



# United States Conference of Catholic Bishops Government Relations

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## Weekly Update on Immigration and Refugee Legislative Matters 111<sup>th</sup> Congress, First Session

Monday, September 28, 2009

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*Most of this week's immigration- and refugee-related legislative action is taking place in the Senate, which hopes to clear a fiscal year 2010 continuing appropriations resolution to keep federal programs and agencies (including immigration and refugee programs) operating for the first month of the fiscal year. It also would extend E-Verify and three other expiring immigration program for a month.*

*The Senate Committee on Finance will continue its consideration of health care legislation, turning at some point in the week to immigration amendments. And the Senate this week could take up the fiscal year 2010 appropriations bill that funds EOIR and alternatives to detention.*

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### *This Week's Hearings*

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At the time of this writing, only one hearing had been scheduled for this week at which significant immigration- or refugee-related matters could be discussed. That hearing is taking place in the Senate:

- **Terrorist Threats to the United States.** The Senate Committee on Homeland Security and Governmental Affairs has scheduled a hearing for this week on terrorist threats to the United States.

### **House**

At the time of this writing, no hearings had been scheduled for this week in the House at which significant immigration- or refugee-related matters are expected to be examined.

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## *This Week's Hearings (continued)*

### Senate

**Senate Homeland Security Panel to Hold Hearing on Terrorist Threat to the United States:** The Senate Committee on Homeland Security and Governmental Affairs has scheduled a hearing for this week to examine the terrorist threat to the United States. This week's hearing is scheduled for 10:00 am on Wednesday, September 30 2009, in Room SD-342 of the Dirksen Senate Office Building.

**Anticipated Witnesses.** At the time of this writing, the list of witnesses at this week's hearing included the following:

- Janet Napolitano, Secretary of Homeland Security;
- Robert S. Mueller III, Director of the FBI; and
- Michael E. Leiter, Director of the National Counterterrorism Center, Office of the Director of National Intelligence. ☼ ◇

## *This Week's Markups*

At the time of this writing, only one markup that could have implications for immigration- or refugee-related matters had been officially scheduled for this week. Notwithstanding the lack of officially scheduled markups, however, the following three immigration-related bills have been approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law and could be marked up as soon as this week by the full House Committee on the Judiciary:<sup>1507</sup>

- **Health Care Reform Legislation.** The Senate Committee on Finance is expected to continue its markup of the Baucus health care reform bill.
- **House Judiciary Committee Immigration Bills.** The House Committee on the Judiciary could continue a markup from two weeks ago of three immigration-related bills:

1. [H.J. Res. 26](#), proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously;
2. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act"; and
3. [H.R. 1425](#), the "Wartime Treatment Study Act".

### House

**House Judiciary Committee Could Markup Three Immigration Measures This Week:** While it had not been officially scheduled as of the time of this writing, the full House Committee on the Judiciary could as soon as this week markup three immigration-related bills that were approved prior to the August recess by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law. The normal time for the committee to markup the measure would be 10:00 am on Wednesday, September 30, 2009. Should a full House Committee on the Judiciary occur, it will take place in Room 2141 of the Rayburn House Office Building.

The Subcommittee approved two of the measures during markups that occurred on Thursday, July 23, 2009, and Friday, July 24, 2009. It approved the third bill in a Friday, July 31, 2009 markup.

**Summary of Immigration- and Refugee-Related Appropriations Provisions.** The following summarizes the immigration- or refugee-related provisions of each bill --

- **Honorary Citizenship Bill.** As approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, H.J. Res. 26 would convey honorary U.S. citizenship on Casimir Pulaski, a Polish citizen who fought on behalf of the United States during the Revolutionary War and died while in combat in 1779. It is a symbolic bill that does not have any impact on the legal status of surviving family or relatives.

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<sup>1507</sup> 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.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. 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 Subcommittee on July 31, 2009.

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## *This Week's Markups (continued)*

The Subcommittee approved H.J. Res. 26 on Thursday, July 23, 2009, by a vote of 10-1.

- **Commission on Wartime Relocation and Internment Bill.** As approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, H.R. 42 would establish a Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent, which would be directed to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate U.S. relocation, internment and deportation to Axis countries of Latin Americans of Japanese descent held in U.S. custody from December 1941 through February 1948.

The measure would require the Commission to recommend appropriate remedies to Congress.

The measure would terminate the commission 90 days after submission of its report to Congress.

The Subcommittee approved H.R. 42 on Friday, July 24, 2009, by a vote of 7-2, after a contentious debate, during which Subcommittee Ranking Republican Steve King offered four amendments. Each of the King amendments were rejected on party-line votes.

- **Commission on Wartime Treatment of European Americans and Jewish Refugees.** As approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, H.R. 1425 would establish two commissions:

1. **The Commission on Wartime Treatment of European Americans** would be charged with reviewing U.S. government wartime treatment of European Americans and European Latin Americans. More specifically, the Commission would be required to review--

- A. government actions with respect to European Americans and European Latin Americans pursuant to United States laws and directives, including the Alien Enemies Acts, Presidential Proclamations 2526, 2527, 2655, 2662, 2685, Executive Orders 9066 and 9095, and related directives pursuant to these and other pertinent laws, proclamations, or executive orders;
- B. registration requirements, travel and property restrictions, internment, and forced abandonment of property;
- C. participation by European Americans in the U.S. Armed Forces; and

D. appropriate remedies, including public education programs and the creation of a comprehensive online database by the National Archives and Records Administration of documents related to the government's wartime treatment of European Americans and European Latin Americans during World War II.

As amended during the course of the Subcommittee markup, H.R. 1425 would require that the selection of the members of the European American Commission should be made so as to ensure the members can fairly review the facts and discharge the duties of the commission without bias. The measure also was amended during the markup to clarify that the European American Commission should include two members with professional expertise relating to the treatment of Italian-Americans and two members with professional expertise relating to the treatment of German-Americans.

2. **The Commission on Wartime Treatment of Jewish Refugees** would be charged with reviewing the U.S. government's refusal to allow entry into the United States of Jewish and other refugees fleeing persecution or genocide in Europe during World War II. It would direct the Commission to include reviews of--

- A. the rationale for such refusal, its perceived benefit, and its impact on refugees; and
- B. federal refugee policy concerning those fleeing persecution or genocide.

As amended during the Subcommittee markup, the measure would require that the membership of the Jewish Refugee Commission should include two members with professional expertise relating to the treatment of Jewish refugees.

The Subcommittee approved H.R. 1425 on Friday, July 31, 2009, by a vote of 9-1, after considering several amendments to the measure.

**Outlook.** The House Committee on the Judiciary is expected to approve all three measures. However, they could be the subject of amendments that could prove contentious. ☀

## **Senate**

**Senate Finance Committee to Continue Markup of Baucus Health Care Reform Bill Containing Immigrant Restrictions:** The Senate Committee on Finance has scheduled two markup sessions this week to continue its marathon markup of health care reform

legislation. The measure that the Committee is marking up contains a number of restrictions on the ability of both legal immigrants and illegal immigrants to obtain health insurance. At least 11 immigration-related amendments have been filed, and the Committee could take up some or all of them this week. This week's markup sessions are scheduled to begin at 9:30 am on Tuesday, September 29, 2009 and Wednesday, September 30, 2009. Both sessions are occurring in Room SH-216 of the Hart Senate Office Building.

