



# United States Conference of Catholic Bishops Government Relations

3211 4th Street, N.E. Washington, DC 20017-1194 VOICE: (202) 541-3140 FAX: (202) 541-3313 WEB: [www.usccb.org/gr](http://www.usccb.org/gr)

## Weekly Update on Immigration and Refugee Legislative Matters 111<sup>th</sup> Congress, First Session

**Monday, February 16, 2009**

(Revised on February 18, 2009)

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*Congress has begun a week-long recess. It returns on Monday, February 23, 2009, at which time it will remain in session through April 3, 2009, the start date for its two-week long spring recess.*

*Budget issues will predominate during the six week period between February 23, 2009 and April 3, 2009. Congress must complete the fiscal year 2009 appropriations bills by March 6, 2009, including completing action on the bills that appropriate funding for refugee admissions, overseas refugee assistance, and refugee resettlement. The President will likely submit his fiscal year 2010 budget shortly after the recess ends, and Congress will make decisions on whether to extend four expiring immigration programs.*

### *This Week's Hearings*

With Congress in recess, there are no hearings scheduled for this week in either the House of Representatives or the Senate at which significant immigration- or refugee-related matters are expected to be discussed. ◇

### *This Week's Markups*

With Congress in recess, there are no markups scheduled for this week in either the House of Representatives or the Senate at which significant immigration- or refugee-related legislation will be considered. ◇

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## ***This Week's Floor Activity***

With both the House and Senate in recess, there is no floor action anticipated for this week in either the House of Representatives or the Senate on measures containing significant immigration- or refugee-related provisions. ◇

## ***This Week's Conference Activity***

At the time of this writing, no measure containing significant immigration- or refugee-related provisions are currently pending in conference committees. ◇

## ***This Week's Executive Activity***

### **President to Sign Economic Stimulus Bill into Law:**

President Barack Obama is expected this week to sign the just cleared economic stimulus bill into law. The President is expected to sign the measure into law on Tuesday, February 17, 2009, at the Museum of Nature & Science in Denver, Colorado.

Congress cleared the economic stimulus bill in the form of [H.R. 1](#), the "Economic Recovery and Reinvestment Act of 2009",<sup>126</sup> on Friday, February 13, 2009.<sup>127</sup> ☀

### **Immigration-Related Reports Due to Secretary Napolitano:**

Two immigration-related reports are due to be delivered this week to Secretary of Homeland Security Janet Napolitano. The reports, which the Secretary ordered her staff to prepare, are scheduled to be issued pursuant to a northern border strategy "action directive"<sup>128</sup> and a wide-ranging immigration "action directive" that the Secretary gave to her staff in the first week after being sworn.

- **Northern Border Strategy.** Secretary Napolitano issued her northern border strategy "action directive" on January 23, 2009, instructing the Department to gather information, review existing strategies and programs, and to provide a written report to her by Tuesday, February 17, 2009, on the Department's northern border strategy. In issuing the Directive, Secretary Napolitano

said, "[t]his continuing evaluation will unify our shared efforts and help me assess where improvements need to be made.

The Secretary's January 23<sup>rd</sup> Directive posed a number of questions to DHS officials, including, "What are the current vulnerabilities, the overall strategy for reducing those vulnerabilities, the requirements, the programs, the budget, and the timeframe for improving security along this border and what level of risk will remain once the programs are completed?"

- **Wide-Ranging Directive.** Secretary Napolitano issued her wide-ranging immigration "action directive" on January 30, 2009, on a wide range of immigration matters, requiring various DHS offices and components to work together and with state and local partners to review and assess their plans and policies.

The January 30, 2009, directive addressed seven different areas:

1. criminal and fugitive aliens;
2. legal immigration benefit backlogs;
3. southbound gun smuggling;
4. cooperation with the National Guard;
5. widows and widowers of U.S. citizens;
6. immigration detention centers; and
7. electronic employee verification.

In her January 30, 2009, Directive, the Secretary posed 27 questions and directed various components and offices of the Department to provide a final report to her by February 20, 2009, about current programs, including metrics of success, gaps in service/resources, partnerships with state and local governments and other federal agencies as well as offer suggestions for reforms, restructuring, and consolidation where needed on the seven matters.

It was not clear at the time of this writing whether or when the Secretary would make the contents of the reports available to Congress or the general public. ◇

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<sup>126</sup> [H. Rept. 111-16](#), February 12, 2009

<sup>127</sup> See Pages 179-185 of this week's edition of the *Weekly Legislative Update* for a detailed analysis of the immigration-related provisions in H.R. 1

<sup>128</sup> See Pages 120-121 of the January 26, 2009, edition of the *Weekly Legislative Update* for a more complete write-up Secretary Napolitano's January 23, 2009, Action Directive on the Northern Border

### **Writer**

Micheal E. Hill, Associate Director  
 United States Conference of Catholic Bishops  
 Government Relations (USCCB/GR)  
 Voice: (202) 541-3161  
 Mobile: (202) 257-1520  
 Fax: (202) 541-3313  
 E-Mail Address: [MHill@usccb.org](mailto:MHill@usccb.org)

## *Last Week's Legislative Activity*

### Last Week's Hearings

There were no hearings last week in either the House of Representatives or Senate at which significant immigration- or refugee-related matters were discussed.

### Last Week's Markups

No committees conducted markups last week of legislation containing significant immigration or refugee provisions. However, one committee with significant jurisdiction over immigration- and refugee-related functions held its 111<sup>th</sup> Congress organizing meeting:

- Senate Judiciary Committee. The Senate Judiciary Committee held its organizing meeting last week.
- Senate Homeland Security Committee. The Senate Homeland Security Committee held its 111<sup>th</sup> Congress organizing meeting last week.

**Senate Judiciary Committee Holds 111<sup>th</sup> Congress Committee Organizing Meeting:** The Senate Committee on the Judiciary held its organizing meeting last week, during which Senator Charles E. Schumer (D-NY) was named chairman of the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security. Last week's meeting took place on Thursday, February 12, 2009.

See pages 187-192 of this week's Weekly Legislative Update for a report on the Committee's organizing meeting. ☀

**Senate Homeland Security Committee Holds 111<sup>th</sup> Congress Committee Organizing Meeting:** The Senate Committee on Homeland Security and Governmental Affairs held its 111<sup>th</sup> Congress organizing meeting last week. The meeting took place on Wednesday, February 11, 2009.

See pages 192-193 of this week's Weekly Legislative Update for a report on the Committee's organizing meeting. ☀

### Last Week's Conference Activity

Only one measure containing significant immigration- or refugee-related provisions was the subject of conference committee deliberations last week:

- Economic Stimulus Package. House and Senate conferees reached agreement last week on the economic stimulus package.

**Conferees Approve Compromise Economic Stimulus Bill after Jettisoning Controversial E-Verify Provisions:** A House/Senate conference committee came to agreement last week on the specifics of an economic stimulus bill. The conferees agreed to a number of

provisions appropriating supplemental funds for the Department of Homeland Security. However, they rejected a controversial provision in the [House-passed version of the measure](#) that would have required all entities receiving funds derived from the bill to use the E-Verify system to verify the work eligibility of their employees. They also rejected a set of provisions in the House bill that would have extended the E-Verify program through 2016, and they accepted a provision in the [Senate-passed version of the measure](#) that bars some financial institutions from hiring H-1B workers.

Last week's conference committee action occurred in connection with [H.R. 1](#), the "Economic Recovery and Reinvestment Act of 2009",<sup>129</sup> The conferees agreed to the conference report accompanying H.R. 1 on Wednesday, February 11, 2009, filing it late on Thursday, February 12, 2009. The full House and Senate later took up the measure, clearing it for the President's consideration.

The measure contains an unusual combination of discretionary spending, entitlement spending, and tax cuts totaling \$787.2 BILLION. It includes \$308 BILLION in increased discretionary spending, \$267 BILLION in entitlement spending, and \$212 BILLION in tax cuts.

**Conference Committee Deliberations.** The conferees met formally only once and only briefly, on Wednesday, February 11, 2009. All of the real conference deliberations were conducted informally behind closed doors.

Reports indicate that there was considerable contention in connection with several immigration provisions, most particularly the provisions in the House-passed version of H.R. 1 relating to the E-Verify Program. According to reports, some negotiators wanted to either retain the mandatory E-Verify provisions or, at the least, include some ameliorating language regarding the E-Verify program and economic stimulus bill contractors in the bill. The Obama Administration, too, reportedly sought to include some ameliorating language relating to the E-Verify Program and economic stimulus contractors, in lieu of simply dropping the mandatory E-Verify provisions. In the end, neither the conferees who were proponents of this approach nor the Administration was successful in that effort.

The mandatory E-Verify provisions were not the only immigration-related provisions in play during the conference. Reports indicate that Senate Judiciary Committee Chairman Patrick Leahy (D-VT) wanted to include provisions extending a program relating to investor visas. That effort prompted others to attempt to insert their own favored immigration-related provisions into the measure, including provisions relating to religious worker visas, visas for doctors in medically underserved communities, and provisions that would recapture family-based visas that have been "lost" over the years because of Department of

<sup>129</sup> [H. Rept. 111-16, February 12, 2009](#)

Homeland Security processing inefficiencies. All of those efforts ultimately proved futile, however, when Senator Bob Menendez (D-NJ) threatened to vote against the whole package if the extensions were included in the bill. It is reported that that threat prompted the conferees to drop even the provisions in the House-passed version of H.R. 1 that would have extended the E-Verify program through 2016 from the measure.

**Summary of Immigration-Related Provisions.** Both the House- and Senate-passed versions of H.R. 1 contained a number of immigration-related provisions. The following describes those provisions and how differences between them were settled by the conferees:

### Legislative Provisions

- **Extension of the E-Verify Program.**

House Bill: Sections 7001 through 7004 of the House-passed version of H.R. 1 would have extend the E-Verify Program through 2016 and implement a number of provisions aimed at protecting the Social Security Administration from excessive costs and providing for an evaluation of the program.

Senate Bill: There was no comparable set of provisions in the Senate-passed version of the bill.

Conference Agreement: The conference agreement rejected the House-passed provisions, leaving no extension of the E-Verify program in the final version of the measure.

- **Mandatory Use of the E-Verify System.**

House Bill: Section 1114 of the House-passed version of H.R. 1 would have mandated that all entities receiving stimulus money to use the E-Verify system to verify the work eligibility of their employees.

Senate Bill: There was no provision in the Senate-passed version of the H.R. 1 relating to the mandatory use of the E-Verify program.

Conference Agreement: The conference agreement rejected the House-passed provision, leaving no provision requiring the use of the E-Verify program in the final version of the measure.

- **Prohibition on Hiring H-1B Workers.**

House Bill: There was no provision in the House-passed version of H.R. 1 respecting the hiring of H-1B workers.

Senate Bill: Section 1610 of the Senate-passed version of H.R. 1 would have prohibited any bank or other financial institution that receives funding under the

Troubled Asset Relief Program from hiring H-1B workers unless the bank or financial institution is in compliance with provisions of law applicable to an H-1B dependant employer.

Conference Agreement: The conference agreement accepted the provision from the House-passed version of the bill, including the provision as Section 1611 of the final version of the measure.

- **Bar Loan Guarantees if Small Businesses Owned, in Part, by Illegal Aliens.**

House Bill: Section 6201(f) of the House-passed version of H.R. 1 would have barred small business loan guarantees under the Act to concerns if an illegal immigrant has an ownership interest in the concern or if the Secretary of Homeland Security or Attorney General of the United States have determined that concern has engaged in a pattern and practice of hiring, recruiting, or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

Senate Bill: There was no comparable provision in the Senate-passed version of the measure.

