



United States Conference of Catholic Bishops Government Relations

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

Monday, September 7, 2009

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Legislative Highlights

Congress Returns from August Recess with Packed Immigration and Refugee Agenda [913](#), [919](#)
Senate to Take Up Bill Funding Immigration Courts & Criminal Alien Reimbursement Program [914-915](#)
Conferees Must Resolve Differences in Two Chambers' Homeland Security Appropriations Bills [915](#), [928](#)

Congress returns this week from a five week-long recess, facing a heavy agenda of immigration- and refugee-related legislation. The list of items that Congress hopes to address during the coming work period includes health care reform legislation, which could impact legal immigrants, nonimmigrants, and undocumented aliens; enactment of the 12 regular fiscal year 2010 appropriations bills, including the four appropriations bills that fund the federal government's immigration-, refugee-, and border security-related functions and activities; legislation relating to the E-Verify System, SSA no-match letters, and U.S.-Mexico border fencing; and provisions in bills that would extend the religious worker visa, EB-5 investor visa regional center, and Conrad State 30 medically underserved communities programs.

This Week's Hearings

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

Assistance Program. The full Senate could take up the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.

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This Week's Markups

At the time of this writing, no markups were scheduled for this week that have implications for immigration- or refugee-related matters in the House and Senate. ◇

This Week's Floor Activity

At the time of this writing, only one measure containing significant immigration- or refugee-related provisions is likely to see House or Senate floor action this week:

- **Appropriations for the Immigration Courts, Alternatives to Detention, and State Criminal Alien**

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This Week's Floor (continued)

House

At the time of this writing, no floor actions were scheduled in the House for this week on measures containing significant immigration- or refugee-related provisions.

Senate

Senate to Take Up Bill Appropriating FY '10 Funds for the Immigration Court System: While it had not yet been officially scheduled at the time of this writing, the full Senate could as soon as this week take up the Senate version of the fiscal year 2010 appropriations bill that funds the nation's immigration court system and federal reimbursements to states for the costs they bear in incarcerating criminal aliens. The measure that the Senate expects to take up would significantly increase funding for the Executive Office for Immigration Review (EOIR) and maintain funding for the State Criminal Alien Assistance Program (SCAAP), a program that the Obama Administration sought to terminate. This week's expected Senate action will occur in connection with the [Senate Appropriations Committee-reported version of H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill.¹³⁰⁵

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

Legislative History. The following is a brief legislative history of H.R. 2847:¹³⁰⁶

- **House Committee Actions.**

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

Appropriations held a markup session, ordering that the bill be reported to the full House of Representatives as an original measure.

3. On June 12, 2009, the full House Committee on Appropriations formally reported H.R. 2847 to the House of Representatives.

- **House Floor Actions.**

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

- **Senate Committee Actions.**

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

Summary of Immigration- and Refugee-Related Provisions. As reported by the Senate Committee on Appropriations, the Senate version of H.R. 2847 contains the following immigration- and refugee-related provisions:

- **Executive Office for Immigration Review.** The Senate Appropriations Committee-reported version of H.R. 2847 would appropriate \$300.685 MILLION for the Department of Justice's Administrative Review and Appeals section. The bulk of those funds are for the Executive Office for Immigration Review (EOIR). This

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¹³⁰⁵ [S. Rept. 111-34](#), June 25, 2009

¹³⁰⁶ See Pages 603-604 of the [June 8, 2009, edition of the Weekly Legislative Update](#) for a summary of the June 4, 2009, House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies markup of H.R. 2847

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

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

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is the same amount requested by the Administration and approximately \$30.685 MILLION, or 11.2 percent, above the fiscal year 2009 appropriation.

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

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

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

Committee Consideration and Amendments. The Subcommittee took up H.R. 2847 on Wednesday, June 24, 2009 and the Committee took up the measure on Thursday, June 25, 2009. No immigration-related amendments were

offered to the measure during either the Subcommittee's or full Committee's consideration of the measure.

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

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

This Week's Conference Activity

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

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

Conferees Have Significant Differences on Immigration to Resolve on Fiscal Year 2010 Homeland Security Appropriations Bill: Now that Congress has returned from its August recess, one of its first orders of business will be to resolve the significant differences on immigration policy and spending between the differing House- and Senate-passed versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act. That measure funds immigration enforcement, immigration services, and border security departments, agencies, programs, activities, and functions of federal government. Congress must resolve the differing versions of the measure by October 1, 2009, the date on which fiscal year 2010 begins. The two versions of the measure differ significantly on immigration policy matters, as well as in appropriations for the U.S. Citizenship and Immigration Services component of the Department of Homeland security.

The significant policy differences between the two version of the bill include differences on the E-Verify System, SSA No-Match letters, border fencing, and visa programs for religious worker and doctors. Conferees could meet at any time, beginning this week, to begin the formal process of resolving differences between the two versions of the measure.¹³⁰⁷

¹³⁰⁷ See Pages 928-932 of this week's edition of the Weekly Legislative Update for a detailed analysis of some of the key differences between the House-passed and Senate-passed versions of

However, it seems more likely that the conferees will not formally meet until next week or later.

