



# 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 19, 2009

(Revised on October 28, 2009)

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### Legislative Highlights

- Senate Hopes to Clear Measure Extending E-Verify and Three Expiring Visa Programs* ----- [1081-1084](#)
- Senate Could Vote on Procedural Motion to Block Census/Immigration Status Amendment* -- [1084-1086](#)
- House to Take Another Stab at Revising Alien Smuggling Laws* ----- [1079-1081](#)
- House Foreign Affairs Panel to Hold Hearing on International Violence Against Women* ---- [1077-1077](#)
  
- House Approves Measure Extending E-Verify and Three Expiring Visa Programs* ----- [1086-1087](#)
- Senate Fails to Shut Off Debate on Vehicle for Census and Immigration Status Proposal* ---- [1087-1087](#)
- Obama Defends Raids and Reaffirms His Support for Comprehensive Immigration Reform* -- [1088-1089](#)

### This Week's Hearings

At the time of this writing, just one hearing had been scheduled for this week at which significant immigration- or refugee-related matters are expected to be discussed:

- **International Violence Against Women.** A subcommittee of the House Committee on Foreign Affairs is holding a hearing on international violence against women.

### House

**House Foreign Affairs Committee Panel to Hold Hearing on International Violence Against Women:** The House Foreign Affairs Subcommittee on International Organizations, Human Rights and Oversight has scheduled a hearing for this week titled "International Violence Against Women: Stories and Solutions." This week's hearing is scheduled for 2:00 pm on Wednesday, October 21, 2009, in Room 2172 Rayburn House Office Building.

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

#### Panel I

- Representative Jan Schakowsky (D-IL).

#### Panel II

- Melanne Verveer, Ambassador-at-Large, Office of Global Women's Issues.

#### Panel III

- Ms. Mallika Dutt, Founder and Executive Director, Breakthrough; and
- Nicole Kidman, Actress, and UNIFEM Goodwill Ambassador. ☼

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

### Senate

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

## *This Week's Markups*

At the time of this writing, just one committee action that has implications for immigration- or refugee-related matters seemed possible this week:

- **House Judiciary Committee Immigration Bills.** The House Committee on the Judiciary could markup two immigration-related bills this week:
  1. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act; and
  2. [H.R. 1425](#), the "Wartime Treatment Study Act".

### House

**House Judiciary Committee Could Markup Two Immigration Measures This Week:** While it had not been officially scheduled at the time of this writing, the House Committee on the Judiciary could hold a markup session this week, during which it could markup two 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. No markup date had been set at the time of this writing. However, the normal markup date, time, and location for this week would be at



10:00 am on Wednesday, October 21, 2009, in Room 2141 of the Rayburn House Office Building.

The Subcommittee approved H.R. 42 during a markup that concluded on Friday, July 24, 2009.<sup>1634</sup> It approved H.R. 1425 on Friday, July 31, 2009.<sup>1635</sup>

<sup>1634</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. 42, which was approved by the Immigration Subcommittee on July 23, 2009

<sup>1635</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 Immigration Subcommittee on July 31, 2009

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

- **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, and it 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--

**Continued on Page 1079**

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

- A. government actions with respect to European Americans and European Latin Americans pursuant to United States laws and directives, including the Alien Enemies Acts, Presidential Proclamations 2526, 2527, 2655, 2662, 2685, Executive Orders 9066 and 9095, and related directives pursuant to these and other pertinent laws, proclamations, or executive orders;
- B. registration requirements, travel and property restrictions, internment, and forced abandonment of property;
- C. participation by European Americans in the U.S. Armed Forces; and
- D. appropriate remedies, including public education programs and the creation of a comprehensive online database by the National Archives and Records Administration of documents related to the government's wartime treatment of European Americans and European Latin Americans during World War II.

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

2. **The Commission on Wartime Treatment of Jewish Refugees** would be charged with reviewing the U.S. government's refusal to allow entry into the United States of Jewish and other refugees fleeing persecution or genocide in Europe during World War II. It would direct the Commission to include reviews of--
  - A. the rationale for such refusal, its perceived benefit, and its impact on refugees; and
  - B. federal refugee policy concerning those fleeing persecution or genocide.

As amended during the Subcommittee markup, the measure would require that the membership of the Jewish Refugee Commission should include two

members with professional expertise relating to the treatment of Jewish refugees.

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

## *This Week's Floor Activity*

At the time of this writing, three measures containing significant immigration- or refugee-related provisions were candidates for action on either the House or Senate floor this week:

- **FY '10 Funding for Immigration Services, Immigration Enforcement, and Border Security.** The full House and or Senate could take up the conference report accompanying H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill.
- **Appropriations for the Immigration Courts, Alternatives to Detention, and State Criminal Alien Assistance Program.** The full Senate is expected this week to complete its consideration of the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.
- **Revision of Alien Smuggling Laws.** The full House of Representatives is scheduled to take up a measure that would increase penalties for alien smuggling and making other changes in immigration law that the bill's proponents contend will help combat the crime of alien smuggling.

## House

### **House to Take Up Coast Guard Reauthorization Bill Containing Provisions Increasing Penalties for Alien Smuggling:**

The full House of Representatives this week is scheduled to take up a measure reauthorizing funding for or the operations of the U.S. Coast Guard. Contained within the measure is a set of provisions that would increase penalties for alien smuggling. This week's House floor action is likely to place on Thursday, October 22, 2009, in connection with [H.R. 3619](#), the Coast Guard Authorization Act of 2010.



**Legislative History.** H.R. 3619 was introduced in the House of Representatives on September 22, 2009, by House Committee on Transportation and Infrastructure Chairman Jim Oberstar (D-MN). The Committee marked up the measure on September 24, 2009, ordering that it be reported

to the full House of Representatives. The measure was formally reported to House on October 16, 2009.<sup>1636</sup>

During the markup, the Committee agreed to an amendment that was offered by Representative Pete Olson (R-TX) that added a new alien smuggling title to the bill. The text of the Olson amendment is almost identical to the text of [H.R. 1029](#), the “Alien Smuggling and Terrorism Prevention Act of 2009”, which the House of Representatives passed on March 31, 2009, by a voice vote.

The Olson Amendment is now Title XII of H.R. 3619.

**Parliamentary Situation.** The House will take up H.R. 3619 under a procedure that likely will limit amendments that can be offered to the measure. It was not possible at the time of this writing, however, to predict with accuracy how restrictive the amendment process will be.

**Background.** Current law prohibits knowingly bringing aliens into the United States through any method that avoids official ports of entry, regardless of whether the individuals are permitted to enter the United States. It also bars knowingly transporting illegal aliens within the country in order to escape detection, harboring or concealing illegal immigrants from detection, encouraging illegal immigration into the United States, or conspiring or assisting others to transport or harbor illegal aliens. It sets penalties of between five and 20 years of imprisonment for these crimes, depending on the severity of the crime and whether it was committed for commercial purposes, and up to life imprisonment for immigration crimes that result in a death.

Current law also requires vessels within U.S. jurisdiction to comply with federal law enforcement officers' orders, with penalties of up to five years in prison for violations.