Conference Agreement: The conference agreement accepted the House provision, making it Section 502(c) of the conference agreement.

- **Bar Refinancing Aid to Firms Hiring Illegal Aliens.**

House Bill: Section 6204(g) of the House-passed version of H.R. 1 would have barred small business concerns from receiving refinancing assistance under the Act if an illegal immigrant has an ownership interest in the concern or if the Secretary of Homeland Security or Attorney General of the United States have determined that concern has engaged in a pattern and practice of hiring, recruiting, or referring for a fee, for employment in the U.S. an alien knowing the person is unauthorized.

Senate Bill: There was no comparable provision in the Senate-passed version of H.R. 1.

Conference Agreement: The conference agreement rejected the small business refinancing assistance program that was found in the House-passed version of H.R. 1 in its entirety, thus, rendering the provision in the House-passed version of H.R. 1 relating to hiring undocumented workers moot.

### Tax Provisions

- **Bar Making Work Pay Tax Credit to Illegal Aliens.**

House Bill: The House-passed version of H.R. 1 would have barred illegal aliens from receiving Making Work

Pay Tax Credits and imposed documentation requirements to ensure that recipients of the tax credits are not illegal immigrants.

Senate Bill: The Senate-passed bill contained a similar provision. However, in the Senate-passed bill, the documentation requirements were more onerous.

Conference Agreement: Section 1001(a) of the conference agreement provides (in the new Section 36A(d)(1)(A)(i) of the Internal Revenue Code) that “nonresident aliens” are ineligible for the “Making Work Pay” tax credits. It requires (in the new Section 36A(1)(B) of the Internal Revenue Code) individuals to provide their social security account numbers or, in the case of married persons filing jointly, at least one of them to do so in order to receive the tax credit. Finally, it precludes the use of a Taxpayer Identification Number in lieu of a Social Security number.

The practical impact of the conference agreement on this issue is that U.S. citizens and legal immigrants who are married to noncitizens without social security numbers will be able to file jointly and receive the Making Work Pay tax credit, as long as one of the couple has a social security number. This will resolve problems that some, such as soldiers and H-1B workers, experienced with the rebate in the 2008 economic stimulus bill.

- **Noncitizen Trade Adjustment Assistance Eligibility.**

House Bill: The House-passed version of H.R. 1 did not contain any provisions relating to noncitizens eligibility for and documentation requirements with respect to Trade Adjustment Assistance.

Senate Bill: The Senate-passed version of H.R. 1 did not contain any provisions relating to noncitizens eligibility for and documentation requirements with respect to Trade Adjustment Assistance.

Conference Agreement: Section 1853 of the conference agreement requires (in the new Section 239(k) of the Trade Act of 1974) that states periodically use the SAVE system to re-determine that a worker who is receiving Trade Adjustment Assistance who is not a citizen or a national of the United States remains in a satisfactory immigration status. It further requires that states use the SAVE system to re-verify the immigration status of any noncitizen whose immigration documents are set to expire during the duration of the alien’s eligibility for Trade Adjustment Act benefits.

The practical impact of the conference agreement on this issue is to only require re-verification of an alien’s immigration-related eligibility if and when the documentation that an alien submitted initially to prove his or her eligibility expires while the alien is receiving

Trade Adjustment Assistance benefits. It is believed that the vast majority of noncitizens will not have to be re-verified unless their ten-year green cards or their one- or two-year employment authorization documents (EADs) happen to expire while they are receiving Trade Adjustment Assistance benefits. Even for the small percentage of noncitizens who will need to be re-verified, state agencies will do so using the SAVE system, which pings off of A numbers and not green cards or EADs. A numbers do not expire and immigration status (particularly for LPRs) does not expire when green cards expire.

## **Appropriations Provisions**

- **Construction of a new DHS Headquarters.**

House Bill: The House-passed version of H.R. 1 did not contain any specific appropriation for the construction of a headquarters building for the Department of Homeland Security.

Senate Bill: The Senate-passed version of H.R. 1 would have appropriated \$198 MILLION for the planning, design, and construction of a new Department of Homeland Security headquarters.

Conference Agreement: The conference agreement included an appropriation of \$450 MILLION to the General Services Administration (GSA) for a new headquarters for the Department of Homeland Security.

In addition to the above funds, the conference agreement appropriates \$200 MILLION for the Office of the Department of Homeland Security Undersecretary for Management for planning, design, and construction costs necessary to consolidate the Department of Homeland Security headquarters.

- **Border Facilities and Land Ports of Entry.**

House Bill: The House-passed version of H.R. 1 would have appropriated \$1 BILLION for the construction, repair, and alteration of border facilities and land ports of entry.

Senate Bill: The Senate-passed version of H.R. 1 would have appropriated \$1.2 BILLION for that purpose.

Conference Agreement: The conference agreement appropriated \$300 MILLION to the GSA for border stations and land ports of entry.

- **CBP Salaries and Expenses.**

House Bill: The House-passed version of H.R. 1 would have appropriated \$100 MILLION for Customs and

Border Protection salaries and expenses for “non-intrusive detection technology to be deployed at sea ports of entry.

Senate Bill: The Senate-passed version of H.R. 1 would have appropriated \$198 MILLION for U.S. Customs and Border Protection salaries and expenses, including \$100.8 MILLION for the procurement and deployment (P&D) of non-intrusive inspection systems to improve port security and \$97.2 MILLION for P&D of tactical communications equipment and radios.

Conference Agreement: The conference agreement appropriates \$160 MILLION for U.S. Customs and Border Protection salaries and expenses, including \$100 MILLION for the procurement and deployment of non-intrusive inspection systems and \$60 MILLION for tactical communications.

- **Border Fencing, Infrastructure, and Technology.**

House Bill: The House-passed version of H.R. 1 did not include any specific appropriation for border security fencing, infrastructure, and technology.

Senate Bill: The Senate-passed version of H.R. 1 would have appropriated \$200 MILLION for Border Security Fencing, Infrastructure, and Technology, to be used for expedited development and deployment of border security technology on the Southwest border.

Conference Agreement: The conference agreement appropriates \$100 MILLION for U.S. Customs and Border Protection salaries and expenses for Border Security Fencing, Infrastructure, and Technology.

- **Port of Entry Construction.**

House Bill: The House-passed version of H.R. 1 would have appropriated \$150 MILLION for U.S. Customs and Border Protection construction.

Senate Bill: The Senate-passed version of H.R. 1 would have appropriated \$800 MILLION for Construction, to be used to construct, alter, enhance, expand, repair, and/or improve CBP-owned land border ports of entry.

Conference Agreement: The conference agreement appropriates \$420 MILLION to the Department of Homeland Security U.S. Customs and Border Protection bureau for construction for planning, management, design, alteration, and construction of land ports of entry that are owned by U.S. Customs and Border Protection.

- **Automation Modernization.**

House Bill: The House-passed version of H.R. 1 did not include any specific appropriation to U.S. Immigration

and Customs Enforcement for automation modernization.

Senate Bill: The Senate-passed version of H.R. 1 would have appropriated \$27.8 MILLION to U.S. Immigration and Customs Enforcement for automation modernization, to be used for the procurement and deployment of tactical communications equipment and radios.

Conference Agreement: The conference agreement appropriates \$20 MILLION to U.S. Immigration and Customs Enforcement for automation modernization.

**Next Steps.** Following the filing of the conference report accompanying H.R. 1, the House and Senate took up the measure, clearing it for the President’s consideration.

Now that Congress has cleared H.R. 1 for the President’s consideration, the next step in the legislative process is to present the bill to the President. That is expected to occur by Monday, February 16, 2009, and the President is expected to sign the measure shortly after receiving it. ☀

### Last Week’s Floor Activity

The House and full Senate last week took a number of actions last week necessary to clear the economic stimulus package:

- Senate Passage of Its Version of the Economic Stimulus Bill. The full Senate early last week passed its version of the economic stimulus bill.
- House Adoption of the Conference Report Accompanying the Economic Stimulus Package. The full House of Representatives agreed to the conference report accompanying the economic stimulus bill.
- Senate Adoption of the Conference Report Accompanying the Economic Stimulus Package. The full Senate agreed to the conference report accompanying the economic stimulus bill, clearing the measure for the President’s consideration.

### **Congress Clears Conference Agreement on Economic Stimulus Bill Stripped of Controversial H-1B Immigration Provisions:**

The House and Senate agreed to the conference report accompanying [H.R. 1](#), the “Economic Recovery and Reinvestment Act of 2009”,<sup>129</sup> clearing it for the President’s consideration. As cleared by Congress, the measure contains a number of immigration-related appropriations and tax provisions. However, conference negotiators working on the bill rejected two of the three most controversial immigration-related provisions that were in either the House- or Senate-passed versions of the measure: a provision that would have required employers receiving funds from the economic stimulus bill to use the e-verify system to verify the employment eligibility of their employees, and a provision that would have extended

authorization for the E-Verify program through 2016. They accepted a provision that regulates some financial institutions' hiring of H-1B workers.

The House agreed to the conference agreement on Friday, February 13, 2009, by a vote of 246-183.<sup>130</sup> The Senate acted just hours later, agreeing to it by a vote of 60-38.<sup>131</sup>

The measure contains a combination of discretionary spending, entitlement spending, and tax cuts totaling \$787.2 BILLION. It includes \$308 BILLION in increased discretionary spending, \$267 BILLION in entitlement spending increases, and \$212 BILLION in tax cuts.

**Legislative History.** Last week's action cleared the economic stimulus bill for the President's expected signature, ending a process that began shortly after President Obama's election in November of 2008.

The House of Representatives passed its version of H.R. 1 on January 28, 2009, by a vote of 244-188.<sup>132</sup> <sup>133</sup> The House acted after three separate House committees conducted markups of their pieces of the measure: the House Committee on Appropriations, the House Committee on Ways and Means, and the House Committee on Energy and Commerce.

- **House Appropriations.** The House Committee on Appropriations approved its part of the measure on Wednesday, January 21, 2009, ordering it reported to the House as [H.R. 679](#) by a vote of 35-22.<sup>134</sup> It acted after including a number of immigration-related appropriations provisions and two controversial immigration-related legislative provisions: a provision that would have required employers making use of stimulus funds to verify the work eligibility of their employees and a provision that would have extended the E-Verify program through 2016.<sup>135</sup>

- **House Ways and Means.** The House Committee on Ways and Means approved its version of H.R. 1 on Thursday, January 22, 2009, ordering it reported to the House as [H.R. 598](#) by a vote of 24-13.<sup>136</sup> The Ways Means Committee added provisions to the bill making non-resident aliens ineligible for the "Making Work Pay" tax credits.

- **House Energy and Commerce.** Finally, the House Committee on Energy and Commerce approved its portion of the measure on Thursday, January 22, 2009, ordering it reported to the House as [H.R. 629](#) by a vote of 32-12.<sup>137</sup> It did not contain any immigration-related provisions.

The Senate passed its version of H.R. 1 on Tuesday, February 10, 2009, by a vote of 61-37.<sup>138</sup> It did so after first invoking cloture on a substitute amendment that was offered by Senators Ben Nelson (D-NE), Susan Collins (R-ME), Olympia Snowe (R-ME), and Arlen Specter (R-PA). The cloture vote occurred on Monday, February 9, 2009, with the Senate invoking cloture on the substitute amendment by a vote of 61-36.<sup>139</sup> Following the cloture vote on the amendment, the Senate agreed to the substitute amendment on Tuesday, February 10, 2009, by a vote of 61-37.<sup>140</sup>

The Senate acted on H.R. 1 after two separate Senate committees conducted markups of their pieces of the measure: the Senate Committee on Appropriations and the Senate Committee on Finance.

