



# 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

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### *Legislative Highlights*

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- Senate Clears Homeland Security Bill Extending E-Verify and Protecting Widows & Orphans* [1109-1111](#)
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- House Judiciary Committee Approves Immigration and Refugee Bills* ----- [1108-1109](#)

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*Congress this week is expected to pass a measure continuing stop-gap fiscal year 2010 funding for the nation's refugee admissions, overseas refugee assistance, and refugee resettlement programs. It also could deal with an effort in the Senate to use the appropriations process and the 2010 census to deny noncitizens' representation in the U.S. House of Representatives.*

*While House and Senate immigration- and refugee-related floor activity in the coming week will be concentrated on appropriations matters, work will continue behind-the-scenes in both chambers in preparation for what promises to be a bruising and prolonged floor battle over health care reform legislation, a battle that will include skirmishes over the treatment of noncitizens in health care reform.*

### *This Week's Hearings*

No hearings are scheduled for this week on immigration- or refugee-related matters. ◇

### *This Week's Markups*

No committee actions that have implications for immigration- or refugee-related matters are scheduled for this week. ◇

### *This Week's Floor Activity*

Two measures containing significant immigration- or refugee-related provisions were likely to be considered this week by the full House or Senate:

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

- **FY '10 Continuing Appropriations.** The House and Senate are expected to take up a stop-gap funding bill continuing fiscal year 2010 appropriations for refugee admissions, overseas refugee assistance, and refugee resettlement.
- **Appropriations for the Immigration Courts, Alternatives to Detention, and State Criminal Alien Assistance Program.** The full Senate could resume its consideration of the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill, which has become the target of an effort to deny noncitizens representation in the U.S. House of Representatives.

## **Bicameral**

### **Congress to Take Up Stop-Gap Funding Bill Providing Continuing FY '10 Appropriations for Nation's Refugee Admissions, Overseas Refugee Assistance, and Refugee Resettlement Programs:**



The House and Senate this week are expected to take up a continuing appropriations resolution that would temporarily continue stop-gap fiscal year 2010 funding for the nation's refugee admissions, overseas refugee assistance, and refugee resettlement programs. House floor action on the

measure is likely to occur on Thursday, October 29, 2009. The Senate is expected to act shortly thereafter.

It is anticipated that the measure will continue funding through mid-December for the nation's refugee programs, as well as continue funding through mid-December for all other federal programs and activities that have not yet had their appropriations bills enacted into law.

Congressional action on the continuing appropriations resolution is necessary because Congress has not yet completed its work on all of the 12 regular fiscal year 2010 appropriations bills that fund the activities of the federal government. Among the bills that yet to be enacted into law are two of the three bills that provide the bulk of funding for the nation's refugee programs. The continuing appropriations resolution that Congress will take up this week will give Congress time to complete its work on those measures.

**Background.** Congress each year enacts three bills that fund the nation's refugee programs:

- The State, Foreign Operations, and Related Programs Appropriations Bill funds the Department of State's refugee admissions and overseas refugee assistance operations.

- The Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill funds the programs by which refugees who have been admitted to the United States are resettled here.
- The Homeland Security Appropriations Bill funds the U.S. Citizenship and Immigration Services (USCIS) refugee and asylum adjudication operations.

Of the three measures, Congress has completed action on only the Homeland Security Appropriations Bill.

**Funding for Refugee Resettlement.** On July 24, 2009, the House of Representatives passed H.R. 3293, its version of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill. The House-passed measure would appropriate \$714.968 MILLION for Refugee and Entrant Assistance administered by ORR.

The Committee report accompanying the House-passed bill contends that the bill would increase ORR's fiscal year 2010 funding by nearly 13 percent relative to fiscal year 2009. However, in reality, the bill would actually appropriate \$432,000 less for ORR in fiscal year 2010 than the total amount that was appropriated for ORR in fiscal year 2009.

The \$714.968 MILLION for ORR that is contained in the House-passed bill is \$25.6 MILLION less than the amount requested by President Obama in his fiscal year 2010 budget submission for ORR.

On August 4, 2009, the Senate Appropriations Committee approved its version of H.R. 3293. The Senate version of the measure would appropriate \$730.657 MILLION for Refugee and Entrant Assistance.

The Senate Appropriations Committee-approved bill would constitute an increase of \$15.2 MILLION for ORR compared

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***This Week's Floor (continued)***

to ORR's total appropriation for fiscal year 2009. It is \$10 MILLION less than the Administration requested for fiscal year 2010 and \$15.689 MILLION more than was provided in the House-passed version of H.R. 3293.

