive immigration reform bill available for inspection sometime in September. By all accounts, Chairman Schumer is working with Senator Lindsey Graham (R-SC) to draft the measure. Last week's comments last represent somewhat of a retrenchment of an earlier assertion that he made, in which he had pledged to have a comprehensive immigration reform bill ready for introduction by Labor Day. It is, however, in sync with remarks made by President Obama last week and this week, in which the President indicated a bill would be drafted by the end of 2009 and could be taken up by Congress in early 2010.

Principles Embodied in the Schumer Bill. In a June 24, 2009, speech that he made at the Sixth Annual Immigration and Law Policy Conference sponsored by the Migration and Policy Institute, Chairman Schumer outlined seven principles that would be embodied in his bill:

- Illegal immigration is wrong, and a primary goal of comprehensive immigration reform must be to dramatically curtail future illegal immigration.

¹²⁶⁰ *The U nonimmigrant visa is available for up to 10,000 victims of specific crimes per year who cooperate in the investigation or prosecution of the persons charged with the criminal activity. Crimes covered include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact; prostitution; sexual exploitation, female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.*

- Operational control of our borders--through significant additional increases in infrastructure, technology, and border personnel--must be achieved within a year of enactment of legislation.
- A biometric-based employer verification system—with tough enforcement and auditing—is necessary to significantly diminish the job magnet that attracts illegal aliens to the United States and to provide certainty and simplicity for employers.
- All illegal aliens present in the United States on the date of enactment of our bill must quickly register their presence with the United States Government—and submit to a rigorous process of converting to legal status and earning a path to citizenship—or face imminent deportation.
- Family reunification is a cornerstone value of our immigration system. By dramatically reducing illegal immigration, we can create more room for both family immigration and employment-based immigration.
- We must encourage the world's best and brightest individuals to come to the United States and create the new technologies and businesses that will employ countless American workers, but must discourage businesses from using our immigration laws as a means to obtain temporary and less-expensive foreign labor to replace capable American workers; and finally
- We must create a system that converts the current flow of unskilled illegal immigrants into the United States into a more manageable and controlled flow of legal immigrants who can be absorbed by our economy.

Additional Details. Since his June 24, 2009, address to the Migration Policy Institute, Chairman Schumer and his staff have revealed a few more details about the effort they are undertaking. Among them are the following:

- His bill will be bipartisan and more than a half-dozen Republican Senators will be involved in drafting it.
- His bill will be more generous to highly skilled immigrant workers than those who are lower skilled
- His bill will be tough on future waves of illegal immigration.
- Disagreements between labor and business interests on the flow of legal foreign workers can be worked out.
- The U.S. should encourage legal immigration and find some kind of path for people now here to find a way to legal citizenship.

- The U.S. has "a shortage maybe of engineers here or Ph.D's in physics, but we probably don't have a shortage of people who can do construction work."

Chairman Kerry Working on Foreign Relations

Authorization Bill: Senate Foreign Relations Committee Chairman John F. Kerry (D-MA) is working on the Senate version of the Foreign Relations Authorization Act, which he reportedly plans to introduce shortly after Congress returns from its week-long Independence Day recess.

The House of Representatives passed [H.R. 2410](#), the House version of Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, on Wednesday, June 10, 2009. As passed by the House, the measure contains among its many provisions numerous provisions making reforms to the United States refugee admissions process.¹²⁶¹

It was unclear at the time of this writing to what degree the bill that Chairman Kerry is planning to introduce will replicate the refugee admissions reform provisions in the House-passed version of H.R. 2410. ◇

Over the Horizon ...

When Congress returns to Washington in September, it will face a crowded legislative agenda that includes a number of measures that contain significant immigration- and refugee-related provisions.

The immigration- and refugee-related matters that Congress will likely address in September includes--

- **Health Care Reform.** The fate of legal immigrants, legal nonimmigrants, and undocumented aliens in the health insurance reform debate;
- **Refugee Appropriations.** The amount of funding that will be included in the regular appropriations bills for refugee admissions, overseas refugee assistance, and domestic refugee resettlement;
- **The E-Verify System.** The fate of several pending legislative provisions that would extend and revise authorization for the E-Verify System, including Senate-passed proposals to permanently extend the program, require its use by federal contractors, and permit employers to use the system to verify the employment eligibility of existing employees.
- **SSA No-Match Letters.** The fate of a Senate-passed proposal to force the Administration to issue SSA No-

Match letters to employers when Social Security Administration data conflicts with tax data.

- **Fencing Between the U.S. and Mexico.** The fate of a Senate-passed provision that would reduce the Administration's flexibility in building fencing between the U.S. and Mexico and authorize the construction of additional fencing between the two countries; and
- **Expiring Immigration Programs.** The fate of provisions passed by either the House or Senate to extend the Conrad State 30 visa program that serves medically underserved communities, the Special Immigrant Non-Minister Religious Worker Visa program, and the EB-5 Investor Visa Regional Centers program.