**Summary of Immigration- and Refugee-Related Provisions.** As reported by the House Committee on Transportation and Infrastructure, Title XII of H.R. 3619 would increase penalties for knowingly bringing illegal aliens into, or harboring illegal aliens within, the United States; create new penalties for vessels in U.S. jurisdiction that do not comply with law enforcement; require interdicted persons to be checked against terrorist watchlists; and establish extraterritorial jurisdiction over certain smuggling offenses.

More specifically --

- **Congressional Findings.** Sec. 1202 would enunciate a number of Congressional findings with respect to alien smuggling.
- **Checks Against Terrorist Watchlist.** Section 1203 would direct the Secretary of Homeland Security to check against all available terrorist watch lists those alien

smugglers and smuggled individuals who are interdicted at U.S. land, air, and sea borders;

- **Increased Penalties and Extraterritorial Jurisdiction.** Sections. 1204 and 1205 would revise alien smuggling and related criminal offense and penalty provisions and provide extraterritorial jurisdiction over such offenses.

1. **Increased Penalties.** It would increase criminal penalties for knowingly bringing illegal aliens into the United States (including U.S. territories), transporting illegal aliens within the United States, harboring illegal aliens, or encouraging illegal aliens to enter the country, setting a prison sentence of up to five years for any such offenses. For paid smugglers, the measure would set a prison sentence of between three and 10 years for a first or second offense of bringing illegal aliens into the country, and a sentence of five to 15 years for subsequent offenses. For such crimes that result in serious bodily injury, the bill would set a prison term of up to 20 years.

2. **New Penalties for Smuggling, Harboring, and Inducing.** The measure would create three new penalties for cases not addressed in current law. For individuals who illegally bring their spouses, children, siblings, parents, grandparents, nieces, or nephews into the United States, it would set a prison term of up to one year in prison. The bill would set penalties of up to 30 years of imprisonment for aiding illegal aliens who are engaged, or intend to engage, in terrorism. The measure, like current law, would allow terms of up to life in prison cases that result in a death, but also would allow life imprisonment for cases that involve kidnapping, attempted kidnapping, aggravated sexual assault, or attempted murder.

3. **New Maritime Penalties.** The bill would create three new categories of criminal penalties for vessel operators who do not comply with federal law enforcement agents. Violations involving illegal alien smuggling, human trafficking, transportation for illegal sexual activity, stolen property, or illegal drugs, would be subject to penalties of up to 10 years of imprisonment. For violations that result in serious bodily injury, it sets a prison term of up to 15 years. For violations that involve kidnapping, attempted kidnapping, aggravated sexual assault, or attempted murder, it would establish a penalty of up to life imprisonment. The measure would stipulate that vessel operators could not claim necessity as a defense in court for violations related to transporting illegal aliens, unless they released them to emergency medical or law enforcement personnel and reported such incidents to the Coast Guard.

<sup>1636</sup> [H. Rept. 111-303, Part 1](#), October 16, 2009

4. **Exemptions for Persons Facing Life-Threatening Situations.** For individuals traveling by water and face life-threatening circumstances that require them to bring illegal aliens into the United States, the bill would set certain conditions under which they could claim "necessity" as a defense if they later face prosecution for helping illegal aliens enter the country. It would mandate that the circumstance of "necessity" could be a defense only if illegal aliens were unintentionally brought into the United States because of dire conditions on the vessel, if the illegal aliens were taken to appropriate medical or law enforcement personnel upon entry into the country, and if the operators of the vessel contacted the Coast Guard as soon as possible to file a report.

5. **Religious Exemptions.** The measure would retain a narrow exemption in current law, written originally to protect the Mormon Church, that exempts from certain violations (transporting or harboring in the United States) a bona fide nonprofit, religious organization in the United States (or its agents or officers), if the organization recruits, encourages, or induces an alien to come to or enter the United States, that encourages, invites, or enables an alien who is present in the United States to serve as a volunteer minister or missionary for such organization in the United States, provided the minister or missionary has been a member of the denomination for at least one year and is not compensated as an employee.

- **Sentencing Guidelines.** Sec. 1206 would direct the United States Sentencing Commission to review and amend as appropriate sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding. The measure would direct the Commission to consider enhanced sentences for smuggling offenses that are part of ongoing criminal enterprises, involve groups of 10 or more illegal aliens, endanger the lives of smuggled individuals, or involve the facilitation of terrorist activities.

**Views of the Advocacy Community.** While there was no organized opposition to H.R. 1029 when the House considered the measure last March, several pro-immigrant and pro-refugee advocacy organizations expressed concerns about the potential impact that the measure would have on good Samaritans and refugees. Among the organizations expressing concern at that time was the American Civil Liberties Union (ACLU) and the Friends Committee on National Legislation (FCNL).

The ACLU and FCNL were critical of the bill on three counts. First, they contend that he provision in the bill that would penalize a person for "transiting" an immediate family member who is an illegal immigrant with up to a year in

prison per person brought into the country. Second, they believe that the measure fails to protect humanitarian organizations working on the border or in the desert from being criminally prosecuted for smuggling and harboring. And third, they are critical of the provision in the bill that would statutorily require checks of some individuals' identification against Terrorist Watch Lists, which they contend are error-ridden and filled with the names of innocent U.S. citizens, many of whom were placed on these lists for participation in peace and anti-war movements.

**Outlook.** H.R. 3619 is likely to pass the House without substantive change to Title XII of the measure. ☼

## Senate

### Senate to Take Up Final DHS Appropriations Bill that Extends E-Verify & Three Expiring Visa Programs and Provides Immigration Relief to Widows and Orphans of Deceased U.S. Citizens:

The Senate this week is expected to take up a compromise version of the fiscal year 2010 bill that funds the nation's border enforcement, interior immigration enforcement, and immigration services functions. The House of Representatives approved the measure on Thursday, October 15, 2009, by a vote of 307-114. Senate action could come as soon as Tuesday, October 20, 2009. Should the Senate, as expected, approve the measure, it will clear it for the President's expected signature.

This week's Senate floor action is expected to occur in connection with [H. Rept. 111-298](#), the conference report accompanying H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act. The measure contains a three year-long extension of the controversial E-Verify Program, as well as three year-long extensions of the EB-5 Investor Visas Regional Centers Program, the Special Immigrant Non-Minister Religious Worker Visa Program, and the Conrad 30 State J-1 Visa Program. It also directly appropriates about \$50 MILLION for refugee and asylum adjudications and provides for the admission of widows and orphans of deceased United States citizens under some circumstances.

From an immigration perspective, the conference report is more controversial for what it does not contain. It rejects a number of controversial immigration enforcement policy provisions that the Senate adopted when the Senate considered the measure last Summer, including E-Verify, border fencing, and SSA No-Match letters.<sup>1637</sup>

<sup>1637</sup> See Pages 1097-1101 of this week's edition of the Weekly Legislative Update for a detailed side-by-side comparison of selected immigration- and refugee-related spending and policy provisions from the House-passed, Senate-passed, and conference



Conferees reached agreement on settling the differences between the [House-passed](#) and [Senate-passed](#) versions of the fiscal year 2010 Homeland Security Appropriations Act on Wednesday, October 7, 2009, filing the conference report late in the evening on Tuesday, October 13, 2009. The House adopted the conference report on Thursday, October 15, 2009. Should the Senate adopt the conference report, the measure will be cleared for the President's consideration.