The Chart that follows compares fiscal year 2009 ORR funding in the House-passed and Senate Appropriations Committee-approved versions of H.R. 3293 with the Administration's fiscal year 2010 budget request:

**ORR Funding  
 Fiscal Year 2009 vs. Fiscal Year 2010**

ITEM	'09 Projected	'10 OMB	'10 House	'10 Senate
Transitional & Medical	\$ 282.3	\$ 337.1	\$ 337.1	\$ 353.3
Social Services	\$154	\$ 154	\$ 154	\$ 154
Preventive Health	\$ 4.75	\$ 4.75	\$ 4.75	\$ 4.75
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6	\$ 48.6
<b>SUBTOTAL</b>	<b>\$ 494.3</b>	<b>\$ 544.4</b>	<b>\$ 544.4</b>	<b>\$ 560.6</b>
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 10.8	\$ 10.8	\$ 11.4	\$ 10.8
Unaccompanied Alien Children	\$ 205.1 <sup>1772</sup>	\$ 175.6	\$ 149.4	\$ 149.4
<b>TOTAL ORR</b>	<b>\$ 715.4<sup>1773</sup></b>	<b>\$ 740.6</b>	<b>\$ 715</b>	<b>\$ 730.7</b>

Millions of Dollars

**Funding for Migration and Refugee Assistance.** On July 9, 2009, the House of Representatives passed [H.R. 3081](#), its version the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill. The House-passed measure would appropriate \$1.480 BILLION for the Department of State's Migration and Refugee Assistance (MRA) account. This would represent a decrease of \$190.6 MILLION below the amount that has been appropriated for

<sup>1772</sup> This amount includes \$123.1 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

<sup>1773</sup> This amount includes \$633.4 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

MRA in fiscal year 2009 and the same amount as was requested by the Administration in its fiscal year 2010 budget request.

Also on July 9, 2009, the Senate Committee on Appropriations approved its version of the State, Foreign Operations, and Related Programs Appropriations bill. The Senate Appropriations Committee-approved version of the measure would appropriate \$1.678 BILLION for the MRA account. This would represent an increase of \$7 MILLION when compared to the amount that has been appropriated for MRA in fiscal year 2009. It represents an increase of \$197.4 MILLION over the amount that the Obama Administration requested in its fiscal year 2010 budget request.

The chart that follows compares refugee-related funding in the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Act with fiscal year 2009 funding and the Administration's fiscal year 2010 budget submission:

**Comparison of Fiscal Year 2009 and 2010 Funding  
 for MRA, ERMA, and IDA**

ITEM	'09 Actual	'10 OMB	'10 House	'10 Senate
MRA	\$ 1,671	\$ 1,480	\$ 1,480	\$1,678
ERMA	\$ 40	\$ 75	\$ 75	\$ 75
IDA	\$ 820	\$ 880	\$ 830	\$ 855

Millions of Dollars

**Background on ORR Funding.** The Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill appropriates funds to the [Office of Refugee Resettlement](#) (ORR), which operates a number of programs that assist refugees and other vulnerable populations of noncitizens. The bulk of the funding that ORR receives is used to provide resettlement services to persons who are admitted to the United States as refugees. The second largest component of ORR's annual appropriation is used to provide care and placement to unaccompanied alien children who are in federal custody while their immigration status is being resolved. Other services funded by ORR include assistance to trafficking victims and assistance to torture victims.

**Background on PRM Funding.** The State, Foreign Operations, and Related Programs Appropriations Bill appropriates funds for the Department of State and the federal government's foreign assistance programs, including the Migration and Refugee Assistance (MRA) and Emergency Refugee and Migration Assistance (ERMA) programs and accounts. Those programs and accounts fund the bulk of federal government's refugee admissions and overseas refugee assistance programs. They are administered by the Department of State's [Bureau of Population, Refugees, and Migration](#) (PRM), which has primary responsibility for formulating policies on population, refugees, and migration,

and for administering U.S. refugee assistance and admissions programs. PRM is headed by an Assistant Secretary of State, who is appointed by the President, with the advice and consent of the U.S. Senate.