In addition, beginning when Congress returns in September, Congress will resume its consideration of more than a dozen other bills containing significant immigration- or refugee-related provisions that either have been marked up in a subcommittee, marked up in a full committee, or passed by the House or Senate. Finally, once Congress returns in September, Members and senators may bring more clarity to efforts underway in both chambers to draft a comprehensive immigration reform bill.

The following is a listing of several immigration- or refugee-related items that have either not yet been scheduled for action in Congress or on which it is anticipated that some action will occur within the next several weeks.

Items added to this listing since the previous edition of the Weekly Legislative Update and items on the listing which have substantially changed since the last Weekly Legislative Update was issued are marked with a double asterisk (**).

Bicameral

****Conferees Have Significant Differences on Immigration to Resolve on Fiscal Year 2010 Homeland Security Appropriations Bill:** When Congress returns to Washington in September, one of its first orders of business will be to resolve the significant differences on immigration policy and spending between the differing House- and Senate-passed versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act. That measure funds immigration enforcement, immigration services, and border security departments, agencies, programs, activities, and functions of federal government. Congress must resolve the differing versions of the measure by October 1, 2009, the date on which fiscal year 2010 begins. The two measures have significant differences on immigration policy provisions, including differences on the E-Verify System, SSA No-Match letters, border fencing, and visa programs for religious worker and doctors. Conferees could meet at any time after Congress returns to begin to resolve the differences between the two versions of the measure.

¹²⁶¹ See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provision that are included in the House-passed version of H.R. 2410

Legislative History. The following is a brief legislative history of the [House-passed](#) and [Senate-passed](#) versions of the Fiscal Year 2010 Homeland Security Appropriations Act:

- House Committee Actions.

1. On June 8, 2009, the House Appropriations Subcommittee on Homeland Security marked up its version of H.R. 2892, forwarding the measure to the full House Committee on Appropriations.¹²⁶²
2. On June 12, 2009, the full House Committee on Appropriations held a markup session, ordering that the bill be reported to the full House of Representatives as an original measure.¹²⁶³
3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.¹²⁶⁴

- House Floor Actions.

1. On June 24, 2009, the full House of Representatives took up H.R. 2892, passing it by a vote of 389-37¹²⁶⁵

- Senate Committee Actions.

1. On June 17, 2009, the Senate Appropriations Subcommittee on Homeland Security marked up its version of S. 1298, forwarding the measure to the full Senate Committee on Appropriations.
2. On June 18, 2009, the full Senate Committee on Appropriations held a markup session, approving [S. 1298](#)¹²⁶⁶ and formally reporting the measure to the full Senate.¹²⁶⁷

¹²⁶² See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 8, 2009, House Appropriations Subcommittee on Homeland Security markup of the fiscal year 2010 Homeland Security Appropriations bill

¹²⁶³ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 12, 2009, full House Appropriations Committee markup of the fiscal year 2010 Homeland Security Appropriations bill

¹²⁶⁴ See Pages 703-707 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2892

¹²⁶⁵ [House Roll Call No. 450](#), June 24, 2009

¹²⁶⁶ [S. Rept. 111-31](#), June 18, 2009

¹²⁶⁷ See Pages 673-678 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 18, 2009, Senate Appropriations Committee and the June 17, 2009, Senate

- Senate Floor Actions.

1. On July 7, 2009, the full Senate took up H.R. 2892, considering the text of S. 1298 for the purposes of floor amendments.
2. On July 9, 2009, the full Senate passed its version of H.R. 2892 by a vote of 84-6.**Error! Bookmark not defined.**

Key Immigration-Related Funding Differences. There are a number of significant differences in the level of funding in the House- and Senate-passed bills for various bureaus and programs. The most prominent difference is in U.S. Citizenship and Immigration Services (USCIS). The House-passed bill would appropriate \$2.8 BILLION for USCIS, including \$298 MILLION in directly appropriated funds. However, the Senate-passed bill would appropriate \$2.639 BILLION for USCIS, including only 135.7 MILLION in directly appropriated funds. The big difference between the two chambers on USCIS appropriations is that the House would fund close to half of the Obama Administration's \$201 MILLION request for direct appropriations to fund refugee and asylum adjudications. The Senate did not fund any of the Administration's request for that item.

Key Immigration-Related Policy Differences. There are enormous differences between the House- and Senate-passed bills on immigration policy matters. Included in the House-passed measure is a two year-long authorization of the controversial E-Verify program. However, the Senate-passed bill included numerous immigration-related policy provisions. For instance, the Senate-passed bill contains provisions that would permanently authorize the E-Verify System; make the use of the E-Verify System mandatory for federal contractors; permanently extend authorization for the EB-5 Regional Center Program; extend the Special Immigrant Non-Minister Religious Worker and Conrad State 30 J-1 Visa Waiver programs for three years; provide immigration relief to widows and orphans of deceased U.S. citizens and permanent residents; bar the Administration from taking certain actions with regard to the SSA No-Match letters; and increase mandates with regard to construction of fencing along the U.S. border with Mexico.

