



**Legislative Bulletin.....August 1, 2011**

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**H.R. 398 — To amend the Immigration and Nationality Act to toll, during active-duty in the Armed Forces, the periods of time to file a petition and appear for an interview to remove the conditional basis for permanent resident status, and for other purposes (*Lofgren, D-CA*)**

**Order of Business:** The bill is scheduled to be considered on Monday, August 1, 2011 under a motion to suspend the rules requiring two-thirds majority vote for passage.

**Summary:** H.R. 398 extends the time periods of Department of Homeland Security (DHS) requirements to obtain permanent residency for alien spouses with conditional permanent residence and their U.S. citizen (or permanent resident) spouse if either spouse is an active-duty U.S. Armed Forces serviceman or servicewoman serving abroad.

**Additional Background:** Under current law, when a U.S. citizen or permanent resident marries an alien spouse, the alien spouse receives conditional permanent residency if the marriage occurred less than 24 months before the alien obtained permanent resident status. DHS will consider removing the alien spouse’s conditional permanent residency, if the couple files a petition 90 days before the 2<sup>nd</sup> anniversary of the alien spouse becoming a conditional permanent residency. DHS must conduct an interview with the couple to ensure requirements of a good-faith marriage within 90 days of the couple’s petition submission.

Logistical and practical difficulties result for spouses seeking to comply with both the 90-day petition filing and interview requirements when either spouse is on active-duty serving abroad with the U.S. Armed Forces. This bill allows both of the 90-day time periods to toll during the time period when one or both spouses are serving abroad in active-duty status.

**Committee Action:** Representative Zoe Lofgren (*D-CA*) introduced H.R. 398 on January 24, 2011. The House Judiciary Committee reported the bill out of committee by voice vote on January 26, 2011.

**Administration Position:** As of press time, no Statement of Administration Policy (SAP) has been released.

**Cost to Taxpayers:** The Congressional Budget Office (CBO) released a cost [estimate](#) for the bill on February 2, 2011 explaining that implementing this bill will have no significant cost to the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** The CBO report states that the bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Yes. The committee [report](#) states that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of House Rule XXI.

**Constitutional Authority:** The Constitutional Authority Statement accompanying the bill upon introduction states: “Congress has the power to enact this legislation pursuant to the following: Clause 4 of Section 8 of Article I of the Constitution.”

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## **H.R. 1933 - To amend the Immigration and Nationality Act to modify the requirements for admission of nonimmigrant nurses in health professional shortage areas (Smith, R-TX)**

**Order of Business:** The bill is scheduled to be considered on Monday, August 1, 2011 under a motion to suspend the rules requiring two-thirds majority vote for passage.

**Summary:** H.R. 1933 reauthorizes the H-1C temporary visa program for registered nurses for three years and caps the number of eligible visas at 300 each fiscal year.

**Additional Background:** The Nursing Relief for Disadvantaged Areas Act of 1999<sup>1</sup> created a new, four year H-1C temporary visa program for registered nurses to help

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<sup>1</sup> Public Law No. 106-95

address nursing shortages at specified hospitals that met certain criteria to petition for alien nurses. The visas were capped at 500 each fiscal year. Congress reauthorized the program in 2006 for an additional three years, and it expired in 2009.<sup>2</sup>

H.R. 1933 reauthorizes this H-1C nursing visas program for three years, limits the numbers of eligible visas to 300 each fiscal year (allowing the possibility for a three year additional extension), and allows H-1C nurses to be able to change employment between any of the H-1C-eligible hospitals.