**Parliamentary Situation.** At the time of this writing, no unanimous consent agreement on how to handle the conference report had been entered into.

A number of points of order will lie against the conference report for violating Senate rules. Accordingly, any senator who desires to could force the Senate to vote on whether to waive those violations. In some instances, the Senate would be able to waive the Senate rules with a simple majority vote. However, in other instances, the Senate might need 60 votes in order to waive points of order against the bill.

Conference reports on appropriations bills can be filibustered. And so a determined minority in the Senate could force Senate Majority Leader Reid to file a cloture petition to shut off debate on the measure. If the Majority Leader does file a cloture petition, he would need to amass 60 votes in order to invoke cloture.

**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>1638</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>1639</sup>

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report on H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act

<sup>1638</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>1639</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

3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.<sup>1640</sup>

- **Initial House Floor Actions**

1. On June 24, 2009, the full House of Representatives took up H.R. 2892, passing it by a vote of 389-37.<sup>1641</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>1642</sup> and formally reported it to the Senate.<sup>1643</sup>

- **Initial 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.

- **Conference Committee Actions**

1. Conferees reached agreement on H.R. 2982 on Wednesday, October 7, 2009.
2. Conferees filed the conference report accompanying H.R. 2982 on Tuesday, October 13, 2009.

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<sup>1640</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>1641</sup> [House Roll Call No. 450](#), June 24, 2009

<sup>1642</sup> [S. Rept. 111-31](#), June 18, 2009

<sup>1643</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

- **Final House Floor Actions**

1. On Thursday, October 15, 2009, the House of Representatives adopted the conference agreement accompanying H.R. 2892, doing so by a vote of 307-114.

**Resolution of Key Immigration-Related Policy Differences.** The following is a brief summary of some of the agreements reached on major immigration policy and spending provisions:

- **The E-Verify System.** Section 546 of the Senate-passed bill sought to extend permanently, require that all federal contractors participate, and permit employers to use the system to verify the immigration status of existing employees; not just new-hires. The House-passed bill would have extended the program for two years. But it did not contain any of the policy provisions.

The conferees opted to extend the E-Verify program for three years but rejected the Senate E-Verify policy provisions.

- **SSA No-Match Letters.** Section 561 of the Senate-passed bill would have provided that none of the amounts made available under the Act could be used to implement changes to a Bush era rule describing the process for employers to follow after receiving a “no match” letter in order to qualify for “safe harbor, which the Senate-passed bill. The House-passed bill did not contain comparable language. The conferees rejected the Senate language.

The conferees rejected the Senate's SSA No-Match language.

- **Border Fencing.** Section 560 of the Senate-passed bill would have imposed a number of restrictions and mandates on the Administration with regard to fencing being constructed along the U.S. border with Mexico. The House-passed bill contained no such provisions.

The conferees rejected the Senate's border fencing language.

- **Investor Visa Regional Centers.** The Senate-passed bill would have extended for three years the EB-5 Investor Visa Regional Centers program. The House-passed bill contained no such provision.

Sec. 548 of the conference agreement extends the EB-5 Regional Centers program through October 1, 2012.

- **Religious Worker Non-Minister Special Immigrant Visa Program.** The Senate-passed bill would have extended for three years the Special Immigrant Non-

Minister Religious Worker Visa Program. The House-passed bill contained no such provision.

Sec. 568(a)(1) of the conference agreement extends the Special Immigrant Non-Minister Religious Worker Visa Program for three years, through October 1, 2012.

Sec. 568(a)(2) of the conference agreement requires USCIS to conduct a study and report on certain aspects of the program.

- **Conrad 30 State J-1 Visa Program.** The Senate-passed bill would have extended for three years the Conrad 30 State J-1 Visa Program. The House-passed bill contained no such provisions.

Sec. 568(b) of the conference agreement extends the Conrad 30 State J-1 Visa Waiver Program through October 1, 2012.

- **Relief for Widows and Orphans of U.S. Citizens and Permanent Residents.** The Senate-passed bill would have protected widows, widowers and orphans of deceased U.S. citizens 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. The House-passed bill contained no such provisions.

Sec. 568(c), (d), and (e) of the conference agreement protects 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.

**Resolution of Key Immigration-Related Funding Differences.** There were a number of significant differences in the level of funding in the House- and Senate-passed bills for various immigration- and refugee-related bureaus and programs within the Department. The most prominent difference was found in the area of appropriations for U.S. Citizenship and Immigration Services (USCIS).

The House-passed bill would have appropriated \$2.8 BILLION for USCIS, including \$298 MILLION in directly appropriated funds. However, the Senate-passed bill would have appropriated \$2.639 BILLION for USCIS, including only \$135.7 MILLION in directly appropriated funds.

The conferees agreed to include \$2.726 BILLION for USCIS, including \$224 MILLION in directly appropriated funding for USCIS.

Within the appropriation for USCIS--

- **Refugee and Asylum Adjudications.** The conferees dramatically cut the Administration's request for funding

for refugee and asylum adjudications. The Administration had asked for \$206 MILLION for that purpose. The House-passed bill would have appropriated \$100 MILLION for those adjudications. The Senate-passed bill would have appropriated no funds. The conferees agreed to appropriate \$50 MILLION.

- **Military Naturalizations.** The conferees agreed to directly appropriate \$5 MILLION for military naturalization adjudications. This is approximately what the Administration asked for and what was provided for in the Senate-passed version of the bill. The House-passed version of the bill would not have appropriated any funds for this purpose.
- **Immigrant Integration.** The conferees agreed to appropriate \$11 MILLION "to expand immigrant integration and outreach efforts that promote legal paths to US citizenship." The amount is 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
- **Funding for the USCIS Ombudsman.** The conferees agreed to appropriate \$6.685 MILLION for the Citizenship and Immigration Services Ombudsman, which is \$250,000 less than the amount the Administration requested and \$214,000 more than was provided in fiscal year 2009 for that purpose.
- **Funding for E-Verify.** The conferees agreed to appropriate \$137 MILLION to operate the E-Verify System "and further improve its accuracy and compliance rates."

### Outlook

At the time of this writing, no unanimous consent agreement on how to handle the conference report had been reached.

A number of points of order will lie against the conference report for violating Senate rules. Accordingly, any senator who desires to could force the Senate to vote on whether to waive those violations. In some instances, the Senate would be able to waive the Senate rules with a simple majority vote. However, in other instances, the Senate might need 60 votes in order to waive points of order against the bill.

