



# 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, October 5, 2009

(Revised on October 11, 2009)

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*Most of the week's immigration- and refugee-related action occurs in the Senate, where the Finance Committee hopes to complete work on health care legislation and the full Senate hopes to pass the FY '10 bill that funds EOIR, SCAAP, and alternatives to detention. In addition, conferees could finally meet this week to resolve the significant immigration differences in the FY '10 Homeland Security Funding Bill.*

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### *This Week's Hearings*

At the time of this writing, two hearings were been scheduled for this week at which significant immigration- or refugee-related matters are expected to be discussed. Both of the hearings are scheduled to occur in the Senate:

- **Human Rights Violators and Asylum.** A Senate Judiciary Committee panel has scheduled a hearing on human rights violators and asylum.
- **Faith-Based Perspectives on Comprehensive Immigration Reform.** A Senate Judiciary Committee panel has scheduled a hearing on faith-based perspectives on comprehensive immigration reform.

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

### House

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

### Senate

At the time of this writing, two hearings were scheduled for this week in the Senate at which significant immigration- or refugee-related matters are expected to be examined.

#### **Senate Judiciary Panel to Hold Hearing on Human Rights Violators and Asylum:**

The Senate Judiciary Subcommittee on Human Rights and the Law has scheduled a hearing for this week examining human rights violators and asylum.



This week's hearing is scheduled for 10:00 am on Tuesday, October 6, 2009, in Room SD-226 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:

- Lanny A. Breuer, Assistant Attorney General, Criminal Division;
- John T. Morton, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement;
- David T. Donahue, Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs; and
- Arthur M. Cummings II, Executive Assistant Director, National Security Branch, FBI. ☼

#### **Senate Panel to Hold Hearing on Faith- Based Perspectives in Comprehensive Immigration Reform:**

The Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security has scheduled a hearing for this week to examine faith-based perspectives on comprehensive immigration reform. This week's hearing is scheduled for 3:00 pm on Thursday, October 8, 2009, in Room SD-226 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:

- Richard Land, President, Ethics and Religious Liberty Commission, Southern Baptist Convention, Nashville, Tennessee;
- Luis Cortes Jr., CEO, Esperanza USA, Philadelphia
- Theodore E. McCarrick, Cardinal Archbishop Emeritus, Diocese of Washington;
- Michael Gerson, Senior Research Fellow, Institute for Global Engagement, Center on Faith and International Affairs; and
- James Tolle, Senior Pastor, The Church on the Way, Van Nuys, Calif. ☼ ◇

## *This Week's Markups*

At the time of this writing, two markups having implications for immigration- or refugee-related matters are scheduled to occur this week in Congress. One of the markups is taking place in the House and the other is occurring in the Senate:

- **Health Care Reform Bill.** The Senate Committee on Finance is expected this week to complete its consideration of health care reform legislation.
- **House Judiciary Committee Immigration Bills.** The House Committee on the Judiciary is expected to continue a markup that it started three 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".

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

### 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 this week could 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, October 7, 2009. Should a full Committee markup 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.<sup>1571</sup>

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

<sup>1571</sup> S.J. Res. 12, the Senate-passed companion bill to H.J. Res. 26, is on the House floor schedule for this week. Accordingly, it is possible that the House Committee on the Judiciary will not markup H.J. Res. 26 at this week's markup

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. ☼

## Senate

### Senate Finance Committee Hopes to Complete Consideration of Health Care Reform Bill Containing Immigrant Restrictions:



While it had not yet been officially scheduled at the time of this writing, the Senate Committee on Finance is expected to hold a markup session this week, during which it intends to vote on whether to give its final approval to a health care reform bill that it all-but-approved last week. The Committee expects to meet on Tuesday, October 6. However, no date and time had

been formally set for the markup at the time of this writing. When it occurs, the markup it is expected that it will do so in Room SD-215 of the Dirksen Senate Office Building.

Even while the Committee continues its consideration of the measure, the Senate Democratic Leadership is working to produce a version of the bill that it hopes to put before the full Senate beginning as soon as Tuesday, October 13.

**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.

**Background.** The Senate Committee on Finance held seven markup sessions last week, during which it considered more than 100 amendments to a Baucus Chairman's Mark. The Committee completed its consideration of amendments to the measure in the wee hours of the morning on Friday, October 2, 2009. Four immigration-related amendments were offered to the measure in Committee. Each sought to further restrict immigrants' access to health insurance products. Each amendment was defeated on a party-line vote.

Following the Committee's completion of its consideration of amendments on October 2, it Committee forwarded the product to the Congressional Budget Office (CBO) so it could "score" the measure and determine if it is deficit-neutral or it would add to the budget deficit.

Senate Finance Committee Chairman Max Baucus (D-MT) intends that this week's markup session take place only after the CBO has completed its scoring of the measure. He further intends that the markup this week be limited to either a single up-or-down vote on approving the health care reform package as it was completed on Friday, October 5, 2009, or approving it with whatever modifications are needed to ensure that the package is deficit neutral.