Some of the policy matters included in the Senate-passed version of H.R. 2892 are extraordinarily controversial and will make for a number of difficult issues to address during the upcoming House-Senate conference committee deliberations.

Side-by-Side Comparison. See the Appendix section of this week's edition of the Weekly Legislative Update, which is found on pages 907-911 of the this week's edition, for a

Appropriations Subcommittee on Homeland Security markup of the Fiscal Year 2010 Homeland Security Appropriations bill

side-by-side comparison of some of the key immigration-related policy provisions that appear in the House- and Senate-passed versions of the Fiscal Year 2010 Homeland Security Appropriations Act. ☼

House

Two Committee-Approved Immigration-Related Measures Await Consideration by the Full House:

The following measures containing significant immigration- or refugee-related provisions have been approved by various House committees and are awaiting consideration by the full House of Representatives:

- House Committee on Financial Services. The House Committee on Financial Services has approved [H.R. 3045](#), the "Section 8 Voucher Reform Act of 2009", after first approving an amendment aimed at ensuring that illegal immigrants not make use of such housing.

At the time of this writing, the Committee had yet to formally report the measure to the full House.¹²⁶⁸

- Multiple House Committees. The House Committee on Energy and Commerce, House Committee on Ways and Means, and House Committee on Education and Labor have all approved differing versions of [H.R. 3200](#), the "America's Affordable Health Choices Act of 2009". The measure is popularly referred to as the House Health Care Reform Bill.

As approved by each of the three committees, H.R. 3200 would bar both undocumented aliens and most nonimmigrants from receiving health care benefits pursuant to the bill or from having federal funds spent on their behalf under the bill. The bill would, however, include nonimmigrants, undocumented aliens, and legal immigrants in the list of persons who would either have to purchase health insurance or face a tax penalty for not having done so.

At the time of this writing, none of the three committees that have acted on the measure had formally reported the measure to the full House of Representatives.

The House Democratic Leadership is expected to fashion a single bill out of the provisions of the differing versions of H.R. 3200 that have been approved by the House Committee on Energy and Commerce, House Committee on Ways and Means, and House Committee on Education and Labor. ☼

¹²⁶⁸ See Page 847 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in House Financial Services Committee-approved version of H.R. 3045

Six Immigration- or Border Security-Related Measures Await Committee Consideration in

House Committees: The following measures containing significant immigration-, refugee-, or border security-related provisions have been approved by subcommittees and are awaiting consideration in their full committees:

- House Committee on the Judiciary. The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has approved three bills that contain significant immigration-related provisions and now await consideration by the full House Committee on the Judiciary:
 1. [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009";
 2. [H.J. Res. 26](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously;
 3. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act"; and
 4. [H.R. 1425](#), the "Wartime Treatment Study Act".

The Subcommittee approved the first three measures during markups that occurred on Thursday, July 23, 2009, and Friday, July 24, 2009.¹²⁶⁹ It approved the last bill in a markup that occurred on Friday, July 31, 2009. No full committee markup of the measures had been scheduled at the time of this writing.¹²⁷⁰

- House Committee on Homeland Security. The House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism has approved two bills containing significant border security provisions:
 1. [H.R. 1726](#), the "Border Security Search Accountability Act of 2009", which would require the Secretary of Homeland Security to issue a rule with respect to border security searches of electronic devices; and

¹²⁶⁹ See Pages 849-850 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 3290, H.J. Res. 26, H.R. 42, three bills that were approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during two days of markup beginning on July 23, 2009

¹²⁷⁰ See Pages 883-884 of the [August 3, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 1425, which was approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during its July 31, 2009, markup

2. [H.R. 3239](#), a bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to submit a report on the effects of the Merida Initiative on the border security of the United States.

The Subcommittee approved both measures during markups that occurred on Wednesday, July 22, 2009, and Friday, July 24, 2009. No full committee markup of the bills had been scheduled at the time of this writing.¹²⁷¹

Senate

Senate Judiciary Panel Expected to Hold Hearing on Employment-Based Immigration: While it had not been officially noticed at the time of this writing, the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security is expected to hold a hearing sometime after Congress reconvenes in September on how best to structure our employment-based immigration system for the future. The Subcommittee has twice previously scheduled such a hearing, only to cancel it at the last minute.

The Subcommittee originally had set aside the morning of Wednesday, July 29, 2009, for the hearing on the future of the nation's employment-based immigration system. That hearing was canceled and rescheduled for the morning of August 6, 2009. However, the Subcommittee canceled the August 6 hearing a week before it was scheduled to occur without announcing a date on which it would be held. ☀

Six House-Passed Immigration-Related Measures are Awaiting Consideration by the Full Senate:

The following measures containing significant immigration- or refugee-related provisions have been passed by the House of Representatives and are awaiting consideration in the Senate:

- Fiscal Year 2010 Immigration- and Refugee-Related Appropriations Bills. The House of Representatives has passed three fiscal year 2010 appropriations bills that still await action in the Senate:
 1. Fiscal Year 2010 Appropriations for Refugee Resettlement and Unaccompanied Alien Children. The House of Representatives has passed [H.R. 3293](#), the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill (Labor, HHS Appropriations Bill), which funds the federal government's refugee

resettlement, trafficking victims assistance, torture victim assistance, and unaccompanied alien child programs.