- **Senate Appropriations.** The Senate Appropriations Committee approved its part of H.R. 1 on January 27, 2009, ordering it reported to the Senate as [S. 336](#)<sup>141</sup>, by a vote of 21-9.<sup>142</sup>

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<sup>136</sup> [H. Rept. 111-8, Part 1, January 27, 2009](#) and [H. Rept. 111-8, Part 2, January 28, 2009](#)

<sup>137</sup> [H. Rept. 111-7, Part I, January 22, 2009](#)

<sup>138</sup> [Senate Roll Call No. 61, February 10, 2009](#)

<sup>139</sup> [Senate Roll Call No. 59, February 9, 2009](#)

<sup>140</sup> [Senate Roll Call No. 60, February 10, 2009](#)

<sup>141</sup> [Click Here](#) to see the text of S. Rept. 111-3, the report accompanying the Senate Appropriations Committee-approved version of S. 336

<sup>142</sup> See Page 143 of the February 2, 2009, edition of the Weekly Legislative Update for a detailed summary of the Senate Appropriations Committee markup of H.R. 1 and the immigration-related provisions that the Committee took up during its consideration of the measure

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<sup>130</sup> [House Roll Call No. 70, February 13, 2009](#)

<sup>131</sup> [Senate Roll Call No. 63, February 13, 2009](#)

<sup>132</sup> [House Roll Call No. 46, January 28, 2009](#)

<sup>133</sup> See Pages 148-150 of the February 2, 2009, edition of the Weekly Legislative Update for a detailed summary of the immigration-related provisions in the House-passed version of H.R. 1

<sup>134</sup> [H. Rept. 111-4, January 26, 2009](#)

<sup>135</sup> See Pages 117-119 of the January 26, 2009, edition of the Weekly Legislative Update for a detailed summary of the House Appropriations Committee markup of H.R. 1 and the immigration-related provisions that the Committee took up during its consideration of the measure

- Senate Finance. The Senate Finance Committee approved its part of the measure on January 27, 2009, by a vote of 14-9.<sup>143</sup>

**Summary of Immigration-Related Provisions.** As cleared by Congress, H.R. 1 contains the following immigration-related provisions:

### Legislative Provisions

- Prohibition on Hiring H-1B Workers. Section 1611 of the conference agreement prohibits any bank or other financial institution that receives funding under the Troubled Asset Relief Program from hiring H-1B workers unless it is in compliance with provisions of law applicable to an H-1B dependant employer.
- Bar Loan Guarantees if Small Businesses Owned, in Part, by Illegal Aliens. Section 502(c) of the conference agreement bars small business loan guarantees under the Act to concerns if an illegal immigrant has an ownership interest in the concern or if the Secretary of Homeland Security or Attorney General of the United States have determined that concern has engaged in a pattern and practice of hiring, recruiting, or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

### Tax Provisions

- Bar Illegal Aliens from Receiving the Making Work Pay Tax Credit. Section 1001(a) of the conference agreement provides (in the new Section 36A(d)(1)(A)(i) of the Internal Revenue Code) that “nonresident aliens” are ineligible for the “Making Work Pay” tax credits. It further requires (in the new Section 36A(1)(B) of the Internal Revenue Code) that individuals must provide their social security account numbers or, in the case of married persons filing jointly, at least one of the individuals must provide his or her social security account number on the income tax return in order to receive the tax credit. Finally, it precludes the use of a Taxpayer Identification Number in lieu of a Social Security number.

The practical impact of the conference agreement on this issue is that U.S. citizens and legal immigrants who are married to noncitizens without social security numbers will be able to file jointly and receive the Making Work Pay tax credit, as long as one of the couple has a social security number. This will resolve problems that some, such as soldiers and H-1B workers, experienced with the rebate in the 2008 economic stimulus bill.

- Eligibility of Noncitizens for Trade Adjustment Assistance. Section 1853 of the conference agreement requires (in the new Section 239(k) of the Trade Act of 1974) that states periodically use the SAVE system to re-determine that a worker who is receiving Trade Adjustment Assistance who is not a citizen or a national of the United States remains in a satisfactory immigration status. It further requires that states use the SAVE system to re-verify the immigration status of any noncitizen whose immigration documents are set to expire during the duration of the alien’s eligibility for Trade Adjustment Act benefits.

The practical impact of the conference agreement on this issue is to only require re-verification of an alien’s immigration-related eligibility if and when the documentation that an alien submitted initially to prove his or her eligibility expires while the alien is receiving Trade Adjustment Assistance benefits. It is believed that the vast majority of noncitizens will not have to be re-verified unless their ten-year green cards or their one- or two-year employment authorization documents (EADs) happen to expire while they are receiving Trade Adjustment Assistance benefits. Even for the small percentage of noncitizens who will need to be re-verified, state agencies will do so using the SAVE system, which pings off of A numbers and not green cards or EADs. A numbers do not expire and immigration status (particularly for LPRs) does not expire when green cards expire.

### Appropriations Provisions

- Construction of a new DHS Headquarters. The conference agreement included an appropriation of \$450 MILLION to the General Services Administration (GSA) for a new headquarters for the Department of Homeland Security.

In addition to the above funds, the conference agreement appropriates \$200 MILLION for the Office of the Department of Homeland Security Undersecretary for Management for planning, design, and construction costs necessary to consolidate the Department of Homeland Security headquarters.

- Border Facilities and Land Ports of Entry. The conference agreement appropriated \$300 MILLION to the General Services Administration for border stations and land ports of entry.
- CBP Salaries and Expenses. The conference agreement appropriates \$160 MILLION for U.S. Customs and Border Protection salaries and expenses, including \$100 MILLION for the procurement and deployment of non-intrusive inspection systems and \$60 MILLION for tactical communications.

<sup>143</sup> [Click Here](#) to see the text of the legislation approved by the Senate Committee on Finance

- **Border Fencing, Infrastructure, and Technology.** The conference agreement appropriates \$100 MILLION for U.S. Customs and Border Protection salaries and expenses for Border Security Fencing, Infrastructure, and Technology.
- **Port of Entry Construction.** The conference agreement appropriates \$420 MILLION to the Department of Homeland Security U.S. Customs and Border Protection bureau for construction for planning, management, design, alteration, and construction of land ports of entry that are owned by U.S. Customs and Border Protection.
- **Automation Modernization.** The conference agreement appropriates \$20 MILLION to U.S. Immigration and Customs Enforcement for automation modernization.

**Initial House Floor Consideration.** Immigration was not an issue on the House floor during its initial consideration of H.R. 1. While a number of Members were unhappy about the decision by the House Committee on Appropriations to include the mandatory E-Verify provisions to the bill, after receiving private assurances from the House Democratic Leadership that the provisions would be removed in conference, no Members sought to offer amendments on the House floor to strike or alter the provisions.

**Initial Senate Floor Consideration.** Immigration was a significant issue during the Senate floor debate on H.R. 1. The full Senate agreed to one immigration-related amendment during its consideration of the measure. Several other amendments were filed but not voted.

The immigration-related amendment that the full Senate agreed to was Senate Amendment No. 306, offered by Senator Bernard Sanders (I-VT). It would have restricted the hiring of H-1B workers by recipients of funding under the Troubled Asset Relief Program. The Senate agreed to the Sanders amendment on Thursday, February 5, 2009, by a voice vote. It became Section 1610 of the Senate-passed version of H.R. 1.

Several other senators submitted immigration- or refugee-related amendments during the Senate's initial consideration of H.R. 1. Among those was Senate Amendment No. 239, offered by Senator Jeff Sessions (R-AL), which would have extended authorization for the E-Verify program through 2016 and mandated that all entities receiving stimulus money to use the E-Verify system to verify the work eligibility of their employees. The Sessions amendment was modeled after Sections 7001 through 7004 and Section 1114 of the House-passed version of H.R. 1.

Despite his persistent efforts, Senator Sessions was never able to get a vote on his amendment.

One refugee-related amendment that was submitted but never offered on the Senate floor was Senate Amendment No. 271,

which was authored by Senator Edward M. Kennedy (D-MA). The Kennedy amendment would have appropriated a total of \$160 MILLION to assist communities resettling individuals who have been granted status pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), or who have been provided status as refugees under Federal law.

**House and Senate Floor Consideration of the Conference Agreement.** The decision of the conferees to strip the E-Verify provisions from H.R. 1 was a matter of significant debate on the House and Senate floor during their respective debates on the conference agreement accompanying H.R. 1. Proponents of the provision made unsubstantiated claims that the lack of the mandatory E-Verify provisions for stimulus bill fund recipients would result in the hiring of 300,000 undocumented workers. Others decried the decision to strip provisions from the bill that would have reauthorized the E-Verify Program through 2016.

**Next Steps.** Now that Congress has cleared the conference report accompanying H.R. 1, the next step in the legislative process is for the measure to be presented to the President for his consideration. The President is expected to sign the measure shortly after receiving it. ☀ ◇

## *Last Week's Executive Activity*

There was no significant executive branch activity last week on immigration- or refugee-related matters. ◇

## *Recently Introduced Legislation*

The following bills containing significant immigration- or refugee-related provisions were introduced last week:

### House

#### **Acculturation of Immigrants**

- **English Language Unity Act of 2009:** House Judiciary Subcommittee on Immigration Ranking Republican Steve King (R-IA) has introduced [H.R. 997](#), a bill to declare English as the official language of the U.S., to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the U.S., pursuant to Congress' powers to provide for the general welfare of the United States and to establish a uniform rule of naturalization under article I, section 8, of the Constitution

As introduced, H.R. 997 would require (1) official functions of the U.S. to be conducted in English; and

(2) a uniform English language rule for U.S. naturalization, and all naturalization ceremonies to be conducted in English. It also would declare that English language requirements and workplace policies, whether in the public or private sector, shall be presumptively consistent with the laws of the U.S. Finally, it would require the Secretary of Homeland Security to issue for public notice and comment a proposed rule for uniform testing of English language ability of candidates for naturalization, based upon the principles that: (1) all citizens should be able to read and understand generally the English language text of the Declaration of Independence, the Constitution, and the laws of the United States; and (2) any exceptions to this standard should be limited to extraordinary circumstances, such as asylum.

It has been referred to the House Committees on Education and Labor and Judiciary.

### Children

- **Visitors Interested in Strengthening America (VISA) Act of 2009:** Representative Bob Filner (D-CA) has introduced [H.R. 937](#), a bill to amend the INA to permit certain Mexican children, and accompanying adults, to obtain a waiver of the documentation requirements otherwise required to enter the United States as a temporary visitor

As introduced, H.R. 937 would grant humanitarian visa waivers to children and their parents coming across the border for regular medical appointments, or for educational or cultural events.

It has been referred to the House Committee on the Judiciary.

### Control of Illegal Immigration

- **Loophole Elimination and Verification Enforcement Act' or the 'LEAVE Act:** Representative Gary G. Miller (R-CA) has introduced [H.R. 994](#), a bill to remove the incentives and loopholes that encourage illegal aliens to come to the United States to live and work, provide additional resources to local law enforcement and Federal border and immigration officers, and for other purposes.

As introduced, H.R. 994 would make sweeping changes to immigration law that its author contends would remove incentives and loopholes that encourage illegal aliens to come to the U.S. to live, and work. It also would provide additional resources to local law enforcement and Federal border & immigration officers.