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

- House Committee Actions.

1. On June 8, 2009, the House Appropriations Subcommittee on Homeland Security marked up its version of H.R. 2892, forwarding the measure to the full House Committee on Appropriations.¹³⁰⁸
2. On June 12, 2009, the full House Committee on Appropriations held a markup session, ordering that the bill be reported to the full House of Representatives as an original measure.¹³⁰⁹
3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.¹³¹⁰

- House Floor Actions.

1. On June 24, 2009, the full House of Representatives took up H.R. 2892, passing it by a vote of 389-37¹³¹¹

- Senate Committee Actions.

1. On June 17, 2009, the Senate Appropriations Subcommittee on Homeland Security marked up its version of S. 1298, forwarding the measure to the full Senate Committee on Appropriations.
2. On June 18, 2009, the full Senate Committee on Appropriations held a markup session, approving [S. 1298](#)¹³¹² and formally reported the measure to the full Senate.¹³¹³

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

¹³⁰⁸ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 8, 2009, House Appropriations Subcommittee on Homeland Security markup of the fiscal year 2010 Homeland Security Appropriations bill

¹³⁰⁹ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 12, 2009, full House Appropriations Committee markup of the fiscal year 2010 Homeland Security Appropriations bill

¹³¹⁰ See Pages 703-707 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2892

¹³¹¹ [House Roll Call No. 450](#), June 24, 2009

¹³¹² [S. Rept. 111-31](#), June 18, 2009

- Senate Floor Actions.

1. On July 7, 2009, the full Senate took up H.R. 2892, considering the text of S. 1298 for the purposes of floor amendments.
2. On July 9, 2009, the full Senate passed its version of H.R. 2892 by a vote of 84-6, after three days of considering floor amendments to the measure.

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

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

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

¹³¹³ See Pages 673-678 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 18, 2009, Senate Appropriations Committee and the June 17, 2009, Senate Appropriations Subcommittee on Homeland Security markup of the Fiscal Year 2010 Homeland Security Appropriations bill

the upcoming House-Senate conference committee deliberations.

Side-by-Side Comparison. See the Appendix section of this week's edition of the Weekly Legislative Update for a side-by-side comparison of some of the key immigration-related policy provisions that appear in the House- and Senate-passed versions of the Fiscal Year 2010 Homeland Security Appropriations Act. Next week's edition will contain a more complete side-by-side comparison of these two versions of the measure that focuses more completely on funding and enforcement matters that are addressed in the two versions of the measure. ◇

This Week's Executive Activity

Administration to Implement Contractor E-Verify

Rule: Beginning on Tuesday, September 8, 2009, the Administration will begin to implement a rule requiring most federal contractors and subcontractors to make use of the E-Verify System to verify the employment eligibility of their employees. Starting on Tuesday, federal contracts awarded and solicitations with a period of performance longer than 120 days and a value above \$100,000 must include a clause requiring federal contractors to use E-Verify. The same clause will also be required in subcontracts over \$3,000 for services or construction that flow from those prime contracts. These contractors and subcontractors must confirm that all new hires and existing employees directly performing work under federal contracts are authorized to work in the United States.

Background. The E-Verify federal contractor rule implements Executive Order 12989 (EO), as amended by President George W. Bush on June 6, 2008, which directs all federal departments and agencies to require contractors, as a condition of each future federal contract, to agree to use an electronic employment eligibility verification system designated by the Secretary of Homeland Security to verify the employment eligibility of all persons hired during the contract term and for all persons performing work within the United States on that federal contract.

At a June 9, 2008, press conference, then Secretary of Homeland Security Michael Chertoff, designated E-Verify as the electronic employment eligibility verification system that all federal contractors must use. The Department of Homeland Security proposed a rulemaking implementing the executive order in the Federal Register. The proposed rule sought to amend the Federal Acquisition Regulation (FAR), the principal set of rules in the Federal Acquisition Regulations System that governs the "acquisition process" through which the federal government purchases goods and services.

In a final rule published in the November 14, 2008, Federal Register, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council amended the FAR to require that certain federal contractors and subcontractors use the federal government's E-Verify program to verify that all new hires and current employees directly performing work under federal contracts must be authorized to work in the United States. Specifically, the final rule inserts a clause into prime federal contracts with a period of performance longer than 120 days and a value above \$100,000 requiring the use of E-Verify. For subcontracts that flow from those prime contracts, the rule extends the E-Verify requirement for services or for construction with a value over \$3,000.

In December 2008, a coalition of business groups, led by the Chamber of Commerce's National Chamber Litigation Center, filed suit challenging the legality of an Executive Order and related federal procurement regulations. The Obama Administration delayed the effective date of the rule four before completing its review of the rule and announcing in July of 2009 that the rule would go forward. ☼ ◇

August Recess News and Actions

Congress Returns from August Recess With No New Clarity on Timing of and Prospects for Congressional Action on Comprehensive Immigration Reform:

Congress has returned to Washington from a five week-long August recess that brought no new clarity to the likely fate in the 111th Congress of comprehensive immigration reform legislation. Indeed, as Congress prepares to settle in for what will likely be a prolonged Fall, the prospects for enactment of comprehensive immigration reform appear more cloudy than ever.