Through PRM and using the MRA and ERMA accounts, the Department of State works in close conjunction with international organizations, such as the [United Nations High Commission for Refugees](#) (UNHCR), to provide life-sustaining assistance to refugees in countries of asylum. The Department also works closely with international organizations, nongovernmental organizations (NGOs), and the United States [Department of Homeland Security](#) (DHS) to admit a relatively small number of refugees into the United States through its Refugee Admissions Program.

In addition to having jurisdiction over some aspects of U.S. policy toward refugees, the Department of State, through its [Bureau of Consular Affairs](#) (BCA), is involved in the processing and adjudication of visa requests.

As indicated above, PRM operates two accounts that assist refugees. The first of these is the Migration and Refugee Assistance (MRA) account, which the Department of State uses to fund the federal government's refugee admissions and overseas refugee assistance programs. The second is the Emergency Refugee Migration Assistance (ERMA) account, a no-year account that holds funds that the President can draw down from in order to meet emergency refugee needs. ☼

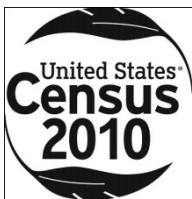
## House

With the exception of the continuing appropriations resolution that the House is expected to take up late this week, it is not anticipated that the House will take up any measures containing significant immigration- or refugee-related provisions.

## Senate

### **Senate Could Take Up Bill That is the Target of the Vitter/Bennett Census and Immigration Status Amendment Amidst Democratic Public Relations Campaign Against the Proposal:**

After a number of false starts over the past month, the Senate this week could finally resume its consideration of a measure that has become the target of a proposal by Senators David Vitter (R-LA) and Robert Bennett (R-UT) to deny noncitizens representation in the U.S. House of Representatives. The Vitter/Bennett proposal is embodied in an amendment that the two senators have offered 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 amendment would require the Census Bureau to ask every person in the United States about his or her citizenship and immigration status.



**Procedural Situation.** Should the Senate, as anticipated, resume its consideration of the stalled appropriations bill, it likely will face a procedural vote on invoking cloture on the measure, a move that would shut down debate on the bill and prevent a direct vote on the Vitter/Bennett amendment. In order to prevail on the procedural vote and bar a vote on the amendment, Senate Majority Leader Harry Reid (D-NV) will need the votes of 60 senators.

The Senate first took up the C-J-S Appropriations 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 has stated that 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.

**Opposition to the Amendment.** The Vitter/Bennett amendment is vigorously opposed by the Administration, former census bureau directors of both parties, Democratic leaders in the House, rank-and-file Democratic Members from the three minority caucuses in the House, and by much of the immigrant, civil rights, and minority communities.

Just last week, House Majority Leader Steny Hoyer (D-MD) blasted the Vitter/Bennett amendment, saying that "the census doesn't exist to score political points -- It exists to give us an accurate picture of our country." He went on to assert that "adding a new question to the census, especially at this late date, would be damaging and irresponsible. That's also the opinion of every living Director of the Census." Continuing, the House Majority Leader said that the Vitter/Bennett amendment would "lead to an inaccurate count. With a question about citizenship, immigrants who fear being deported, along with their families and friends, are much more likely to avoid the census."

The Congressional Hispanic Caucus (CHC), Congressional Black Caucus (CBC), and the Congressional Asian and Pacific American Caucus (CAPAC) all expressed opposition to the Vitter/Bennett amendment last week. Said CHC Chair Nydia Velazquez, "[e]very census since 1790 has included citizens and noncitizens alike, and presidential administrations of both parties have repeatedly upheld counting all persons residing in the United States."

The Department of Commerce, which administers the U.S. Census Bureau, has said of the amendment, "[a]dding a new

question to the 2010 Census questionnaire less than six months before Census Day (April 1, 2010) would mean the Census Bureau could not complete the enumeration, processing, and deliver of census results by the statutory deadline of December 31, 2010. It is too late to shift gears at this point in the process.”

A bipartisan group of eight former Census Bureau chiefs also has weighed-in against the amendment, saying that “[a]dding a new census question now would require redesigning and reformatting questionnaires and all related materials, such as language assistance guides and web-based instructions; redesigning instructions and training manuals for more than a million temporary census workers; reconfiguring or rebuilding data capture and processing software, which is designed for the specific questionnaire already in place; and revising a \$400 million outreach and promotional campaign, much of it already deployed, which highlights the new short form’s ten questions and often confirms that the census does not ask about immigration status.”