Among its many provisions, H.R.994 would dramatically tighten the forms of identification that may be accepted by the federal government and financial

institutions; expands the E-Verify program to require all employers to confirm the work eligibility of their employees; and prevents illegal aliens from receiving Social Security credit for illegally working in the United States. The LEAVE Act also ends birthright citizenship, excludes illegal aliens from receiving in-state college tuition, requires the completion of the border fence, and mandates the hiring of 8,000 new Border Patrol agents by 2014.

It has been referred to the House Committee on the Judiciary, House Committee on Oversight and Government Reform, House Committee on Education and Labor, House Committee on House Administration, and House Committee on Financial Services.

### Control of Illegal Immigration

- **Alien Smuggling and Terrorism Prevention Act of 2009:** Representative Baron Hill (D-IN) has introduced [H.R. 1029](#), a bill to amend the Immigration and Nationality Act and title 18, United States Code, to combat the crime of alien smuggling and related activities, and for other purposes

As introduced, H.R. 1029 would direct the Department of Homeland Security (DHS) to check against all available terrorist watchlists those alien smugglers and smuggled individuals who are interdicted at U.S. land, air, and sea borders; amend the Immigration and Nationality Act to revise alien (and terrorist) smuggling offense and related penalty provisions; specify increased criminal penalties for individuals convicted of smuggling illegal aliens into the United States; provide extraterritorial jurisdiction over criminal smuggling offenses; limit a defense of necessity for knowingly bringing an illegal alien into the United States from the high seas; and exempt from certain of such violations (transporting or harboring in the United States) a bona fide nonprofit, religious organization in the United States (or its agents or officers) that encourages, invites, or enables an alien who is present in the United States to serve as a volunteer minister or missionary for such organization in the United States, provided the minister or missionary has been a member of the denomination for at least one year.

The measure also would amend federal criminal law to specify the maritime penalties; limit a defense of necessity with respect to such maritime enforcement; define "transportation under inhumane conditions" as the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported; and direct the United States Sentencing Commission to review and amend as appropriate sentencing guidelines

and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.

It has been referred to the House Committee on the Judiciary and House Committee on Homeland Security.

### Due Process for Aliens in Removal Proceedings

- **Keeping Families Together Act of 2009:** Representative Bob Filner (D-CA) has introduced [H.R. 938](#), a bill to amend the INA to restore certain provisions relating to the definition of aggravated felony and other provisions as they were before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996

As introduced, H.R. 938 would reinstate judicial review to the immigration process, end the mandatory detention for minor offenses committed years ago, and allow immigrants previously deported to appeal that decision.

It has been referred to the House Committee on the Judiciary.

### Temporary Protection

- **Medical Parole:** Representative Stephen I. Cohen (D-TN) has introduced [H.R. 1033](#), a bill to amend the Immigration and Nationality Act with respect to temporary admission of nonimmigrant aliens to the United States for the purpose of receiving medical treatment, and for other purposes

As introduced, H.R. 1033 would amend the INA to include among nonimmigrant classifications: (1) an alien seeking to enter the U.S. temporarily and solely to receive medical treatment (including participation in a research study) for a disease or condition that if untreated threatens to undermine the alien's survival or day-to-day functioning with an increased likelihood of progression to a more severe disease or condition; or (2) such alien's son, daughter, spouse, or parent.

It has been referred to the House Committee on the Judiciary.

### Senate

#### Family-Based Immigration System

- **Uniting American Families Act of 2009:** Senate Judiciary Committee Chairman Patrick J. Leahy (D-VT) has introduced [S. 424](#), a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent

residents and to penalize immigration fraud in connection with permanent partnerships. As introduced, S. 424 would permit permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships. It has been referred to the Senate Committee on the Judiciary. ◇

### Bills in Development

Next week's and future Weekly Immigration and refugee Legislative Updates will include a brief listing of several immigration- or refugee-related bills that are currently under development and that could soon be introduced in the Senate or House of Representatives. In each week's listing, items that were added or that have substantially changed since the previous edition of the Weekly Legislative Update was issued will be marked with a double asterisk (\*\*).

### Organization of the 111<sup>th</sup> Congress

The Senate and House of Representatives will continue over the next several weeks in a transition of their own as they organize the 111th Congress. This section of the Weekly Legislative Update is devoted to chronicling the impact that the 111th Congress' organizational efforts will have on immigration- and refugee-related legislation, as well as examining the impact that those actions and decisions will have on Congressional oversight of the executive branch's immigration- and refugee-related functions.

This section will continue in this publication until all 111th Congress organizational actions have been completed.

#### House

No Items this week

#### Senate

**Senate Judiciary Committee Organizes for the 111<sup>th</sup> Congress:** The Senate Committee on the Judiciary held its 111<sup>th</sup> Congress organizing meeting last week, dividing into subcommittees and adopting its committee rules. From an immigration and refugee perspective, the biggest news from the organizing meeting was the departure of Senator Edward M. Kennedy (D-MA) from his leadership position on the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security, and the emergence of Senator Charles Schumer (D-NY) as the new chairman of that subcommittee. Last week's Committee meeting occurred on Thursday, February 12, 2009.

**Jurisdiction Over Immigration and Refugee Matters.** The Senate Committee on the Judiciary has legislative jurisdiction over immigration, refugee, and visa matters. The Committee also has oversight jurisdiction over the immigration-related functions of –

- the Border and Transportation Security Directorate (BTS), U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP) components of the Department of Homeland Security;
- the Department of Justice;
- the Department of Health and Human Services; and
- the Department of Labor

**Committee Chairman.** Returning as Chairman of the Senate Committee on the Judiciary in the 111<sup>th</sup> Congress is Senator Patrick Leahy (D-VT), who also chaired the Committee during the 110<sup>th</sup> Congress.



Senator Leahy's potential influence over immigration and refugee matters goes beyond his chairmanship of the Senate Committee on the Judiciary. He also chairs the Senate Appropriations Subcommittee on State, Foreign Operations, and Related Agencies, a subcommittee that has appropriating jurisdiction over the federal government's refugee admissions and overseas refugee assistance programs.

Senator Leahy was first elected to the United States Senate in 1974. He has been reelected by comfortable margins ever since.

Despite the fact that Senator Leahy represents one of the least ethnically diverse states in the country with a small foreign-born population, he has been one of the Senate's strongest supporters of the pro-immigrant and pro-refugee advocacy community's positions on immigration matters. Indeed, Senator Leahy has supported those two communities' positions in more than 92 percent of the key contested immigration- and refugee-related votes that he has cast during his time in the Senate.

In addition to being supportive of the two communities in his voting history, Senator Leahy has also been a leader in cosponsoring legislation and advancing floor amendments supported by the two communities. For instance, in 1996, Senator Leahy led an effort on the Senate floor to repeal the just-enacted expedited removal provision of law. He was successful in winning his amendment on the Senate floor. However, the amendment was dropped in conference. More recently, Senator Leahy offered a floor amendment to comprehensive immigration reform legislation to ameliorate the negative impact of the Material Support to Terrorist

ground of inadmissibility that was enacted into law as part of the REAL ID Act. That amendment failed by a wide margin, garnering just 19 votes.

**Committee Ranking Minority Member.** Returning as Ranking Republican of the Senate Committee on the Judiciary in the 111<sup>th</sup> Congress is Senator Arlen Specter (R-PA), who served as the Committee's Ranking Republican during the 110<sup>th</sup> Congress.



Senator Specter's potential influence over immigration and refugee matters goes beyond his position as Ranking Republican of the Senate Judiciary Committee. He also is the Ranking Republican on the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, a subcommittee that has appropriating jurisdiction over the federal government's refugee resettlement, trafficking victim assistance, torture victim assistance, and unaccompanied alien child protection functions and activities.

Senator Specter was first elected to the United States Senate in 1980. He has been reelected by smaller and smaller margins ever since.

A moderate, Senator Specter has often been the target of both Republicans and Democrats when running for reelection. He has faced primary challenges within his party from the right. And he has faced general election challenges from the left.

Senator Specter's reputation for moderation extends to the issue of immigration. He has supported the positions of the pro-immigrant and pro-refugee communities in 65 percent of the key contested immigration- or refugee-related votes that he has cast during his Senate career. His support in recent years has extended to such issues as comprehensive immigration reform, an issue on which he drafted legislation during the 109<sup>th</sup> Congress, when he served as Chairman of the Senate Committee on the Judiciary. Many of the provisions in the bill that then-Chairman Specter drafted during the 109<sup>th</sup> Congress were opposed by the pro-immigrant advocacy community. However, the bill served as the vehicle for numerous amendments in the Senate Committee on the Judiciary and was eventually supported by the two communities.

**Committee Ratio.** As the 110<sup>th</sup> Congress drew to a close, there were 10 Democrats and 9 Republicans on the Senate Committee on the Judiciary. The Committee ratio in the 111<sup>th</sup> Congress will be 11-Democrats-to-8-Republicans.

Two Democratic departures from the Committee meant that that Senate Democrats had to add three new Democrats to the Committee and Republicans had to drop one Republican from the Committee in the 111<sup>th</sup> Congress.

**Departed Committee Members.** Two Democrats and one Republican who were on the Committee in the 110<sup>th</sup> Congress have left it in the 111<sup>th</sup> Congress:

- Edward M. Kennedy (D-MA)
- Joseph R. Biden (D-DE)
- Sam Brownback (R-KS).

**New Committee Members.** Three Democrats who were not on the Committee during the 110<sup>th</sup> Congress have been added to the Committee in the 111<sup>th</sup> Congress. The three new members are:

- Ron Wyden (D-OR)
- Amy Klobuchar (D-MN)
- Edward E. Kaufman (D-DE)

**Committee Roster.** The chart that follows lists the roster of the Senate Judiciary Committee in the 111<sup>th</sup> Congress. Senators who have left the Committee in the 111<sup>th</sup> Congress are denoted with a ~~stricken through line~~. New committee members are marked with an asterisk (\*):

**Senate Committee on the Judiciary  
 111<sup>th</sup> Congress**

Democrats (11)	Republicans (8)
Leahy (D-VT)	Specter (R-PA)
<del>Kennedy (D-MA)</del>	Hatch (R-UT)
<del>Biden (D-DE)</del>	Grassley (R-IA)
Kohl (D-WI)	Kyl (R-AZ)
Feinstein (D-CA)	Sessions (R-AL)
Feingold (D-WI)	Graham (R-SC)
Schumer (D-NY)	Cornyn (R-TX)
Durbin (D-IL)	<del>Brownback (R-KS)</del>
Cardin (D-MD)	Coburn (R-OK)
Whitehouse (D-RI)	
*Klobuchar (D-MN)	
*Kaufman (D-DE)	
*Wyden (D-OR)	

**Immigration Subcommittee.** During the 110<sup>th</sup> Congress, the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security had jurisdiction over immigration and naturalization, border security, admission of refugees, treaties, conventions and international agreements, claims against the United States, federal charters of incorporation, private immigration and claims bills, non-border enforcement, other appropriate matters as referred by the chairman, and relevant oversight. In the 111<sup>th</sup> Congress, the Subcommittee’s jurisdiction will now include “(1) Immigration, citizenship, and refugee laws; (2) Oversight of the immigration functions of the Department of Homeland

Security, including U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and Ombudsman Citizenship and Immigration Services; (3) Oversight of the immigration-related functions of the Department of Justice, the Department of State, the Department of Health and Human Services Office of Refugee Resettlement, and the Department of Labor; (4) Oversight of international migration, internally displaced persons, and refugee laws and policy; and (5) Private immigration relief bills.”