**Jurisdiction.** The Senate Committee on Finance shares jurisdiction over health with the Senate Committee on Health, Education, Labor, and Pensions (HELP). The Finance Committee has specific jurisdiction over health programs under the Social Security Act and health programs financed by a specific tax or trust fund. In addition, it has jurisdiction over revenue measures, generally. The Health, Education, Labor, and Pensions Committee has jurisdiction over the nation's health care programs.

On July 15, 2009, the Senate Committee on Health, Education, Labor, and Pensions approved a bill that it eventually introduced as [S. 1679](#), the "Affordable Health Choices Act" to the full Senate. That bill eventually will be merged with the measure being marked up this week by the Senate Committee on Finance.

**Parliamentary Situation.** Only amendments that were filed with the Committee before 5:00 pm on Friday, September 19, 2009, may be considered during this week's markup. The Committee is permitting senators to modify those amendments, however. Amendments to the Baucus Chairman's Mark must be deficit-neutral, which means if an amendment would increase spending, it must have within it provisions that would reduce spending by the same amount.

**Background.** Beginning in June, Senate Finance Committee Chairman Max Baucus (D-MT) engaged in months of protracted negotiations on health care reform with a bipartisan group of senators that came to be known as the "Gang of Six." The Chairman had hoped to reach bipartisan agreement with his colleagues in the "Gang of Six" on a health care reform bill that would be able to garner 60 or more votes in the Senate, thereby avoiding a filibuster.

The bipartisan discussions that Chairman Baucus led began in June and, much to the chagrin of his Senate and House Democratic colleagues, stretched through the August recess. Ultimately, the Chairman was unable to reach an agreement with the three Republicans in his "Gang of Six." Notwithstanding the refusal of the Republicans in the "Gang" to endorse his proposal, Chairman Baucus finally opted, instead, to release a Chairman's Mark of his bill that largely reflects the product of the failed negotiations with the "Gang." On Wednesday, September 16, 2009, Chairman Baucus released his Chairman's Mark of the Senate Finance Committee health care reform bill.

**Controversy Over Immigrant Eligibility for Health Insurance Benefits.** The release of the Baucus Chairman's Mark comes as the issue of noncitizens' eligibility for benefits and services under the various pending health care reform bills has exploded into public consciousness.

The Obama Administration upped the ante last week when it suggested that illegal immigrants should not be able to purchase health insurance on the health insurance "exchange" (or marketplace) that is one of the centerpieces of almost every health insurance reform plan that has been introduced in Congress.

**Summary of Immigration- and Refugee-Related Provisions.** On Wednesday, September 16, 2009, Chairman Max Baucus released both a [brief summary](#) and a [detailed summary](#) of his long-awaited Chairman's Mark of Committee's health care reform bill. The summaries show that the Chairman's Mark contain a number of restrictions on both legal and illegal immigrants' access to health insurance. The actual legislative language for the Chairman's Mark had not yet been released at the time of this writing, and so it is entirely possible that there are immigrant- and immigration-related provisions in the text of the bill that are not described in the two summaries.

There is some opposition in Congress to placing restrictions on legal immigrants' eligibility for health insurance benefits. Senator Bob Menendez (D-NJ), the only Hispanic in the United States Senate, has indicated strong opposition to many of the immigration restrictions in the Baucus Chairman's Mark. And Representative Luis Gutierrez (D-IL), a leader in the House on immigration matters, has warned that the Congressional Hispanic Caucus might oppose a bill that contains restrictions like the ones being speculated on for inclusion in the Baucus bill. However, it is doubtful, at best, whether that opposition will be substantial enough to eliminate or substantially mitigate the provisions.

An analysis of the summaries reveals that the immigration-related provisions in the bill would:

- **Health Insurance Mandate.** mandate that legal immigrants (along with U.S. citizens) either purchase health insurance or be subject to a tax penalty;
- **Treatment of Illegal Immigrants Under Mandate.** exempt illegal immigrants from the mandate to purchase health insurance;
- **Illegal Immigrants and Health Insurance Exchanges.** bar illegal immigrants from purchasing health insurance in state or federal health insurance exchanges;
- **Health Insurance Exchanges and Mixed Families.** permit illegal immigrants to purchase health insurance in the exchanges for their U.S. citizen or LPR children;

- **Legal Immigrants and Affordability Credits.** permit legal immigrants to receive affordability tax credits to help them pay for health insurance without regard to the five-year waiting period under the law for Medicaid and the Children's Health Insurance Program (CHIP);
- **Illegal Immigrants and Affordability Credits.** bar illegal immigrants from receiving affordability tax credits to help them purchase health insurance;
- **Legal Immigrants with Expiring Immigration Status.** bar legal residents from receiving affordability tax credits to help them purchase health insurance if their legal status will expire within a year;
- **Calculation of the Federal Poverty Level.** exempt illegal immigrants from the calculation of the Federal Poverty Level for the purposes of the bill; and
- **Citizenship and Immigration Status Verification.** impose an immigration status verification regime on all persons --- citizens and noncitizens, alike -- seeking to purchase health insurance.

**Summary of Immigration-Related Amendments to the Chairman's Mark.** In all, Committee members filed 564 amendments to the Chairman's Mark prior to the Friday, September 19, 2009, 5:00 pm deadline set by the Committee for the filing of amendments. At least 11 of the amendments that were filed are immigration-related. Of that number, at least four would expand immigrants' eligibility to participate in either health insurance programs that would be established by the Chairman's Mark of the Finance Committee's Health Care Reform Bill or in existing federal health care programs; at least seven of the amendments would restrict immigrant eligibility in such programs.

The following is a brief summary of the 11 immigration-related amendments that were filed with the Committee prior to the September 19, 2009, deadline:

- **Amendments to Expand Immigrant Eligibility.** The following amendments to expand immigrant eligibility for health insurance coverage were filed by senators on the Committee prior to the filing deadline:

1. **[ROCKEFELLER/MENENDEZ AMDT #C19 \(COMMITTEE AMDT #199\)](#).** Senators Jay Rockefeller (D-WV) and Bob Menendez (D-NJ) filed an amendment to the Chairman's Mark that would "restore Medicaid for individuals who are lawfully present in the U.S."

More specifically, the Rockefeller/Menendez amendment would ensure "that individuals who are lawfully present in the U.S. and are otherwise eligible for Medicaid can secure coverage under

Medicaid without a waiting period or other [sponsor-related] barriers."

2. **[ROCKEFELLER AMDT #C22 \(COMMITTEE AMDT #202\)](#).** Senator Jay Rockefeller (D-WV) filed an amendment to expand eligibility for and increase benefits under the Children's Health Insurance Program (CHIP), a program that the Chairman's Mark would eliminate after 2013. Instead of eliminating the CHIP program in 2013, the Rockefeller Amendment would continue the program through September 30 2019.

Under the Rockefeller Amendment, legal immigrant children would be included in the expansion of eligibility and increased benefits.

3. **[MENENDEZ/BINGAMAN AMDT #C2 \(COMMITTEE AMDT #301\)](#).** Senators Bob Menendez (D-NJ) and Jeff Bingaman (D-NM) filed an amendment to the Chairman's Mark that would "allow citizen and lawfully present immigrant children to get affordable health coverage while ensuring that undocumented immigrants do not benefit from the tax credit subsidy"

Consistent with eligibility for mixed-status families in the Medicaid program, the amendment would count all income and all members of a household in determining eligibility for tax credits, but would provide a tax credit subsidy only to household members who meet citizenship or legal immigrant eligibility requirements for the tax credit along with all other eligibility requirements.