The Department of Labor has determined that the following hospitals are eligible to participate in this H-1C nursing visa program<sup>3</sup>:

- Beaumont Regional Medical Center, Beaumont, TX;
- Beverly Hospital, Montebello, CA;
- Doctors Medical Center, Modesto, CA;
- Elizabeth General Medical Center, Elizabeth, NJ;
- Fairview Park Hospital, Dublin, GA;
- Lutheran Medical Center, St. Louis, MO;
- McAllen Medical Center, McAllen, TX;
- Mercy Medical Center, Baltimore, MD;
- Mercy Regional Medical Center, Laredo, TX;
- Peninsula Hospital Center, Far Rockaway, NY;
- Southeastern Regional Medical Center, Lumberton, NC;
- Southwest General Hospital, San Antonio, TX;
- St. Bernard Hospital, Chicago, IL; and
- Valley Baptist Medical Center, Harlingen, TX.

**Committee Action:** Judiciary Committee Chairman Lamar Smith (R-TX) introduced H.R. 1933 on May 23, 2011. The full committee reported it out of committee with an amendment by voice vote on June 23, 2011.

**Administration Position:** As of press time, there is no Statement of Administration Policy (SAP) is provided.

**Cost to Taxpayers:** The Congressional Budget Office (CBO) released a cost [estimate](#) for the bill on July 6, 2011 explaining that implementing this bill will have no significant cost to the federal government. It also stated that both the Department of State and Department of Homeland Security collect fees to process these visas. These fees are classified as offsetting receipts against direct spending and are not subject to the appropriations process. H.R. 1933 would have no significant effect on the collection and spending of these fees.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

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<sup>2</sup> Public Law No. 109-423. Some H-1C nurses remain who received approval for 3-year stays before the program expired.

<sup>3</sup> See 65 Fed. Reg. 51143 (2000); 75 Fed. Reg. 10396 (2010).

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. The CBO [report](#) states that the bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Yes. The committee [report](#) states that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of House Rule XXI.

**Constitutional Authority:** The Constitutional Authority Statement accompanying the bill upon introduction states: “Congress has the power to enact this legislation pursuant to the following: Article I, section 8, clause 4 of the Constitution.”

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## **H.R. 2480 — Administrative Conference of the United States Reauthorization of 2011 (Smith, R-TX)**

**Order of Business:** The bill is scheduled to be considered on Monday, August 1, 2011 under a motion to suspend the rules requiring two-thirds majority vote for passage.

**Summary:** H.R. 2480 reauthorizes the Administrative Conference of the United States (ACUS) for three years. Its fiscal year 2011 authorization at \$3.2 million expires on September 30, 2011<sup>4</sup>. The ACUS is an independent agency whose purpose is to analyze the Federal administrative law process and to provide Congress, the President, the Judiciary, and Federal agencies with recommendations and guidance. This three year reauthorization authorizes the ACUS at \$2.9 million for fiscal years 2012, 2013, and 2014.

**Additional Background:** Congress created ACUS in 1964 by passing the Administrative Conference Act of 1964<sup>5</sup>. Its purpose is to “study the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out administrative programs...” and make recommendations to federal policy decision makers in developing and implementing regulations.

ACUS consists of 101 members consisting of a Chairman, a 10 member council, and 90 other members whom represent each of the independent Federal regulatory agencies and executive departments as well as administrative law scholars, administrative law attorneys, and others “specially informed by knowledge and experience with respect to Federal administrative procedure.”

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<sup>4</sup> Public Law No. 110-290, the “Regulatory Improvement Act of 2007”

<sup>5</sup> Public Law No. 88-499.

The Judiciary Committee [report](#) highlights some notable ACUS recommendations federal agencies have adopted including:

- The Social Security Administration (SSA) saving \$59 million each year by limited use of video hearings;
- SSA's appeals process reforms yielding approximately \$85 million annually; and
- The Federal Deposit Insurance Corporation implementing a pilot program for the use of alternative dispute resolution that led to \$18 in savings in the first 18 months.

**Committee Action:** House Judiciary Chairman Lamar Smith (R-TX) introduced H.R. 2480 on July 8, 2011. The full committee reported the amended bill out of committee by voice vote on July 14, 2011.