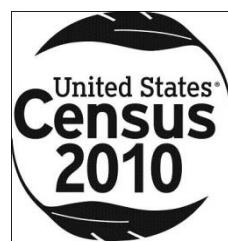
Conference reports on appropriations bills can be filibustered. And so a determined minority in the Senate could force Senate Majority Leader Reid to file a cloture petition to shut off debate on the measure. If the Majority Leader does file a cloture petition, he would need to amass 60 votes in order invoke cloture.

While it appears likely that the Senate will clear the conference report, it was not known at the time of this writing

whether opponents in the Senate will exercise parliamentary options that are available to them force the Senate to spend an extended amount of time debating the measure or to require 60 votes in order to pass it. ☼

### Vitter/Bennett Census and Immigration Status Amendment Could Make a Return Appearance on the Senate Floor This Week:

While at the time of this writing it appeared unlikely to occur this week, the Senate this week could once again take up the issue of the treatment of immigrants in the 2010 census enumeration if it resumes its consideration of the fiscal year 2010 spending bill that funds the Departments of Commerce and Justice. Should the Senate resume its consideration of the stalled appropriations measure, it likely will face a procedural vote on invoking cloture on the bill, a move that would shutdown debate on the measure and prevent a direct vote on



a proposal by Senators David Vitter (R-LA) and Robert Bennett (R-UT) to require the Census Bureau to ask every person in the United States about his or her citizenship and immigration status. In order to prevail on the procedural vote and bar a vote on the Vitter/Bennett proposal, Senate Majority Leader Harry Reid (D-NV) will need the votes of 60 senators.

The Vitter/Bennett amendment is pending to the [Senate Appropriations Committee-reported version of H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Act (C-J-S Appropriations Bill). The Senate first took up the bill on Monday, October 5, 2009. However, Majority Leader Reid pulled it from the Senate floor late in that week, in part, in order to avoid a direct vote on the Vitter amendment.

Senators Vitter and Bennett originally offered their census and immigration status amendment to the funding bill on October 7, 2009. Since then, Senator Vitter has announced his intention to revise the amendment. The revised version would only require the Census Bureau ask about citizenship status; not immigration status.

Senator Vitter says he intends to use any data gained by citizenship or immigration census questions to ensure that noncitizens are not represented in the United States House of Representatives. The amendment is vigorously opposed by the Administration, as well as by much of the immigrant, civil rights, and minority communities.

Other immigration-related amendments have been filed to the measure, as well. They include an amendment by Senator Sessions on the E-Verify program, and separate amendments by Senators John Ensign (R-NV) and Kay Bailey Hutchison (R-TX) to increase funding for the State Criminal Alien Assistance Program (SCAAP).

Should Senate Majority Leader Reid seek to shut off debate and bar the Senate from voting on the Vitter amendment, it would be his second attempt in as many weeks. On his first try to invoke cloture on the bill, Majority Leader Reid fell three votes short of the 60 votes he needed. Three Democratic senators were absent during yesterday's cloture vote. Majority Leader Reid could bring up the cloture motion for a re-vote at any time if the three senators who were absent during yesterday's vote become available for a re-vote.

Should the Senate invoke cloture on H.R. 2847, the only amendments that could be offered to the bill are amendments that were pre-filed and are germane to the bill. This restriction could result in several immigration-related amendments to H.R. 2847 being barred from the Senate floor. Among the amendments that likely would be barred is the Vitter/Bennett census and immigration status amendment.

If cloture is not invoked on H.R. 2847 and there is no agreement in place to voluntarily limit amendments, the bill would be open to amendment with only the narrowest rules of germaneness limiting amendments.

Depending on the parliamentary situation that the Senate faces when it resumes consideration of the measure, the Senate could take up any of the following immigration-related amendments to the bill:

- **VITTER/BENNETT CENSUS & IMMIGRATION STATUS AMENDMENT.** Senators David Vitter (R-LA) and Robert F. Bennett (R-UT) have offered an amendment (Senate Amendment Number 2847) to H.R. 2847 providing that no funds may be used for the collection of census data that does not include questions regarding United States citizenship and immigration status.<sup>1644</sup>

Senator Vitter has announced that he intends to modify his amendment so that it would require only that the Census Bureau ask persons about their citizenship status.<sup>1645</sup>

- **ENSIGN INCREASED FUNDING FOR SCAAP AMENDMENT.** Senator John Ensign (R-NV) is planning to offer an amendment (Senate Amendment Number 2648) that would increase funding in the bill for the State Criminal Alien Assistance Program (SCAAP).<sup>1646</sup>

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<sup>1644</sup> [Click Here](#) to see the text of the Vitter/Bennett Census and Immigration Status Amendment

<sup>1645</sup> [Click Here](#) to see the text of the modified version of the Vitter/Bennett Census and Immigration Status Amendment

<sup>1646</sup> [Click Here](#) to see the text of the Ensign SCAAP Amendment

- **HUTCHISON INCREASED FUNDING FOR SCAAP AMENDMENT.** Senator Kay Bailey Hutchison (R-TX) is planning to offer an amendment (Senate Amendment Number 2666) that would appropriate an additional \$172 MILLION for the State Criminal Alien Assistance Program (SCAAP), which would bring the fiscal year 2010 appropriation up to the amount appropriated for the program in fiscal year 2009.<sup>1647</sup>

- **SESSIONS PERMANENT EXTENSION OF AND MANDATORY CONTRACTOR USE OF E-VERIFY AMENDMENT.** Senate Judiciary Committee Ranking Republican Jeff Sessions (R-AL) is planning to offer an amendment (Senate Amendment Number 2665) that would permanently extend the E-Verify program and make its use mandatory for federal contractors.<sup>1648</sup>

#### **Senate Floor Consideration Thus Far**

The Senate took up H.R. 2847 beginning on Monday, October 5, 2009. It had it under consideration off-and-on throughout that week.

On October 7, 2009, the Senate rejected a proposal that sought to bar funding to state and local governments that have policies restricting communications between their local law enforcement agencies and Department of Homeland Security enforcement personnel. On that same day, Senators David Vitter (R-LA) and Robert Bennett (R-UT) offered their amendment to require the 2010 decennial census enumeration to ask every person living in the United States about their citizenship and immigration status.

The Senate briefly resumed consideration of H.R. 2847 last week. On October 13, 2009, Senate Majority Leader Reid to shut off debate on the measure and bar nongermane amendments (including the Vitter/Bennett Amendment) from being offered to the measure. However, that attempt failed. Following his failure to shut off debate on the measure, Majority Leader Reid pulled the bill from the floor.

The following lists the immigration-related votes that have occurred thus far during the Senate's consideration of H.R. 2847:

- **VITTER SANCTUARY AMENDMENT.** On Wednesday, October 7, 2009, Senator David Vitter (D-LA) offered Senate Amendment Number 2630 to H.R. 2847, the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.<sup>1649</sup> The

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<sup>1647</sup> [Click Here](#) to see the text of the Hutchison SCAAP Amendment

<sup>1648</sup> [Click Here](#) to see the text of the Sessions E-Verify Amendment

<sup>1649</sup> [Click Here](#) to see the text of the Vitter Sanctuary Amendment

amendment would have to barred Community Oriented Policing Services (COPS) funding to jurisdictions that have a "sanctuary" policy barring local law enforcement personnel from communicating with Department of Homeland Security enforcement personnel.