The amendment would ensure that only eligible citizens and lawfully present immigrants get the benefit of a tax credit subsidy.

The Senators contend that there is no need for a revenue offset for the amendment.

4. **[MENENDEZ AMDT #C15 \(COMMITTEE AMDT #313\)](#).** Senator Bob Menendez (D-NJ) filed an amendment to the Chairman's Mark that would require the use of the Systematic Alien Verification for Entitlements system (SAVE System) in verifying the eligibility of aliens to participate in programs under the health insurance reform bill.

The Menendez amendment would require the administering agency to protect data; improve the integrity and accuracy of the data by establishing a process by which applicants can view and correct data, if necessary; provide written responses, without delay, to individuals who make a request to amend, update, or correct records; and develop a written notice to individuals denied a benefit due to

a determination of ineligibility based on a final determination under the system.

The Menendez amendment, further, would prohibit the administering agency from disclosing or sharing information provided to the exchange by individuals or the Internal Revenue Service (IRS) with other agencies, entities or individuals for any purpose that is not directly connected with the administration of the health insurance program.

- **Amendments to Restrict Immigrant Eligibility.** The following amendments to restrict or prohibit immigrant eligibility for health insurance coverage were filed by senators on the Committee prior to the filing deadline:

1. [SCHUMER AMDT #C11 \(COMMITTEE AMDT #270\)](#). Senator Charles Schumer (D-NY) filed an amendment to the Chairman's Mark providing a substitute, more specific regime for verifying the lawful presence in the United States of individuals seeking benefits under the Health Care Reform bill than is contained in the Chairman's Mark.

Under the Schumer Amendment, the citizenship status of individuals claiming to be U.S. Citizens would be verified by either: (1) comparing the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner of Social Security in order to confirm the validity of the information provided regarding an individual whose identity and citizenship must be confirmed; or (2) authentication of identity and citizenship through any biometric verification system administered by the Secretary of Homeland Security, the Attorney General, or the Commissioner of Social Security that is in existence, operational, and mandatory for all persons seeking employment at the time verification is required.

The Schumer Amendment would provide in the case of individuals who do not claim to be U.S. citizens but who claim to be otherwise lawfully present in the United States, the claim of lawful presence would be substantiated by authentication through any verification system administered by the Secretary of Homeland Security, the Attorney General, or the Commissioner of Social Security that is in existence and operational at the time of verification.

As is the case in the Chairman's Mark, under the Schumer Amendment, individuals whose status is expected to expire in less than a year would not be permitted to obtain the tax credit. Also as is the case with the Chairman's Mark, under the Schumer Amendment whose claims of citizenship or lawful status cannot be verified with federal data would be

allowed substantial opportunity to provide documentation or correct federal data related to their case that supports their contention.

Under the Schumer Amendment, within two years of enactment, the Government Accountability Office (GAO) would be required to conduct a study regarding: (1) the rate of erroneous non-confirmations of lawful presence; (2) solutions for remedying systemic difficulties causing erroneous non-confirmations; and (3) the economic impact caused by erroneous non-confirmations and the cost of remedying any systemic difficulties causing erroneous non-confirmations.

Finally, under the Schumer Amendment, all personal information submitted to the state exchange could only be used for purposes of providing insurance coverage through the state exchange, eligibility for and determination of the amount of the health care tax credit, or other administrative functions related to the efficient operation of the state exchange. Appropriate penalties would apply to the use of fraudulent information or stolen identity information in the state exchange. Applicants for insurance coverage or for health care tax credits would be required to provide only the information that is necessary to determine eligibility for access to the exchange or tax credits. Information provided to the exchange by the applicant or by the IRS, would not be disclosed or shared with other agencies, entities or individuals for any purpose that is not directly connected with the administration of the health insurance program.

2. [KYL AMDT #C12 \(COMMITTEE AMDT #379\)](#). Senator Jon Kyl (R-AZ) filed an amendment to the Chairman's Mark that would, in part, eliminate the ability for legal immigrants subject to a five-year waiting period under Medicaid or CHIP to access a tax credit until the waiting period's expiration.
3. [KYL AMDT #C14 \(COMMITTEE AMDT #381\)](#). Senator Jon Kyl (R-AZ) filed an amendment to the Chairman's Mark providing that legal immigrants must reside in the U.S. for at least five years in order to be eligible for the tax credit available through the state exchanges.
4. [ENSIGN AMDT #C1 \(COMMITTEE AMDT #400\)](#). Senator John Ensign (R-NV) filed an amendment to the Chairman's Mark that would make legal immigrants ineligible for Health Care Affordability Tax Credits provided for in the Chairman's Mark for the first five years after their entry into the United States.

The Ensign amendment would accomplish this by designating the Health Care Affordability Tax Credits to be "federal means-tested public benefits."

5. [ENSIGN AMDT #C2 \(COMMITTEE AMDT #401\)](#). Senator John Ensign (R-NV) filed an amendment to the Chairman's Mark that would "strengthen the eligibility verification provision in Title I, Subtitle C, and the personal responsibility compliance provision in Title I, Subtitle D."

More specifically, the Ensign amendment would add citizenship status to the list of items to be verified with Social Security Administration data for persons claiming to be citizens; provide that individuals who are trying to correct data in federal databases must not receive presumptive eligibility for tax credits; require that persons who are not initially determined to be a U.S. citizen must have their eligibility re-determined at least every five years; and; require the placement of Social Security Numbers on tax returns as a prerequisite to an individual receiving health insurance affordability tax credits; and impose fines of at least \$10,000 per occurrence for each instance of a false attestation of United States citizenship.

6. [ENSIGN AMDT #C3 \(COMMITTEE AMDT #402\)](#). Senator John Ensign (R-NV) filed an amendment to the Chairman's Mark that would hold the sponsors of legal immigrants liable for ensuring that the immigrants they sponsor have health insurance. Under the Ensign amendment, in the event that a sponsored immigrant does not obtain health insurance coverage, the immigrant's sponsor would be "liable for all costs incurred by the American taxpayers should a sponsored alien receive any taxpayer-funded health care."

Under the Ensign amendment, in order to ensure compliance, a sponsor would be required to report on his/her federal income tax return the months for which he/she maintains the required minimum health coverage for him/herself, dependants and all sponsored immigrants. If neither the sponsor nor the sponsored immigrant do not maintain the requisite health insurance for the sponsored immigrant, then the sponsor would be required to pay the greater of: (1) the excise tax specified in the chairman's mark for an individual who does not maintain insurance (based on the income of the immigrant); or (2) any amount provided to such immigrant in the form of a tax credit pursuant to this bill. Furthermore, in the event a sponsor fails to ensure that one of his/her sponsored immigrants maintains adequate health insurance during the period specified in Section 421 of PRWORA, such sponsor will not be allowed to sponsor any immigrants in the future.

7. [GRASSLEY AMDT #F6 \(COMMITTEE AMDT #488\)](#). Senate Finance Committee Ranking Republican Charles Grassley (R-IA) filed an amendment to the Chairman's Mark that would apply a five-year waiting period for legal aliens before they could be eligible for the Health Care Affordability Tax Credits found in the Chairman's Mark.

The Grassley Amendment uses the restriction on immigrants' eligibility for the Health Care Affordability Tax Credits as an offset to pay for a provision providing that qualified prescription drug plan subsidies are excludable from the plan sponsor's gross income for the purposes of income tax and alternative minimum tax.