**Administration Position:** As of press time, no Statement of Administration Policy (SAP) has been released.

**Cost to Taxpayers:** The Congressional Budget Office (CBO) issued a cost estimate for H.R. 1383 on July 15, 2011. The estimate states that assuming appropriations of the authorized amount, CBO estimates implementing H.R. 2480 would cost about \$9 million over the 2012-2016 period.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** According to the CBO estimate, the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Yes. The committee [report](#) states that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of House Rule XXI.

**Constitutional Authority:** The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, including but not limited to, Clauses 1, 3, and 18."

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**H.R. 2715—To provide greater authority and discretion to the  
Consumer Product Safety Commission (CPST) in enforcement of  
product safety laws (Bono-Mack, R-CA)**

**Order of Business:** The bill is scheduled to be considered on Monday, August 1, 2011 under a motion to suspend the rules and pass the bill.

**Summary:** Essentially, the bill makes several changes to the Consumer Product Safety Improvement Act (CPSIA) that have been identified as needed by the small business community and the Consumer Product Safety Commission (CPSC). Specifically, the bill amends CPSIA to provide for an exception to allow the CPSC to establish higher lead limits for children's products or component parts that cannot meet the applicable limit if the lead content serves a purpose. The legislation also provides an exemption for lead standards for youth standard ATVs, motorcycles and snowmobiles from CPSIA. The bill also allows metal parts of children's bicycles to meet 300 ppm lead limit instead of a 100 ppm.

Additionally, the bill requires the CPSC to seek within 60 days of passage a public comment period on opportunities to reduce the cost of third-party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation. After the CPSC determines the conformity and the extent the use of materials are subject to regulations of another government agency that requires third-party testing of whether those materials provide sufficient assurance of conformity to consumer product safety, the Commission has one year to prescribe new or revised third party testing regulations.

The CPSC must determine that the regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, and standards.

The bill requires the CPSC to take into account economic, administrative, or other limits on the ability of small batch manufacturers to comply with third party regulations and provides for exemptions for small batch manufactures that meet certain guidelines. The bill also expressly exempts "ordinary books" or "ordinary paper-based printed materials" and metal component parts of bicycles from third party testing requirements.

Finally, the bill establishes an application process for updating durable nursery products standards, repeals Food and Drug Administration enforced provisions from the mandatory toy standard, changes the application of phthalates limits from current law, allows the CPSC to exclude a specific product or class of products from the tracking label requirements, creates additional time to correct inaccuracies in the database, and allows CPSC to subpoena products and documents as need.

**Additional Background:** The Consumer Product Safety Modernization Act was introduced in response to a spike in the number of recalled children's toys manufactured in China. The vast majority of the toys were recalled because they contained dangerously high levels of lead. The House considered the bill on December 19, 2007, and passed it under a suspension of the rules by a vote of 407-0. The Senate version of the legislation, S. 2663, was passed on March 6, 2008, by a vote of 79-13. During the conference to resolve the differences between the House and Senate versions of the legislation, a number of key provisions became points of contention. Namely, the conferees wrangled over the specific amounts of lead that would be allowed in the manufacture of toys and other products; whether or not certain phthalates would be banned from children's products; whether federal laws regarding consumer product safety would preempt state regulations; and the age threshold used to define a children's product. The [conference report](#) passed the House by a vote of 424-1 on July, 30, 2008. On July 7, 2011, the Energy and Commerce Committee held a hearing on the implementation of Consumer Product Safety Improvement Act of 2008 (CPSIA) and [discussed](#) the implementation of the law.

**Committee Action:** None.

**Administration Position:** No Statement of Administration Policy is provided.

**Cost to Taxpayers:** A CBO report for the bill is unavailable at press time. However, the bill does not authorize any additional appropriations.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No, the bill arguably reduces private sector mandates.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** A Committee Report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available at press time. However, such a report is technically not required because the bill is being considered under a suspension of the rules.

**Constitutional Authority:** A statement regarding the Constitutional Authority of the bill was not available in the Congressional Record at press time.

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