The House-passed version of H.R. 3293 would appropriate \$432,000 less in fiscal year 2010 for ORR funding compared to the total fiscal year 2009 ORR appropriation.¹²⁷² The House-passed measure would increase funding for ORR's resettlement activities by of \$50.1 MILLION, or 10 percent, when compared to the amount appropriated for ORR's resettlement activities in fiscal year 2009.¹²⁷³

The Senate Committee on Appropriations approved its version of H.R. 3293 last week. It would appropriate more funding for refugee resettlement than would the House-passed bill. However, it would not fully fund the Administration's request for ORR.

The Senate could take up the Senate Appropriations Committee-approved version of H.R. 3293 at any time. However, at the time of this writing, there was no word on when the full Senate will take up the measure.

2. Fiscal Year 2010 Appropriations for the Immigration Court System. The House of Representatives has passed [H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill (C-J-S Appropriations Bill), which funds the immigration court system, as well as a grant program that reimburses states for the cost they incur in incarcerating criminal aliens.

Included in the bill is a substantial increase in spending for the Executive Office for Immigration Review (EOIR); increased funding for legal orientation presentations to detained aliens; and continued funding for the State Criminal Alien Assistance Program (SCAAP), which the Obama Administration has proposed ending.¹²⁷⁴

¹²⁷¹ See Page 848 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 1726 and H.R. 3239, two bills that were approved by the House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism during its July 22, 2009, markup session

¹²⁷² The total fiscal year 2009 appropriation for ORR was \$715.4 MILLION. This includes \$633.4 MILLION that was appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION that was appropriated in the fiscal year 2009 war supplemental appropriations bill

¹²⁷³ See Pages 850-858 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration- and refugee-related provisions in the House-passed version of H.R. 3293

¹²⁷⁴ See Pages 681-682 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2847

The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#), reporting it to the full Senate.¹²⁷⁵

The Senate could take it up the Senate Appropriations Committee-approved version of H.R. 2847 at any time. However, at the time of this writing, there was no word on when the full Senate will take up the measure.¹²⁷⁶

3. Fiscal Year 2010 Appropriations for Refugee Admissions and Overseas Refugee Assistance. The House of Representatives has passed [H.R. 3081](#), its version the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill, which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs.

Included in the House-passed measure are substantial increases in funding for Migration and Refugee Assistance (MRA) and International Disaster Assistance (IDA), relative to appropriations for those accounts during the regular fiscal year 2009 appropriations cycle. However, when supplemental fiscal year 2009 appropriations spending is taken into account, the House-passed measure would actually appropriate less in fiscal year 2010 for the MRA account than the total amount that was appropriated for that account in fiscal year 2009.¹²⁷⁷

The Senate Committee on Appropriations has approved [S. 1434](#), the Senate version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill.¹²⁷⁸ It would provide substantially more for the MRA account than is contained in the House-passed version of the bill.

The Senate could take up the Senate Appropriations Committee-approved version of H.R. 3081 at any time.¹²⁷⁹ However, at the time of this writing, there

was no word on when the full Senate will take up the measure.

- Torture Victims Assistance. The House of Representatives has passed [H.R. 1511](#), the "Torture Victims Relief Reauthorization Act of 2009", which would fund programs to assist the victims of torture who are resettled in the United States.¹²⁸⁰

Following House passage of the measure, it was referred to the Senate Committee on Foreign Relations.

- Reforms to the Refugee Admissions Process. The House of Representatives has passed [H.R. 2410](#), the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, which contains among its many provisions numerous ones that would make reforms to the United States refugee admissions process.¹²⁸¹

Following House passage of the measure, it was referred to the Senate Committee on Foreign Relations. Senate Foreign Relations Committee Chairman John F. Kerry (D-MA) is working on a version of the bill of his own that he could introduce as soon as late July.¹²⁸²

- Increased Penalties for Alien Smuggling. The House of Representatives has passed [H.R. 1029](#), the "Alien Smuggling and Terrorism Prevention Act of 2009" It would increase penalties for alien smuggling and make other changes in law that the bill's proponents contend will help combat the crime of alien smuggling.

While there was no organized opposition to H.R. 1029 during House consideration of the measure, several pro-immigrant and pro-refugee advocacy organizations expressed concerns about the potential impact that the measure would have on good Samaritans and refugees. Those concerns were expressed behind the scenes in the House but are expected to be voiced more vociferously should the Senate take up the measure.

The measure has been referred to the Senate Committee on the Judiciary.