During the August recess, the Senate lost long-time immigration champion Senator Edward M. Kennedy (D-MA) to brain cancer. And it lost its only Republican Latino, Senator Mel Martinez (R-FL), to an abrupt and unexplained retirement, two developments that cast a shadow on the prospect of bipartisanship in immigration reform. In addition, in an August 10, 2009, press conference at the end of a summit in Guadalajara, Mexico between the leaders of the United States, Mexico, and Canada, President Barack Obama stated his expectation that Congress should not act on comprehensive immigration reform legislation until sometime in early 2010. He said that consideration of a comprehensive immigration reform bill would have to be put behind several other high-profile issues, such as health care reform, energy reform, and financial regulatory reform. The President asserted that it would not be easy to reach consensus on a comprehensive immigration reform bill, a matter that he said would be subject to much demagoguery from opponents. But he stated the issue was important to him and the nation.

Members and Senators convened dozens of boisterous town hall meetings on health care reform during the August recess. The angry tone of those town hall meetings have been widely credited with sullyng the prospects for progressive health care reform, by first, reinforcing the natural hesitancy of moderate-to-conservative Democrats to support a progressive plan; second, prompting the media to write a new, more negative narrative about health care reform; and third, taking a heavy toll on the prospects for Democrats in the 2010 House and Senate elections; and fourth, taking a heavy toll on President Obama's store of political capital.

The tactics that opponents of health care reform used during the August recess, and the results that those tactics have produced, could well serve as a preview of the tactics that immigration restrictionists will employ should Congress decide to take up the issue any time soon.

President Obama dropped by a day-long White House meeting of close to 100 immigration reform advocates during the August recess, mouthing words of encouragement. However, not only did the President's words do little to assuage impatient Washington-based pro-immigration reform advocates. But when those words were combined with stepped up immigration enforcement actions that the Obama Administration has undertaken of late, they enraged many pro-immigration reform advocates in the field, prompting calls for protests against the Obama Administration for its perceived inaction on immigration reform and its proactive actions on immigration enforcement.

Against this backdrop, work continues behind the scenes in Congress to draft comprehensive immigration reform legislation that will not likely be unveiled until well into the Fall of 2009. However, no committee or floor action is in sight in either the House or the Senate. Many advocates fear that once Congress enters 2010, the impending primary and general elections will make it highly unlikely that it will take up comprehensive immigration reform legislation.

While little action on immigration matters is expected to occur this week, advocates and policymakers interested in immigration reform should keep their eyes on next week. House and Senate conferees are expected by then to reach some critical decisions on a number of immigration policy matters that are in contention in the fiscal year 2010 Homeland Security Appropriations bill. The Federation for American Immigration Reform (FAIR), the nation's leading immigration restrictionist organization, has organized a massive lobby week for next week. And President Obama, Representative Luis Gutierrez (D-IL), and Senator Bob Menendez (D-NJ) are expected next week to make important remarks before the Congressional Hispanic Caucus Institute's Policy Conference. ◇

Recently Introduced Legislation

Congress has been in recess for the last four weeks. Accordingly, no immigration- or refugee-related bills were introduced last week. ◇

Bills in Development

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

House

Representative Gutierrez Working on Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), who chairs the Congressional Hispanic Caucus' Immigration Task Force, has become the first member of the U.S. House of Representatives to stick his toe into the comprehensive immigration reform bill derby. Representative Gutierrez was quoted last week by the Capitol Hill newspaper Roll Call as saying he planned to draft a comprehensive immigration reform bill and would ready to introduce it sometime in September. The newspaper reported that Representative Gutierrez intends to combine provisions from the bill that Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY) is drafting with provisions from [H.R. 1645](#), legislation that Gutierrez introduced during the 110th Congress along with Representative Jeff Flake (R-A) that was known as the "Security Through Regularized Immigration and a Vibrant Economy Act of 2007" Act, or the STRIVE Act.

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

Members Working on Violence Against Women Technical Corrections Bill:

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

Victims Act of 2009”, a measure that the Senate Committee on the Judiciary approved on May 7, 2009.¹³¹⁴

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

More specifically—

- **Extension of T Nonimmigrant Status.** Section 114 of S. 327 would amend section 214(o)(7) of the Immigration and Nationality Act to allow an alien to apply for an extension of her T nonimmigrant visa retroactively after the expiration of the visa.¹³¹⁵

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

- **T and U Nonimmigrant Protections.** Section 115 would amend section 107(b)(1)(E)(i)(II)(aa) of the Trafficking Victims Protection Act of 2000 to permit U visa victims to get work authorization while their case is being adjudicated if they can show prima facie evidence that they meet the qualifications of the visa. This would lower the standard in current law, which currently requires them show bona fide evidence.
- **Nonimmigrant Adjustment of Status.** Section 116 would amend Section 245(m)(3) of the Immigration and Nationality Act to permit an unmarried sibling (under the age of 18) of a U visa holder to adjust her status along with the victim.¹³¹⁶

¹³¹⁴ 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

¹³¹⁵ The T nonimmigrant visa is available for up to 5,000 victims of “severe forms of trafficking” per year. Severe forms of trafficking include: the use of force, fraud, or coercion for sex trafficking and/or involuntary servitude, peonage, debt bondage, or slavery.