Notwithstanding the opposition of the Obama Administration, former census chiefs, and others, however, Senators Vitter and Bennett have persisted in their support for their amendment. "Illegal immigration is a very real and significant concern for our country," Senator Vitter said in a statement. "In the past, some states have included illegal immigrants during the census, resulting in the allocation of additional congressional seats. We shouldn't let these states be rewarded for skirting our federal laws." Senator Bennett, too, has explicitly stated his intention that the census data gleaned from the question should be used to ensure that illegal immigrants are not counted for the purposes of representation in the U.S. House of Representatives.

**Other Immigration-Related Amendments Possible.** In addition to the Vitter/Bennett Census and Immigration Status Amendment, several other immigration-related amendments have been filed to the measure. 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).

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.

- **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).
- **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.
- **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.

**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 and Bennett 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 on October 13, 2009, when Senate Majority Leader Reid attempted to shut off debate on the measure and bar nongermane amendments (including the Vitter/Bennett Amendment) from being offered to it. However, that attempt failed by three votes. 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. The 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.

- **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).

**Outlook.** Should cloture be invoked on the measure, the Senate is expected to pass H.R. 2847. However, it is uncertain at the time of this writing whether Senate Majority Leader Reid will ultimately take the time necessary to invoke cloture and exhaust all of the post-cloture debate that would have to ensue. Should the Senate fail to take up H.R. 2847, funding for the departments, agencies, and programs under the bill's jurisdiction will have to be folded into an omnibus appropriations measure. ☀ ◇

## *This Week's Conference Activity*

At the time of this writing, no immigration- or refugee-related bills are pending in conference committees. ◇

## *This Week's Executive Activity*

**President Expected to Sign Bill Extending the E-Verify, Religious Worker, and Other Visa Programs:** President Obama this week is expected to sign into law a measure that 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 measure 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 and permanent residents under some circumstances.

The President is expected to act in connection with H.R. 2892, the Fiscal Year 2010 Homeland Security

Appropriations Act, which the Senate cleared for his consideration last week.<sup>1774</sup> ◇

## *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**

Two bills containing immigration- or refugee-related provisions were marked up last week in committees:

- **House Judiciary Committee Immigration Bills.** The House Committee on the Judiciary marked up two immigration-related bills last 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 Judiciary Committee Approves Two Immigration and Refugee Measures:** On Wednesday, October 21, 2009, the [House Committee on the Judiciary](#) approved two immigration- and refugee-related bills that had been approved prior to the August recess by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

The two bills that the Committee approved are [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 Committee approved both bills on recorded votes after rejecting amendments offered by House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA).

The following summarizes Committee action on the two measures--

- [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.

The House Committee on the Judiciary approved H.R. 42 on Wednesday, October 21, 2009, by a vote of 22-10.

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<sup>1774</sup> See Pages 1109-1111 and Pages 1120-1124 of this week's edition of the Weekly Legislative Update for a summary of the immigration- and refugee-related provisions in H.R. 2892

As approved by the Committee, the measure 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.

- [H.R. 1425](#), the "Wartime Treatment Study Act".

The House Committee on the Judiciary approved H.R. 1425 on Wednesday, October 21, 2009, by a vote of 19-7.

As approved by the Committee, the measure would establish two commissions:

1. **Commission on Wartime Treatment of European Americans.** 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.
2. **Commission on Wartime Treatment of Jewish Refugees.** 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.

The Committee agreed to one amendment to the bill and rejected two amendments.

The Committee agreed by voice vote to an amendment offered by the bill's sponsor, Representative Robert Wexler (D-FL), that struck language in the bill rescinding \$1.2 million in appropriations for the Department of Justice to fund the bill. The Wexler amendment also would clarify that the Jewish Refugee commission that the bill would create would be responsible for reviewing the U.S. government's decision to deny U.S. entry to Jewish and other refugees fleeing persecution and genocide in Europe.

The Committee rejected two amendments that were offered by Subcommittee Ranking Republican King. The first amendment, which the Committee defeated by a vote of 10-17, would have barred the commission from recommending any monetary reparations as an "appropriate remedy." The second amendment, which the Committee defeated by a voice vote, would have required that the commissions established by the bill only include

members who are "distinguished scholars and academic historians" that would provide impartial expertise.