¹²⁷⁵ [S. Rept. 111-34](#), June 25, 2009

¹²⁷⁶ See Pages 702-703 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 25, 2009, Senate Appropriations Committee markup of H.R. 2847

¹²⁷⁷ [H. Rept. 111-187](#), June 26, 2009

¹²⁷⁸ [S. Rept. 111-44](#), July 9, 2009

¹²⁷⁹ See Pages 772-743 of the [July 13, 2009, edition of the Weekly Legislative Update](#) for an analysis of the House-passed version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill

¹²⁸⁰ See Page 858 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the House-passed version of H.R. 1511

¹²⁸¹ See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provisions in the House-passed version of H.R. 2410, the Foreign Relations Authorization Act, 2010 and 2011

¹²⁸² See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provision that are included in the House-passed version of H.R. 2410

It was widely believed at the time that the House acted that the Senate Committee on Commerce, Science, and Transportation would address the issues that are included in H.R. 1029 when it took up [S. 1194](#), the Coast Guard Authorization Act for Fiscal Years 2010 and 2011. The Committee marked up the measure on Wednesday, July 8, 2009, however, without including any immigration-related provisions.¹²⁸³ That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up. ☀

Five Committee-Approved Immigration-Related Measure are Awaiting Consideration by the Full Senate:

The following measures containing significant immigration- or refugee-related provisions have been approved by various committees and are awaiting consideration by the full Senate:

- Senate Committee on Appropriations. The Senate Committee on Appropriations has approved three appropriations bills that contain significant immigration- or refugee-related provisions and that await consideration by the full Senate:

1. Fiscal Year 2010 Appropriations for Refugee Resettlement and Unaccompanied Alien Children. The Senate Committee on Appropriations has approved its version of H.R. 3293, the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill (Labor, HHS Appropriations Bill), which funds the federal government's refugee resettlement, trafficking victims assistance, torture victim assistance, and unaccompanied alien child programs.

The Senate Appropriations Committee-approved version of the measure would restore much of the cut in funding for the Department of Health and Human Services Office of Refugee Resettlement (ORR) contained in a measure passed last month by the full House of Representatives. However, the Senate Appropriations Committee-approved measure would still cut funding relative to the Administration's request.¹²⁸⁴

The Senate could take up the measure at any time after it returns from its August recess.

¹²⁸³ See Page 383 of the [April 20, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 1029

¹²⁸⁴ See Pages 876-881 of the [August 3, 2009, edition of the Weekly Legislative Update](#) for a detailed analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of H.R. 3293

2. Fiscal Year 2010 Appropriations for the Immigration Court System. The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#),¹²⁸⁵ the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill (C-J-S Appropriations Bill), which funds the immigration court system, as well as funding a grant program that reimburses states for the costs they incur in incarcerating criminal aliens.

The Senate Appropriations Committee-reported version of H.R. 2847 would significantly increase funding for the Executive Office for Immigration Review (EOIR) and maintain funding for the State Criminal Alien Assistance Program (SCAAP), a program that the Obama Administration has sought to terminate.¹²⁸⁶

The Senate could take up the measure at any time after it returns from its August recess.

3. Fiscal Year 2010 Appropriations for Refugee Admissions and Overseas Refugee Assistance. The Senate Committee on Appropriations has approved [S. 1434](#), the Senate version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill,¹²⁸⁷ which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs.

The Senate Appropriations Committee-approved version of the measure would appropriate substantially more for the Migration and Refugee Assistance account than is contained in the House-passed version of the bill.¹²⁸⁸

The Senate could take up the measure at any time after it returns from its August recess.

¹²⁸⁵ [S. Rept. 111-34](#), June 25, 2009

¹²⁸⁶ See Pages 702-703 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of H.R. 2847

¹²⁸⁷ [S. Rept. 111-44](#), July 9, 2009

¹²⁸⁸ See Pages 764-767 of the [July 13, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill

- Senate Committee on the Judiciary.
 1. Eased Visa Requirements for Victims of Domestic Violence. The Senate Committee on the Judiciary has approved [S. 327](#), the “Improving Assistance to Domestic and Sexual Violence Victims Act of 2009”, which contains four provisions that would amend the Immigration and Nationality Act, the Trafficking Victims Protection Act of 2000, and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to expand protections for aliens who are victims of domestic violence and sex trafficking.

S. 327 has been hotlined. Reports indicate that it has been cleared by the Senate Democratic cloakroom. However, those reports indicate that it has not yet been cleared by the Senate Republican cloakroom.

It is anticipated that once the bill has been cleared by both the Democratic and Republican cloakrooms, the Senate will take it up by unanimous consent.¹²⁸⁹
- Senate Committee on Homeland Security.
 1. Revision of the REAL ID Act's Driver's License Provisions. The Senate Committee on Homeland Security and Governmental Affairs has approved [S. 1261](#), the "Providing for Additional Security in States' Identification Act of 2009", or PASS ID Act, which would retain many of the alienage-related mandates that are found in the REAL ID Act.

