

Friends,
Following is a comprehensive report on the current state of immigration reform.

But first, please allow me to correct the record about the Center for Immigration Studies poll <<http://cis.org/ReligionAndImmigrationPoll>> that came out last week, claiming that religious leaders who support immigration reform are out of touch with the "pews." There are many problems with this poll, from incredibly leading questions to the fact that it was an opt-in internet-based poll which makes it a non-representative sample of the general public. For talking points as to problems with this poll and more accurate numbers, please see this memo from Public Religion Research:
<http://networkedblogs.com/p23102513>. The fact remains, however, that we still have a lot of work to do to educate, organize and mobilize the people in our congregations!

From: Maurice Belanger, National Immigration Forum
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Congress is out for its end-of year recess. The House will return the week of January 11 and the Senate will return the following week.

With the Senate having finally passed a health care reform bill, the Senate and the House will work this month to reconcile their respective versions of the bill. The reconciled version must then go back to the House and Senate for a final vote before being sent on to the President. The new goal is to finish before the President's State of the Union speech. (The date for which has not yet been set.)

Through the entire first session of the 111th Congress, the timeline for immigration reform repeatedly slipped, as the health care debate dragged on.

Despite the partisan gridlock that has characterized this Congress so far, there were some positive developments on the legislative front, as well as with the Obama Administration.

Developments in Congress

Shift in the key players: Even before he passed away from a brain tumor, Senator Edward Kennedy stepped down from the Immigration Subcommittee in the Senate. Senator Kennedy had been central to every major immigration bill since 1965, and he will be sorely missed as negotiators in the Senate try to find the right rhythm to gain the necessary support for reform. Kennedy was replaced as the Chair of the Immigration Subcommittee by New York Senator Charles Schumer, who has stated his determination to pass comprehensive immigration reform. In the Senate, the issue of immigration reform continues to benefit from the support of Senator Robert Menendez of New Jersey, who has championed a variety of measures in the first session, and from Majority Leader Harry Reid, who has indicated reform is a Senate priority. The new Senator from New York, Kirsten Gillibrand, who was appointed to fill the vacancy left by Hillary Clinton when she became Secretary of State, has also been helpful. She has been a lead co-sponsor on a number of immigration bills, including an integration bill and a detention reform bill.

In the House, two new players have stepped up to push for reform: Representative Joseph Crowley of New York organized a Dear Colleague letter addressed to President Obama asking for his help to move immigration reform forward. The letter was signed by 110 of Crowley's colleagues in the House. Another source of new energy on this issue in the House is Representative Jared Polis (D-CO), who is in his first term, and is Chairman of the Immigration

Task Force of the Progressive Caucus. David Price (D-NC), Chair of the Subcommittee on Homeland Security of the Appropriations Committee, has used his position to conduct more thoughtful and effective oversight of the Department of Homeland Security.

Comprehensive Reform Bill Introduced: Just before the House adjourned for the holidays, Representative Luis Gutierrez (D-IL) introduced a progressive immigration reform bill along with 90 of his colleagues, including members of the Congressional Hispanic Caucus, the Congressional Asian Pacific American Caucus, the Congressional Black Caucus, and the Progressive Caucus. The Comprehensive Immigration Reform for America's Security and Prosperity Act (CIR ASAP) would provide for a way for undocumented immigrants to gain legal status and it would update our admissions systems to deal with untenable backlogs in the family- and employment-based immigration systems. (We briefly summarized the bill in a [recent Policy Update](#) and you can get more information, including links to the full text and summaries, link to a current list of co-sponsors, and related information on comprehensive reform, on our Web site on [this page](#).)

Restrictionists Thwarted: CIR ASAP capped off a session that was otherwise marked by the failure of immigration restrictionists to gain traction with the kind of onerous proposals and amendments that have become routine in recent years. For example, we saw repeated attempts to bring down the health care bill with anti-immigrant amendments that mostly went nowhere. In another example, a last-minute effort to change the 2010 Census so that it would ask about immigration status also failed handily.

Small Victories - Positive Proposals Pass: There were some legislative victories-small, but nonetheless positive. Going back to the beginning of the year, one of the first bills to become law was the State Children's Health Insurance Program (SCHIP). That bill contained a provision that allows states to waive a five-year waiting period to extend health care insurance benefits to legal immigrant children in low-income families. It was the first piece of legislation directly related to immigrants and immigration that passed this Congress.

The annual appropriations bill funding the Department of Homeland Security served as an example of both trends in this session. Efforts by restrictionists to continue to expand enforcement in the absence of reform were mostly thwarted (though some questionable enforcement programs, such as Secure Communities, received increases in funding), while at the same

time small improvements in the immigration system were made. Efforts by restrictionists to tack on more money for the border fence and to make E-Verify permanent and mandatory were turned back. Instead, the bill included, among other things, an increase in funding for alternatives to detention and extra money for U.S. Citizenship and Immigration Services for the processing of refugee applications and to fund immigrant integration programs.