**Next Steps.** Now that the House Committee on Judiciary has approved H.R. 42 and H.R. 1425, the next step in the legislative process is for the Committee to formally report the measures to the full House of Representatives so the House can take them up. At the time of this writing, no timeline had been set for those actions. ☀

## Last Week's Floor Activity

The full House or Senate last week took action on two bills containing significant immigration- or refugee-related provisions:

- **FY '10 Funding for Immigration Services, Immigration Enforcement, and Border Security.** The Senate cleared H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill, for the President's consideration.
- **Revision of Alien Smuggling Laws.** The full House of Representatives passed a measure increasing 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.

## Senate Clears for the President's Consideration DHS Appropriations Bill Extending E-Verify and Three Expiring Visa Programs and Providing Immigration Relief to Widows and Orphans of Deceased U.S. Citizens and Permanent Residents:

The Senate has cleared for the President's consideration a compromise version of the fiscal year 2010 bill that funds the nation's border enforcement, interior immigration enforcement, and immigration services functions. The Senate acted on Tuesday, October 20, 2009, clearing the measure for the President's expected signature.



Tuesday's Senate action occurred in connection with H. Rept. 111-298, the conference report accompanying H.R. 2892, the Fiscal Year 2010 Department of Homeland Security Appropriations Act. The Senate approved the measure by a vote of 79-19. The House of Representatives approved the measure on Thursday, October 15, 2009, by a vote of 307-114.

As cleared for the President's consideration, H.R. 2892 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 measure 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 and permanent residents under some circumstances.

From an immigration perspective, H.R. 2892 is more controversial for what it does not contain. Conferees negotiating the final version of the measure rejected 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.

#### **Resolution of Key Immigration-Related Policy Differences between the House and Senate Bills**

The following is a brief summary of some of the agreements reached on major immigration policy and spending provisions:<sup>1775</sup>

- **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

<sup>1775</sup> See Pages 1120-1124 of this week's edition of the Weekly Legislative Update for a side-by-side comparison of key immigration-related provisions in H.R. 2892

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."

**Next Steps.** Now that Congress has completed its consideration of the Homeland Security Appropriations Act,

the next step is for Congress to forward the bill to President Obama for his consideration. The President is expected to sign the measure once it reaches his desk. ☀

**House Passes Bill Re-Writing the Nation's Alien Smuggling Law:** The full House of Representatives last week passed a measure that would dramatically increase penalties for alien smuggling, including providing for up to one year imprisonment for someone who



is convicted of "transiting" close family members. Last Week's House floor action occurred in connection with [H.R. 3619](#), the Coast Guard Authorization Act of 2010. The House took up the measure on Thursday, October 22, 2009, passing it one day later by a vote of 385-11.

The alien smuggling provisions in H.R. 3619 are found in Title XII of the measure. That title is comprised of the text of the House-passed version of [H.R. 1029](#), the "Alien Smuggling and Terrorism Prevention Act of 2009."

In addition to the alien smuggling provisions found in Title XII of the measure, the full House agreed to two amendments to the measure that have immigration implications: an amendment by Representative Alcee Hastings (D-FL) relating to U.S. immigration policy toward Haiti and an amendment by Representative a Glenn C. Nye (D-VA) aimed at ensuring that provisions in the bill relating to safety do not negatively impact the Coast Guard's mission to prevent maritime illegal immigration and alien smuggling. The House agreed to both amendments by a voice vote.

**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.

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.

**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.
- **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.
- **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.
- **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.
- **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.
- **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 the 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.

**Next Steps.** Now that the House has passed H.R. 3619, the next step is for the Senate to consider either that measure or a companion measure, [S. 1194](#), the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, which the Senate Committee on Commerce, Science, and Transportation approved on July 8, 2009. S. 1194 does not contain any immigration-related provisions. ☀ ◇

## *Last Week's Executive Activity*

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

## *Recently Introduced Legislation*

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

## House

### Civil Rights

- **Every Person Counts Act:** Representative Joe Baca (D-CA) has introduced H.R. 3855, a bill to amend title 13, United States Code, to make clear that each decennial census, as required for the apportionment of Representatives in Congress among the several States, shall tabulate the total number of persons in each State, and to provide that no information regarding United States citizenship or immigration status may be elicited in any such census.

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

## Senate

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

## *Bills in Development*

The following is a listing of immigration- or refugee-related bills that are currently under development and that could soon be introduced in the Senate or House of Representatives.

Items that were added 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, has unveiled what he calls "the core principles" that will be included in a comprehensive immigration reform bill that he is drafting.<sup>1776</sup> 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.