**Summary of Immigration- and Refugee-Related Provisions.** On Wednesday, September 16, 2009, Chairman Baucus released both a [brief summary](#) and a [detailed summary](#) his Chairman's Mark of the Senate Finance Committee health care reform bill.

A study of the two summaries shows that the Chairman's Mark contains a number of restrictions on both legal and illegal immigrants' access to health insurance.<sup>1572</sup> More specifically, the bill would:

<sup>1572</sup> *The Chairman did not release (and at the time of this writing had not yet released) actual legislative language for his bill. And so it is entirely possible that there are immigrant- and immigration-related provisions in the legislative text of the bill that are not described in the two summaries.*

- **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.

**Outlook.** The Committee is expected to approve the health care reform bill during this week's markup session.

The only questions in doubt concerning the markup at the time of this writing are the degree to which the Committee will have to make changes to the bill in order to ensure that it is deficit-neutral and whether any senators will cross party lines in the vote. Senator Jay Rockefeller (D-WV) has been quoted in the past as saying he opposes the measure. And Senator Olympia J. Snowe (R-ME) has been quoted saying she is undecided.

From a broader perspective, big issues such as the cost of the measure, whether the bill will contain a public option, how abortion will be treated under the bill, what the manner and amount of subsidies for lower-income Americans to help them purchase insurance will be, how immigrant access to

health insurance and health care will be restricted, and what the reimbursement rates under the Medicare program will be continue to cast a large shadow over the ultimate fate of the measure. ☀ ◇

## *This Week's Floor Activity*

At the time of this writing, at least two measures containing immigration- or refugee-related provisions are likely to see House or Senate floor action this week and a third measure could come up if conferees reach agreement:

- **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.
- **Honorary Citizenship for Casimir Pulaski.** The House of Representatives could take up a measure granting honorary citizenship to Casimir Pulaski.
- **FY '10 Funding for Immigration Services, Immigration Enforcement, and Border Security.** The full House and Senate could take up the conference report accompanying H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill, should a conference agreement on the measure be reached this week.

## **Bicameral**

### **House and Senate Could Take Conference Agreement on FY '10 Homeland Security Appropriations Bill:**

Should House and Senate conferees come to an agreement on resolving the differences between the [House-passed](#) and [Senate-passed](#) versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act, either or both Chambers could take up that agreement as soon as this week.



Should an agreement be reached, the House would likely take up the agreement first.

## **House**

### **House to Take Up Joint Resolution Conferring Honorary Citizenship to Casimir Pulaski:**

The full House of Representatives this week is scheduled to take up legislation conferring posthumous honorary citizenship to Casimir Pulaski, a Polish citizen who fought on behalf of the United States during the Revolutionary War and died while in

combat in 1779. This week's House floor action will take place in connection with [S.J. Res. 12](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously. The House is expected to take up the measure on Wednesday, October 7, 2009, sometime after 10:00 am, the time that the House is scheduled to convene on that day.

**Legislative History.** S.J. Res. 12 was introduced on March 2, 2009, by Senate Majority Whip Richard Durbin (D-IL). The Senate took up the measure on that same day, passing it by unanimous consent. It was received in the House and referred to the House Committee on the Judiciary.

**Parliamentary Situation.** The House of Representatives will take up S.J. Res. 12 under a procedure known as "suspension of the rules." Under this procedure, debate on a measure is limited to 40 minutes, equally divided between Democrats and Republicans; the measure is not subject to amendment; and it must receive the affirmative votes of two-thirds of those Members who are present and voting.

**Summary of Immigration- and Refugee-Related Provisions.** S.J. Res. 12 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.

**Outlook.** S.J. Res. 12 is not expected to generate any controversy in the House of Representatives. ☀

## Senate

### Senate Could Take Up Bill Appropriating FY '10 Funds for the Immigration Court System:

The full Senate this week is expected to take up its 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. This week's Senate floor action is expected to begin on Monday, October 5, 2009, 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>1573</sup>

The Committee-approved measure 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. This week's Senate action will take place beginning on Monday, October

5, 2009, and continue throughout much of the week.

**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 floor amendments to the measure. It is unclear at the time of this writing, however, whether they will be able to obtain such an agreement.

**Legislative History.** The following is a brief legislative history of H.R. 2847:

- **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.<sup>1574</sup>
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.

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<sup>1574</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>1573</sup> [S. Rept. 111-34](#), June 25, 2009

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 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.

## **Planned Conference Meeting to Resolve the Significant Differences on Immigration in FY '10 Homeland Security Appropriations Bill Hits Snag:**

House and Senate conferees could meet this week to resolve the differences between the [House-passed](#) and [Senate-passed](#) versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act. Both versions of the bill contain significant immigration provisions. However, the

two versions diverge sharply on a number of important policy matters. How those differences are resolved could have enormous political and policy consequences for years to come.

**Background.** Each year, the Homeland Security Appropriations Act funds the federal government's immigration enforcement, immigration services, and border security departments, agencies, programs, activities, and functions. The measure is supposed to be enacted into law by the first day of October each year, which is the first day of the fiscal year. However, Congress was unable to enact the measure this year by October first.