This appropriations bill also included a fix to immigration law so that widows and orphans of U.S. citizens and permanent residents would not be removed from the U.S. if their U.S. family member dies before the immigration process is complete. In addition, three immigrant visa programs set to expire this year were extended for three years.

The appropriations bill for the Department of Justice also had some positive provisions, including more money for immigration judges and more money for Legal Orientation Programs-in which immigrants in detention are given information about their legal rights.

More Positive Bills Introduced: Aside from CIR ASAP, a number of bills were introduced (or re-introduced from previous Congresses) that show continued momentum for immigration reform. These include the DREAM Act, which would provide legal status to certain young people who had graduated from U.S. high schools, and AgJOBS, providing legal status to certain immigrant farm workers. The Reuniting Families Act was introduced in the Senate and the House, to update the family-based immigration system and reduce family immigration backlogs.

Other bills were introduced as well, including bills to require better treatment for immigrants in detention, a bill to protect U.S. citizens and permanent residents from being swept up in immigration enforcement actions, a bill to protect children separated from parents or caregivers during immigration enforcement activities, and a bill to promote immigrant integration.

Congress Exercises its Oversight: There were a number of hearings on various aspects of the immigration system. For example, there were hearings on [conditions of immigration detention](#), on [electronic employment verification systems](#), on smart and effective border enforcement strategies,

on [immigration enforcement priorities](#), on [state and local immigration enforcement](#), and on other topics.

Administrative Reforms

While changes in law take an act of Congress, there are many policy shifts that can be made by the administration because it already has the authority to do so. In the past year, the Obama administration has made many policy changes that were positive.

Arriving Asylum Seekers to be Screened for Release: In December, ICE issued a [policy directive](#) to all Detention and Removal Operations personnel regarding the consideration for release of all incoming asylum seekers who demonstrate a credible fear of persecution if returned to their country of origin. Under the new guidance, these individuals will be automatically screened by ICE for possible release while their case is pending. In recent years, applicants had to petition for release in writing, which in most cases would only occur if the detainee was represented by an attorney.

Detention Reforms: In August and October, DHS announced a series of [detention reforms](#) that included, among other things, increasing oversight accountability of contracted detention centers; a move toward detaining immigrants in facilities appropriate to the risk they represent (instead of jailing everyone as if they were criminals) and expanding the use of alternatives to detention; and improving the medical care system for immigrants in detention. The most tangible change so far has been an end of family detention at the T. Don Hutto facility in Texas.

Raids: ICE [shifted its worksite enforcement](#) to prioritize the prosecution of employers who knowingly hire undocumented workers, de-emphasizing the para-military sweeps of worksites where guns and dogs were employed to round up workers. (On the other hand, the audits now being conducted of employer immigration-related records are still leading to large-scale firing of workers.) **No-Match Rule Rescinded:** A regulation issued late in the Bush Administration directed employers to take certain steps if they receive a letter from the Social Security Administration saying that the SSA's records don't match the records the employer submitted concerning an employee. The Bush Administration would have essentially required the firing of employees with mis-matched Social Security records. [The rule was rescinded.](#)

A Shift in Border Priorities: DHS has been shifting some of its resources allocated to securing the Southwest border to focus on reducing border violence. This includes the detection and interdiction of guns and cash from the U.S. bound for Mexico's drug cartels. **Budget requests:** In its budget submitted to Congress, the

Administration requested funding for a number of positive initiatives. Among them: money for the Southwest border security initiative (mentioned above); money to improve the immigration detention system; funding for an immigrant integration initiative; and funding for the processing of refugee and asylum applications (which would pave the way for a reduction of the surcharge applied to applications for other immigration benefits). **287(g):** ICE re-vamped its agreements with local law enforcement agencies that want to cooperate with ICE to identify and detain removable non-citizens. The new agreements put a clearer focus on ICE priorities to remove dangerous criminals first and, in theory, will lead to greater accountability. (The jury is still out on whether the new agreements will be any better than the old.) **Civil Rights Investigation of Sheriff Arpaio:** The Department of Justice has launched an investigation of Arizona Sheriff Joe Arpaio for allegedly violating the rights of thousands of Latinos. (On the other hand, ICE renewed an agreement with Arpaio to help ICE identify and remove undocumented immigrants in the county jails.) **Relief for Widows and Widowers:** In June, Secretary Napolitano granted "deferred action" for widows and widowers of US Citizens, as well as unmarried children under 18, whose residence was conditional on the petition of the deceased citizen. Permanent relief for widows, widowers, and related children under 18 years of age who were being sponsored by a U.S. Citizen or Permanent Resident was subsequently passed into law, as mentioned above. **H-2A Rules Rescinded:** In its last days, the Bush Administration finalized rules governing the H-2A agricultural worker program that many farmworker advocates objected to. The Obama administration unsuccessfully attempted to suspend the Bush Administration rules (that effort was overturned in court) and has subsequently proposed new rules governing the H-2A program that will be more to the liking of pleasing to worker advocates. **Elimination of Arrests Quotas:** The Administration ended arrest quotas imposed on ICE Fugitive Operations Teams. There had been reports of Fugitive Operations Teams breaking into homes and arresting not the targeted fugitives, but anyone who happened to be in the home. (On the other hand, statements made by ICE Assistant Secretary John Morton indicate that ICE may still detain anyone who Fugitive Operations Teams come upon in the course of an operation-they just won't count against a quota.) **End to HIV Infection as a Bar to Entry:** The Administration has removed HIV infection from a list of diseases that made a person ineligible to enter the U.S. or adjust their status. **Remedy for Ineffective Assistance of Counsel:** In June, Attorney General Eric Holder [vacated](#) a Bush Administration ruling that made it much more difficult for immigrants to appeal their removal proceedings based on ineffective assistance of counsel.