The Senate tabled (killed) the Vitter Sanctuary Amendment by a vote of 61-38.<sup>1650</sup>

- **MOTION TO INVOKE CLOTURE.** On Tuesday, October 13, 2009, Senate Majority Leader Harry Reid (D-NV) moved to invoke cloture on H.R. 2847, a procedural tactic that would have shut off debate on the measure and barred nongermane amendments from being offered to the bill.

The Senate failed to invoke cloture by a vote of 56-38 (60 votes were necessary to invoke cloture).<sup>1651</sup>

**Administration's Views.** On Monday, October 5, 2009, the White House released a Statement of Administration Policy (SAP) on H.R. 2847.<sup>1652</sup> The SAP did not address any of the immigration-related provisions in the Senate Appropriations Committee-approved version of the measure.

Secretary of Commerce Gary Locke, who oversees the Census Bureau, has expressed the Administration's opposition to the Vitter/Bennett Amendment, saying that it would cost "hundreds of millions of dollars" and result in long delays, given that hundreds of millions of census forms that already have been printed and distributed would have to be reprinted and reshipped.

In a memorandum to senators, Secretary Locke wrote that "[i]t is too late to shift gears at this point in the process." Noting that the precise wording of every question already was given to Congress in 2008, the Secretary said in his memorandum that "[a] change will require using untested content in the actual census, which may affect both response rates and data quality and cannot be implemented in time to deliver apportionment counts by the statutory deadline of December 31, 2010."

**Outlook.** The Senate is expected to pass H.R. 2847. However, the outlook for the Vitter Census amendment remained uncertain at the time of this writing. ☀ ◇

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<sup>1650</sup> [Senate Roll Call No. 316](#), October 7, 2009

<sup>1651</sup> [Senate Roll Call No. 320](#), October 13, 2009

<sup>1652</sup> [Click Here](#) to see the text of the Obama Administration's Statement of Administration Policy on Senate Appropriations Committee-reported version of H.R. 2847, the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill

## ***This Week's Conference Activity***

No immigration- or refugee-related bills currently are pending in conference committees. ◇

## ***This Week's Executive Activity***

See next week's issue. ◇

## ***Last Week's Legislative Activity***

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

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

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

There were no markups last week of measures containing significant immigration- or refugee-related provisions.

### **Last Week's Floor Action**

Two bills containing immigration- or refugee-related provisions saw floor action in Congress last week:

- **FY '10 Funding for Immigration Services, Immigration Enforcement, and Border Security.** The full House and or Senate could take up the conference report accompanying H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill.
- **Appropriations for the Immigration Courts, Alternatives to Detention, and State Criminal Alien Assistance Program.** The full Senate is expected this week to complete its consideration of the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.

## **House Agrees to Compromise DHS Appropriations Bill Extending E-Verify & Three Expiring Visa Programs:**

The House of Representatives last week approved a compromise version of the fiscal year 2010 bill that funds the nation's border enforcement, interior immigration enforcement, and immigration services functions. The key vote on the measure came on a Republican motion to send the bill back to a conference committee because it would permit Guantanamo detainees to be brought to the United States for trial. The House defeated that motion on Thursday, October 15, 2009,

by a vote of 193-224.<sup>1653</sup> The House went on to approve the conference agreement later that day by a vote of 307-114.<sup>1654</sup>

At the time of this writing, it appeared that the Senate would take up the bill this week.

Last week's House action occurred in connection with the conference report accompanying H.R. 2892, the Fiscal Year 2010 Department of Homeland Security Appropriations Act.<sup>1655</sup> As adopted by the House, the measure contains a three year-long extension of the controversial E-Verify Program, as well as three year-long extensions of the EB-5 Investor Visas Regional Centers Program, the Special Immigrant Non-Minister Religious Worker Visa Program, and the Conrad 30 State J-1 Visa Program.

The conference report also directly appropriates about \$50 MILLION for refugee and asylum adjudications and provides for the admission of widows and orphans of deceased United States citizens under some circumstances.

From an immigration perspective, the conference report is more controversial for what it does not contain. It rejects a number of controversial immigration enforcement policy provisions that the Senate adopted when the Senate considered the measure last Summer, including E-Verify, border fencing, and SSA No-Match letters.

Conferees reached agreement on settling the differences between the [House-passed](#) and [Senate-passed](#) versions of the fiscal year 2010 Homeland Security Appropriations Act on Wednesday, October 7, 2009, filing the conference report late in the evening on Tuesday, October 13, 2009.

See Pages 1081-1084 of this week's edition of the Weekly Legislative Update for a more detailed explanation of the immigration-related provisions in the conference report accompanying H.R. 2892. ☀

**Senate Fails to Shut Off Debate on C-J-S Appropriations Bill as Senators Vitter and Bennett Press for a Vote on Proposal to Deny House Representation for Noncitizens:** The Senate last week briefly resumed its consideration of a bill funding the Departments of Commerce and Justice for fiscal year 2010. However, the Senate Democratic Leadership was forced to set the bill aside after it was unable to secure the requisite 60 votes it needed to shut off debate on the measure and bar a vote on a proposal by Senators David Vitter (R-LA) and Robert Bennett (R-UT) to require the U.S. Census

Bureau to ask every person living in the United States about his or her citizenship and immigration status.

Last week's Senate action occurred on Tuesday, October 13, 2009, in connection with the Senate's consideration of the [Senate Appropriations Committee-reported version of H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Act (C-J-S Appropriations Bill). The Senate attempted -- but failed-- to cut off debate on the C-J-S Appropriations Bill and bar nongermane amendments from being offered to it, a procedure known as invoking cloture. In that vote, the Senate fell three votes short of the 60 votes necessary to invoke cloture on the measure. Three Democratic senators were absent for the vote, each of whom would be expected to support invoking cloture on the bill should there be a re-vote. Senate Majority Leader Reid (D-NV) has suggested that he will bring the bill back to the Senate floor once he has secured the necessary 60 votes to end debate on it.

Prior to the vote on cloture, the Senate Democratic and Republican leadership had engaged in negotiations that ultimately were unsuccessful to convince senators to voluntarily limit amendments to the bill. Following the breakdown, the Senate voted on whether to bring debate to a close, failing to do so.

See Pages 1084-1086 of this week's edition of the Weekly Legislative Update for a more detailed explanation of the immigration-related provisions in H.R. 2847.

See Pages 1097-1101 of this week's edition of the Weekly Legislative Update for a detailed side-by-side comparison of selected immigration- and refugee-related spending and policy provisions from the House-passed, Senate-passed, and conference report on H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act ☀ ◇

## ***Last Week's Executive Activity***

### **President Obama Defends Raids, Reaffirms Support for Comprehensive Immigration Reform, and Sets a Timeline of One-to-Two Years for Enactment of CIR:**



President Barack Obama yesterday defended his Administration's immigration enforcement policies, reaffirmed his support for comprehensive immigration reform (CIR) legislation, and set a timeline of one-to-two years for enactment of CIR legislation. The President's comments on immigration reform were made yesterday during a town hall meeting in New Orleans, Louisiana. The President's

<sup>1653</sup> [House Roll Call No. 783](#), October 15, 2009

<sup>1654</sup> [House Roll Call No. 784](#), October 15, 2009

<sup>1655</sup> [H. Rept. 111-298](#), October 13, 2009

defense, reaffirmation, and timeline came during a response to a question that was asked by one of the attendees at the Town Hall meeting.