**New Immigration Subcommittee Chairman.** The Chairman of the Immigration Subcommittee in the 111<sup>th</sup>



Congress is Senator Charles Schumer (D-NY). Chairman Schumer takes over the subcommittee from Senator Edward M. Kennedy (D-MA), who resigned from the Senate Committee on the Judiciary at the end of the 110<sup>th</sup> Congress for health reasons after having served on the Committee more 41 years. Senator Kennedy served as either the

Chairman or Ranking Minority Member of the Immigration subcommittee for most of those 41 years.

Mr. Schumer was first elected to the United States Senate in 1998. Prior to serving in the Senate, he served for 18 years in the U.S. House of Representatives. He has a long record on immigration, most notably when he was in the House. Indeed, while in the House, then-Representative Schumer served on the House Judiciary Subcommittee on Immigration during most of his House tenure.

During Mr. Schumer’s years in the House, Congress considered three major bills that sought to legalize illegal aliens, enacting one of them into law. Congress also reconfigured the family- and employment-based immigration system during Mr. Schumer’s time in the House, created the Temporary Protected Status (TPS) regime, rewrote asylum law by establishing the expedited removal regime, made legal immigrants ineligible for most state, federal, and local public assistance programs, and severely curtailed the due process rights of aliens in removal proceedings. Not only was then-Representative Schumer a Member of the House during those major legislative battles; he was at the forefront of the debate during most of them, amassing a rich and proactive record on immigration and refugee matters.

The United States Conference of Catholic Bishops Government Relations office (USCCB/GR) has conducted a detailed analysis of Senator Schumer’s record on immigration during his time in the House and Senate.<sup>144</sup> The analysis found that Mr. Schumer has supported the pro-immigrant and

<sup>144</sup> See Pages 194-218 of this week’s edition of the *Weekly Legislative Update* for the complete immigration profile of Senator Schumer that the United States Conference of Catholic Bishops Government Relations office has conducted.

pro-refugee-advocacy communities on 85 percent of the key contested immigration votes that he has cast during his time in Congress.<sup>145</sup> This includes support for the positions of those two communities on more than 87 percent of the key contested immigration- and refugee-related votes that he has cast while in the United States Senate and support for those two communities' positions on just over 82 percent of the key contested immigration- and refugee-related votes that he cast while he was in the U.S. House of Representatives.

While Senator Schumer has supported the positions of the pro-immigrant advocacy community most of the time during his House and Senate careers, there have been a few occasions on which he has not done so. And some of those exceptions have been on issues that were critical to the pro-immigrant -- and particularly to the pro-refugee -- advocacy communities. For instance—

- As a House Member, then-Representative Schumer voted against a legislative grant of TPS to Haitians who had been interdicted by the United States on the High Seas and brought to an encampment on Guantanamo Bay, Cuba; voted in favor of the measure that established expedited removal and deprived aliens in removal proceedings of due process rights; voted against allowing undocumented aliens to apply for Food Stamp and Medicaid benefits on behalf of their U.S. citizen children; and voted in favor of the program that is now known as the E-Verify program.

Then-Representative Schumer also sponsored or cosponsored legislation that the pro-immigrant and pro-refugee communities opposed during his House career. For instance, he repeatedly introduced legislation while in the House to institute pre-inspection of airline passengers at foreign airports, a regime that refugee advocates feared would result in denying bona fide refugees the opportunity to escape from their persecutors. He introduced legislation while in the House that would have given the President the discretion to lower or increase limits on immigration to the United States without Congress acting. He sponsored a measure that, among its many provisions, would have permitted Congress to veto the President's determination on the number of refugees who could be admitted to the United States in a given year. And he cosponsored legislation that was the forerunner of the expedited removal regime that eventually was enacted into law.

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<sup>145</sup> *The USCCB/GR analysis defines a key contested immigration – or refugee-related vote as a vote (1) on a question which was of serious consequence to the immigrant or refugee communities, (2) on which there was a clear position taken by the requisite communities of advocates working on immigration and refugee policy, and (3) on which there was significant cleavage in the House or Senate*

- As a Senator, Mr. Schumer has voted against easing the Material Support bar to admissibility that was enacted as part of the REAL ID Act; voted against authorizing the Secretary of Homeland Security or Attorney General of the United States to waive grounds of inadmissibility for aliens seeking to legalize if the alien's removal would result in hardship for the U.S. citizen spouse, parent, or child of the alien; and he has voted numerous times to sunset guest worker programs included in comprehensive immigration reform legislation.

Notwithstanding the above cited instances, if any pattern in Senator Schumer's Senate immigration-related votes can be discerned, it is that he has been a strong supporter of the pro-immigrant and pro-refugee advocacy communities' positions on most categories of immigration issues. He has cosponsored most of the marquee legislation that the pro-immigrant and pro-refugee advocacy communities have supported during his time in the Senate, including the DREAM Act, AgJOBS, the Unaccompanied Alien Child Protection Act, and the Immigrant Children's Health Improvement Act (ICHIA). Generally speaking, the exceptions to Senator Schumer's record of support for the two communities' positions while he has been in the U.S. Senate have been in the areas of employment-based immigration, the verification of the employment eligibility of aliens, asylum, and due process for aliens in removal proceedings.

If any pattern in then-Representative Schumer's House immigration- or refugee-related votes can be discerned, it is that he was a strong supporter back then of the pro-immigrant and pro-refugee advocacy communities' positions on most categories of immigration- and refugee-related issues. Indeed, he usually could be counted on by the pro-immigrant and pro-refugee advocacy communities to vote in favor of bills that the two communities supported and to vote against bills that the communities opposed. The most significant exception to this in the House was then-Representative Schumer's vote in favor of the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), which ushered in expedited removal and contained a number of provisions that immigration advocates believe deprived aliens in removal proceedings of due process rights. The two communities were vehemently opposed to that measure.

As has been the case with Senator Schumer's Senate record on key contested immigration- and refugee-related votes, then-Representative Schumer's votes in the House on some of the amendments that shaped significant immigration- and refugee-related bills were not always supportive of the pro-immigrant and pro-refugee advocacy communities' positions.

Like in the Senate, then-Representative Schumer was less supportive of the two communities' positions in the areas of asylum and temporary protection and in the area of verification of employment eligibility. In addition, though, then-Representative Schumer also strayed from the two

communities' positions, at times, on the question of the eligibility of legal and illegal immigrants for public benefits, as well as in the area of control of illegal immigration.

However, as has been the case in the Senate, as a Member of the U.S. House of Representatives, he was less supportive in the areas of asylum and temporary protection and the verification of the employment eligibility. However, in addition to those areas, then-Representative Schumer also strayed at times on the question of the eligibility of both legal and illegal immigrants for public benefits and on the area of control of illegal immigration.

The future of immigration is at a crossroad. The issue has become extremely polarized along partisan and ethnic lines. The Senate has failed on three occasions in recent years to enact comprehensive immigration reforms after devoting enormous time and political capital on the effort. For more than a decade now, the House has been mired in warfare on the issue of immigration, passing one immigration control measure after another and facing one politically-charged immigration enforcement vote after another.

It is common for casual observers and relative newcomers to a legislative battle to look at the battlefield that they currently are in and view it as a rare, unprecedented, and intractable situation. Some relative newcomers to the immigration debate view the current immigration legislative landscape through that prism. However, the ascendancy of Senator Schumer to the chairmanship of the Immigration Subcommittee could prove them wrong.

As a Member of the U.S. House of Representatives in the 1980s and 1990s, then-Representative Schumer was engaged in a legislative battlefield on immigration that is not unlike the one that exists today. He emerged from that battlefield having contributed the seminal ideas that legalized millions of aliens, re-ordered the family- and employment-based immigration systems, established expedited removal and instituted the pre-inspection of arriving aliens at their foreign ports of departure.

If history is a guide, Chairman Schumer will likely prove to be an engaged and active chairman of the Immigration Subcommittee who will show independence, imagination and great political skill when trying to navigate the difficult waters of immigration law and policy. His history shows that he likely will support many of the goals of the pro-immigrant advocacy community. But his history of independence also foreshadows a few moments and positions that the pro-immigrant and pro-refugee communities will find maddening.

Returning in the 111<sup>th</sup> Congress as the Ranking Republican on the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security is Senator John Cornyn (R-TX), who served in that role during the 109<sup>th</sup> and 110<sup>th</sup> Congresses, as well.

Senator Cornyn was first elected to the Senate in 2002 and was reelected in 2008 with 55 percent of the vote.

Senator Cornyn has been a leading opponent of immigrants, immigration, and refugees since his election to the United States Senate. Indeed, he has supported the pro-immigrant and pro-refugee advocacy communities' position on less than 5 percent of the key contested immigration- or refugee-related votes that he has cast during his Senate career.



Apart from his voting record on immigration- and refugee-related matters, Senator Cornyn has used his position as Ranking Republican on the Immigration Subcommittee as a platform to oppose key pro-immigrant measures and to promote key anti-immigrant measures that have come before the Senate in recent years.

**New and Departed Subcommittee Members.** The Immigration Subcommittee had nine members during the 110<sup>th</sup> Congress, with the subcommittee's partisan ratio being 5-Democrats-to-4 Republicans. The number of Subcommittee Members in the 111<sup>th</sup> Congress has been increased by one, and the ratio of Democrats to Republicans is 6-Democrats-to-4-Republicans.

On the Democratic side of the aisle, two Democrats who sat on the Subcommittee during the 110<sup>th</sup> Congress are not on the Subcommittee in the 111<sup>th</sup> Congress. The Subcommittee got three new senators to replace the departed Subcommittee members.

All of the changes to the Subcommittee roster took place on the Democratic side of the aisle

The departed 110<sup>th</sup> Congress Subcommittee members are:

- Edward M. Kennedy (D-MA)
- Joseph Biden (D-DE)

The new 111<sup>th</sup> Congress Subcommittee members are:

- Patrick Leahy (D-VT)
- Sheldon Whitehouse (D-RI)
- Ron Wyden (D-OR)

**Subcommittee Roster.** The chart that follows lists the roster of the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security in the 111<sup>th</sup> Congress. Senators who have left the Subcommittee in the 111<sup>th</sup> Congress are denoted with a ~~stricken through line~~. New committee members are marked with an asterisk (\*):

**Senate Judiciary Immigration Subcommittee**  
**111<sup>th</sup> Congress**

Democrats (6)	Republicans (4)
Schumer (D-NY)	Cornyn (R-TX)
*Leahy (D-VT)	Grassley (R-IA)
<del>Kennedy (D-MA)</del>	Kyl (R-AZ)
<del>Biden (D-DE)</del>	Sessions (R-AL)
Feinstein (D-CA)	
Durbin (D-IL)	
*Whitehouse (D-RI)	
*Wyden (D-OR)	



**Senate Homeland Security Committee Organizes for the 111<sup>th</sup> Congress:** The Senate Committee on Homeland Security and Governmental Affairs held its 111<sup>th</sup> Congress organizing meeting last week, dividing into subcommittees and adopting its committee rules. Last week’s Committee meeting occurred on Wednesday, February 11, 2009.

**Jurisdiction Over Immigration and Refugee Matters.** With regard to immigration and refugee matters, the Senate Committee on Homeland Security and Governmental Affairs has legislative and oversight jurisdiction over Department of Homeland Security, except for matters relating to the United States Citizenship and Immigration Services Bureau or the immigration functions of United States Customs and Border Protection, United States Immigration and Customs Enforcement, or the Directorate of Border and Transportation Security.