¹³¹⁶ The U nonimmigrant visa is available for up to 10,000 victims of specific crimes per year who cooperate in the investigation or prosecution of the persons charged with the criminal activity. Crimes covered include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact; prostitution; sexual exploitation, female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

- **Housing Assistance for Qualified Aliens.** Section 117 would amend Section 214 of the Housing and Community Development Act of 1980 to permit alien victims of domestic violence to remain eligible for public housing if the perpetrators of violence against them have been evicted from or otherwise have left public housing.

Senate

Chairman Schumer Working on Comprehensive Immigration Reform Bill:

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

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

- Illegal immigration is wrong, and a primary goal of comprehensive immigration reform must be to dramatically curtail future illegal immigration.
- Operational control of our borders—through significant additional increases in infrastructure, technology, and border personnel—must be achieved within a year of enactment of legislation.
- A biometric-based employer verification system—with tough enforcement and auditing—is necessary to significantly diminish the job magnet that attracts illegal aliens to the United States and to provide certainty and simplicity for employers.
- All illegal aliens present in the United States on the date of enactment of our bill must quickly register their presence with the United States Government—and submit to a rigorous process of converting to legal status and earning a path to citizenship—or face imminent deportation.

- Family reunification is a cornerstone value of our immigration system. By dramatically reducing illegal immigration, we can create more room for both family immigration and employment-based immigration.
- We must encourage the world's best and brightest individuals to come to the United States and create the new technologies and businesses that will employ countless American workers, but must discourage businesses from using our immigration laws as a means to obtain temporary and less-expensive foreign labor to replace capable American workers; and finally
- We must create a system that converts the current flow of unskilled illegal immigrants into the United States into a more manageable and controlled flow of legal immigrants who can be absorbed by our economy.

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

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

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

The House of Representatives passed [H.R. 2410](#), the House version of Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, on Wednesday, June 10, 2009. As passed by the House, the measure contains among its many provisions

numerous provisions making reforms to the United States refugee admissions process.¹³¹⁷

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

Over the Horizon ...

Congress returns to Washington this week after a five week-long recess. Upon its return, it will face a crowded legislative agenda that includes a number of measures that contain significant immigration- and refugee-related provisions.

The immigration- and refugee-related matters that Congress will likely address beginning this week includes--

- **Health Care Reform.** The fate of legal immigrants, legal nonimmigrants, and undocumented aliens in the health insurance reform debate;
- **The E-Verify System.** The fate of several pending legislative provisions that would extend and revise authorization for the E-Verify System, including Senate-passed proposals to permanently extend the program, require its use by federal contractors, and permit employers to use the system to verify the employment eligibility of existing employees.
- **SSA No-Match Letters.** The fate of a Senate-passed proposal to force the Administration to issue SSA No-Match letters to employers when Social Security Administration data conflicts with tax data.
- **Fencing Between the U.S. and Mexico.** The fate of a Senate-passed provision that would reduce the Administration's flexibility in building fencing between the U.S. and Mexico and authorize the construction of additional fencing between the two countries;
- **Expiring Immigration Programs.** The fate of provisions passed by either the House or Senate to extend the Conrad State 30 visa program that serves medically underserved communities, the Special Immigrant Non-Minister Religious Worker Visa program, and the EB-5 Investor Visa Regional Centers program;
- **Refugee Appropriations.** The amount of funding that will be included in the regular appropriations bills for

¹³¹⁷ See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provision that are included in the House-passed version of H.R. 2410

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

- **Refugee Admissions Consultation.** The number and nature of refugees whom the United States will admit in fiscal year 2010.

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

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

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

Bicameral

Conferees Have Significant Differences on Immigration to Resolve on Fiscal Year 2010 Homeland Security Appropriations Bill:

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

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

- **House Committee Actions.**

4. On June 8, 2009, the House Appropriations Subcommittee on Homeland Security marked up its

version of H.R. 2892, forwarding the measure to the full House Committee on Appropriations.¹³¹⁸

5. On June 12, 2009, the full House Committee on Appropriations held a markup session, ordering that the bill be reported to the full House of Representatives as an original measure.¹³¹⁹
6. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.¹³²⁰

- **House Floor Actions.**

2. On June 24, 2009, the full House of Representatives took up H.R. 2892, passing it by a vote of 389-37¹³²¹

- **Senate Committee Actions.**

3. On June 17, 2009, the Senate Appropriations Subcommittee on Homeland Security marked up its version of S. 1298, forwarding the measure to the full Senate Committee on Appropriations.
4. On June 18, 2009, the full Senate Committee on Appropriations held a markup session, approving [S. 1298](#)¹³²² and formally reporting the measure to the full Senate.¹³²³

- **Senate Floor Actions.**

3. On July 7, 2009, the full Senate took up H.R. 2892, considering the text of S. 1298 for the purposes of floor amendments.