A questioner at the Town Hall meeting noted that there are a lot of cases of "mothers losing their children because of immigration." She told the President that "the kids are lost in the system" and that she didn't think it was fair. She pleaded with the President to find a way "to keep the families together."

In an extended response to the questioner, President Obama told the audience that the problem is complicated. He said that, in the short-term, his Administration was trying to "apply our immigration laws in a humane way that recognizes you don't want to just snatch a child from a mother if the child is a U.S. citizen, even if the mother may not be." The President went on to say that the long-term solution to the problem is comprehensive immigration reform. He outlined a familiar prescription for such reforms, including strengthening the borders and strengthening employment-based immigration enforcement. He told the audience that "the third thing, then, is we've got to figure out" how to deal with the 10-to-15 million undocumented workers living here.

The President contended that illegal immigration is often stereotyped as being a problem with Mexicans coming over the U.S. border. But, he noted, there are illegal immigrants in the United States from all over the world.

The President stated that as a condition of legalizing undocumented aliens, they should have to learn English and "jump through a whole bunch of hoops." The only "hoop" that the President specifically listed included paying back taxes.

President Obama was critical of both those on the left and the right side of the immigration debate. He criticized those on the left, who he said "want immigration reform but, they don't want to acknowledge the fact that we've got to strengthen our borders." He criticized those on the right, saying that "there are some folks who say just crack down on the borders, but they pretend like somehow we're going to send back 12 million people, and we're not."

As for timing of immigration reform legislation, the President said "I think that we've got an opportunity to solve it in the next year or two." ☀

### **ICE Announces Standardized 287(g) Agreements with 67 State and Local Law Enforcement Partners:**

Department of Homeland Security (DHS) Assistant Secretary for U.S. Immigration and Customs Enforcement (ICE) John Morton last week announced that the Department of Homeland Security has reached standardized Memorandums of Agreement (MOAs) with 67 state and local law enforcement agencies to participate in 287(g) partnership. Morton said in a Friday, October 16,

2009, press release that the new agreements would improve public safety by "prioritizing criminal aliens who are a threat to local communities, ensuring consistent and uniform policies and providing a force multiplier for ICE's immigration enforcement efforts across the country."

The 67 state and local law enforcement partnerships that the Administration announced last week conform to the standardized 287(g) MOA announced by Secretary Janet Napolitano and Assistant Secretary Morton in July. The Administration contends that the new MOA strengthens ICE's overall immigration enforcement strategy "by aligning local operations with ICE's major priorities, specifically the identification and removal of criminal aliens."

In announcing the 67 partnerships, DHS said that from January 2009 to date, 287(g)-trained local officers are credited with the removal of approximately 24,000 aliens nationwide and have identified 48 percent more criminal aliens than during the same period in 2008.

The new partnerships include the Jail Model, in which local law enforcement agencies designate Jail Enforcement Officers to identify aliens already incarcerated within their detention facilities who are eligible for removal, as well as the Federal Task Force Model, in which agencies designate officers to work with Federal agents in locating, processing and removing criminal aliens from the United States.

- 55 agreements have been signed by ICE and the partnering agency;
- 12 agreements have been reached and await approval by the local jurisdiction's supervisory authority; and
- Six agreements have negotiations underway.

Six jurisdictions did not re-sign the new 287(g) agreement or withdrew during negotiations for a variety of reasons, including implementation of the Secure Communities program, budgetary constraints and limited program utilization.

The ICE press release states that "[t]he new MOA clearly defines the objectives of the 287(g) program, outlines the immigration enforcement authorities granted by the agreement and provides guidelines for ICE's supervision of local agency officer operations-including information reporting and tracking, complaint procedures, and implementation measures." It goes on to state that "[t]o address concerns that individuals may be arrested for minor offenses as a guise to initiate removal proceedings, the new agreement requires participating local law enforcement agencies to pursue all criminal charges that originally caused the offender to be taken into custody."

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996 added Section 287(g)

to the Immigration and Nationality Act, which authorizes the DHS Secretary to enter into agreements with state and local law enforcement agencies to perform immigration officer functions. Pursuant to these agreements, designated officers who receive appropriate training and function under the supervision of sworn ICE officers are permitted to perform immigration law enforcement duties. ◇

## Recently Introduced Legislation

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

### House Civil Rights

- **Representation of Noncitizens in the U.S. House of Representatives:** Representative Virginia Foxx (R-NC) has introduced H.R. 3797, a bill that would require that a checkbox or other similar option be included for respondents on census forms to indicate citizenship status or lawful presence in the United States, so as to facilitate denying noncitizens representation in the U.S. House of Representatives.

It has been referred to the House Committee on Oversight and Government Reform. ◇

## 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 to the Weekly Legislative Update this week 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 Unveils Principles In His Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), Chairman of the Congressional Hispanic Caucus (CHC) Immigration Task Force, last week unveiled what he calls "the core principles" that will be included in a comprehensive immigration reform bill that he is drafting. The Congressman indicated that he expects to have the bill ready for introduction sometime around Thanksgiving Day, 2009.

Representative Gutierrez unveiled his plans on Tuesday,

October 13, 2009, in front of thousands of pro-immigrant advocates at a rally and prayer vigil that took place on the West Lawn of the U.S. Capitol Building. The Congressman was joined at the vigil by Senator Bob Menendez (D-NJ), Congressional Hispanic Caucus Chair Nydia Velazquez (D-NY), Congressional Asian and Pacific American Caucus Chairman Mike Honda (D-CA), and others.

Representative Gutierrez's list of "core principles" for comprehensive immigration reform include:

- Pathway to Legalization for Undocumented Workers
- Professional and Effective Border Enforcement
- Smart and Human Interior Enforcement
- Protecting Workers
- Verification Systems
- Family Unity as a Cornerstone of Our Immigration System
- Future Flows of Workers
- Enactment of AgJOBS Legislation
- Enactment of the DREAM Act
- Promoting Immigrant Integration

In releasing his principles, the Congressman said, "[w]e 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. It is time we had a workable plan making its way through Congress that recognizes the vast contributions of immigrants to this country and that honors the American Dream." The Congressman went on to say he was preparing such a plan and that he would introduce it in the near future. Of his ten principles, the Congressman said, "if we are to truly fix any of these critical issues, we must address all of them."

