



# Immigration

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## What to Watch For

Key Republicans are signaling that there will be no immigration reform during the lame duck session without meaningful border reform. Meanwhile, Democrats continue to push for Deferred Action for Childhood Arrivals (DACA), Afghan Adjustment, Temporary Protected Status (TPS) reform, and other immigration reform in the omnibus or National Defense Authorization Act (NDAA). The outlook before even looking at the election results appears to be the same – no significant immigration reform over the next two years. The slim margins of control regardless of who controls either of the chambers of Congress appear to foreclose any significant opportunities for immigration reform.

### Omnibus Spending Bill

We expect congressional leaders to push for passage of the FY 2023 omnibus funding bill in Dec. 2022. The Continuing Resolution passed on Sept. 30 which extended funding for the government through Dec. 16. There will need to be an Omnibus passed during the post-election lame duck session before the end of the calendar year. Democrats continue to push for immigration additions to the Omnibus, which may include EB-5 technical corrections; immigrant visa exemptions for foreign students who obtain a PhD in the United States; DACA relief to counter the Fifth Circuit and Texas Federal District Court decisions; Afghan Adjustment Act; and TPS relief.

### National Defense Authorization Act (NDAA)

Sen. Durbin (D-IL) is attempting to attach the the recapture of unused immigrant visas from previous fiscal years for up to 40,000 nurses and physicians. It is unclear whether this amendment will survive, but, if so, it could help reduce some immigrant visa backlogs. There are other immigration provisions that have been suggested and then rejected in this legislation.

### Deferred Action for Childhood Arrivals (DACA)

The Fifth Circuit held that the new DACA rule from the Department of Homeland Security was illegal but maintained the stay for existing DACA recipients and will allow DACA renewals. Democrats continue to push for DACA legislation, but the maintenance of the stay will most likely keep Congress from acting as harm is not imminent.

### Legislation being Contemplated

It's possible that Congress may consider migrant farmworker legislation and/or a bill that may eliminate the per country immigrant visa quota. We believe that there will be efforts by Republicans to push for border control and there may be some effort to pair that reform with minor legal immigration reforms. However, it appears that from a legislative perspective, the status quo will be the policy du jour in the next Congress.

### Congressional Leadership Changes

In both the House and the Senate, the Judiciary Committees have jurisdiction over immigration matters. In the House, Rep. Jim Jordan (R-OH) is expected to be the chair this committee. Rep. Jerry Nadler (D-NY) can be expected to remain in Democratic leadership on the House Judiciary Committee as the Ranking Member.

On the Senate side, Current Chairman Sen. Dick Durbin (D-IL) is likely to remain in that position if Democrats retain the majority in the Senate. If Republicans manage to take control of the chamber, Sen. Chuck Grassley (R-IA) is expected to remain Ranking Member.

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