**Outlook.** The markup of the Baucus Chairman's Mark has been highly contentious. The most contentious amendments, including amendments on immigration, are expected to be offered this week. Advocates will have to work hard to defeat amendments that would further restrict immigrants' eligibility for health insurance benefits under the Chairman's Mark. ☼ ◇

## *This Week's Floor Activity*

At the time of this writing, two measures containing significant immigration- or refugee-related provisions are possible subjects for floor action this week, both in the Senate:

- **Short-Term Extension of E-Verify, Religious Worker Visa, and Two Other Expiring Immigration Programs.** The full Senate is expected to take up the House-approved conference report accompanying the Fiscal Year 2010 Legislative Branch Appropriations Bill, which contains provisions extending four immigration programs and keeping the federal government operating for the next month.
- **Appropriations for the Immigration Courts, Alternatives to Detention, and State Criminal Alien Assistance Program.** The full Senate could take up the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.

## **House**

At the time of this writing, no floor action on legislation containing significant immigration- or refugee-related provisions is anticipated for this week.

## Senate

### **Senate to Take Up Conference Report On Measure Extending E-Verify, Religious Worker Visa, and Two Other Expiring Immigration Programs:**

The full Senate this week is expected to take up a House-approved measure that would provide a short-term extension of the controversial E-Verify program and three other less controversial expiring immigration programs. In addition to the E-Verify program, the measure also would extend the EB-5 Investor Visa Regional Center, Special Immigrant Non-Minister Religious Worker Visa, and Conrad 30 State J-1 Visa programs. Authority for each of the four expiring programs will end at midnight on October 1, 2009, unless the Senate agrees to and the President signs the measure before then.

This week's Senate floor action is set to occur on either Tuesday, September 29, 2009, or Wednesday, September 30, 2009, in connection with the conference report accompanying H.R. 2918, the Fiscal Year 2010 Legislative Branch Appropriations Bill.<sup>1508</sup> The House adopted the conference report by a vote of 217-190 on Friday, September 25, 2009.<sup>1509</sup> Should the Senate approve it without change, it will immediately be sent to the President for his expected signature.

**Parliamentary Situation.** The Senate Democratic Leadership is likely to seek a time agreement on the disposition of the conference report accompanying H.R. 2918. However, no unanimous consent agreement governing the Senate's consideration of the measure was in place at the time of this writing.

Generally speaking, conference reports are unamendable. However, provisions in conference reports are subject to points of order. An obvious point of order lies against the conference report accompanying H.R. 2918 because it includes matter that was in neither the House-passed nor the Senate-passed version of the bill. Should a point of order on this matter be raised, 60 senators would have to vote to waive the point of order before the Senate could continue considering the bill, as reported to the Senate by the conference committee.

**Legislative History.** House and Senate conferees met on Thursday, September 24, 2009, to put the finishing touches on the conference report accompanying H.R. 2918. At the request of the House and Senate Democratic Leadership, the conferees added a new Division B to the measure consisting of a continuing appropriations resolution funding the activities of most of the federal government for the first weeks of fiscal year 2010.

### **Summary of Immigration- and Refugee-Related Provisions.**

The provisions extending the four expiring immigration programs are found in Division B, or the continuing appropriations Division, of the conference report accompanying H.R. 2918.

The following summarizes the immigration-related provisions in the measure:

- **E-Verify Program.** Section 128 of Division B of the conference report accompanying H.R. 2918 would extend the authority for the E-Verify program through October 31, 2009.
- **EB-5 Investor Visa Regional Centers Program.** Section 130 of Division B of the conference report accompanying H.R. 2918 would extend the authority for EB-5 Investor Visa Regional Centers program through October 31, 2009.
- **Special Immigrant Non-Minister Religious Worker Visa Program.** Section 133 of Division B of the conference report accompanying H.R. 2918 would extend the Special Immigrant Non-Minister Religious Worker Visa program through October 31, 2009.
- **Conrad 30 State J-1 Program.** Section 134 of Division B of the conference report accompanying H.R. 2918 would extend the Conrad 30 State J-1 Program through October 31, 2009.

### **Victory for Religious Worker and Conrad 30 Advocates.**

The decision by appropriators to include extensions of all four expiring immigration programs is a victory for advocates for the Special Immigrant Religious Worker Visa and the Conrad 30 State J-1 Visa programs, in particular. In previous years, continuing appropriations resolutions have extended the E-Verify and EB-5 Investor Regional Center programs. However, they have not extended the Religious Worker and Conrad programs, leaving advocates for those two programs to scramble to win short-term extensions.

### **Longer-Term Fate to be Decided in Homeland Security Appropriations Bill.**

Both houses of Congress have approved extensions of one or more of the four expiring programs as part of their respective chambers' versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill. However, House Appropriations Committee Chairman David Obey (D-WI) has said that Congress will not be able to resolve all of the differences between the House-passed and Senate-passed versions of the measure for another week.

The House and Senate addressed all four of the expiring immigration programs in their respective versions of the Fiscal Year 2010 Homeland Security Appropriations Bill. However, each chamber produced differing provisions on the four programs. For instance, the House-passed version of the

<sup>1508</sup> [H. Rept. 111-265](#), September 24, 2009

<sup>1509</sup> [House Roll Call No. 739](#), September 25, 2009

bill would extend the E-Verify program for two years. However, it did not address the EB-5 Regional Center, Special Immigrant Non-Minister Religious Worker, and Conrad State 30 J-1 Visa Waiver programs. The Senate-passed bill, on the other hand, would permanently authorize the E-Verify System and the EB-5 Regional Center Programs, and it would extend the Special Immigrant Non-Minister Religious Worker and Conrad State 30 J-1 Visa Waiver programs for three years.

**Outlook.** While the appropriators' decision to include extensions of the four expiring immigration programs in the appropriations package represents a victory for advocates for the four programs, it does not mean that those advocates can rest on their laurels. The decision may mean that the Senate Democratic Leadership will need to secure 60 votes for the conference agreement in order to overcome a point of order that lies against it. The point of order, which any senator could raise, is that the package violates Senate rules precluding the inclusion of matter in a conference agreement that was in neither the House-passed nor the Senate-passed versions of a bill.

Presumably, the Senate Democratic Leadership has calculated that a sufficient number of the opponents to parts of the total package will vote for it anyway in order to prevent a government shutdown. ☀

**Senate Could Take Up Bill Appropriating FY '10 Funds for the Immigration Court System:** While it had not yet been officially scheduled at the time of this writing, the full Senate could as soon as this week take up the Senate version of the fiscal year 2010 appropriations bill that funds the nation's immigration court system and federal reimbursements to states for the costs they bear in incarcerating criminal aliens. The measure that the Senate expects to take up 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 sought to terminate. Should it occur, this week's Senate action will take place in connection with the [Senate Appropriations Committee-reported version of H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.<sup>1510</sup>

**Parliamentary Situation.** At the time of this writing, the parliamentary situation that will govern Senate floor consideration of H.R. 2847 was not yet known.

Floor managers for the bill will likely seek a unanimous consent agreement to limit amendments to the measure.

**Legislative History.** The following is a brief legislative history of H.R. 2847:<sup>1511</sup>

• **House Committee Actions.**

1. On June 4, 2009, the House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies marked up its version of H.R. 2847, forwarding the measure to the full Committee on Appropriations.
2. On June 9, 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.
3. On June 12, 2009, the full House Committee on Appropriations formally reported H.R. 2847 to the House of Representatives.

• **House Floor Actions.**

1. On June 16, 2009, the full House of Representatives took up H.R. 2847, passing it on June 18, 2009, by a vote of 259-157.