With regard to the first of his ten principles, which calls for a pathway for undocumented workers, Representative Gutierrez said that "[i]mmigration reform will not work unless it takes a practical approach to dealing with the 12 million undocumented immigrants living, working, and raising families in the United States. We need a bill that says if you come here to hurt our communities, we will not support you. But if you are here to work hard—if you are here to make a better life for your family—you will have the opportunity to earn your citizenship." The Congressman continued, saying that "[o]ur immigrants are hardworking, and they are up to the challenge. Give them the opportunity to earn their citizenship, and they will go through the background checks; they will pay their fair share of taxes; and they will learn English. It's not an easy process, but it is a fair process."

Representative Gutierrez also emphasized the importance of families and the legal immigration system in his ten principles, saying that "[f]amily is the bedrock of our society, and immigration reform must support strong, united families and treat all immigrant families fairly and equally. Right



now, our broken immigration system keeps too many American families apart for years and even decades, when they have done everything legally. We need a system predicated on family values by developing laws that better value families — a system that keeps families strong and, most importantly, keeps husbands and wives, parents and children together."

Representative Gutierrez pledged during a September 17, 2009, National Citizenship Day celebration in Washington, DC to introduce the bill in the coming weeks. However, that timetable has slipped.

Upon announcing in September that he was planning to introduce a comprehensive immigration reform bill, Representative Gutierrez 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."

The Congressman went on to say in his September statement that, "[w]e need a bill that says if you come here to hurt our communities, we will not support you; but if you are here to work hard and to make a better life for your family, you will have the opportunity to earn your citizenship. We need a law that says it is un-American for a mother to be torn from her child, and it is unacceptable to undermine our workforce by driving the most vulnerable among us further into the shadows."

Gutierrez asserted in his September statement his belief that "the support base for this kind of compassionate and comprehensive legislation is strong and far reaching." He contended that there are sufficient votes to pass such a measure, saying "I have always said that immigration reform will not be easy; but it is time we had a workable plan working its way through Congress that recognizes the vast contributions of immigrants to this country and that honors the American Dream."

It is unclear at the time of this writing how closely the bill that Representative Gutierrez is drafting will hue 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. <sup>1656</sup> ☀

<sup>1656</sup> [Click Here](#) to see the September 17, 2009, press release issued by the office of Representative Luis Gutierrez (D-IL) announcing his

## Senate

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

Senate 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

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*impending introduction of comprehensive immigration reform legislation*

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>1657</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 ...***

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 Congressional 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 (\*\*).

**Congress Back in Full Swing:** Congress is back in full swing following a tumultuous August recess. It is expected to remain in session well into December.

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

- **Health Care Reform.** The fate of legal immigrants, legal nonimmigrants, and undocumented aliens in the health insurance reform debate;
- **The E-Verify System.** The fate of several pending legislative provisions that would extend and revise authorization for the E-Verify System, including Senate-passed proposals to permanently extend the program, require its use by federal contractors, and permit employers to use the system to verify the employment eligibility of existing employees;
- **SSA No-Match Letters.** The fate of a Senate-passed proposal to force the Administration to issue SSA No-Match letters to employers when Social Security Administration data conflicts with tax data;
- **Fencing Between the U.S. and Mexico.** The fate of a Senate-passed provision that would reduce the

<sup>1657</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

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 resumed 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 (\*\*).

## 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>1658</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>1659</sup>

<sup>1658</sup> [H. Rept. 111-277](#), September 30, 2009

<sup>1659</sup> See Page 847 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related

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

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

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

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

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

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

### Four 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 two bills that contain significant immigration-related provisions and are awaiting consideration by the full House Committee on the Judiciary:

provisions in House Financial Services Committee-approved version of H.R. 3045

- [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 H.R. 42 during a markup that occurred on July 23, 2009, and July 24, 2009.<sup>1660</sup> It approved H.R. 1425 in a July 31, 2009, markup.<sup>1661</sup>

The full House Committee on the Judiciary could markup the two measures as soon as this week.

- **House Committee on Homeland Security.** The House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism has approved two bills containing significant border security provisions:
  1. [H.R. 1726](#), the "Border Security Search Accountability Act of 2009", which would require the Secretary of Homeland Security to issue a rule with respect to border security searches of electronic devices; and
  2. [H.R. 3239](#), a bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to submit a report on the effects of the Merida Initiative on the border security of the United States.

The Subcommittee approved both measures during markups that occurred on Wednesday, July 22, 2009, and Friday, July 24, 2009. No full committee markup of the bills had been scheduled at the time of this writing.<sup>1662</sup>

## Senate

### Five House-Passed Immigration-Related

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<sup>1660</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. 42, which was 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>1661</sup> See Pages 883-884 of the [August 3, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 1425, which was approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during its July 31, 2009, markup

<sup>1662</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

**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>1663</sup> would appropriate \$432,000 less in ORR funding in fiscal year 2010 compared to the total fiscal year 2009 ORR appropriation.<sup>1664</sup> The House-passed measure would increase funding for ORR's resettlement activities by of \$50.1 MILLION, or 10 percent, when compared to the amount appropriated for ORR's resettlement activities in fiscal year 2009.<sup>1665</sup>

The Senate Committee on Appropriations reported [the Senate Appropriations Committee-approved version of H.R. 3293](#)<sup>1666</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.

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<sup>1663</sup> [H. Rept. 111-220](#), July 22, 2009

<sup>1664</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

<sup>1665</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>1666</sup> [S. Rept. 111-66](#), August 4, 2009

2. **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 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>1667</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>1668</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>1669</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>1670</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>1671</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>1672</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>1673</sup> That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up.

In addition, the House of Representatives this week is expected to take up [H.R. 3619](#), its version of the Coast

<sup>1667</sup> [H. Rept. 111-187, June 26, 2009](#)

<sup>1668</sup> [S. Rept. 111-44, July 9, 2009](#)

<sup>1669</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>1670</sup> See Page 858 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the House-passed version of H.R. 1511

<sup>1671</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>1672</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>1673</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

Guard Authorization Act of 2010. H.R. 3619 includes the text of H.R. 1029. ☀

#### Four 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>1674</sup>

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

2. **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>1675</sup> which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs.

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<sup>1674</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>1675</sup> [S. Rept. 111-44](#), July 9, 2009

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>1676</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 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>1677</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>1678</sup>

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<sup>1676</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

<sup>1677</sup> [S. Rept. 111-85](#), October 1, 2009

<sup>1678</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

- **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>1679</sup> ☀ ◇

Bill, which funds the Executive Office for Immigration Review (EOIR), alternative to detention programs, and the State Criminal Alien Assistance Program (SCAAP).

- **International Violence Against Women.** Next week's Weekly Legislative Update will report on any immigration or refugee matters that come up during this week's House Committee on Foreign Affairs hearing on international violence against women.
- **House Judiciary Committee Immigration Bills.** Next Week's Weekly Legislative Update will report on any action in the House Committee on the Judiciary to markup [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act", or [H.R. 1425](#), the "Wartime Treatment Study Act", should the Committee take up those bills this week. ◇

## *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 in the House or Senate on the conference report accompanying 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 immigration-related action that occurs this week in the Senate on H.R. 2847, the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations

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<sup>1679</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

*Appendix*

**Summary of Conference Agreement on Key Immigration-Related Differences between the House- and Senate-Passed Versions of the Fiscal Year 2010 Homeland Security Appropriations Act**

The chart that follows compares selected immigration- or refugee-related policy and appropriations provisions in the House-passed version of H.R. 2892, the Senate-passed version of the measure, and in the conference agreement on H.R. 2892.