To the layman, that would leave the Committee with very little jurisdiction over immigration. But the Committee doesn’t necessarily interpret its immigration jurisdiction that narrowly. Whatever the case, the Committee does have jurisdiction over any legislation to reorganize the Department of Homeland Security, and it has jurisdiction over the confirmation process for the President’s nominees to head the Department itself, as well as the Department’s Immigration and Customs Enforcement (ICE) bureau, and the Department’s Customs and Border Protection (CBP) bureau.

**Committee Chairman.** Returning as Chairman of the Senate Committee on the Homeland Security and Governmental Affairs in the 111<sup>th</sup> Congress is Senator Joseph Lieberman (I-VT), who also chaired the Committee during the 110<sup>th</sup> Congress.

Senator Lieberman was first elected to the United States Senate in 1988 and has been reelected to the Senate ever since. He was last reelected in 2006 with just 50 percent of the vote, winning the seat as an Independent after losing the Democratic primary.

Senator Lieberman has a strong record in support of the pro-immigrant and pro-refugee advocacy community’s positions. He has supported the two communities’ positions on more than 90 percent of the key contested immigration- and refugee-related votes that he has cast during his Senate career, rarely voting against their positions in the last two Congresses.



In addition to having a strong voting record in support of the pro-immigrant and pro-refugee advocacy communities positions, Senator Lieberman also has sponsored or cosponsored many, if not all, of the marquee pro-immigrant and pro-refugee bills that have been introduced during his time in the Senate. This includes the DREAM Act, AgJOBS, and the Unaccompanied Alien Child Protection Act. He also has cosponsored legislation to increase the number of Iraqi refugees admitted to the United States. And he is the sponsor of legislation to improve the conditions of aliens in detention.

**Ranking Minority Member.** Returning as Ranking Republican of the Senate Committee on the Homeland Security and Governmental Affairs in the 111<sup>th</sup> Congress is Senator Susan Collins (R-ME), who served as the Committee’s Ranking Republican during the 110<sup>th</sup> Congress.



Senator Collins was first elected to the United States Senate in 1996 and has been reelected ever since. Indeed, Senator Collins supported a vigorous challenge in 2008 by winning nearly 60 percent of the vote, despite a Democratic tide that saw President Barack Obama win the state by a margin of more than 17 percent.

Senator Collins has supported the positions of the pro-immigrant and pro-refugee advocacy communities on 44 percent of the key contested votes that she has cast during her Senate career. Among some of the significant immigration-related votes that she cast during the 109<sup>th</sup> and 110<sup>th</sup> Congress, are votes that she cast in favor of invoking cloture on the DREAM Act, in favor of invoking cloture on AgJOBS legislation, and against invoking cloture on the comprehensive immigration reform bill.

Senator Collins has added her name on occasion to pro-immigrant or pro-refugee legislation, joining as a cosponsor of the Unaccompanied Alien Child Protection Act and of a bill to increase the number of Iraqi refugees admitted to the United States.

**Committee Ratio.** As the 110<sup>th</sup> Congress drew to a close, there were 9 Democrats and 8 Republicans on the Senate Committee on Homeland Security and Governmental Affairs.

The Committee ratio in the 111<sup>th</sup> Congress will be 10-Democrats-to-7-Republicans.

One Democratic and five Republican departures from the Committee meant that that Senate Democrats had to add two new Democrats to the Committee and Republicans had to add four Republicans to the Committee in the 111<sup>th</sup> Congress.<sup>146</sup>

**Departed Committee Members.** One Democrat and five Republicans who were on the Committee in the 110<sup>th</sup> Congress have left it in the 111<sup>th</sup> Congress:

- Barack Obama (D-IL)
- Ted Stevens (R-AK)
- Norm Coleman (R-MN)<sup>146</sup>
- Pete Domenici (R-NM)
- John Warner (R-VA)
- John Sununu (R-NH)

**New Committee Members.** Five senators who were not on the Committee during the 110<sup>th</sup> Congress have been added to the Committee in the 111<sup>th</sup> Congress. The five new committee members are:

- Roland Burris (D-IL)
- Michael Bennet (D-CO)
- John McCain (R-AZ)
- John Ensign (R-NV)
- Lindsey Graham (R-SC)

**Committee Roster.** The chart that follows lists the roster of the Senate Homeland Security and Governmental Affairs Committee in the 111<sup>th</sup> Congress. Senators who have left the Committee in the 111<sup>th</sup> Congress are denoted with a ~~stricken-through line~~. New committee members are marked with an asterisk (\*):

**Senate Committee on Homeland Security  
 111<sup>th</sup> Congress**

Democrats (10)	Republicans (7)
Lieberman (I-CT)	Collins (R-ME)
Levin (D-MI)	<del>Stevens (R-AK)</del>
Akaka (D-HI)	Voinovich (R-OH)
Carper (D-DE)	*McCain
Pryor (D-AR)	<del>Coleman (R-MN)</del>
Landrieu (D-LA)	Coburn (R-OK)
<del>Obama (D-IL)</del>	Domenici (R-NM)
McCaskill (D-MO)	<del>Warner (R-VA)</del>
Tester (D-MT)	<del>Sununu (R-NH)</del>
*Burris (D-IL)	*Ensign (R-NV)
*Bennet (D-CO)	*Graham (R-SC)
	Vacant

☼ ◇

***Executive Branch Transition***

Even though President Obama has named the cabinet secretaries already for all but one of the four departments that have jurisdiction over the federal government’s major immigration- and refugee-related functions, even those agencies that have heads in place will continue in a state of transition over the next several weeks and months as subcabinet officials and agency heads are named in those departments.

This section of the Weekly Immigration and Refugee Legislative Update will be devoted to chronicling the impact that the actions and decisions of the incoming Obama Administration in organizing the executive branch will have on the course of immigration- and refugee-related legislation, as well as examining the impact that those actions and decisions may have on Congressional oversight of the executive branch’s immigration- and refugee-related functions.

This section will continue in this publication until President-Elect Obama has made all of his major immigration- and refugee-related appointments.

***Over the Horizon ...***

**Bicameral Congress Puts Off Work on FY '09 Omnibus Until After Recess:** When the 110<sup>th</sup> Congress adjourned in December, 2008, it left most of its fiscal year 2009 appropriations work undone, including leaving undone the

<sup>146</sup> Former Senator Norm Coleman (R-MN) is contesting the results of the 2008 election, which the Minnesota Canvassing Board has tentatively awarded to his challenger, Al Franken. At the time of this writing, an election contest was underway. Should the contest be decided in favor of Coleman, he will regain his seat on the Senate Committee on Homeland Security and Governmental Affairs.

appropriations bills that fund the operation of the nation's refugee admissions, overseas refugee assistance, and refugee resettlement programs. Those programs are being funded through March 6, 2009, pursuant to Division A of P.L. 110-329, the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009".

It is widely believed that the fiscal year 2009 omnibus appropriations bill has already been written. Indeed, just over a week ago, the House Democratic Leadership announced that it intended to take up the measure last week. However, under pressure from Senate appropriators, the House Democratic Leadership agreed to put off House consideration of the measure until after the Presidents Day recess.

If the fiscal year 2009 omnibus appropriations bill has, indeed, been written, it has not yet been publicly released. Accordingly, at the time of this writing, virtually nothing was publicly known about its provisions. Indeed, virtually no one on Capitol Hill who is not associated with the Leadership or the Appropriations Committee knew much about the bill's contents at the time of this writing.

The bill will contain fiscal year 2009 appropriations for the following departments that administer significant immigration- and refugee-related functions:

- Department of State. The Department of State, which administers the nation's refugee admissions and overseas refugee assistance programs through its Bureau of Population, Refugees, and Migration (PRM);
- Department of Health and Human Services. The Department of Health and Human Services, which administers the nation's refugee resettlement, unaccompanied alien child, trafficking victims assistance, and torture victims assistance programs through its Office of Refugee Resettlement (ORR); and
- Department of Justice. The Department of Justice, which administers the Board of Immigration Appeals (BIA), Executive Office for Immigration Review (EOIR), and the nation's immigration court system.

In addition to containing provisions appropriating funds for the three departments above, the measure may also be used as

a vehicle for extending four immigration programs that are set to expire on March 6, 2009. Those programs are the Conrad 30 program for foreign-born doctors, the E-Verify employment verification program, a program relating to the EB-5 Investor visa program; and the special immigrant non-minister religious worker visa program.

All four of these programs will face either extinction or extension in the 111<sup>th</sup> Congress, and advocates for them are hoping extensions of the programs will be contained in the omnibus appropriations bill.

There is no reliable word on when the House will take up the fiscal year omnibus appropriations bill or what provisions will be included in it. But Congress must either enact the measure or send another continuing appropriations measure to the President by March 6, 2009. ☼ ◇

### *Next Week's Edition ...*

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

- Preview of the Likely Immigration and Refugee Legislative Agenda for the 111<sup>th</sup> Congress. Next week's Weekly Legislative Update will preview the likely immigration and refugee legislative agenda that Congress will face during the 111<sup>th</sup> Congress.
- Refugee- and Immigration-Related Provisions in the Fiscal Year 2009 Omnibus Appropriations Bill. Next week's Weekly Legislative Update will preview the refugee- and immigration-related provisions expected to be contained in the fiscal year 2009 omnibus appropriations bill, depending on whether the House releases details about the measure this week.
- Organization of the 111<sup>th</sup> Congress. Next week's Weekly Legislative Update will continue coverage of efforts that are underway to organize the House of Representatives and Senate for the 111th Congress and analyzing how those efforts, decisions, and actions might impact the course of immigration- and refugee-related legislation. ◇

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## Appendix

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### Immigration Profile of Senator Charles E. Schumer (D-NY) February 16, 2009

Senator Charles E. Schumer (D-NY) has been named chairman of the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security (Immigration Subcommittee) in the 111<sup>th</sup> Congress. Senator Schumer takes over the subcommittee from Senator Edward M. Kennedy (D-MA), who resigned from the Senate Committee on the Judiciary at the end of the 110<sup>th</sup> Congress for health reasons. Senator Kennedy had been a member of the Senate Judiciary Committee for more than 41 years, serving as either the Immigration Subcommittee's chairman or its ranking minority member for most of that time. He was considered a stalwart supporter of immigrants' and refugees' rights, having been a key player in the creation of every immigration- or refugee-related law that has been enacted during his more than 40 years in the United States Senate.

Senator Schumer is no stranger to immigration law and policy, either. He was first elected to the United States Senate in 1998. Prior to serving in the Senate, he served for 18 years in the U.S. House of Representatives. He has a long record on immigration, most notably when he was in the House. Indeed, while in the House, then-Representative Schumer served on the House Judiciary Subcommittee on Immigration during most of his House tenure.

During Mr. Schumer's years in the House, Congress considered three major bills that sought to legalize illegal aliens, enacting one of them into law. Congress also reconfigured the family- and employment-based immigration system during Mr. Schumer's time in the House, created the Temporary Protected Status (TPS) regime, rewrote asylum law by establishing the expedited removal regime, made legal immigrants ineligible for most state, federal, and local public assistance programs, and severely curtailed the due process rights of aliens in removal proceedings. Not only was then-Representative Schumer a Member of the House during those major legislative battles; he was at the forefront of the debate during most of them, amassing a rich and proactive record on immigration and refugee matters.