The inability of Congress to enact the Fiscal Year 2010 Homeland Security Appropriations Act by the first of October this year has made it necessary for Congress to temporarily fold spending for the Department into a stop-gap funding measure, which continues the agency's funding through October 31, 2009. Congress now must resolve the differences between the House- and Senate-passed versions of the Fiscal Year 2010 Homeland Security Appropriations Act by that date.

**Abruptly canceled Meeting of Conferees.** House and Senate negotiators thought they had reached an agreement on how to settle the differences between the two versions of the Homeland Security Appropriations Act last week. The House of Representatives appointed conferees to the measure and a conference meeting was scheduled for the afternoon of Thursday, October 1, 2009. However, the House Democratic Leadership unexpectedly lost a Republican motion to instruct conferees relating to Guantanamo detainees and a conflict emerged among a group of House Democrats over how negotiators had agreed to settle some of the immigration-related differences between the House-passed and Senate-passed versions of the measure. In light of both the motion to instruct conferees and the conflict over several immigration matters, the planned meeting of the conferees was abruptly cancelled. At the time of this writing, no new date or time had been set for a meeting of the conferees.

It has been widely reported in the press that last week's planned meeting of conferees was cancelled because Democrats were concerned about the motion to instruct conferees on Guantanamo detainees that the House adopted. However, there are indications that the difference over immigration matters also was a strong contributor to the decision to cancel last week's meeting of the conference.

**Key Immigration-Related Policy Differences.** There are enormous differences between the House- and Senate-passed bills on immigration policy matters. These include differences on--

- the E-Verify System,
- SSA No-Match letters,

- border fencing,
- relief for widows and orphans whose U.S. citizen or permanent resident spouses or parents die while immigration benefit applications or petitions are pending; and
- extensions of expiring visa programs for religious workers, investors who create jobs in the United States, and doctors serving underserved communities.

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.

Indeed, the Senate-passed version of the 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 Investors Visa 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. The House-passed bill does not contain any of those provisions.

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.

**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.
- 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.

**Reports on Settlement of Immigration Policy Differences.** Since the conferees did not, ultimately, meet last week, it is difficult to determine the precise nature of the agreements that negotiators were prepared to endorse. However, sources indicate that the negotiators had agreed to the following settlement of differences:

- **The E-Verify Program.** The negotiators reportedly had decided on a three year-long extension of the E-Verify Program.
- **Religious Worker Visas.** The negotiators reportedly had decided on a three year-long extension of the Religious Worker Visa Program, along with a requirement for a study of fraud in the program.
- **Conrad 30 State J-1 Visas.** The negotiators reportedly had decided on a three year-long extension of the Conrad 30 State J-1 Visa program.
- **EB-5 Investors Visa Regional Center Program.** The negotiators reportedly had decided on a three year-long extension of the EB-5 Investors Visa Regional Center Program.
- **Border Fencing.** The negotiators reportedly had decided to strike the DeMint provisions on border fencing that had been included in the Senate-passed version of the bill.
- **Widows and Orphans.** The negotiators reportedly had decided to include a modified version of the Hatch/Menendez/Nelson widows and orphans immigration relief provision that had been included in the Senate-passed version of the bill.

There is no reliable word on how the negotiators had decided to handle differences between the two versions of the bill on the SSA No-Match and 287(g) issues. Moreover, there is no reliable word on whether the agreements that negotiators had agreed to will hold when the conferees sit down to negotiate the final version of the bill.

**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>1575</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>1576</sup>
3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.<sup>1577</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 389-376F<sup>1578</sup>

• **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>1579</sup> and formally reported it to the Senate.<sup>1580</sup>

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<sup>1575</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>1576</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>1577</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>1578</sup> [House Roll Call No. 450](#), June 24, 2009

<sup>1579</sup> [S. Rept. 111-31](#), June 18, 2009

<sup>1580</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

### • **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.

**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. ☼ ◇

## *This Week's Executive Activity*

See next week's issue. ◇

## *Last Week's Legislative Activity*

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

There was only one hearing that was held last week at which significant immigration- or refugee-related matters was discussed. That hearing took place in the Senate:

- **Terrorist Threats to the United States.** The Senate Committee on Homeland Security and Governmental Affairs held a hearing last week on terrorist threats to the United States.

**Senate Homeland Security Panel Holds Hearing on Terrorist Threat to the United States:** The Senate Committee on Homeland Security and Governmental Affairs last week held a hearing to examine the terrorist threat to the United States. Last week's hearing occurred on Wednesday, September 30 2009.<sup>1581</sup>

**Witnesses.** The witness list for last week's hearing included the following:

- Janet Napolitano, Secretary of Homeland Security,<sup>1582</sup>

<sup>1581</sup> [Click Here](#) to see recorded video of the September 30, 2009, Senate Homeland Security and Governmental Affairs Committee hearing on the terrorist threat to the United States

<sup>1582</sup> [Click Here](#) to see the complete text of Secretary of Homeland Security Janet Napolitano's prepared testimony at the September 30, 2009, Senate Homeland Security and Governmental Affairs hearing on the terrorist threat to the United States

- Robert S. Mueller III, Director of the FBI,<sup>1583</sup> and
- Michael E. Leiter, Director of the National Counterterrorism Center, Office of the Director of National Intelligence.<sup>1584</sup> ☼

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

There was only one markup that was held last week of legislation that could have implications for immigration- or refugee-related matters:

- **Health Care Reform Legislation.** The Senate Committee on Finance is completed its consideration of amendments to the Baucus health care reform bill.