• **Senate Committee Actions.**

1. On June 24, 2009, the Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies marked up its version of H.R. 2847, forwarding the measure to the full Committee on Appropriations.
2. On June 25, 2009, the full Senate Committee on Appropriations held a markup session, ordering that the bill be reported to the full Senate as an original measure.
3. On June 25, 2009, the full Senate Committee on Appropriations formally reported its version of H.R. 2847 to the full Senate.

**Summary of Immigration- and Refugee-Related Provisions.** As reported by the Senate Committee on

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<sup>1511</sup> See Pages 603-604 of the [June 8, 2009, edition of the Weekly Legislative Update](#) for a summary of the June 4, 2009, House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies markup of H.R. 2847

See Pages 641-642 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a report on the June 9, 2009, full House Appropriations Committee markup of H.R. 2847

[House Roll Call No. 408](#), June 18, 2009

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<sup>1510</sup> [S. Rept. 111-34](#), June 25, 2009

Appropriations, the Senate version of H.R. 2847 contains the following immigration- and refugee-related provisions:

- **Executive Office for Immigration Review.** The Senate Appropriations Committee-reported version of H.R. 2847 would appropriate \$300.685 MILLION for the Department of Justice's Administrative Review and Appeals section. The bulk of those funds are for the Executive Office for Immigration Review (EOIR). This is the same amount requested by the Administration and approximately \$30.685 MILLION, or 11.2 percent, above the fiscal year 2009 appropriation.

Of the amount that the Senate bill would appropriate for EOIR, \$4 MILLION would be transferred from the Examinations Fee account and the remainder would be directly appropriated.

The committee report accompanying the Senate Appropriations Committee-reported version of H.R. 2847 contains a number of directives with regard to EOIR. They include the following—

1. **Personnel and Infrastructure Increases.** The Committee recommendation includes \$24.253 MILLION for personnel and infrastructure investments needed to efficiently process an increasing immigration adjudication caseload. Of this total, \$10.250 MILLION is for the eWorld document management system to improve EOIR's ability to store, distribute and archive its files.
  2. **Legal Orientation Program (LOP).** The bill includes \$6.5 MILLION, an increase of \$2.5 MILLION, for the continued implementation and expansion of the LOP. The Committee report notes that the amount in the bill includes \$2 MILLION "for Legal Orientation Programs for custodians of unaccompanied alien children to address the custodian's responsibility for the child's appearance at all immigration proceedings, and to protect the child from mistreatment, exploitation, and trafficking.
- **State Criminal Alien Assistance Program.** The committee report accompanying the Senate Appropriations Committee-reported version of H.R. 2847 notes that the measure includes \$228 MILLION for the State Criminal Alien Assistance Program (SCAAP), a program for which the Obama Administration proposed zero funding. This would be a cut of \$172 MILLION in the amount appropriated for SCAAP in fiscal year 2009.
  - **U.S. Marshall's Service.** The committee report accompanying the Senate Appropriations Committee-reported version of H.R. 2847 notes that the Committee "strongly supports the U.S. Marshal Service increase in funding for immigration enforcement." In justifying the

increase in funding, the committee report stated that "[i]n the past, the U.S. Marshals Service was forced to divert resources from fugitive apprehension to address this growing, problem."

**Committee Consideration and Amendments.** The Subcommittee took up H.R. 2847 on Wednesday, June 24, 2009 and the Committee took up the measure on Thursday, June 25, 2009. No immigration-related amendments were offered to the measure during either the Subcommittee's or full Committee's consideration of the measure.

**Administration's Views.** At the time of this writing, the Administration had not submitted formal views on the Senate Appropriations Committee-reported version of H.R. 2847.

**Anticipated Immigration- and Refugee-Related Floor Amendments.** No immigration- or refugee-related floor amendments had been noticed at the time of this writing. However, observers believe it is likely that several immigration enforcement-related amendments will be offered to H.R. 2847 during the Senate's floor consideration of the measure. ☀ ◇

## *This Week's Conference Activity*

At the time of this writing, only one measure containing significant immigration- or refugee-related provisions is pending before a conference committee:

- FY '10 Funding for Immigration Services, Immigration Enforcement, and Border Security. The full House and Senate have each passed their respective versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill and conference deliberations could begin at any time.

**Conferees Have Significant Differences on Immigration to Resolve on Fiscal Year 2010 Homeland Security Appropriations Bill:** House Appropriations Committee Chairman David Obey (D-WI) announced last week that the House and Senate could convene a formal conference committee as soon as this week to resolve the differing [House-passed](#) 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 either resolve the differing versions of the measure by Thursday, October 1, 2009, the date on which fiscal year 2010 begins, or temporarily fold funding for the Department into a pending continuing appropriations resolution.

The two versions of H.R. 2892 differ significantly on immigration policy matters, as well as in appropriations for

the U.S. Citizenship and Immigration Services component of the Department of Homeland security.

The significant policy differences between the two version of the bill include 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, to begin the formal process of resolving differences between the two versions of the measure.<sup>1512</sup>

**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.<sup>1513</sup>
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.<sup>1514</sup>
3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.<sup>1515</sup>

• **House Floor Actions**

1. On June 24, 2009, the full House of Representatives took up H.R. 2892, passing it by a vote of 389-37<sup>1516</sup>

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<sup>1512</sup> See Pages 928-932 of this week's edition of the *Weekly Legislative Update* for a detailed analysis of some of the key differences between the House-passed and Senate-passed versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act

<sup>1513</sup> 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

<sup>1514</sup> 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

<sup>1515</sup> 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

<sup>1516</sup> [House Roll Call No. 450](#), June 24, 2009

• **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](#)<sup>1517</sup> and formally reported it to the Senate.<sup>1518</sup>

• **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, after three days of considering floor amendments to the measure.

**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 found in the area of appropriations for 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.

The only significant immigration policy provision that is contained in the House-passed version of the measure is a two year-long authorization of the controversial E-Verify program. However, the Senate-passed version of the bill includes numerous immigration-related policy provisions. For instance, the Senate-passed bill contains provisions that would permanently authorize the E-Verify System; make the

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<sup>1517</sup> [S. Rept. 111-31](#), June 18, 2009

<sup>1518</sup> 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 Appropriations Subcommittee on Homeland Security markup of the Fiscal Year 2010 Homeland Security Appropriations bill

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 highly 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 for a 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. ☼ ◇

## *Last Week's Legislative Activity*

### **Last Week's Hearings**

There were no hearings last week on significant immigration- or refugee-related matters.

### **Last Week's Markups**

Two committees held markups last week of significant immigration- or refugee-related legislation:

- **Senate Health Care Reform Bill.** The Senate Committee on Finance held four markup sessions during which it considered the Baucus health care reform bill.
- **Amendments to House Health Care Reform Bill.** The House Committee on Energy and Commerce held a markup during which it considered supplementary amendments to its previously approved health care reform bill.

**Senate Finance Committee Begins Markup of Health Care Reform Bill Containing Immigrant Restrictions:** The Senate Committee on Finance completed four days of markup of the [Baucus health care reform bill](#), coming to no resolution. The Committee will continue the markup this week.

No immigration-related amendments were offered to the health care bill during the four days of markup that the measure underwent last week.

The Committee's first markup session was held on Tuesday, September 22, 2009. That day's activity was limited to the delivery of opening statements by each senator on the committee, the release by Senate Finance Committee Chairman Max Baucus (D-MT) of a list of modifications he was making to the bill, and a staff-led walk-through of the bill.