The United States Conference of Catholic Bishops Government Relations office (USCCB/GR) has conducted this detailed analysis of Senator Schumer's record on immigration during his time in the House and Senate. This analysis found that Mr. Schumer has supported the pro-immigrant and pro-refugee-advocacy communities on 85 percent of the key contested immigration votes that he has cast during his time in Congress.<sup>147</sup> This includes support for the positions of those two communities on more than 87 percent of the key contested immigration- and refugee-related votes that he has cast while in the United States Senate and support for those two communities' positions on just over 82 percent of the key contested immigration- and refugee-related votes that he cast while he was in the U.S. House of Representatives.

While Senator Schumer has supported the positions of the pro-immigrant advocacy community most of the time during his House and Senate careers, there have been a few occasions on which he has not done so. And some of those exceptions have been on issues that were critical to the pro-immigrant -- and particularly to the pro-refugee -- advocacy communities. For instance—

- As a House Member, then-Representative Schumer voted against a legislative grant of TPS to Haitians who had been interdicted by the United States on the High Seas and brought to an encampment on Guantanamo Bay, Cuba; voted in favor of the measure that established expedited removal and deprived aliens in removal proceedings of due process rights; voted against allowing undocumented aliens to apply for Food Stamp and Medicaid benefits on behalf of their U.S. citizen children; and voted in favor of the program that is now known as the E-Verify program.

Then-Representative Schumer also sponsored or cosponsored legislation that the pro-immigrant and pro-refugee communities opposed during his House career. For instance, he repeatedly introduced legislation while in the House to institute pre-inspection of airline passengers at foreign airports, a regime that refugee advocates feared would result in

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<sup>147</sup> *The USCCB/GR analysis defines a key contested immigration – or refugee-related vote as a vote (1) on a question which was of serious consequence to the immigrant or refugee communities, (2) on which there was a clear position taken by the requisite communities of advocates working on immigration and refugee policy, and (3) on which there was significant cleavage in the House or Senate*

denying bona fide refugees the opportunity to escape from their persecutors. He introduced legislation while in the House that would have given the President the discretion to lower or increase limits on immigration to the United States without Congress acting. He sponsored a measure that, among its many provisions, would have permitted Congress to veto the President's determination on the number of refugees would could be admitted to the United States in a given year. And he cosponsored legislation that was the forerunner of the expedited removal regime that eventually was enacted into law.

- As a United States Senator, Mr. Schumer has voted against easing the Material Support bar to admissibility that was enacted as part of the REAL ID Act; voted against authorizing the Secretary of Homeland Security or Attorney General of the United States to waive grounds of inadmissibility for aliens seeking to legalize if the alien's removal would result in hardship for the U.S. citizen spouse, parent, or child of the alien; and he has voted numerous times to sunset guest worker programs included in comprehensive immigration reform legislation.

Notwithstanding the above cited instances, if any pattern in Senator Schumer's Senate immigration-related record can be discerned, it is that he has been a strong supporter of the pro-immigrant and pro-refugee advocacy communities' positions on most categories of immigration issues. Senator Schumer has at one time or another cosponsored most of the marquee legislation that the pro-immigrant and pro-refugee advocacy communities have supported during his time in the Senate, including the DREAM Act, AgJOBS, the Unaccompanied Alien Child Protection Act, and the Immigrant Children's Health Improvement Act (ICHIA). Generally speaking, the exceptions to Senator Schumer's record of support for the two communities' positions while he has been in the U.S. Senate have been in the areas of employment-based immigration, the verification of the employment eligibility of aliens, asylum, and due process for aliens in removal proceedings.

If any pattern in then-Representative Schumer's House immigration- or refugee-related record can be discerned, it is that he was a strong supporter back then of the pro-immigrant and pro-refugee advocacy communities' positions on most categories of immigration- and refugee-related issues. Indeed, he usually could be counted on by the pro-immigrant and pro-refugee advocacy communities to vote in favor of bills that the two communities supported and to vote against bills that the communities opposed. The most significant exception to this in the House was then-Representative Schumer's vote in favor of the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), which ushered in expedited removal and contained a number of provisions that immigration advocates believe deprived aliens in removal proceedings of due process rights. The two communities were vehemently opposed to that measure.

**Senate Immigration Voting Record.** Senator Schumer's voting record on immigration- and refugee-related legislation while in the United States Senate has been mostly supportive of the pro-immigrant and pro-refugee advocacy communities' positions. Indeed, at the time of this writing, Senator Schumer's level of support for the two communities' positions on key contested Senate immigration- and refugee-related votes was greater than that of all but 15 of his 98 Senate colleagues. This puts him just ahead of Senator Edward M. Kennedy (D-MA), who is widely thought to be a stalwart supporter of immigrants' rights.

At the time of this writing, the Senate had conducted 47 key contested votes on immigration- or refugee-related matters during Senator Schumer's time there.<sup>148</sup> He participated in all of those votes, supporting the positions of the pro-immigrant and pro-refugee advocacy communities in 87.2 percent of them. In all, Senator Schumer has cast 41 votes in support of the pro-immigrant or pro-refugee advocacy communities' positions and six votes in opposition to them during his Senate career.<sup>149</sup>

If any pattern in Senator Schumer's Senate immigration-related votes can be discerned, it is that he has been a strong supporter of the pro-immigrant and pro-refugee advocacy communities' positions on most categories of immigration issues. The

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<sup>148</sup> *This analysis defines a key contested immigration – or refugee-related vote as a vote (1) on a question which was of serious consequence to the immigrant or refugee communities, (2) on which there was a clear position taken by the requisite communities of advocates working on immigration and refugee policy, and (3) on which there was significant cleavage in the House or Senate*

<sup>149</sup> *To be sure, any analysis that tracks legislators' positions on "key votes" must, by its very definition, exclude relevant votes that the analysis does not consider to be "key votes." Accordingly, a number of relevant immigration- and refugee-related votes that Senator Schumer cast during his time in the Senate are not included in this analysis. One of the most significant of these is a vote that occurred during the 109<sup>th</sup> Congress on September 29, 2006, when he voted in favor of H.R. 6061, a measure to require the Department of Homeland Security to construct a 700 mile-long fence along the U.S. border with Mexico ([Senate Roll Call No. 262](#), September 29, 2006). The Senate passed the measure by a vote of 80-19, with Senator Schumer voting in favor of the bill. It was not considered a key, contested vote at the time because of the lopsided nature of the outcome.*

exceptions to this are in the areas of employment-based immigration, the verification of the employment eligibility of aliens, asylum, and due process for aliens in removal proceedings:

- Employment-Based Immigration Votes. The Senate has conducted eight key contested votes on employment-based immigration during Senator Schumer's time in the Senate. He supported the pro-immigrant advocacy community's position in half of those votes and opposed them in the other half, siding, instead with the AFL-CIO, which has traditionally opposed temporary worker programs.
- Asylum, Refugee, and Temporary Protection Votes. The Senate has conducted just one key contested vote on the issue of asylum during Senator Schumer's time in the Senate. He voted against the pro-refugee community's position on that vote.
- Due Process for Aliens in Removal Proceedings Votes. And the Senate has conducted two votes on immigration-related due process issues during Senator Schumer's time in the Senate. He supported the pro-immigrant advocacy community's position on one of those votes and opposed it on the other.

One noteworthy observation about Senator Schumer's votes in support of the pro-immigrant advocacy community during his time in the Senate is that he often has voted in favor of the pro-immigrant and pro-refugee advocacy communities' positions even Senators Kennedy and John S. McCain (R-AZ) opposed them. A number of examples of this can be found in Senator Schumer's votes on amendments to the second of two comprehensive immigration reform bills that the Senate took up in 2007. In that effort, Senators Kennedy and McCain worked with President George W. Bush and several traditionally anti-immigrant senators, including Senator Jon Kyl (R-AZ), to assemble a comprehensive immigration reform bill. The bill that they assembled contained provisions that would have legalized many illegal aliens. However, the measure also would have left numerous undocumented aliens out of the legalization scheme, decimated the family preference immigration system, and made life extraordinarily difficult for undocumented aliens who were not legalized by the bill. Senators Kennedy and McCain made a pact with the Administration and Senator Kyl to oppose any amendments to the bill that would eviscerate its core principles – a pact that had the two opposing even pro-immigrant amendments that were offered to the bill. Senator Schumer voted for a number of amendments to improve the bill that were supported by the pro-immigrant advocacy community and opposed by Senators Kennedy and McCain as “killer amendments.”

This analysis divides the 47 key contested Senate immigration-and refugee-related votes that occurred during Senator Schumer's time in the Senate into 12 different categories:

- Acculturation of Immigrants
- Asylum, Refugee, and Temporary Protection
- Benefits for Illegal Immigrants
- Benefits for Legal Immigrants
- Civil, Constitutional, or Labor Rights of Immigrants
- Comprehensive Immigration Reform
- Control of Illegal Immigration
- Due Process for Aliens in Removal Proceedings
- Employment-Based Immigration System
- Family-Based Immigration System
- Legal Immigration System
- Legalization of Undocumented Aliens.

The following details each of the key contested immigration- and refugee-related votes that occurred during Senator Schumer's Senate career and how he voted on them. The listing is divided into two groups: votes that he cast in opposition to the pro-immigrant and pro-refugee advocacy communities' positions and votes that he cast in support of the two communities' positions.

- Senate Votes that Senator Schumer Cast in Opposition to the Two Communities' Positions. The one thing in common between all of the votes that Senator Schumer cast in opposition to the pro-immigrant or pro-refugee advocacy communities' positions is that each was related to employment-based immigration.

The following are the key contested immigration- or refugee-related votes that Senator Schumer cast in opposition to the positions of the two communities during his Senate career:

**Asylum, Refugee, and Temporary Protection (1 vote)**

1. Material Support Bar to Admissibility. Senator Schumer voted in favor of a Specter (R-PA) motion to table (kill) Leahy (D-VT) Amendment Number 4117 to [S. 2611](#), comprehensive immigration reform legislation. The Leahy amendment would have revised the ban in existing law on granting refugee status to aliens who have provided "material support" to a terrorist organization. The Leahy amendment would have authorized the Secretary of State, in consultation with the U.S. attorney general, to grant refugee status to individuals if they do not pose a threat to national security or U.S. nationals. It also would have allowed the Secretary of State to exclude from the definition of "terrorist organization" groups determined to not pose a threat to national security or U.S. nationals.

The Senate voted to table the Leahy amendment by a vote of 79-19.<sup>150</sup>

**Due Process for Aliens in Proceedings (2 votes)**

2. Discretionary Waivers. Senator Schumer voted against a Cornyn (R-TX) motion to table (kill) Durbin (D-IL) Amendment Number 4142 to [S. 2611](#), comprehensive immigration reform legislation. The Durbin amendment would have authorized the Secretary of Homeland Security or the U.S. Attorney General to waive certain grounds for an alien's inadmissibility or removal from the United States if the denial or removal would result in hardship for a spouse, parent or child who is a U.S. citizen or permanent resident alien. Under the Durbin amendment, individuals engaged in terrorist activity would have been denied such waivers.

The Senate voted to table the Durbin amendment by a vote of 63-34.<sup>151</sup>

**Employment-Based Immigration (3 votes)**

3. Guest Worker Programs. Senator Schumer voted in favor of Dorgan (R-ND) Amendment Number 4095 to [S. 2611](#), comprehensive immigration reform legislation. The Dorgan amendment would have sunset the underlying bill's H-2C temporary worker program five years after the bill's enactment date.

The Senate rejected the Dorgan amendment by a vote of 48-49.<sup>152</sup>

4. Sunset the New Guest Worker Programs. Senator Schumer voted in favor of Dorgan (D-ND) Amendment Number 1181 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Dorgan amendment would have sunset the bill's guest worker visa program after five years.