**Senate Finance Committee Rejects Four Immigration Restrictionist Amendments As it Nears Completion of Health Care Reform Markup:** The Senate Committee on Finance last week moved to the brink of approving a massive health care reform bill that contains numerous restrictions on the eligibility of legal and illegal immigrants to purchase health insurance. The Committee completed its seventh day of marking up the measure in the wee hours of the morning of Friday, October 2, 2009, during which it considered more than 100 amendments to a legislative package that had been assembled by Senate Finance Committee Chairman Max Baucus (D-MT). The Committee considered four immigration-related amendments during the seven days of markup. Each of the four amendments sought to further restrict the eligibility of immigrants to purchase life insurance or receive health benefits. The Committee rejected all four amendments on party-line votes.

Now that the Committee has completed its consideration of amendments to the measure, it has paused its markup for several days in order to give the Congressional Budget Office (CBO) an opportunity to determine whether the measure that the Committee is poised to adopt is "budget deficit-neutral." Once that determination is made, the Committee will reconvene, probably this week, to vote on the final package.

**Immigration Provisions in the Chairman's Mark**  
 The actual legislative language for the Chairman's Mark has not been written. Instead, the Committee worked on

<sup>1583</sup> [Click Here](#) to see the complete text of FBI Director Robert S. Mueller's prepared testimony at the September 30, 2009, Senate Homeland Security and Governmental Affairs hearing on the terrorist threat to the United States

<sup>1584</sup> [Click Here](#) to see the complete text of National Counterterrorism Center Director Michael E. Leiter's prepared testimony at the September 30, 2009, Senate Homeland Security and Governmental Affairs hearing on the terrorist threat to the United States

conceptual language. The legislative language will be written after the Committee completes its consideration of the conceptual language.

A [brief summary](#) and a [detailed summary](#) of the Baucus health care reform bill showed that the measure contains a number of restrictions on both legal and illegal immigrants' access to health insurance. 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.

**Immigration-Related Amendments Offered During the Markup.** The Finance Committee took seven days to markup the Baucus health care reform bill, a measure that its Chairman Max Baucus (D-MT) released on Wednesday, September 16, 2009. Senators on the Committee filed 564 amendments to the Chairman's Mark, including at least [11](#)

[immigration-related amendments](#). Seven of the filed immigration-related amendments sought to restrict immigrants' access to health care and four sought to expand their access. In the end, the Committee only took up four immigration-related amendments during its seven markup sessions, all of which sought to restrict immigrants' access to health care.

The following are the four immigration-related amendments that were offered last week to the Baucus Chairman's Mark:

- **GRASSLEY PHOTO ID AMENDMENT.** Senate Finance Committee Ranking Republican Charles Grassley (R-IA) offered an amendment on Wednesday, September 30, 2009, that would have amended Title 19 of the Social Security Act to require an applicant (or the parent or guardian in the case of a child under the age of 18) to present at the time of application for Medicaid or CHIP benefits government-issued photo identification and that identification must be authenticated with the issuing agency.

The Debate on the [Grassley Photo ID Amendment](#) was vigorous. Senator Jon Kyl (R-AZ) joined Senator Grassley in speaking in favor of the amendment. Speaking against the amendment were Senators Bob Menendez (D-NJ), Jeff Bingaman (D-NM), and Debbie Stabenow (D-MI).

The Committee rejected the Grassley Photo ID Amendment by a party-line vote of 10-13.

- **KYL PHOTO ID AMENDMENT.** Senate Minority Whip Jon Kyl (R-AZ) offered an amendment on Wednesday, September 30, 2009, that would have required photo identifications for persons seeking to make use of affordability tax credits to subsidize the purchase of health insurance under the bill.

The Committee rejected the Kyl Photo ID Amendment by a party-line vote of 10-12, with Senator Maria Cantwell (D-WA), abstaining.

- **GRASSLEY FIVE YEAR WAITING PERIOD FOR AFFORDABILITY TAX SUBSIDY AMENDMENT.** Senate Finance Committee Ranking Republican Charles Grassley (R-IA) offered an amendment on Wednesday, September 30, 2009, that used as one of its offsets a requirement that legal immigrants be barred from receiving health care affordability tax credits under the health care reform bill for five years after their entry.

The Committee rejected the Grassley five-year Waiting Period Amendment by a vote of 10-13.

- **KYL FIVE-YEAR WAITING PERIOD AMENDMENT.** Senate Minority Whip Jon Kyl (R-

AZ) offered an amendment on Thursday, October 1, 2009, that would have required legal immigrants to wait five years after entering the United States before they can make use of a tax credit in the bill to help individuals purchase health insurance.