¹³¹⁸ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 8, 2009, House Appropriations Subcommittee on Homeland Security markup of the fiscal year 2010 Homeland Security Appropriations bill

¹³¹⁹ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 12, 2009, full House Appropriations Committee markup of the fiscal year 2010 Homeland Security Appropriations bill

¹³²⁰ See Pages 703-707 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2892

¹³²¹ [House Roll Call No. 450](#), June 24, 2009

¹³²² [S. Rept. 111-31](#), June 18, 2009

¹³²³ See Pages 673-678 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 18, 2009, Senate Appropriations Committee and the June 17, 2009, Senate Appropriations Subcommittee on Homeland Security markup of the Fiscal Year 2010 Homeland Security Appropriations bill

4. On July 9, 2009, the full Senate passed its version of H.R. 2892 by a vote of 84-6.

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

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

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

Side-by-Side Comparison. See the Appendix section of this week's edition of the Weekly Legislative Update, which is found on pages 928-932 of the this week's edition, for a side-by-side comparison of some of the key immigration-related policy provisions that appear in the House- and Senate-passed versions of the Fiscal Year 2010 Homeland Security Appropriations Act. ☼

****Secretary Clinton to Meet with House and Senate Judiciary Committee Leadership on FY '10 Refugee Admissions:** Secretary of State Hillary Rodham Clinton has scheduled separate meetings on Thursday, September 17, 2009, with the leadership of the

House and Senate Committees on the Judiciary to consult on U.S. refugee admissions for fiscal year 2010. The Secretary will meet with the Senate Committee on the Judiciary in on the morning of September 17 and with the House Committee on the Judiciary on the afternoon of September 17. Both meetings will be closed to the public.

House

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

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

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

At the time of this writing, the Committee had yet to formally report the measure to the full House.¹³²⁴

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

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

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

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

¹³²⁴ See Page 847 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in House Financial Services Committee-approved version of H.R. 3045

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

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

- **House Committee on the Judiciary.** The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has approved four bills that contain significant immigration-related provisions and now await consideration by the full House Committee on the Judiciary:

1. [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009";
2. [H.J. Res. 26](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously;
3. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act; and
4. [H.R. 1425](#), the "Wartime Treatment Study Act".

The Subcommittee approved the first three measures during markups that occurred on Thursday, July 23, 2009, and Friday, July 24, 2009.¹³²⁵ It approved the last bill in a markup that occurred on Friday, July 31, 2009. No full committee markup of the measures had been scheduled at the time of this writing.¹³²⁶

- **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

¹³²⁵ See Pages 849-850 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 3290, H.J. Res. 26, H.R. 42, three bills that were approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during two days of markup beginning on July 23, 2009

¹³²⁶ See Pages 883-884 of the [August 3, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 1425, which was approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during its July 31, 2009, markup

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.¹³²⁷

Senate

**Senate Judiciary Panel Cancels Hearing on Employment-Based Immigration:

The Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security is not expected to reschedule a hearing that it twice has canceled on how best to structure our employment-based immigration system for the future.

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

**Senate Panel to Hold Hearing on Violence Along the U.S.-Mexico Border:

The Senate Committee on Homeland Security and Governmental Affairs has scheduled a hearing for next week on Southern Border Violence at the U.S.-Mexico Border. The hearing is scheduled for 2:00 pm on Wednesday, September 16, 2009, in Room SD-342 of the Dirksen Senate Office Building.

At the time of this writing, the witness list for next week's hearing includes--

- Janet Napolitano, Secretary of Homeland Security;
- Victor E. Renuart Jr., Commander, North American Aerospace Defense Command and U.S. Northern Command, Department of Defense; and

¹³²⁷ 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

- Craig R. McKinley, Chief, National Guard Bureau, Department of Defense. ☼

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

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

- **Fiscal Year 2010 Immigration- and Refugee-Related Appropriations Bills.** The House of Representatives has passed three fiscal year 2010 appropriations bills that still await floor consideration in the Senate:

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

[The House-passed version of H.R. 3293](#)¹³²⁸ would appropriate \$432,000 less in ORR funding in fiscal year 2010 compared to the total fiscal year 2009 ORR appropriation.¹³²⁹ 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 2009.¹³³⁰

The Senate Committee on Appropriations reported [the Senate Appropriations Committee-approved version of H.R. 3293](#)¹³³¹ on August 4, 2009. It would appropriate more funding for refugee resettlement than would the House-passed bill. However, it would not fully fund the Administration's request for ORR.

The Senate could take up the Senate Appropriations Committee-approved version of H.R. 3293 at any

time. However, at the time of this writing, there was no word on when that will occur.