Not all changes have been positive--requiring federal contractors to use the E-Verify electronic worker verification system comes to mind. However, there are limits to the Administration's power in the context of laws that mandate more enforcement and more spending on enforcement.

Outside these specific administrative changes, the Justice Department Civil Rights Division is being revived under the leadership of Tom Perez, and the Administration, led by DHS Secretary Napolitano, has been actively organizing to prepare for the comprehensive reform debate in Congress-meeting in inter-agency groups and meeting with stakeholders around the country.

Organizing

While Congress has delayed, Reform Immigration FOR America has spent the last few months feverishly organizing an enormous coalition of people of faith, labor, civil rights, business and community organizations and leaders. Since the launch of the Campaign in June, it has won the endorsement of more than 600 organizations. There have been thousands of campaign events across the country in nearly every state, where people of faith, law enforcement, labor unions, elected officials, and business leaders came together to demonstrate the urgent need for comprehensive immigration reform. Campaign supporters have collectively contacted their Members of Congress hundreds of thousands of times by fax, e-mail, and phone. In November, the campaign conducted a national telephonic press conference with Representatives Gutierrez, Grijalva, and Velazquez. More than 60,000 Americans participated on the call at more than 1,000 house parties in 45 states. All of this activity by immigration reform supporters dwarfs past immigration reform efforts. On January 12-14 the campaign has planned a major escalation and organized more than a 100 events nationwide to demonstrate the broad support behind comprehensive immigration reform, push Congress to act, and enlist even more Americans in the effort. The organizing has been noticed. In a [November speech](#) at the

Center for American Progress, DHS Secretary Janet Napolitano said that she had one thing that has changed since the last round of the immigration reform debate is that:

"a larger segment of the American public has embraced the need to engage this debate and arrive at a sensible solution to this problem. ... There are leaders of the law enforcement community speaking out, saying that immigration reform is vital to their ability to do their jobs keeping Americans safe. Faith leaders, including the National Association of Evangelicals, have announced their support for immigration reform as a moral and practical issue. We are seeing more business leaders and more labor leaders engaged in this debate in a constructive way than we have ever seen before.

To follow the activities of the Reform Immigration FOR America Campaign, [sign up for Campaign updates on the Campaign's Web site.](#)

What's Coming Up

In the second session, Congress will first take care of the unfinished business of the first session-namely, finishing the health care reform bill. There will be more brutal political fights as the right compromise between House and Senate bills takes shape, and with Republicans still angling to throw up more roadblocks as the bill approaches the finish line.

After health care, energy and climate change legislation, and reform of the financial system, are supposed to be at the top of the agenda. However, with unemployment still at the bottom of the arc of this recession, there is a lot of political pressure on Democrats to push through a jobs bill.

We still expect to see an immigration reform bill introduced in the Senate sometime in January or early February. As time passes and elections approach, however, Congress is more reluctant to take up controversial issues lest their position be used by opponents. On the other hand, leaving major problems to fester is not necessarily the ticket to re-election either. All this is to say that immigration

reform advocates will have to sustain unprecedented effort to make sure fixing the broken immigration system stays on the Congressional agenda.

DHS Secretary Janet Napolitano had been tasked by the President to lead the Administration's effort to work on comprehensive reform. For the immediate future, however, she will be focused on fixing the security breach that allowed a terrorist with explosive material on an airliner bound for the U.S. on Christmas day.

The success or failure of efforts to pass immigration reform in this Congress will depend on how much pressure Congress feels from constituents who want elected leaders to act to fix the broken immigration system. Advocates will have to make it clear with Members of Congress that they have more to fear from inaction than from attempting to solve another tough problem.

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