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<sup>1776</sup> [Click Here](#) to see the text of the October 13, 2009, press release issued by the office of Representative Luis Gutierrez (D-IL) announcing his ten core principles for his comprehensive immigration reform bill

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

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 subsequently slipped.<sup>1777</sup>

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>1778</sup> ☀

## 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) and the Department of Homeland Security to write a comprehensive immigration reform bill that he hopes to introduce in the Senate in the coming months.

<sup>1777</sup> [Click Here](#) to see the September 17, 2009, press release issued by the office of Representative Luis Gutierrez (D-IL) announcing his impending introduction of comprehensive immigration reform legislation

<sup>1778</sup> See Pages 1089-1090 of the [October 19, 2009, edition of the Weekly Legislative Update](#) for a more detailed description of Representative Gutierrez' comprehensive immigration reform efforts

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

The goal of releasing an outline by the end of September was itself, a retrenchment of an earlier assertion that he made, in which he had pledged to have a comprehensive immigration reform bill ready for introduction by Labor Day. It was, however, in sync with remarks made by President Obama last week and this week, in which the President indicated a bill would be drafted by the end of 2009 and could be taken up by Congress in early 2010.

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

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

- We must create a system that converts the current flow of unskilled illegal immigrants into the United States into a more manageable and controlled flow of legal immigrants who can be absorbed by our economy.

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

- His bill will be bipartisan and more than a half-dozen Republican Senators will be involved in drafting it.
- His bill will be more generous to highly skilled immigrant workers than those who are lower skilled
- His bill will be tough on future waves of illegal immigration.
- Disagreements between labor and business interests on the flow of legal foreign workers can be worked out.
- The U.S. should encourage legal immigration and find some kind of path for people now here to find a way to legal citizenship.
- The U.S. has "a shortage maybe of engineers here or Ph.D's in physics, but we probably don't have a shortage of people who can do construction work."

### Chairman Kerry Working on Foreign Relations

**Authorization Bill:** Senate Foreign Relations Committee Chairman John F. Kerry (D-MA) is working on the Senate version of the Foreign Relations Authorization Act, which he previously had hoped to introduce shortly after Congress returns from its week-long Independence Day recess. There is no more recent word as to when he will introduce his bill.



The House of Representatives passed [H.R. 2410](#), the House version of Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, on Wednesday, June 10, 2009. As passed by the House, the measure contains among its many provisions numerous provisions making reforms to the United States refugee admissions process.<sup>1779</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 either have 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 (\*\*).

### Immigration and Refugee Legislative Agenda for the Year Winding Down to a Trickle:

As November and adjournment loom just over the horizon, the immigration- and refugee-related legislative agenda that Congress will face has narrowed. By most accounts, there are only six-to-eight weeks of legislative session left in the year. Most of that time will be taken up with a combination of Congress' efforts to complete action on the remaining fiscal year 2010 appropriations bills and its efforts to enact health care reform legislation into law.

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

#### Five 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>1780</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>1781</sup>

<sup>1779</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>1780</sup> [H. Rept. 111-277](#), September 30, 2009

<sup>1781</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 three measures that await floor consideration:
  1. [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009".
  2. [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
  3. [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.

At the time of this writing, the Committee had yet to formally report any of the three measures to the full House of Representatives. ☼

**Two 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 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>1782</sup>

## Senate

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

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

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

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

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<sup>1782</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

victim assistance, and unaccompanied alien child programs.

[The House-passed version of H.R. 3293](#)<sup>1783</sup> would appropriate \$432,000 less in ORR funding in fiscal year 2010 compared to the total fiscal year 2009 ORR appropriation.<sup>1784</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>1785</sup>

The Senate Committee on Appropriations reported [the Senate Appropriations Committee-approved version of H.R. 3293](#)<sup>1786</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.

- 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>1787</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>1788</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>1789</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>1790</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>1791</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

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<sup>1783</sup> [H. Rept. 111-220](#), July 22, 2009

<sup>1784</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>1785</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>1786</sup> [S. Rept. 111-66](#), August 4, 2009

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<sup>1787</sup> [H. Rept. 111-187](#), June 26, 2009

<sup>1788</sup> [S. Rept. 111-44](#), July 9, 2009

<sup>1789</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>1790</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>1791</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*

(D-MA) is working on a version of the bill of his own that he could introduce as soon as late July.<sup>1792</sup>

- **Increased Penalties for Alien Smuggling.** The House of Representatives has passed two measures that would increase penalties for alien smuggling:
  1. [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>1793</sup> That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up.