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

**Last Updated: October 19, 2009**

| Item | Issue  | House Bill  | Senate Bill   | Conference Agreement   |
|------|--|---|---|--|
| 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>1758</sup></p> | The conference agreement appropriates \$6.685 MILLION for the Citizenship and Immigration Services Ombudsman |
| 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</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</p>  | The conference agreement directly appropriates \$50 MILLION for refugee and asylum adjudications.            |

<sup>1758</sup> [S. Rept. 111-31, Page 10](#)

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, October 19, 2009**

| Item | Issue  | House Bill  | Senate Bill   | Conference Agreement  |
|------|--|---|---|---|
|      |  | schedule of fees for immigration applications. <sup>1759</sup>  | 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>1760</sup>  |   |
| 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>1761</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>1760</sup>  | The conference agreement directly appropriates \$5 MILLION for military naturalization adjudications.   |
| 4.   | Immigration Integration Programs                   | 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.<br><br>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>1762</sup> | 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.<br><br>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>1760</sup> | The conference agreement appropriates \$11 MILLION "to expand immigrant integration and outreach efforts that promote legal paths to U.S. citizenship." |
| 5.   | Basic Pilot/E-Verify Program                       | The House-passed version of H.R. 2892 would appropriate a total of \$162 MILLION for the Basic  | The Senate-passed version of H.R. 2892 would appropriate a total of \$118.5 MILLION for the Basic   | The conference agreement appropriates \$137 MILLION to operate the E-Verify system "and   |

<sup>1759</sup> [H. Rept. 111-157](#), Pages 128-131

<sup>1760</sup> [S. Rept. 111-31](#), Page 117

<sup>1761</sup> [H. Rept. 111-157](#), Pages 128-131

<sup>1762</sup> [H. Rept. 111-157](#), Pages 131-132

| Item | Issue | House Bill   | Senate Bill  | Conference Agreement   |
|------|-------|--|--|--|
|      |       | <p>Pilot/E-Verify Program, \$50 MILLION more than the Administration requested.<sup>1763</sup></p> <p>In addition to appropriating funds for the E-Verify program, the House-passed version of H.R. 2892 would--</p> <ul style="list-style-type: none"> <li>• Extend the program for three years</li> <li>• Make reforms to protect the Social Security Administration.</li> </ul> <p>The committee report accompanying the House version of H.R. 2892 notes that the most recent audit of the system “shows an unacceptably high rate of individuals falsely identified as ineligible to work.” It noted that “[o]f particular concern is the report’s conclusion that nearly 1 in 10 naturalized citizens is reported by Basic Pilot/E-Verify as non-work authorized.” The report strongly urges USCIS “to update and publish regular Basic Pilot/E-Verify accuracy and performance audits, so that Congress and Administration policy makers can remain informed of the system’s strengths and weaknesses.”</p> <p>The report also expresses the Committee’s strong support for efforts by USCIS “to establish a compliance group to monitor use of the Basic Pilot/E-Verify system and to ensure that companies enrolled in the program are not using it to take inappropriate or illegal employment actions.” The draft report notes that the Committee-approved bill will accommodate the Administration’s request to hire 40 Monitoring and</p> | <p>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>1765</sup></li> <li>• Formally rename it the E-Verify Program<sup>1765</sup></li> <li>• Require federal contractors to use the E-Verify program to verify the employment eligibility of their employees<sup>1765</sup></li> <li>• Permit employers using the E-Verify System to use it to verify the work eligibility of existing employees, not just new-hires.<sup>1766</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> | <p>further improve its accuracy and compliance rates.”</p> <p>In addition to appropriating funds for the E-Verify program –</p> <ul style="list-style-type: none"> <li>• Sec. 547 Extends the E-Verify program for three years</li> <li>• The conference agreement does not contain statutory language making reforms to protect the Social Security Administration, as was contained in the House-passed version of the bill.</li> <li>• The Conference agreement does not contain any of the policy provisions in the Senate-passed version of the bill.</li> </ul> <p>The conference report accompanying H.R. 2892 instructs the Government Accountability Office (GAO) to conduct studies of the E-Verify System that were requested in the House-passed version of H.R. 2892.</p> |

<sup>1763</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

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, October 19, 2009**

| Item | Issue   | House Bill  | Senate Bill  | Conference Agreement  |
|------|---|---|--|---|
|      |   | Compliance staff "to ensure the system is not used for prohibited purposes." <sup>1764</sup>  |  |   |
| 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>1767</sup>  | Sec. 548 of the conference agreement extends the EB-5 Regional Centers program through October 1, 2012.   |
| 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.<br><br>The provision also would require U.S. Citizenship and Immigration Services to conduct a study and report on certain aspects of the program. <sup>1768</sup> | Sec. 568(a)(1) of the conference agreement extends the Special Immigrant Non-Minister Religious Worker Visa Program for three years, through October 1, 2012.<br><br>Sec. 568(a)(2) of the conference agreement requires USCIS to conduct a study and report on certain aspects of the program. |
| 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>1769</sup> , extending it through September 30, 2012. <sup>1767</sup>  | Sec. 568(b) of the conference agreement extends the Conrad 30 State J-1 Visa Waiver Program through October 1, 2012.  |
| 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   | Sec. 568(c), (d), and (e) of the conference agreement protects 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   |

<sup>1765</sup> As reported by the Senate Committee on Appropriations, S. 1298, the Senate version of the Fiscal Year 2010 Homeland Security Appropriations Act, would have extended the E-Verify program for three years. On Wednesday, July 8, 2009, the Senate agreed to Sessions Amendment 1371 to H.R. 2892, which would permanently extend the E-Verify Program. The Senate agreed to the Sessions amendment by a voice vote after first rejecting a Schumer motion to table it by a vote of 44-53

<sup>1766</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>1764</sup> [H. Rept. 111-157](#), June 16, 2009, Page 131

<sup>1767</sup> This section was not in the Senate Appropriations Committee-reported version of the Fiscal Year 2010 Homeland Security Appropriations Act. It was added to the measure on the Senate floor on July 8, 2009, by Leahy Amendment 1407, a second degree amendment to the Sessions E-Verify Amendment. The Senate agreed to the Leahy amendment by a voice vote. The Senate went on to agree to the Sessions amendment by a voice vote after first rejecting a Schumer motion to table it by a vote of 44-53

<sup>1768</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>1769</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  | Conference Agreement  |
|------|---|--|--|---|
| 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>orphans, to immigrate on a family-based visa despite the death of a petitioner.<sup>1767</sup></p> <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>1770</sup></p> | <p>orphans, to immigrate on a family-based visa despite the death of a petitioner.</p> <p>The Senate provision was dropped in conference.</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>1771</sup></p>  | <p>The Senate provision was dropped in conference.</p>  |

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<sup>1770</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>1771</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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