Under S. 1261, states would still be required to deny driver's licenses and state-issued identification cards to aliens who are in the United States illegally, they would still be required to obtain identification to verify an applicant's immigration status, and they still would be required to limit the period during which a driver's license or state-issued identification card is valid so that the period of its validity matches the period that an alien is authorized to be in the United States.

S. 1261 would make a number of changes to the alienage-based restrictions on states' issuance of driver's licenses and identification cards. Some would ease those restrictions. Others would make them more rigorous.¹²⁹⁰

The Senate could take the measure up at any time after it returns from its August recess. ◇

Next Week's Edition ...

With Congress in the midst of a five week-long recess, the Weekly Legislative Update will be going on recess, as well.

Unless events warrant otherwise, the next edition of the Weekly Legislative Update will be published on Monday, September 7, 2009. In the meantime, you can view or receive live, real-time updates of breaking immigration- or refugee-related legislative developments by visiting or subscribing to the Weekly Legislative Update's live twitter feed on www.twitter.com/MicEvHill. ◇

¹²⁸⁹ See Pages 475-477 of the [May 11, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the Senate Judiciary Committee's markup of S. 327

¹²⁹⁰ See Pages 881-882 of the [August 3, 2009, edition of the Weekly Legislative Update](#) for a more detailed analysis of the immigration-related provisions in the Senate Homeland Security and Governmental Affairs Committee-approved version of S. 1261

Appendix

Summary of Key Immigration-Related Differences between the House- and Senate-Passed Versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act

Last Updated: Monday, July 20, 2009

The chart that follows compares selected immigration- or refugee-related policy and appropriations provisions in the House- and Senate-passed versions of the Fiscal Year 2010 Homeland Security Appropriations Act.

Side-by-Side Comparison of Selected Immigration- and Refugee-Related Appropriations and Policy Matters Addressed in the Fiscal Year 2010 Homeland Security Appropriations Act

Item	Issue	House Bill	Senate Bill
1.	Funding for Immigration Services Ombudsmen	<p>The House-passed version of H.R. 2892 would appropriate \$6.685 MILLION for the Citizenship and Immigration Services Ombudsman.</p> <p>The committee report accompanying the House bill notes that this would be \$250,000 less than the amount the Administration requested and \$214,000 more than was provided in fiscal year 2009 for that purpose.</p>	<p>The Senate-passed version of H.R. 2892 would appropriate \$6.685 MILLION for the U.S. Citizenship and Immigration Services Ombudsman.</p> <p>The committee report accompanying the Senate bill notes that this would be \$250,000 less than the amount the Administration requested and \$214,000 more than was provided in fiscal year 2009 for that purpose.</p> <p>The report defended the Committee's decision by noting that "[f]unds are decreased below the request due to the delay in filling full-time permanent positions within this office."¹²⁹¹</p>
2.	Direct Appropriations for Refugee and Asylum Adjudications	<p>The committee report accompanying the House version of H.R. 2892 notes that the measure would directly appropriate \$100 MILLION in fiscal year 2010 for refugee and asylum adjudications, which is \$106 MILLION less than the Administration requested and \$206 MILLION than was appropriated for this purpose in fiscal year 2009.</p> <p>Language in the House committee report precludes USCIS from using those funds until it publishes a new final rule implementing a new schedule of fees for immigration applications.¹²⁹²</p>	<p>The committee report accompanying S. 1298, the Senate version of H.R. 2892, notes that the Committee rejected the Administration's proposal that refugee and asylum adjudications be funded by a direct appropriation of \$201 MILLION rather than by continuing the current practice of assessing a surcharge on fees paid by applicants for other immigration services.</p> <p>Language in the Senate committee report indicates that the Committee was directing the Department of Homeland Security "to submit a reprogramming within 30 days after the date of enactment of this act, to reflect the continuation of these activities as fee funded."¹²⁹³</p>

¹²⁹¹ [S. Rept. 111-31, Page 10](#)

¹²⁹² [H. Rept. 111-157, Pages 128-131](#)

¹²⁹³ [S. Rept. 111-31, Page 117](#)