The only significant mention of immigration during the opening statements at last week's markup were made by Senate Finance Committee Ranking Republican Charles Grassley (R-IA), who asserted that, "on the subject of immigrants here illegally, this bill also fails the test in at least three ways. First, although the mark appears to require the new exchanges to verify Social Security numbers and citizenship or legal status, it does not include blocking of Social Security Numbers, REAL IDs, verification of address, or prior year income, or any other mechanism to verify identity and prevent identity theft. Second, it appears to contain privacy protections limiting the use of data collected by the exchanges. But, it does not allow information sharing with the Internal Revenue Service and the Social Security Administration to detect and preclude the multiple use of the same Social Security number. And finally, I would also note that the designation of Indian tribes as an "Express Lane Agency" would allow them to enroll anyone under the age of 22 in Medicaid and CHIP, and anyone of any age in an exchange without verification of citizenship. As we have discussed in this committee in the past, the role of Indian tribes in verifying citizenship has been questionable."<sup>1519</sup>

Senate Finance Committee Chairman Baucus released a summary of [Modifications to the Chairman's Mark](#).<sup>1520</sup> While the modifications encompassed more than 150 of the 564 amendments to the Chairman's Mark that have been filed by members of the Committee, they did not make any changes to the Mark's immigration-related provisions.

Senators began to offer amendments to the Chairman's Mark on Day two of the markup, and continued doing so through Day Three and Day Four. However, none of the amendments that were offered last week were immigration-related.

Senate Finance Committee Chairman Max Baucus (D-MT) hopes to complete marking up the health care reform bill this week. ☼

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<sup>1519</sup> [Click Here](#) to see the complete text of the prepared opening statement made by Senate Finance Committee Ranking Republican Charles Grassley at the September 22, 2009, Senate Finance Committee markup of health care reform legislation

<sup>1520</sup> [Click Here](#) to see list of modifications to the Baucus Health Care Reform Chairman's Mark that Senate Finance Committee Chairman Max Baucus (D-MT) released on September 22, 2009

### Immigration Barely Addressed in House Energy and Commerce Committee Supplementary Markup of Health Care Reform Amendments:

The House Committee on Energy and Commerce last week held a supplementary markup in connection with [H.R. 3200](#), the "America's Affordable Health Choices Act of 2009." During the September 23, 2009, supplementary markup, the Committee considered numerous amendments that had been pending to H.R. 3200 but were not voted on prior to the Committee's approval of the measure on July 31, 2009. The Committee approved seven amendments, forwarding them to the House Committee on Rules to be considered along with the version of H.R. 3200 that the Committee approved last July.

Only one amendment having immigration implications was offered during the September 23, 2009, markup:

- **Rogers En Bloc Amendment.** Representative Mike Rogers (R-MI) offered an en bloc amendment consisting of many different parts. Among the parts of the Rogers Amendment was a provision that would have increased the verification regime for Medicaid so as to prevent illegal immigrants from accessing the program.<sup>1521</sup>

The Rogers amendment was ruled nongermane, and he withdrew it.

**Next Steps.** Now that the House Committee on Energy and Commerce has completed its supplementary markup, the amendments that the Committee agreed to will be forwarded to the House Committee on Rules.

### Last Week's Floor Activity

Only one measure containing significant immigration- or refugee-related provisions saw floor action last week. That action took place in the House:

- **Short-Term Extension of E-Verify, Religious Worker Visa, and Two Other Expiring Immigration Programs.** The full House of Representatives last week adopted the conference report accompanying the Fiscal Year 2010 Legislative Branch Appropriations Bill, which contains provisions extending four immigration programs and keeping the federal government operating for the next month.

**House Approves Continuing Appropriations Resolution Extending E-Verify and Three Other Expiring Immigration Programs:** The full House of Representatives last week approved a measure that would

provide a short-term extension of the controversial E-Verify program and three other less controversial expiring immigration programs. In addition to the E-Verify program, the measure also would extend the EB-5 Investor Visa Regional Center, Special Immigrant Non-Minister Religious Worker Visa, and Conrad 30 State J-1 Visa programs. Authority for each of the four expiring programs will end at midnight on October 1, 2009, unless the Senate agrees to and the President signs the measure before then.

The Continuing Appropriations Resolution also continues all immigration and refugee spending at fiscal year 2009 levels.

Last week's House action occurred on Thursday, September 25, 2009, in connection with the conference report accompanying H.R. 2918, the Fiscal Year 2010 Legislative Branch Appropriations Bill.<sup>1522</sup> The House adopted the conference report by a vote of 217-190.<sup>1523</sup>

**Legislative History.** House and Senate conferees met on Thursday, September 24, 2009, to put the finishing touches on the conference report accompanying H.R. 2918. At the request of the House and Senate Democratic Leadership, the conferees added a new Division B to the measure consisting of a continuing appropriations resolution funding the activities of most of the federal government for the first weeks of fiscal year 2010.

**Summary of Immigration- and Refugee-Related Provisions.** The provisions extending the four expiring immigration programs are found in Division B, or the continuing appropriations Division, of the conference report accompanying H.R. 2918.

The following summarizes the immigration-related provisions in the measure:

- **E-Verify Program.** Section 128 of Division B of the conference report accompanying H.R. 2918 would extend the authority for the E-Verify program through October 31, 2009.
- **EB-5 Investor Visa Regional Centers Program.** Section 130 of Division B of the conference report accompanying H.R. 2918 would extend the authority for EB-5 Investor Visa Regional Centers program through October 31, 2009.
- **Special Immigrant Non-Minister Religious Worker Visa Program.** Section 133 of Division B of the conference report accompanying H.R. 2918 would extend the Special Immigrant Non-Minister Religious Worker Visa program through October 31, 2009.

<sup>1521</sup> [Click Here](#) to see the text of the En Bloc amendment to H.R. 3200 that Representative Mike Rogers (R-MI) offered to H.R. 3200 during the House Energy and Commerce Committee's September 23, 2009, supplementary markup of H.R. 3200

<sup>1522</sup> [H. Rept. 111-265](#), September 24, 2009

<sup>1523</sup> [House Roll Call No. 739](#), September 25, 2009

- **Conrad 30 State J-1 Program.** Section 134 of Division B of the conference report accompanying H.R. 2918 would extend the Conrad 30 State J-1 Program through October 31, 2009.

**House Floor Consideration and Debate.** Debate on the conference report accompanying H.R. 2918 was spirited, with Republicans complaining about the procedure. However, there was no debate on the specific immigration-related provisions in the measure.

**Victory for Religious Worker and Conrad 30 Advocates.** The decision by appropriators to include extensions of all four expiring immigration programs is a victory for advocates for the Special Immigrant Religious Worker Visa and the Conrad 30 State J-1 Visa programs, in particular. In previous years, continuing appropriations resolutions have extended the E-Verify and EB-5 Investor Regional Center programs. However, they have not extended the Religious Worker and Conrad programs, leaving advocates for those two programs to scramble to win short-term extensions.

**Longer-Term Fate to be Decided in Homeland Security Appropriations Bill.** Both houses of Congress have approved extensions of one or more of the four expiring programs as part of their respective chambers' versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill. However, House Appropriations Committee Chairman David Obey (D-WI) has said that Congress will not be able to resolve all of the differences between the House-passed and Senate-passed versions of the measure for another week.