Senators Robert Menendez (D-NJ) and Jeff Bingaman (D-NM) spoke against the amendment. Senator Kyl was the only one who spoke in favor of it.

The Committee rejected the Kyl Five-Year Waiting Period Amendment by a vote of 10-13.

**Other Immigration-Related Amendments Filed to the Chairman's Mark.** Despite the fact that only four immigration-related amendments were offered during the Committee markup of the bill, at least 11 such amendments were filed with the Committee, including at least four that sought to expand the eligibility of legal immigrants for health insurance benefits under the bill and at least seven that sought to restrict aliens' eligibility for such benefits.

**Next Steps.** Now that the Senate Committee on Finance has completed its consideration of amendments to the Baucus healthcare reform bill, the next step is for the Committee to pause while the Congressional Budget Office (CBO) "scores" the conceptual language that the Committee has preliminarily approved to assess whether the package is budget deficit-neutral. Only after this CBO "score" of the conceptual language is completed will the Committee take a final vote on approving the package. That is expected to occur sometime this week.

Once the Senate Committee on Finance has approved a final package of conceptual language, the Senate Democratic Leadership will merge the work of the Finance Committee with the work of the Senate Committee on Health, Education, Labor, and Pensions to produce a consolidated bill for the full Senate to take up. This process could take several more weeks. However, Senate Majority Leader Harry Reid (D-NV) has indicated he wants to bring a health care reform bill to the Senate floor sometime next week. ☀

## Last Week's Floor Activity

There were only two measures containing significant immigration- or refugee-related provisions that saw floor action last week:

- **Short-Term Extension of E-Verify, Religious Worker Visa, and Two Other Expiring Immigration Programs.** The full Senate last week cleared for the President's consideration 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.

- **Motion to Instruct Conferees on Homeland Security Appropriations Bill.** The full House of Representatives last week appointed its conferees to the conference committee that will take up the Fiscal Year 2010 Homeland Security Appropriations Act and agreed to an immigration-related motion to instruct conferees.

**Senate Clears Continuing Appropriations Resolution Extending E-Verify and Three Other Expiring Immigration Programs:** The full Senate last week cleared for the President's consideration a measure extending authority for the controversial E-Verify program and three other less controversial expiring immigration programs. In addition to extending the E-Verify program for a month, the measure also extended the EB-5 Investor Visa Regional Centers, Special Immigrant Non-Minister Religious Worker Visa, and Conrad 30 State J-1 Visa programs for the same length of time. Authority for each of the four expiring programs would have ended at midnight on October 1, 2009, had the Senate had not agreed to the measure and the President not signed it.

The primary purpose of a continuing appropriations resolution is to continue funding for a set of federal agencies, programs, and activities for a defined period of time when Congress has failed to enact a regular appropriations bill for that set of agencies and programs. Last week's action on the continuing appropriations resolution was necessary because Congress had not enacted any of the 12 regular appropriations bills that fund the federal government by October 1, the first day of the fiscal year. The continuing appropriations measure that the Senate cleared last week provides continuing funding through October 31, 2009, for the federal government at fiscal year 2009 levels.

Last week's Senate floor action occurred on Thursday, September 30, 2009, in connection with the conference report accompanying H.R. 2918, the Fiscal Year 2010 Legislative Branch Appropriations Bill.<sup>1585</sup> The Senate adopted the conference report by a vote of 62-38.<sup>1586</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.

<sup>1585</sup> [H. Rept. 111-265, September 24, 2009](#)

<sup>1586</sup> [Senate Roll Call No. 302, September 30, 2009](#)

The House of Representatives took up the conference report on Friday, September 25, 2009, adopting it by a vote of 217-190.<sup>1587</sup>

**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, the conferees are struggling to reach an agreement on the differing versions of the measure.

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.** Following last week's Senate action clearing H.R. 2918 for the President's consideration, President Obama signed the measure. He did so on October 1, 2009, making it Public Law 111-68. ☀

**House Votes to Instruct Its Homeland Security Appropriations Bill Conferees on Controversial Matters:**

The House of Representatives last week voted to instruct its conferees to the conference on H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill, on a number of controversial issues. The instructions have complicated the job of resolving differences between the two bills. The House agreed to the motion, offered by House Appropriations Subcommittee on Homeland Security Chairman Harold Rogers (R-MO), on Thursday, October 1, 2009, by a vote of 258-163.<sup>1588</sup> In the vote, 88 Democrats joined 170 Republicans in supporting the motion.



The motion instructed the House conferees on H.R. 2918 to:

- **Detainee Abuse Photographs.** accept a Senate provision barring the disclosure of photographs showing abuse of detainees;
- **Guantanamo Detainees.** bar the Administration from bringing Guantanamo Bay, Cuba detainees to the United States and bar such persons from ever receiving any immigration benefit under U.S. immigration law; and
- **Availability of Conference Report Text.** not record their approval of the final conference agreement unless the text of the agreement has been available in a searchable and downloadable format for at least 72 hours. ☀

<sup>1587</sup> [House Roll Call No. 739](#), September 25, 2009

<sup>1588</sup> [House Roll Call No. 746](#), October 1, 2009

## Last Week's Conference Activity

### House and Senate Conferees Abruptly Cancel Meeting on Homeland Security Appropriations

**Bill:** House and Senate negotiators last week abruptly cancelled a meeting that previously was scheduled for Thursday, October 1, 2009, to formally begin the conference to resolve the significant differences between the [House-passed](#) and [Senate-passed](#) versions of the fiscal year 2010 Homeland Security Appropriations bill.