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Item	Issue	House Bill	Senate Bill
3.	Direct Appropriations for Military Naturalizations	The committee report accompanying the House version of H.R. 2892 notes that the bill has rejected the Administration's request that military naturalizations be funded through directly appropriated funds. Instead the Committee stated its expectation that the \$5.1 MILLION cost for military naturalizations should be borne by seeking a reimbursement from the Department of Defense. ¹²⁹⁴	The committee report accompanying S. 1298 notes that the Committee supports the Administration's request that military naturalizations be funded through directly appropriated funds. In approving the request, the committee report notes that the Committee "supports appropriations to support those men and women serving this Nation in the military and has included \$5,000,000, as requested, for military naturalizations." ¹²⁹³
4.	Immigration Integration Programs	<p>The committee report accompanying the House version of H.R. 2892 notes that the bill is providing \$11 MILLION for the promotion of legal paths to U.S. citizenship and outreach to immigrant communities in fiscal year 2010.</p> <p>The committee report notes that this would be an increase of \$9.2 MILLION in fiscal year 2010 compared to the \$1.9 MILLION that was provided for this purpose in fiscal year 2009, and that it is \$1 MILLION more than the Administration requested.¹²⁹⁵</p>	<p>The committee report accompanying S. 1298 notes that the Committee has rejected the Administration's request for \$10 MILLION for immigrant integration programs, opting, instead to continue funding at \$1.2 MILLION, the amount provided in fiscal year 2009.</p> <p>In support of the committee's position, the committee report states, "[t]he Committee notes that the current year grant applications are still being evaluated and that the 2009 funds have yet to be awarded. The Committee does not recommend the \$10,000,000 requested in the budget for a new immigrant integration activity. The Committee notes that the Office of Citizenship Services has long provided admirable services to assist those individuals seeking to become U.S. citizens or otherwise legally adjust their status and will have \$6,400,000 of carry forward balances to continue these efforts. This makes a total of \$7,600,000 available for immigrant services and integration grants."¹²⁹³</p>
5.	Basic Pilot/E-Verify Program	<p>The House-passed version of H.R. 2892 would appropriate a total of \$162 MILLION for the Basic Pilot/E-Verify Program, \$50 MILLION more than the Administration requested.¹²⁹⁶</p> <p>In addition to appropriating funds for the E-Verify program, the House-passed version of H.R. 2892 would--</p> <ul style="list-style-type: none"> • Extend the program for three years • Make reforms to protect the Social Security Administration. 	<p>The Senate-passed version of H.R. 2892 would appropriate a total of \$118.5 MILLION for the Basic Pilot/E-Verify Program, \$6.5 MILLION more than the Administration requested.</p> <p>In addition to appropriating funds for the E-Verify program, the Senate-passed version of H.R. 2892 would--</p> <ul style="list-style-type: none"> • Permanently extend the program¹²⁹⁸ • Formally rename it the E-Verify Program¹²⁹⁸

¹²⁹⁴ [H. Rept. 111-157](#), Pages 128-131

¹²⁹⁵ [H. Rept. 111-157](#), Pages 131-132

¹²⁹⁶ This includes \$112 MILLION that was provided in the bill as it was reported by the House Appropriations Committee and an additional \$50 MILLION that was added by the Rogers Motion to Recommit that the House of Representatives agreed to on June 24, 2009

¹²⁹⁸ As reported by the Senate Committee on Appropriations, S. 1298, the Senate version of the Fiscal Year 2010 Homeland Security Appropriations Act, would have extended the E-Verify program for three years. On Wednesday, July 8, 2009, the Senate agreed to Sessions Amendment 1371 to H.R. 2892, which would permanently extend the E-Verify Program. The Senate agreed to the Sessions amendment by a voice vote after first rejecting a Schumer motion to table it by a vote of 44-53

Item	Issue	House Bill	Senate Bill
		<p>The committee report accompanying the House version of H.R. 2892 notes that the most recent audit of the system “shows an unacceptably high rate of individuals falsely identified as ineligible to work.” It noted that “[o]f particular concern is the report’s conclusion that nearly 1 in 10 naturalized citizens is reported by Basic Pilot/E-Verify as non-work authorized.” The report strongly urges USCIS “to update and publish regular Basic Pilot/E-Verify accuracy and performance audits, so that Congress and Administration policy makers can remain informed of the system’s strengths and weaknesses.”</p> <p>The report also expresses the Committee’s strong support for efforts by USCIS “to establish a compliance group to monitor use of the Basic Pilot/E-Verify system and to ensure that companies enrolled in the program are not using it to take inappropriate or illegal employment actions.” The draft report notes that the Committee-approved bill will accommodate the Administration’s request to hire 40 Monitoring and Compliance staff “to ensure the system is not used for prohibited purposes.”¹²⁹⁷</p>	<ul style="list-style-type: none"> • Require federal contractors to use the E-Verify program to verify the employment eligibility of their employees¹²⁹⁸ • Permit employers using the E-Verify System to use it to verify the work eligibility of existing employees, not just new-hires¹²⁹⁹ <p>The committee report accompanying the Senate version of H.R. 2892 includes an extensive write-up on the E-Verify program, defending and expressing support for it. After explaining why it thinks USCIS has made great improvements in the program, the report goes on to state that, “[g]iven the concerns by some of the general public with E-Verify, the Committee urges USCIS to continue to work to enhance the system to further improve performance, to continue its public outreach and education campaign, and to perform a new, independent evaluation of the system during the first quarter of fiscal year 2010.”</p>
6.	EB-5 Regional Centers	There is no provision in the House-passed version of H.R. 2892 relating to EB-5 Regional Centers	Sec. 549 of the Senate-passed version of H.R. 2892 would permanently extend the EB-5 Regional Center Program. ¹³⁰⁰