2. [H.R. 3619](#), the Coast Guard Authorization Act of 2010." Title XII of the measure is identical to the text of H.R. 1029, which the House of Representatives passed on March 31, 2009. The House of Representatives passed H.R. 3619 on Friday, October 24, 2009. ☼

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<sup>1792</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>1793</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

#### **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>1794</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>1795</sup> which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs. The Senate Appropriations Committee-approved version of the measure would appropriate substantially more for the Migration and Refugee

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<sup>1794</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>1795</sup> [S. Rept. 111-44](#), July 9, 2009

Assistance account than is contained in the House-passed version of the bill.<sup>1796</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>1797</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>1798</sup>

- **Senate Committee on Homeland Security.**

1. **Revision of the REAL ID Act's Driver's License Provisions.** The Senate Committee on Homeland Security and Governmental Affairs has approved [S. 1261](#), the "Providing for Additional Security in States' Identification Act of 2009", or PASS ID Act,

which would retain many of the alienage-related mandates that are found in the REAL ID Act.

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

S. 1261 would make a number of changes to the alienage-based restrictions on states' issuance of driver's licenses and identification cards. Some would ease those restrictions. Others would make them more rigorous.<sup>1799</sup> ☀ ◇

## Next Week's Edition ...

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

- **Health Care Reform and Immigrants.** Next week's Weekly Legislative Update will report on any developments that occur this week relating to the treatment of noncitizens in the House and Senate health care reform bills.
- **Fiscal Year 2010 Appropriations for the Department of Homeland Security.** Next week's Weekly Legislative Update will report on President Obama's actions on H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill, which the Senate last week cleared for his consideration.
- **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 Bill, which funds the Executive Office for Immigration Review (EOIR), alternative to detention programs, and the State Criminal Alien Assistance Program (SCAAP), including any action on the Vitter/Bennett Census and Immigration Status Amendment.

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<sup>1796</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>1797</sup> [S. Rept. 111-85](#), October 1, 2009

<sup>1798</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

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<sup>1799</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

- **Continuing Appropriations Resolution.** Next week's Weekly Legislative Update will report on any immigration or refugee matters that come up in relation to the second fiscal year 2010 continuing appropriations resolution, which Congress must enact into law by the end of the week in order to prevent a shutdown of much of the federal government. ◇

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*Appendix*

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**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**

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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	The House-passed version of H.R. 2892 would appropriate \$6.685 MILLION for the Citizenship and Immigration Services Ombudsman.  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.	The Senate-passed version of H.R. 2892 would appropriate \$6.685 MILLION for the U.S. Citizenship and Immigration Services Ombudsman.  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.  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>1800</sup>	The conference agreement appropriates \$6.685 MILLION for the Citizenship and Immigration Services Ombudsman
2.	Direct Appropriations for Refugee and Asylum Adjudications	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.  Language in the House committee report precludes USCIS from using	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.  Language in the Senate committee	The conference agreement directly appropriates \$50 MILLION for refugee and asylum adjudications.

<sup>1800</sup> [S. Rept. 111-31](#), Page 10

Item	Issue	House Bill	Senate Bill	Conference Agreement
		those funds until it publishes a new final rule implementing a new schedule of fees for immigration applications. <sup>1801</sup>	report indicates that the Committee was directing the Department of Homeland Security "to submit a reprogramming within 30 days after the date of enactment of this act, to reflect the continuation of these activities as fee funded." <sup>1802</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>1803</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>1802</sup>	The conference agreement directly appropriates \$5 MILLION for military naturalization adjudications.
4.	Immigration Integration Programs	<p>The committee report accompanying the House version of H.R. 2892 notes that the bill is providing \$11 MILLION for the promotion of legal paths to U.S. citizenship and outreach to immigrant communities in fiscal year 2010.</p> <p>The committee report notes that this would be an increase of \$9.2 MILLION in fiscal year 2010 compared to the \$1.9 MILLION that was provided for this purpose in fiscal year 2009, and that it is \$1 MILLION more than the Administration requested.<sup>1804</sup></p>	<p>The committee report accompanying S. 1298 notes that the Committee has rejected the Administration's request for \$10 MILLION for immigrant integration programs, opting, instead to continue funding at \$1.2 MILLION, the amount provided in fiscal year 2009.</p> <p>In support of the committee's position, the committee report states, "[t]he Committee notes that the current year grant applications are still being evaluated and that the 2009 funds have yet to be awarded. The Committee does not recommend the \$10,000,000 requested in the budget for a new immigrant integration activity. The Committee notes that the Office of Citizenship Services has long provided admirable services to assist those individuals seeking to become U.S. citizens or otherwise legally adjust their status and will have \$6,400,000 of carry forward balances to continue these efforts. This makes a total of \$7,600,000 available for immigrant services and integration grants."<sup>1802</sup></p>	The conference agreement appropriates \$11 MILLION "to expand immigrant integration and outreach efforts that promote legal paths to U.S. citizenship."