No new date or time has been set for the meeting of the conferees.

While it is being widely reported in the press that the meeting was cancelled by House conferees because they were concerned about a motion to instruct conferees on Guantanamo detainees that the House adopted, there are indications that the meeting of the conferees also was cancelled because of conflict among some members in the House over how negotiators had agreed to settle differences over immigration-related provisions that were contained in the House-passed and Senate-passed versions of the measure.

The Homeland Security Appropriations Bill funds immigration enforcement, immigration services, and border security departments, agencies, programs, activities, and functions of federal government.

The House- and Senate-passed different versions of the measure over the summer, and those versions contain significant differences on immigration policy provisions, including differences on the E-Verify System, SSA No-Match letters, border fencing, and visa programs for investors, religious worker and doctors. ☼ ◇

## *Last Week's Executive Activity*

### Department of Commerce Nixes Idea of a Moratorium on Raids During Census Enumeration

**Enumeration:** The Administration last week revealed that the U.S. Census Bureau will not seek a moratorium on immigration raids during the decennial enumeration of persons living in the United States, as it did in 2000. The moratorium that was granted in 2000 was done so in order to maximize participation in the census in hard-to-reach communities.

Department of Commerce spokesman Nick Kimball told reporters last week that the Department of Commerce, which oversees the Census Bureau, will not ask the Department of Homeland Security to refrain from exercising its authority to conduct large-scale immigration raids during the period when census enumerators are conducting census activities. ☼

### President Obama Sets Refugee Admissions Goal for Fiscal Year 2010:



President Barack Obama last week set the fiscal year 2010 goal for refugee admissions to the United States at 80,000 admissions. The President set the goal in a Presidential Determination on refugee admissions, which he signed on Wednesday, September 30, 2009.<sup>1589</sup>

The President signed the Presidential Determination pursuant to section 207 of the Immigration and Nationality Act, which requires him to issue such a determination at the beginning of each fiscal year before any refugees can be admitted to the United States.

The Presidential Determination usually includes an overall ceiling for refugees to be admitted during the fiscal year, a region-by-region ceiling on the number of refugees to be admitted during the year, an explanation of the number of persons previously been granted asylum who are expected to have their status adjusted to lawful permanent residence status during the year, and a designation of those countries where the United States expects to conduct in-country refugee processing during the year.

Each year over the last several decades, the United States has admitted somewhere between 40,000 and just over 200,000 refugees from abroad, all of whom were either subjected to persecution or had “a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion...”

This year's Presidential Determination provides for a total of 80,000 refugee admissions for fiscal year 2010. However, in establishing that ceiling, only 75,000 of the numbers would be allocated to the various regions of the world; the other 5,000 would comprise an “unallocated reserve.”

The Determination allocates 15,500 refugee admissions slots for Africa, 17,000 for East Asia, 2,500 for Europe and Central Asia, 5,000 for Latin America and the Caribbean, and 35,000 for the Near East/South Asia regions of the world.

The Determination designated three countries as countries from which the United States would perform in-country processing: Cuba, the Former Soviet Union, and Iraq. In addition, the Determination states that, in exceptional circumstances, persons who are identified by a United States embassy in any location may be processed in-country for admission to the United States as refugees.

The following compares the overall and regional ceilings in the fiscal year 2010 Presidential Determination with the comparable ceilings established for fiscal year 2009:

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<sup>1589</sup> [Click Here](#) to see the Obama Presidential Determination on refugee admissions for fiscal year 2010

Refugee Admissions Ceilings  
 FY 2009 and 2010

Region	'09 Ceiling	'09 Projected	'10 Ceiling
Africa	12,000	9,000	15,500
East Asia	20,500	19,500	17,000
Europe and Central Asia	2,500	2,500	2,500
Latin America/Caribbean	5,500	5,000	5,000
Near East/South Asia	39,500	39,000	35,000
<b>Regional Subtotal</b>	<b>80,000</b>	<b>75,000</b>	<b>75,000</b>
Unallocated Reserve[9]			5,000
<b>Total</b>	<b>80,000</b>	<b>75,000</b>	<b>80,000</b>

⚙️ ◇

### Recently Introduced Legislation

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

#### House

##### Control of Illegal Immigration

- **Improving Methods to Promote Regular Occurrences of the Verification of Employability Status Act of 2009:** Representative Paul Broun MD (R-GA) has introduced [H.R. 3676](#), a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to make permanent the E-Verify Program, and for other purposes.

It has been referred to the House Committees on the Judiciary and on Education and Labor.