¹²⁹⁷ [H. Rept. 111-157](#), June 16, 2009, Page 131

¹²⁹⁹ This provision was not in the Senate Appropriations Committee-reported version of S. 1298, the Senate version of the Fiscal Year 2010 Homeland Security Appropriations Act. It was added to the measure on the Senate floor by Grassley Amendment 1415, which the Senate agreed to by a voice vote

¹³⁰⁰ This section was not in the Senate Appropriations Committee-reported version of the Fiscal Year 2010 Homeland Security Appropriations Act. It was added to the measure on the Senate floor on July 8, 2009, by Leahy Amendment 1407, a second degree amendment to the Sessions E-Verify Amendment. The Senate agreed to the Leahy amendment by a voice vote. The Senate went on to agree to the Sessions amendment by a voice vote after first rejecting a Schumer motion to table it by a vote of 44-53

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Item	Issue	House Bill	Senate Bill
7.	Special Immigrant Non-Minister Religious Worker Visas Program	There is no provision in the House-passed version of H.R. 2892 relating to the Special Immigrant Non-Minister Religious Worker Visas Program.	Sec. 571(a) of the Senate-passed version of H.R. 2892 would extend for three years the Special Immigrant Non-Minister Religious Worker Visa Program, extending it through September 30, 2012. The provision also would require U.S. Citizenship and Immigration Services to conduct a study and report on certain aspects of the program. ¹³⁰¹
8.	Conrad State 30 J-1 Visa Program	There is no provision in the House-passed version of H.R. 2892 relating to the Conrad State 30 J-1 Visa Program.	Sec. 571(b) of the Senate-passed version of H.R. 2892 would extend for three years the Conrad State 30 J-1 Visa Waiver Program ¹³⁰² , extending it through September 30, 2012. ¹³⁰¹
9.	Relief for Widows and Orphans	There is no provision in the House-passed version of H.R. 2892 relating to relief for widows and orphans.	Sec. 571(c) of the Senate-passed version of H.R. 2892 would protect widows, widowers and orphans of deceased U.S. citizens and legal permanent residents who are in the family immigration system by allowing widows, widowers and orphans, to immigrate on a family-based visa despite the death of a petitioner. ¹³⁰¹
10.	Fencing Along the U.S. Border with Mexico	There is no provision in the House-passed version of H.R. 2892 relating to fencing along the U.S. border with Mexico	<p>Sec. 560 of the Senate-passed version of H.R. 2892 would impose a number of restrictions and mandates on the Administration with regard to fencing being constructed along the U.S. border with Mexico.</p> <p>More specifically, Sec. 560 of the Senate-passed version of H.R. 2892 would --</p> <ul style="list-style-type: none"> • require that construction of the mandated 700 miles of fencing be completed by December 31, 2010; • provide that fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under the law; and • provide that funds for fence construction may not be withheld for failure to comply with consultation requirements. <p>Sec. 560 of the Senate-passed version of H.R. 2892 also would impose reporting requirements</p>

¹³⁰¹ This section was not in the Senate Appropriations Committee-reported version of the Fiscal Year 2010 Homeland Security Appropriations Act. It was added to the measure on the Senate floor on July 9, 2009, by Hatch Amendment 1428, which the Senate agreed to by unanimous consent

¹³⁰² The Conrad State 30 / J-1 Visa Waiver Program is used to place international medical graduates who have completed their medical education in the United States in underserved areas of the state. Normally, upon completion of their education, these international medical graduates are required to return to their country of nationality for at least two years before returning to the United States. However, under the Conrad State 30/J-1 Visa Waiver Program this home residency requirement can be waived for up to thirty (30) J-1 physicians annually. In exchange, the J-1 physicians must agree to practice medicine full time at a Delaware pre-approved sponsoring site for a minimum of three years. These practice sites must be located in federally designated Health Professional Shortage Area (HPSA) or a Medically Underserved area (MUA).

Item	Issue	House Bill	Senate Bill
			on the Administration with regard to the construction of fencing along the U.S. border with Mexico. ¹³⁰³
11.	SSA No-Match Letters	There is no provision in the House-passed version of H.R. 2892 relating to SSA No-Match Letters	Sec. 561 of the Senate-passed version of H.R. 2892 provide that none of the amounts made available under the Act may be used to implement changes to the final rule describing the process for employers to follow after receiving a “no match” letter in order to qualify for “safe harbor”. ¹³⁰⁴

◇

¹³⁰³ This section was not in the Senate Appropriations Committee-reported version of the Fiscal Year 2010 Homeland Security Appropriations Act. It was added to the measure on the Senate floor on July 9, 2009, by DeMint Modified Amendment 1399, which the Senate agreed to by a vote of 54-44

¹³⁰⁴ This section was not in the Senate Appropriations Committee-reported version of the Fiscal Year 2010 Homeland Security Appropriations Act. It was added to the measure on the Senate floor on July 8, 2009, by Vitter Modified Amendment 1375, which the Senate agreed to by a voice vote

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