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

Included in the bill is a substantial increase in spending for the Executive Office for Immigration Review (EOIR); increased funding for legal orientation presentations to detained aliens; and continued funding for the State Criminal Alien Assistance Program (SCAAP), which the Obama Administration has proposed ending.¹³³²

The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#), reporting it to the full Senate.¹³³³

The Senate could take it up the Senate Appropriations Committee-approved version of H.R. 2847 at any time. However, at the time of this writing, there was no word on when the full Senate will take up the measure.¹³³⁴

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

Included in the House-passed measure are substantial increases in funding for Migration and Refugee Assistance (MRA) and International Disaster Assistance (IDA), relative to appropriations for those accounts during the regular fiscal year 2009 appropriations cycle. However, when supplemental fiscal year 2009 appropriations spending is taken into account, the House-passed

¹³²⁸ [H. Rept. 111-220](#), July 22, 2009

¹³²⁹ *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*

¹³³⁰ *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*

¹³³¹ [S. Rept. 111-66](#), August 4, 2009

¹³³² *See Pages 681-682 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2847*

¹³³³ [S. Rept. 111-34](#), June 25, 2009

¹³³⁴ *See Pages 702-703 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 25, 2009, Senate Appropriations Committee markup of H.R. 2847*

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 2009.¹³³⁵

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.¹³³⁶ 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.¹³³⁷ 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.¹³³⁸

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.¹³³⁹

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

(D-MA) is working on a version of the bill of his own that he could introduce as soon as late July.¹³⁴⁰

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

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

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

It was widely believed at the time that the House acted that the Senate Committee on Commerce, Science, and Transportation would address the issues that are included in H.R. 1029 when it took up [S. 1194](#), the Coast Guard Authorization Act for Fiscal Years 2010 and 2011. The Committee marked up the measure on Wednesday, July 8, 2009, however, without including any immigration-related provisions.¹³⁴¹ That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up. ☼

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

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

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

1. **Fiscal Year 2010 Appropriations for Refugee Resettlement and Unaccompanied Alien**

¹³³⁵ [H. Rept. 111-187, June 26, 2009](#)

¹³³⁶ [S. Rept. 111-44, July 9, 2009](#)

¹³³⁷ 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

¹³³⁸ 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

¹³³⁹ 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

¹³⁴⁰ 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

¹³⁴¹ 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

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.¹³⁴²

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

2. **Fiscal Year 2010 Appropriations for the Immigration Court System.** The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#),¹³⁴³ the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill (C-J-S Appropriations Bill), which funds the immigration court system, as well as funding a grant program that reimburses states for the costs they incur in incarcerating criminal aliens.

The Senate Appropriations Committee-reported version of H.R. 2847 would significantly increase funding for the Executive Office for Immigration Review (EOIR) and maintain funding for the State Criminal Alien Assistance Program (SCAAP), a program that the Obama Administration has sought to terminate.¹³⁴⁴

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

3. **Fiscal Year 2010 Appropriations for Refugee Admissions and Overseas Refugee Assistance.** The Senate Committee on Appropriations has approved [S. 1434](#), the Senate version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill,¹³⁴⁵ which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs.

The Senate Appropriations Committee-approved version of the measure would appropriate substantially more for the Migration and Refugee Assistance account than is contained in the House-passed version of the bill.¹³⁴⁶

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

- **Senate Committee on the Judiciary.**

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

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

It is anticipated that once the bill has been cleared by both the Democratic and Republican cloakrooms, the Senate will take it up by unanimous consent.¹³⁴⁷

- **Senate Committee on Homeland Security.**

1. **Revision of the REAL ID Act's Driver's License Provisions.** The Senate Committee on Homeland

¹³⁴² 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

¹³⁴³ [S. Rept. 111-34](#), June 25, 2009

¹³⁴⁴ See Pages 702-703 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for an analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of H.R. 2847

¹³⁴⁵ [S. Rept. 111-44](#), July 9, 2009

¹³⁴⁶ 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

¹³⁴⁷ 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

Security and Governmental Affairs has approved [S. 1261](#), the "Providing for Additional Security in States' Identification Act of 2009", or PASS ID Act, which would retain many of the alienage-related mandates that are found in the REAL ID Act.

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

S. 1261 would make a number of changes to the alienage-based restrictions on states' issuance of driver's licenses and identification cards. Some would ease those restrictions. Others would make them more rigorous.¹³⁴⁸

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

Executive Branch

****Agencies Must Report FY '11 Budget Requests to OMB By Next Monday:** Not a single fiscal year 2010 appropriations bill has been enacted into law yet. Nonetheless, agencies are deep into the process of preparing the fiscal year 2011 budget that President Obama will submit to Congress in February of 2010. Each federal agency and department has been instructed to submit its budget proposals to OMB by Monday, September 14, 2009. That submission will begin a time-worn process by which OMB will assemble the President's budget submission.