##### Employment-Based Immigration System

- **Elimination of the Diversity Visa Program:** Representative Darrell Issa (R-CA) has introduced [H.R. 3687](#), a bill to amend the Immigration and Nationality Act to eliminate the diversity immigrant program and to re-allocate those visas to certain employment-based immigrants who obtain an advanced degree in the United States.

It has been referred to the House Committee on the Judiciary.

#### Senate

##### Family-Based Immigration System

- **Adjustment of Status for the Survivors of September 11 Terrorist Attack Victims:** Senator Frank R. Lautenberg (D-NJ) has introduced [S. 1736](#), a bill to provide the spouses and children of aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence.

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

### Bills in Development

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

#### House

##### \*\*Representative Gutierrez Working on Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), who chairs the Congressional Hispanic Caucus' Immigration Task Force, is working on a comprehensive immigration reform bill.



The Congressman pledged during a September 17, 2009, National Citizenship Day celebration in Washington, DC. to introduce the bill in the coming weeks. However, that timeframe is not certain.

In announcing that he was planning to introduce a bill, the Congressman 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>1590</sup>

<sup>1590</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

It is unclear at the time of this writing how closely the bill that the Congressman is writing will tie to the provisions in [H.R. 1645](#), comprehensive immigration reform 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.

## Senate

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



Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY), is working along with Senator Lindsay Graham (R-SC) to write a comprehensive immigration reform bill that he hopes to introduce in the Senate in the coming months. The Chairman has set a number of goals over the last several months for

when he hoped to release the text of his bill. However, that goal has turned out to be a moving target. Most recently, Chairman Schumer pledged to have a broad outline of a comprehensive immigration reform bill available for inspection sometime in September. However, September has come and gone with no sign of either the text of legislation or a detailed summary of such a measure.

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 was, 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 Chairman Schumer 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>1591</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;

<sup>1591</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

- **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 long-term fate of provisions passed by either the House or Senate to extend the Conrad State 30 J-1 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 refugee admissions, overseas refugee assistance, and domestic refugee resettlement.

In addition, Congress has slowly begun 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, Members and senators may soon 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-Senate conferees could meet at any time to wrap up negotiations over the Fiscal Year 2010 Homeland Security Appropriations Bill, which currently is the subject of a conference committee. The differing versions of the bill contain significant differences on both funding and immigration policy matters.<sup>1592</sup> ☀

<sup>1592</sup> See Pages 1029-1031 and Pages 1045-1049 of this week's edition of the Weekly Legislative Update for more detailed analysis of the significant immigration-related differences between 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."<sup>1593</sup> The Committee approved the bill after first approving an amendment aimed at ensuring that illegal immigrants not make use of such housing.

The Committee reported the measure to the full House of Representatives on Wednesday, September 30, 2009.<sup>1594</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

<sup>1593</sup> [H. Rept. 111-277](#), September 30, 2009

<sup>1594</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

"September 11 Family Humanitarian Relief and Patriotism Act of 2009".

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>1595</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>1596</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:

<sup>1595</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>1596</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

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>1597</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>1598</sup> would appropriate \$432,000 less in ORR funding in fiscal year 2010 compared to the total fiscal year 2009 ORR appropriation.<sup>1599</sup> The House-passed measure

<sup>1597</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>1598</sup> [H. Rept. 111-220](#), July 22, 2009

<sup>1599</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 additional \$82 MILLION that was appropriated in the fiscal year 2009 war supplemental appropriations bill

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>1600</sup>

The Senate Committee on Appropriations reported [the Senate Appropriations Committee-approved version of H.R. 3293](#)<sup>1601</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>1602</sup>

The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#), reporting it to the full Senate.<sup>1603</sup>

The Senate is scheduled to take up the Senate Appropriations Committee-approved version of H.R. 2847 this week.<sup>1604</sup>

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<sup>1600</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>1601</sup> [S. Rept. 111-66](#), August 4, 2009

<sup>1602</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>1603</sup> [S. Rept. 111-34](#), June 25, 2009

<sup>1604</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

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>1605</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>1606</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>1607</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 would fund programs to assist the victims of torture who are resettled in the United States.<sup>1608</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>1609</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>1610</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>1611</sup> That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up. ☺

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<sup>1605</sup> [H. Rept. 111-187, June 26, 2009](#)

<sup>1606</sup> [S. Rept. 111-44, July 9, 2009](#)

<sup>1607</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

<sup>1608</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

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<sup>1609</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>1610</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>1611</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

**\*\*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>1612</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>1613</sup> the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill (C-J-S Appropriations Bill), which funds the immigration court system, as well as funding a grant program that reimburses states for the costs they incur in incarcerating criminal aliens.

<sup>1612</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>1613</sup> [S. Rept. 111-34](#), June 25, 2009

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>1614</sup>

The Senate is set to take up the measure this week.

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>1615</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>1616</sup>

The Senate could take up the measure at any time.

- **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 was hotlined during the Summer. Reports indicate that it was cleared by the Senate Democratic

<sup>1614</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>1615</sup> [S. Rept. 111-44](#), July 9, 2009

<sup>1616</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

cloakroom, however, there were objection voiced in the Senate Republican cloakroom. Those objections precluded the Senate from moving the measure by unanimous consent.