<sup>1801</sup> [H. Rept. 111-157, Pages 128-131](#)

<sup>1802</sup> [S. Rept. 111-31, Page 117](#)

<sup>1803</sup> [H. Rept. 111-157, Pages 128-131](#)

<sup>1804</sup> [H. Rept. 111-157, Pages 131-132](#)

**Weekly Immigration and Refugee Legislative Update (continued)  
Monday, October 26, 2009**

Item	Issue	House Bill	Senate Bill	Conference Agreement
5.	Basic Pilot/E-Verify Program	<p>The House-passed version of H.R. 2892 would appropriate a total of \$162 MILLION for the Basic Pilot/E-Verify Program, \$50 MILLION more than the Administration requested.<sup>1805</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</p>	<p>The Senate-passed version of H.R. 2892 would appropriate a total of \$118.5 MILLION for the Basic Pilot/E-Verify Program, \$6.5 MILLION more than the Administration requested.</p> <p>In addition to appropriating funds for the E-Verify program, the Senate-passed version of H.R. 2892 would--</p> <ul style="list-style-type: none"> <li>• Permanently extend the program<sup>1807</sup></li> <li>• Formally rename it the E-Verify Program<sup>1807</sup></li> <li>• Require federal contractors to use the E-Verify program to verify the employment eligibility of their employees<sup>1807</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>1808</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>The conference agreement appropriates \$137 MILLION to operate the E-Verify system “and 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>1805</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

Item	Issue	House Bill	Senate Bill	Conference Agreement
		accommodate the Administration's request to hire 40 Monitoring and Compliance staff "to ensure the system is not used for prohibited purposes." <sup>1806</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>1809</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.  The provision also would require U.S. Citizenship and Immigration Services to conduct a study and report on certain aspects of the program. <sup>1810</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.  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>1811</sup> , extending it through September 30, 2012. <sup>1809</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	Sec. 568(c), (d), and (e) of the conference agreement protects widows, widowers and orphans of deceased U.S. citizens and legal

<sup>1807</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>1808</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>1806</sup> [H. Rept. 111-157](#), June 16, 2009, Page 131

<sup>1809</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>1810</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>1811</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).

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, October 26, 2009**

Item	Issue	House Bill	Senate Bill	Conference Agreement
			permanent residents who are in the family immigration system by allowing widows, widowers and orphans, to immigrate on a family-based visa despite the death of a petitioner. <sup>1809</sup>	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.
10.	Fencing Along the U.S. Border with Mexico	There is no provision in the House-passed version of H.R. 2892 relating to fencing along the U.S. border with Mexico	<p>Sec. 560 of the Senate-passed version of H.R. 2892 would impose a number of restrictions and mandates on the Administration with regard to fencing being constructed along the U.S. border with Mexico.</p> <p>More specifically, Sec. 560 of the Senate-passed version of H.R. 2892 would --</p> <ul style="list-style-type: none"> <li>• require that construction of the mandated 700 miles of fencing be completed by December 31, 2010;</li> <li>• provide that fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under the law; and</li> <li>• provide that funds for fence construction may not be withheld for failure to comply with consultation requirements.</li> </ul> <p>Sec. 560 of the Senate-passed version of H.R. 2892 also would impose reporting requirements on the Administration with regard to the construction of fencing along the U.S. border with Mexico.<sup>1812</sup></p>	The Senate provision was dropped in conference.
11.	SSA No-Match Letters	There is no provision in the House-passed version of H.R. 2892 relating to SSA No-Match Letters	Sec. 561 of the Senate-passed version of H.R. 2892 provide that none of the amounts made available under the Act may be used to implement changes to the final rule describing the process for employers to follow after receiving a “no match” letter in order to qualify for “safe harbor” <sup>1813</sup>	The Senate provision was dropped in conference.

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<sup>1812</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>1813</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