In a June 11 memo to agencies, OMB Director Peter R. Orszag outlined numerous requirements that agencies must follow in developing their new budget plans — including that they “further the President’s goals to encourage economic growth, invest in the future, and responsibly govern the Nation.” On discretionary spending, unless OMB says otherwise, agencies cannot exceed the fiscal 2011 “outyear” level that was proposed for each individual agency in Obama’s fiscal 2010 budget. Agencies are required to prepare two alternative budgets: a freeze at Obama’s fiscal 2010 requested level, and a five percent reduction from the fiscal 2011 outyear level. Each agency’s budget also must include at least five “significant terminations, reductions, and

administrative savings initiatives. Orszag emphasized that agency budgets must comply with Obama’s intention that funding provided by the economic stimulus law be considered temporary, and not be built into an agency’s “base” budget.” Once OMB receives agency budget plans, it will evaluate the proposals and later in the year return to the agencies recommended changes (so-called “passbacks”) that agencies must incorporate into their proposals.¹³⁴⁹ ☀ ◇

Next Week’s Edition ...

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

- **FY '10 Appropriations for the Immigration Court System.** Next week’s Weekly Legislative Update will report on any Senate floor action that occurs this week on H.R. 2847, Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill, which funds the nation's immigration court system and federal reimbursements to states for the costs they bear in incarcerating criminal aliens.
- **Homeland Security Appropriations Conference.** Next week’s Weekly Legislative Update will report on any formal or informal action Congress undertakes to resolve differences between the House- and Senate-passed versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill, which funds immigration enforcement, immigration services, and border security departments, agencies, programs, activities, and functions of federal government. Congress must resolve the differing versions of the measure by October 1, 2009, the date on which fiscal year 2010 begins. The two versions of the measure differ significantly on immigration policy matters, as well as in appropriations for the U.S. Citizenship and Immigration Services component of the Department of Homeland security.
- **Refugee Admissions Consultation.** Next week’s Weekly Legislative Update will preview the upcoming September 17, 2009, refugee admission consultation between Secretary of State Hillary Rodham Clinton and the leadership of the House and Senate Judiciary Committees.
- **Treatment of Immigrants and Nonimmigrants in Health Care Reform.** Next week’s Weekly Legislative Update will report on any action in the Senate that bears

¹³⁴⁸ 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

¹³⁴⁹ [Click Here](#) to see the text of the June 11, 2009, memorandum sent by Office of Management and Budget Director Peter R. Orszag to the heads of each federal department and agency on the preparation of the Obama Administration's fiscal year 2011 budget submission

on the treatment of immigrants and nonimmigrants under pending health care reform legislation. ◇

Appendix

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

Last Updated: Monday, July 20, 2009

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

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

Item	Issue	House Bill	Senate Bill
1.	Funding for Immigration Services Ombudsmen	<p>The House-passed version of H.R. 2892 would appropriate \$6.685 MILLION for the Citizenship and Immigration Services Ombudsman.</p> <p>The committee report accompanying the House bill notes that this would be \$250,000 less than the amount the Administration requested and \$214,000 more than was provided in fiscal year 2009 for that purpose.</p>	<p>The Senate-passed version of H.R. 2892 would appropriate \$6.685 MILLION for the U.S. Citizenship and Immigration Services Ombudsman.</p> <p>The committee report accompanying the Senate bill notes that this would be \$250,000 less than the amount the Administration requested and \$214,000 more than was provided in fiscal year 2009 for that purpose.</p> <p>The report defended the Committee's decision by noting that "[f]unds are decreased below the request due to the delay in filling full-time permanent positions within this office."¹³⁵⁰</p>
2.	Direct Appropriations for Refugee and Asylum Adjudications	<p>The committee report accompanying the House version of H.R. 2892 notes that the measure would directly appropriate \$100 MILLION in fiscal year 2010 for refugee and asylum adjudications, which is \$106 MILLION less than the Administration requested and \$206 MILLION than was appropriated for this purpose in fiscal year 2009.</p> <p>Language in the House committee report precludes USCIS from using those funds until it publishes a new final rule implementing a new schedule of fees for immigration applications.¹³⁵¹</p>	<p>The committee report accompanying S. 1298, the Senate version of H.R. 2892, notes that the Committee rejected the Administration's proposal that refugee and asylum adjudications be funded by a direct appropriation of \$201 MILLION rather than by continuing the current practice of assessing a surcharge on fees paid by applicants for other immigration services.</p> <p>Language in the Senate committee report indicates that the Committee was directing the Department of Homeland Security "to submit a reprogramming within 30 days after the date of enactment of this act, to reflect the continuation</p>