On Thursday, October 1, 2009, the Senate Committee on the Judiciary filed a written report on the measure, complete with minority views.<sup>1617</sup> It is unusual for the Senate Committee on the Judiciary to file written reports on bills that it reports to the Senate.

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>1618</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>1619</sup> ☼ ◇

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

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

- **Health Care Reform and Immigrants.** Next week's Weekly Legislative Update will report on any activity that occurs this week in the Senate Committee on Finance on the Baucus health care reform bill, which contains provisions restricting the eligibility of immigrants to purchase health insurance.
- **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 in 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).
- **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.
- **Religious Perspectives on Immigration Reform.** Next week's Weekly Legislative Update will report on this week's Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing on religious perspectives on comprehensive immigration reform. ◇

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<sup>1617</sup> [S. Rept. 111-85](#), October 1, 2009

<sup>1618</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>1619</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

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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 permanent positions within this office."<sup>1620</sup></p>
2.	Direct Appropriations for Refugee and Asylum Adjudications	<p>The committee report accompanying the House version of H.R. 2892 notes that the measure would directly appropriate \$100 MILLION in fiscal year 2010 for refugee and asylum adjudications, which is \$106 MILLION less than the Administration requested and \$206 MILLION than was appropriated for this purpose in fiscal year 2009.</p> <p>Language in the House committee report precludes USCIS from using those funds until it publishes a new final rule implementing a new schedule of fees for immigration applications.<sup>1621</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>1622</sup></p>

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<sup>1620</sup> [S. Rept. 111-31, Page 10](#)

<sup>1621</sup> [H. Rept. 111-157, Pages 128-131](#)

<sup>1622</sup> [S. Rept. 111-31, Page 117](#)

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, October 5, 2009**

Item	Issue	House Bill	Senate Bill
3.	Direct Appropriations for Military Naturalizations	The committee report accompanying the House version of H.R. 2892 notes that the bill has rejected the Administration's request that military naturalizations be funded through directly appropriated funds. Instead the Committee stated its expectation that the \$5.1 MILLION cost for military naturalizations should be borne by seeking a reimbursement from the Department of Defense. <sup>1623</sup>	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>1622</sup>
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>1624</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 makes a total of \$7,600,000 available for immigrant services and integration grants."<sup>1622</sup></p>
5.	Basic Pilot/E-Verify Program	<p>The House-passed version of H.R. 2892 would appropriate a total of \$162 MILLION for the Basic Pilot/E-Verify Program, \$50 MILLION more than the Administration requested.<sup>1625</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 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>1627</sup></li> <li>• Formally rename it the E-Verify Program<sup>1627</sup></li> <li>• Require federal contractors to use the E-</li> </ul>

<sup>1623</sup> [H. Rept. 111-157, Pages 128-131](#)

<sup>1624</sup> [H. Rept. 111-157, Pages 131-132](#)

<sup>1625</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>1627</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

Item	Issue	House Bill	Senate Bill
		<p>The committee report accompanying the House version of H.R. 2892 notes that the most recent audit of the system “shows an unacceptably high rate of individuals falsely identified as ineligible to work.” It noted that “[o]f particular concern is the report’s conclusion that nearly 1 in 10 naturalized citizens is reported by Basic Pilot/E-Verify as non-work authorized.” The report strongly urges USCIS “to update and publish regular Basic Pilot/E-Verify accuracy and performance audits, so that Congress and Administration policy makers can remain informed of the system’s strengths and weaknesses.”</p> <p>The report also expresses the Committee’s strong support for efforts by USCIS “to establish a compliance group to monitor use of the Basic Pilot/E-Verify system and to ensure that companies enrolled in the program are not using it to take inappropriate or illegal employment actions.” The draft report notes that the Committee-approved bill will accommodate the Administration’s request to hire 40 Monitoring and Compliance staff “to ensure the system is not used for prohibited purposes.”<sup>1626</sup></p>	<p>Verify program to verify the employment eligibility of their employees<sup>1627</sup></p> <ul style="list-style-type: none"> <li>• Permit employers using the E-Verify System to use it to verify the work eligibility of existing employees, not just new-hires.<sup>1628</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>
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>1629</sup>

<sup>1626</sup> [H. Rept. 111-157](#), June 16, 2009, Page 131

<sup>1628</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>1629</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

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, October 5, 2009**

Item	Issue	House Bill	Senate Bill
7.	Special Immigrant Non-Minister Religious Worker Visas Program	There is no provision in the House-passed version of H.R. 2892 relating to the Special Immigrant Non-Minister Religious Worker Visas Program.	Sec. 571(a) of the Senate-passed version of H.R. 2892 would extend for three years the Special Immigrant Non-Minister Religious Worker Visa Program, extending it through September 30, 2012. The provision also would require U.S. Citizenship and Immigration Services to conduct a study and report on certain aspects of the program. <sup>1630</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>1631</sup> , extending it through September 30, 2012. <sup>1629</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>1629</sup>

<sup>1630</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>1631</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>1632</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>1633</sup></p>



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<sup>1632</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>1633</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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