The House and Senate addressed all four of the expiring immigration programs in their respective versions of the Fiscal Year 2010 Homeland Security Appropriations Bill. However, each chamber produced differing provisions on the four programs. For instance, the House-passed version of the bill would extend the E-Verify program for two years. However, it did not address the EB-5 Regional Center, Special Immigrant Non-Minister Religious Worker, and Conrad State 30 J-1 Visa Waiver programs. The Senate-passed bill, on the other hand, would permanently authorize the E-Verify System and the EB-5 Regional Center Programs, and it would extend the Special Immigrant Non-Minister Religious Worker and Conrad State 30 J-1 Visa Waiver programs for three years.

**Next Steps.** While the appropriators' decision to include extensions of the four expiring immigration programs in the appropriations package represents a victory for advocates for the four programs, it does not mean that those advocates can rest on their laurels. The decision may mean that the Senate Democratic Leadership will need to secure 60 votes for the conference agreement in order to overcome a point of order that lies against it. The point of order, which any senator could raise, is that the package violates Senate rules precluding the inclusion of matter in a conference agreement

that was in neither the House-passed nor the Senate-passed versions of a bill.

Presumably, the Senate Democratic Leadership has calculated that a sufficient number of the opponents to parts of the total package will vote for it anyway in order to prevent a government shutdown. ☀ ◇

## *Recently Introduced Legislation*

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

### House

#### Control of Illegal Immigration

- **Healthy Borderlands Act of 2009:** Representative **Ciro D. Rodriguez (D-TX)** has introduced H.R. 3629, a bill to require the Secretary of Homeland Security to develop and implement a mitigation plan to address the ecological impacts of border security measures and activities, and for other purposes.

As introduced, H.R. 3629 would require the Secretary of Homeland Security to develop and implement a mitigation plan to address the ecological impacts of border security measures and activities.

It has been referred to the Not Known and House Committee on Homeland Security.

### Criminal Aliens

- **Cause of Action Against Countries That Denies Repatriation of Criminal Aliens:** Representative **Ted Poe (R-TX)** has introduced H.R. 3628, a bill to create a cause of action and allow standing in Federal courts against a country that denies or unreasonably delays the repatriation of a national ordered removed from the United States to such country who later commits a crime of violence in the United States, to withhold foreign assistance from each country that denies or unreasonably delays the repatriation of nationals of such country who have been ordered removed from the United States, to prohibit the issuance of visas to nationals of such country, and for other purposes.

It has been referred to the House Committee on the Judiciary and House Committee on Foreign Affairs.

### Senate

No bills containing significant immigration- or refugee-related provisions were introduced last week in the Senate. ◇

## 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 Steps Up Work on Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), who chairs the Congressional Hispanic Caucus' Immigration Task Force, has accelerated his work on comprehensive immigration reform legislation, pledging to introduce "an inclusive and progressive" comprehensive immigration reform measure within the next few weeks.



The Congressman made the pledge during a September 17, 2009,

National Citizenship Day celebration in Washington, DC. Later in the day, the Congressman released a press statement, in which he said, " I am overwhelmed by the support of immigrant, faith-based and community-based organizations in urging me to introduce comprehensive immigration legislation. We simply cannot wait any longer for a bill that keeps our families together, protects our workers and allows a pathway to legalization for those who have earned it. Saying immigration is a priority for this Administration or this Congress is not the same as seeing tangible action, and the longer we wait, the more every single piece of legislation we debate will be obstructed by our failure to pass comprehensive reform."<sup>1524</sup>

It is unclear at the time of this writing how the Congressman's September 17, 2009, pledge will impact an earlier pledge he made, reported in Roll Call, 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 bill was known as the "Security Through Regularized Immigration and a Vibrant Economy Act of 2007" Act, or the STRIVE Act.

<sup>1524</sup> [Click Here](#) to see the September 17, 2009, press release issued by the office of Representative Luis Gutierrez (D-IL) announcing his impending introduction of comprehensive immigration reform legislation

### Senate

#### Chairman Schumer Working on Comprehensive Immigration Reform Bill:

Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY), has said that he will have a broad outline of a comprehensive immigration reform bill available for inspection sometime in September. Chairman Schumer is working with Senator Lindsey Graham (R-SC) to draft the measure. However, as the closing days of September approach, it is seeming less likely that he will meet his timeframe in reaching that goal.



The goal of releasing an outline by the end of September was itself, 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.
- 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 previously had hoped to introduce shortly after Congress returns from its week-long Independence Day recess. There is no more recent word as to when he will introduce his bill.

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.<sup>1525</sup>

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 ...*

Congress is back in full swing following a tumultuous August recess. It is expected to remain in session well into November, if not into December.

The immigration- and refugee-related matters that Congress will likely address during the period between now and the adjournment of the first session include--

- **Health Care Reform.** The fate of legal immigrants, legal nonimmigrants, and undocumented aliens in the health insurance reform debate;
- **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;
- **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; and
- **Refugee Appropriations.** The amount of funding that will be included in the regular appropriations bills for

<sup>1525</sup> 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

refugee admissions, overseas refugee assistance, and domestic refugee resettlement.

In addition, Congress is expected to 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 either the House or Senate. Finally, beginning this week, Members and senators may begin to bring more clarity to efforts that are 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 Immigration Differences to Resolve on Fiscal Year 2010 Homeland Security Appropriations Bill:** House Appropriations Committee Chairman David Obey (D-WI) reports that Congress could at any time convene a conference committee to resolve the significant differences between the House and Senate in their respective versions of the Fiscal Year 2010 Homeland Security Appropriations Bill.

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 House- and Senate-passed 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.

**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.<sup>1526</sup>
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.<sup>1527</sup>
3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.<sup>1528</sup>

#### • **House Floor Actions.**

2. On June 24, 2009, the full House took up H.R. 2892, passing it by a vote of 389-37.<sup>1529</sup>

#### • **Senate Committee Actions.**

3. 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.
4. On June 18, 2009, the full Senate Committee on Appropriations held a markup session, approving [S. 1298](#)<sup>1530</sup> and formally reporting the measure to the full Senate.<sup>1531</sup>

#### • **Senate Floor Actions.**

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<sup>1526</sup> 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

<sup>1527</sup> 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

<sup>1528</sup> 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

<sup>1529</sup> [House Roll Call No. 450](#), June 24, 2009

<sup>1530</sup> [S. Rept. 111-31](#), June 18, 2009

<sup>1531</sup> 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 Appropriations Subcommittee on Homeland Security markup of the Fiscal Year 2010 Homeland Security Appropriations bill

3. On July 7, 2009, the full Senate took up H.R. 2892, considering the text of S. 1298 for the purposes of floor amendments.
4. On July 9, 2009, the full Senate passed its version of H.R. 2892 by a vote of 84-6.

**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 highly 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 beginning on page 1017 of this week's edition for a 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

### Three 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.<sup>1532</sup>

- **House Energy and Commerce; House Ways and Means; and House Education and Labor 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.

- **House Committee on the Judiciary.** The House Committee on the Judiciary has approved [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009".

<sup>1532</sup> 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

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

### Five Immigration- or Border Security-Related Measures Await 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 four bills that contain significant immigration-related provisions and now await consideration by the full House Committee on the Judiciary:
  - [H.J. Res. 26](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously;
  - [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act; and
  - [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.<sup>1533</sup> It approved the last bill in a markup that occurred on Friday, July 31, 2009.

