

Xerox

111TH CONGRESS	}	HOUSE OF REPRESENTATIVES	REPORT
<i>1st Session</i>			

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DEPARTMENT OF HOMELAND SECURITY  
APPROPRIATIONS ACT, 2010

\_\_\_\_\_, 2009.—Ordered to be printed

\_\_\_\_\_, from the committee of conference,  
submitted the following

**CONFERENCE REPORT**

[To accompany H.R. 2892]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2892), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

1           and Immigration Services to improve the integ-  
2           rity of the program.

3           (3) PROGRESS REPORT.—Not later than 240  
4           days after the submission of the report under para-  
5           graph (2), the Director of United States Citizenship  
6           and Immigration Services shall submit a report to  
7           the Committee on the Judiciary of the Senate and  
8           the Committee on the Judiciary of the House of  
9           Representatives that describes the progress made in  
10          implementing the plan described in clause (a)(2)(B)  
11          of this section.

12          (b) CONRAD STATE 30 J-1 VISA WAIVER PRO-  
13          GRAM.—Section 220(c) of the Immigration and Nation-  
14          ality Technical Corrections Act of 1994 (8 U.S.C. 1182  
15          note) is amended by striking “September 30, 2009” and  
16          inserting “September 30, 2012”.

17          (c) RELIEF FOR SURVIVING SPOUSES.—

18                 (1) IN GENERAL.—The second sentence of sec-  
19                 tion 201(b)(2)(A)(i) of the Immigration and Nation-  
20                 ality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by

1 striking “for at least 2 years at the time of the citi-  
2 zen’s death”.

3 (2) APPLICABILITY.—

4 (A) IN GENERAL.—The amendment made  
5 by paragraph (1) shall apply to all applications  
6 and petitions relating to immediate relative sta-  
7 tus under section 201(b)(2)(A)(i) of the Immi-  
8 gration and Nationality Act (8 U.S.C.  
9 1151(b)(2)(A)(i)) pending on or after the date  
10 of the enactment of this Act.

11 (B) TRANSITION CASES.—

12 (i) IN GENERAL.—Notwithstanding  
13 any other provision of law, an alien de-  
14 scribed in clause (ii) who seeks immediate  
15 relative status pursuant to the amendment  
16 made by paragraph (1) shall file a petition  
17 under section 204(a)(1)(A)(ii) of the Immi-  
18 gration and Nationality Act (8 U.S.C.  
19 1154(a)(1)(A)(ii)) not later than the date  
20 that is 2 years after the date of the enact-  
21 ment of this Act.

1 (ii) ALIENS DESCRIBED.—An alien is  
2 described in this clause if—

3 (I) the alien's United States cit-  
4 izen spouse died before the date of the  
5 enactment of this Act;

6 (II) the alien and the citizen  
7 spouse were married for less than 2  
8 years at the time of the citizen  
9 spouse's death; and

10 (III) the alien has not remarried.

11 (d) SURVIVING RELATIVE CONSIDERATION FOR CER-  
12 TAIN PETITIONS AND APPLICATIONS.—

13 (1) AMENDMENT.—Section 204 of the Immi-  
14 gration and Nationality Act (8 U.S.C. 1154) is  
15 amended by adding at the end the following:

16 “(1) SURVIVING RELATIVE CONSIDERATION FOR  
17 CERTAIN PETITIONS AND APPLICATIONS.—

18 “(1) IN GENERAL.—An alien described in para-  
19 graph (2) who resided in the United States at the  
20 time of the death of the qualifying relative and who  
21 continues to reside in the United States shall have

1 such petition described in paragraph (2), or an ap-  
2 plication for adjustment of status to that of a person  
3 admitted for lawful permanent residence based upon  
4 the family relationship described in paragraph (2),  
5 and any related applications, adjudicated notwith-  
6 standing the death of the qualifying relative, unless  
7 the Secretary of Homeland Security determines, in  
8 the unreviewable discretion of the Secretary, that  
9 approval would not be in the public interest.

10 “(2) ALIEN DESCRIBED.—An alien described in  
11 this paragraph is an alien who, immediately prior to  
12 the death of his or her qualifying relative, was—

13 “(A) the beneficiary of a pending or ap-  
14 proved petition for classification as an imme-  
15 diate relative (as described in section  
16 201(b)(2)(A)(i));

17 “(B) the beneficiary of a pending or ap-  
18 proved petition for classification under section  
19 203 (a) or (d);

1           “(C) a derivative beneficiary of a pending  
2           or approved petition for classification under sec-  
3           tion 203(b) (as described in section 203(d));

4           “(D) the beneficiary of a pending or ap-  
5           proved refugee/asylee relative petition under  
6           section 207 or 208;

7           “(E) an alien admitted in ‘T’ non-  
8           immigrant status as described in section  
9           101(a)(15)(T)(ii) or in ‘U’ nonimmigrant status  
10          as described in section 101(a)(15)(U)(ii); or

11          “(F) an asylee (as described in section  
12          208(b)(3)).”.

13          (2) CONSTRUCTION.—Nothing in the amend-  
14          ment made by paragraph (1) may be construed to  
15          limit or waive any ground of removal, basis for de-  
16          nial of petition or application, or other criteria for  
17          adjudicating petitions or applications as otherwise  
18          provided under the immigration laws of the United  
19          States other than ineligibility based solely on the  
20          lack of a qualifying family relationship as specifically  
21          provided by such amendment.

1 (e) CONFORMING AMENDMENT TO AFFIDAVIT OF  
2 SUPPORT REQUIREMENT.—Section 213A(f)(5) of the Im-  
3 migration and Nationality Act (8 U.S.C. 1183a(5)) is  
4 amended by striking clauses (i) and (ii) and inserting:

5 “(i) the individual petitioning under  
6 section 204 of this Act for the classifica-  
7 tion of such alien died after the approval  
8 of such petition, and the Secretary of  
9 Homeland Security has determined for hu-  
10 manitarian reasons that revocation of such  
11 petition under section 205 would be inap-  
12 propriate; or

13 “(ii) the alien’s petition is being adju-  
14 dicated pursuant to section 204(l) (sur-  
15 viving relative consideration).”.

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16 SEC. ~~570~~. Notwithstanding any other provision of  
17 this Act, none of the funds appropriated or otherwise  
18 made available by this Act may be used to pay award or  
19 incentive fees for contractor performance that has been  
20 judged to be below satisfactory performance or perform-