¹³⁵⁰ [S. Rept. 111-31](#), Page 10

¹³⁵¹ [H. Rept. 111-157](#), Pages 128-131

Item	Issue	House Bill	Senate Bill
			of these activities as fee funded." ¹³⁵²
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. ¹³⁵³	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." ¹³⁵²
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.¹³⁵⁴</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."¹³⁵²</p>
5.	Basic Pilot/E-Verify Program	<p>The House-passed version of H.R. 2892 would appropriate a total of \$162 MILLION for the Basic Pilot/E-Verify Program, \$50 MILLION more than the Administration requested.¹³⁵⁵</p> <p>In addition to appropriating funds for the E-Verify program, the House-passed version of H.R. 2892 would--</p> <ul style="list-style-type: none"> • Extend the program for three years 	<p>The Senate-passed version of H.R. 2892 would appropriate a total of \$118.5 MILLION for the Basic Pilot/E-Verify Program, \$6.5 MILLION more than the Administration requested.</p> <p>In addition to appropriating funds for the E-Verify program, the Senate-passed version of H.R. 2892 would--</p> <ul style="list-style-type: none"> • Permanently extend the program¹³⁵⁷

¹³⁵² [S. Rept. 111-31](#), Page 117

¹³⁵³ [H. Rept. 111-157](#), Pages 128-131

¹³⁵⁴ [H. Rept. 111-157](#), Pages 131-132

¹³⁵⁵ 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

¹³⁵⁷ 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

Item	Issue	House Bill	Senate Bill
		<ul style="list-style-type: none"> • Make reforms to protect the Social Security Administration. <p>The committee report accompanying the House version of H.R. 2892 notes that the most recent audit of the system “shows an unacceptably high rate of individuals falsely identified as ineligible to work.” It noted that “[o]f particular concern is the report’s conclusion that nearly 1 in 10 naturalized citizens is reported by Basic Pilot/E-Verify as non-work authorized.” The report strongly urges USCIS “to update and publish regular Basic Pilot/E-Verify accuracy and performance audits, so that Congress and Administration policy makers can remain informed of the system’s strengths and weaknesses.”</p> <p>The report also expresses the Committee’s strong support for efforts by USCIS “to establish a compliance group to monitor use of the Basic Pilot/E-Verify system and to ensure that companies enrolled in the program are not using it to take inappropriate or illegal employment actions.” The draft report notes that the Committee-approved bill will accommodate the Administration’s request to hire 40 Monitoring and Compliance staff “to ensure the system is not used for prohibited purposes.”¹³⁵⁶</p>	<ul style="list-style-type: none"> • Formally rename it the E-Verify Program¹³⁵⁷ • Require federal contractors to use the E-Verify program to verify the employment eligibility of their employees¹³⁵⁷ • Permit employers using the E-Verify System to use it to verify the work eligibility of existing employees, not just new-hires¹³⁵⁸ <p>The committee report accompanying the Senate version of H.R. 2892 includes an extensive write-up on the E-Verify program, defending and expressing support for it. After explaining why it thinks USCIS has made great improvements in the program, the report goes on to state that, “[g]iven the concerns by some of the general public with E-Verify, the Committee urges USCIS to continue to work to enhance the system to further improve performance, to continue its public outreach and education campaign, and to perform a new, independent evaluation of the system during the first quarter of fiscal year 2010.”</p>
6.	EB-5 Regional Centers	There is no provision in the House-passed version of H.R. 2892 relating to EB-5 Regional Centers	Sec. 549 of the Senate-passed version of H.R. 2892 would permanently extend the EB-5 Regional Center Program. ¹³⁵⁹

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

¹³⁵⁶ [H. Rept. 111-157](#), June 16, 2009, Page 131

¹³⁵⁸ *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*

¹³⁵⁹ *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*

Item	Issue	House Bill	Senate Bill
7.	Special Immigrant Non-Minister Religious Worker Visas Program	There is no provision in the House-passed version of H.R. 2892 relating to the Special Immigrant Non-Minister Religious Worker Visas Program.	Sec. 571(a) of the Senate-passed version of H.R. 2892 would extend for three years the Special Immigrant Non-Minister Religious Worker Visa Program, extending it through September 30, 2012. The provision also would require U.S. Citizenship and Immigration Services to conduct a study and report on certain aspects of the program. ¹³⁶⁰
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 ¹³⁶¹ , extending it through September 30, 2012. ¹³⁶⁰
9.	Relief for Widows and Orphans	There is no provision in the House-passed version of H.R. 2892 relating to relief for widows and orphans.	Sec. 571(c) of the Senate-passed version of H.R. 2892 would protect widows, widowers and orphans of deceased U.S. citizens and legal permanent residents who are in the family immigration system by allowing widows, widowers and orphans, to immigrate on a family-based visa despite the death of a petitioner. ¹³⁶⁰
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	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. More specifically, Sec. 560 of the Senate-passed version of H.R. 2892 would -- <ul style="list-style-type: none"> • require that construction of the mandated 700 miles of fencing be completed by December 31, 2010; • provide that fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under the law; and • provide that funds for fence construction may not be withheld for failure to comply with consultation requirements. Sec. 560 of the Senate-passed version of H.R.

¹³⁶⁰ 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

¹³⁶¹ 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).

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Item	Issue	House Bill	Senate Bill
			2892 also would impose reporting requirements on the Administration with regard to the construction of fencing along the U.S. border with Mexico. ¹³⁶²
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” ¹³⁶³



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¹³⁶² 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

¹³⁶³ 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