No full committee markup had been scheduled at the time of this writing. However, it is possible that some or all of the bills could be scheduled for markup in the House Judiciary Committee as soon as this week.<sup>1534</sup>

- **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
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.<sup>1535</sup>

### Senate

#### 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 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 floor consideration 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](#)<sup>1536</sup> would appropriate \$432,000 less in ORR funding in fiscal year 2010 compared to the total fiscal year 2009 ORR appropriation.<sup>1537</sup> The House-passed measure

<sup>1533</sup> 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

<sup>1534</sup> 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

<sup>1535</sup> 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

<sup>1536</sup> [H. Rept. 111-220](#), July 22, 2009

<sup>1537</sup> 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

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.<sup>1538</sup>

The Senate Committee on Appropriations reported [the Senate Appropriations Committee-approved version of H.R. 3293](#)<sup>1539</sup> on August 4, 2009. 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 that will occur.

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.<sup>1540</sup>

The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#), reporting it to the full Senate.<sup>1541</sup>

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.<sup>1542</sup>

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.<sup>1543</sup>

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.<sup>1544</sup> 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.<sup>1545</sup> 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

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*additional \$82 MILLION that was appropriated in the fiscal year 2009 war supplemental appropriations bill*

<sup>1538</sup> 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

<sup>1539</sup> [S. Rept. 111-66](#), August 4, 2009

<sup>1540</sup> 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

<sup>1541</sup> [S. Rept. 111-34](#), June 25, 2009

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<sup>1542</sup> 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

<sup>1543</sup> [H. Rept. 111-187](#), June 26, 2009

<sup>1544</sup> [S. Rept. 111-44](#), July 9, 2009

<sup>1545</sup> 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

would fund programs to assist the victims of torture who are resettled in the United States.<sup>1546</sup>

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.<sup>1547</sup>

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.<sup>1548</sup>

- **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.

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.<sup>1549</sup> That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up. ☀

### Five Committee-Approved Immigration-Related Measures 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.<sup>1550</sup>

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

2. **Fiscal Year 2010 Appropriations for the Immigration Court System.** The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#),<sup>1551</sup> the Fiscal Year

<sup>1546</sup> 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

<sup>1547</sup> 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

<sup>1548</sup> 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

<sup>1549</sup> 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

<sup>1550</sup> 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

<sup>1551</sup> [S. Rept. 111-34](#), June 25, 2009

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.<sup>1552</sup>

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,<sup>1553</sup> 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.<sup>1554</sup>

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

- **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.<sup>1555</sup>

- **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 U.S. 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 U.S.

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.<sup>1556</sup> ☼ ◇

## *Next Week's Edition ...*

Look for the following articles in the next edition of the Weekly Legislative Update:

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<sup>1552</sup> 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

<sup>1553</sup> [S. Rept. 111-44](#), July 9, 2009

<sup>1554</sup> 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

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<sup>1555</sup> 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

<sup>1556</sup> 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

- **Health Care Reform.** Next week's Weekly Legislative Update will report on any developments that occur in the Senate Committee on Finance relating to the eligibility of immigrants and refugees for health insurance and health care.
- **Short-Term Extension of E-Verify, Religious Worker Visas, and Other Expiring Immigration Programs.** Next week's Weekly Legislative Update will report on this week's expected Senate action on H.R. 2819, the Fiscal Year 2010 Legislative Branch Appropriations Bill. H.R. 2819 has become the vehicle for the first fiscal year 2010 continuing appropriations resolution, which contains month-long extensions of four expiring immigration programs.
- **Fiscal Year 2010 Appropriations for the Department of Homeland Security.** Next week's Weekly Legislative Update will report on any developments that occur this week as House and Senate negotiators attempt to resolve the conflicting immigration funding and policy matters the differing House- and Senate-passed versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill.
- **Fiscal Year 2010 Appropriations for EOIR, Alternatives to Detention, and SCAAP.** Next week's Weekly Legislative Update will report on any action that occurs this week in the Senate on H.R. 2847, the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill, which funds the Executive Office for Immigration Review (EOIR), alternative to detention programs, and the State Criminal Alien Assistance Program (SCAAP).
- **The Terrorist Threat to the United States.** Next week's Weekly Legislative Update will report on any immigration-related matters that are discussed at this week's Senate Homeland Security and Governmental Affairs hearing on the terrorist threat to the United States.
- **House Judiciary Committee Markup of Immigration Bills.** Next week's Weekly Legislative Update will report on any action that occurs in the House Judiciary Committee on three immigration bills that it could markup this week. ◇

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*Appendix*

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**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**

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Last Updated: Monday, September 13, 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</p> |

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, September 28, 2009**

| Item | Issue  | House Bill  | Senate Bill   |
|------|--|---|---|
| 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.<sup>1558</sup></p> | <p>permanent positions within this office."<sup>1557</sup></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."<sup>1559</sup></p>   |
| 3.   | Direct Appropriations for Military Naturalizations         | <p>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.<sup>1560</sup></p>  | <p>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."<sup>1559</sup></p>  |
| 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.<sup>1561</sup></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</p> |

<sup>1557</sup> [S. Rept. 111-31, Page 10](#)

<sup>1558</sup> [H. Rept. 111-157, Pages 128-131](#)

<sup>1559</sup> [S. Rept. 111-31, Page 117](#)

<sup>1560</sup> [H. Rept. 111-157, Pages 128-131](#)

<sup>1561</sup> [H. Rept. 111-157, Pages 131-132](#)

| Item | Issue                        | House Bill  | Senate Bill   |
|------|------------------------------|---|---|
| 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.<sup>1562</sup></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"> <li>• Extend the program for three years</li> <li>• Make reforms to protect the Social Security Administration.</li> </ul> <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.”<sup>1563</sup></p> | <p>makes a total of \$7,600,000 available for immigrant services and integration grants.”<sup>1559</sup></p> <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"> <li>• Permanently extend the program<sup>1564</sup></li> <li>• Formally rename it the E-Verify Program<sup>1564</sup></li> <li>• Require federal contractors to use the E-Verify program to verify the employment eligibility of their employees<sup>1564</sup></li> <li>• Permit employers using the E-Verify System to use it to verify the work eligibility of existing employees, not just new-hires.<sup>1565</sup></li> </ul> <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> |

<sup>1562</sup> 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

<sup>1563</sup> [H. Rept. 111-157](#), June 16, 2009, Page 131

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, September 28, 2009**

| Item | Issue   | House Bill  | Senate Bill   |
|------|---|---|---|
| 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. <sup>1566</sup>   |
| 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. <sup>1567</sup> |
| 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 <sup>1568</sup> , extending it through September 30, 2012. <sup>1566</sup>   |
| 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. <sup>1566</sup>                        |

<sup>1564</sup> 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

<sup>1565</sup> 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

<sup>1566</sup> 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

<sup>1567</sup> 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

<sup>1568</sup> 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  |
|------|---|--|--|
| 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"> <li>• require that construction of the mandated 700 miles of fencing be completed by December 31, 2010;</li> <li>• 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</li> <li>• provide that funds for fence construction may not be withheld for failure to comply with consultation requirements.</li> </ul> <p>Sec. 560 of the Senate-passed version of H.R. 2892 also would impose reporting requirements on the Administration with regard to the construction of fencing along the U.S. border with Mexico.<sup>1569</sup></p> |
| 11.  | SSA No-Match Letters                      | There is no provision in the House-passed version of H.R. 2892 relating to SSA No-Match Letters                      | <p>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”<sup>1570</sup></p>   |



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<sup>1569</sup> 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

<sup>1570</sup> 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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