The Senate rejected the Dorgan amendment by a vote of 48-49<sup>153</sup>

5. Sunset the New Guest Worker Programs. Senator Schumer voted in favor of the Dorgan (D-ND) amendment to the Kennedy (D-MA) substitute amendment to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Dorgan amendment would have sunset the Y-1 non-immigrant temporary worker visa program in the bill after five years.

The Senate agreed to the Dorgan amendment by a vote of 49-48<sup>154</sup>

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<sup>150</sup> [Senate Roll Call No. 139](#), May 23, 2006

<sup>151</sup> [Senate Roll Call No. 142](#), May 23, 2006

<sup>152</sup> [Senate Roll Call No. 150](#), May 24, 2006

<sup>153</sup> [Senate Roll Call No. 178](#), May 24, 2007

<sup>154</sup> [Senate Roll Call No. 201](#), June 7, 2007

- Senate Votes That Senator Schumer Cast In Support of the Two Communities' Positions. The vast majority of the key contested immigration- and refugee-related votes that Senator Schumer cast during his Senate career supported the pro-immigrant and pro-refugee advocacy communities' positions.

The following are the key immigration- or refugee-related votes that Senator Schumer cast in support of the positions of the two communities while in the Senate:

**Acculturation of Immigrants (2 votes)**

1. English as the Official Language. Senator Schumer voted against Inhofe (R-OK) Amendment Number 4064 to [S. 2611](#), comprehensive immigration reform legislation. The Inhofe amendment would have established English as the national language of the United States. It would set English as the primary language of U.S. government communication. Under the amendment, the government would not have to provide materials or services in a language other than English unless authorized or required by law. The amendment also sought to strike from the bill an option for illegal immigrants to enroll in English classes to fulfill a requirement to legalize their status and instead require those immigrants to pass English proficiency tests. And it would have set goals and suggested changes to the English test immigrants must pass to qualify for legal permanent residence.

The Senate agreed to the Inhofe amendment by a vote of 62-35.<sup>155</sup>

2. English as the National Language. Senator Schumer voted against Inhofe (R-OK) Amendment Number 1151 to Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Inhofe amendment would have declared English as the national language of the United States.

The Senate agreed to the Inhofe amendment by a vote of 64-33.<sup>156</sup>

**Benefits for Illegal Immigrants (4 votes)**

3. Social Security Benefits for Illegal Immigrants. Senator Schumer voted for a Specter (R-PA) motion to table (kill) Ensign (R-NV) Amendment Number 3985 to [S. 2611](#), comprehensive immigration reform legislation. The Ensign amendment would have barred illegal immigrants currently in the country from claiming Social Security credits for work done in years before they are assigned a valid Social Security number.

The Senate voted to table the Ensign amendment by a vote of 50-49.<sup>157</sup>

4. Earned Income Tax Credit for Illegal Immigrants. Senator Schumer voted against Sessions (R-AL) Amendment Number 4108 to [S. 2611](#), comprehensive immigration reform legislation. The Session amendment would have prohibited illegal immigrants, including those illegally present in the United States before January 7, 2004, who earn legal status under the bill, from claiming the Earned Income Tax Credit until they receive citizenship.

The Senate rejected the Session amendment by a vote of 37-60.<sup>158</sup>

5. Federal Income Tax Refunds for Illegal Immigrants. Senator Schumer voted against Ensign (R-NV) Amendment Number 4136 to [S. 2611](#), comprehensive immigration reform legislation. The Ensign amendment would have prohibited illegal immigrants who apply for status adjustment under the bill from collecting any tax refunds or filing any claims for the Earned Income Tax Credit or other tax benefits for tax years prior to 2006.

The Senate agreed to the Ensign amendment by a vote of 50-47.<sup>159</sup>

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<sup>155</sup> [Senate Roll Call No. 131](#), May 18, 2006

<sup>156</sup> [Senate Roll Call No. 198](#), June 6, 2007

<sup>157</sup> [Senate Roll Call No. 130](#), May 18, 2006

<sup>158</sup> [Senate Roll Call No. 154](#), May 25, 2006

6. Denial of Social Security Benefits for Illegal or Fraudulent Work. Senator Schumer voted against an Ensign (R-NV) motion to waive the Budget Act with respect to the Kennedy (D-MA) point of order against the Ensign Amendment Number 2355 to the Kennedy Substitute Amendment Number 2327 to S. 2669. The Ensign amendment would have denied Social Security benefits from being paid for illegal or fraudulent work.

The Senate failed to waive the point of order by a vote of 57-40 (a three-fifths majority vote (60) of the total Senate is required to waive the Budget Act. (Subsequently, the chair upheld the Kennedy point of order and the Ensign amendment fell.)).<sup>160</sup>

#### **Benefits for Legal Immigrants (2 votes)**

7. Immigrant Children's Health Insurance. Senator Schumer voted against a Sessions (R-AL) amendment to S. 1, legislation to establish a prescription drug benefit for senior citizen. The Sessions amendment would have stricken a provision in the bill allowing states to provide health coverage to legal immigrant children and pregnant women. The Session amendment also would have stricken a provision from the bill expressing the sense of the Senate that the Finance Committee should hold hearings, relating to Medicaid or welfare reauthorization, on whether the five-year residency requirement for legal immigrants to obtain federal benefits under welfare should be overturned.

The Senate rejected the Sessions amendment by a vote of 33-65.

8. Earned Income Tax Credit for Legalizing Aliens. Senator Schumer voted against Sessions (R-AL) Amendment Number 1234 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S 1348](#), comprehensive immigration reform legislation. The Sessions amendment would prohibit the "Y" visa holders in the temporary guest worker program from claiming the earned income tax credit.

The Senate agreed to the Ensign amendment by a vote of 56-41.<sup>161</sup>

#### **Citizenship and Naturalization (1 vote)**

9. Contracting Out of Immigration Services. Senator Schumer voted in favor of Leahy (D-VT) amendment no. 3584 to the Leahy amendment no. 3581 to H.R. 4567, the Fiscal Year 2005 Homeland Security Appropriations Act. The perfecting amendment would have reverted the base amendment to its original text, which would have prohibited the use of funds to privatize or contract out services provided by the Bureau of Citizenship and Immigration Services.

The Senate agreed to the Leahy amendment by a vote of 49-47.

#### **Civil, Constitutional, or Labor Rights of Immigrants (1 vote)**

10. Labor Enforcement. Senator Schumer voted against an Isakson (R-GA) motion to table (kill) Kennedy (R-MA) Amendment Number 4106 to [S. 2611](#), comprehensive immigration reform legislation. The Kennedy amendment would have expanded enforcement provisions of existing employment laws. More specifically, it would have made willful or grossly negligent Occupational Safety and Health Act violations a criminal felony. Under the Kennedy amendment, employers would have been required to provide back pay to undocumented workers. It would have required 25 percent of the Department of Labor's investigators to be fluent in a language other than English. It also would have increased fines for violations of the Fair Labor Standards Act and the Occupational Safety and Health Act.

The Senate voted to table the Kennedy amendment by a vote of 54-40.<sup>162</sup>

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<sup>159</sup> [Senate Roll Call No. 155](#), May 25, 2006

<sup>160</sup> [Senate Roll Call No. 263](#), July 19, 2007

<sup>161</sup> [Senate Roll Call No. 192](#), June 6, 2007

<sup>162</sup> [Senate Roll Call No. 141](#), May 23, 2006

**Comprehensive Immigration Reform (2 votes)**

11. Final Passage of Comprehensive Immigration Reform Bill. Senator Schumer voted for final passage of [S. 2611](#), comprehensive immigration reform legislation. As passed by the Senate, the measure would have overhauled U.S. immigration policies and offered a path to citizenship for most illegal immigrants in the country. It would have subdivided illegal immigrants into three groups based on how long they had been in the United States. Illegal immigrants in the country more than five years would have been able to stay and earn citizenship; those who had been in the United States between two and five years would have three years to file paperwork for a temporary work visa, after which they would be eligible for permanent legal residency; and those who had been in the United States for fewer than two years would have to return to their native country and go through normal channels if they wanted to return to the United States. It would have created a guest worker program that could accommodate an additional 200,000 immigrants a year. It also would have authorized increased border security and enforcement provisions, including a requirement for businesses to verify documents of all prospective employees through an electronic system managed by the Department of Homeland Security.

The Senate passed S. 2611 by a vote of 62-36.<sup>163</sup>

12. Cloture on Comprehensive Immigration Reform Bill. Senator Schumer voted to invoke cloture (thus limit debate and allow the bill to move forward) on [S. 1639](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The measure would have overhauled U.S. immigration policies, provided for a temporary guest worker program, legalized certain undocumented aliens present in the United States, established a point system in lieu of the current family-based immigration system, instituted new border security measures, and instituted an electronic employment verification system.

The Senate failed to invoke cloture on S. 1639 by a vote of 46-53.<sup>164</sup>

**Control of Illegal Immigration (2 votes)**

13. State & Local Enforcement of Civil Immigration Laws. Senator Schumer voted against Coleman (R-MN) Amendment Number 1158 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Coleman amendment would have amended the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to allow law enforcement officials to question individuals about their immigration status if they have probable cause to believe the immigrants do not have legal status.

The Senate rejected the Coleman amendment by a vote of 48-49.<sup>165</sup>

14. Sanctuary Policies. Senator Schumer voted in favor of a Dorgan (D-ND) motion to table (kill) the Vitter (R-LA) Amendment Number 4309 to S.Con. Res. 70, the Fiscal Year 2009 budget resolution. The Vitter amendment would have allowed an adjustment to the resolution to restrict Community-Oriented Policing Services funding from going to jurisdictions that prohibit local law enforcement from cooperating with federal agencies looking for illegal immigrants.

The Senate tabled the Vitter amendment by a vote of 58-40.<sup>166</sup>

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<sup>163</sup> [Senate Roll Call No. 157](#), May 25, 2006

<sup>164</sup> [Senate Roll Call No. 235](#), June 28, 2007

<sup>165</sup> [Senate Roll Call 177](#), May 24, 2007

<sup>166</sup> [Senate Roll Call No. 69](#), March 13, 2008

**Due Process for Aliens in Proceedings (1 vote)**

15. Stays of Removal. Senator Schumer voted for Feingold (D-WI) Amendment Number 4083 to [S. 2611](#), comprehensive immigration reform legislation. The Feingold amendment struck from the bill a provision that would have prohibited a court from staying the removal of an alien under the bill's expedited removal procedures.

The Senate agreed to the Feingold amendment by a vote of 52-45.<sup>167</sup>

**Employment-Based Immigration System (4 votes)**

16. Adjustment of Guest Workers to Employment-Based Immigrants. Senator Schumer voted against Cornyn (R-TX) Amendment Number 3965 to [S. 2611](#), comprehensive immigration reform legislation. The Cornyn amendment would have required that nonimmigrant temporary workers who self-petition for employment-based immigrant visas under the bill's guest worker program be employed at their current status for at least four years, required the employer to attest that the immigrant will be employed in the offered position, and required the secretary of Labor to certify that no American worker is available to take the job.

The Senate agreed to the Cornyn amendment by a vote of 50-48.<sup>168</sup>

17. Self-Petitioning Adjustment for Guest Workers. Senator Schumer voted for Kennedy (D-MA) Amendment Number 4066 to [S. 2611](#), comprehensive immigration reform legislation. The Kennedy amendment would have liberalized the conditions under which individuals with guest worker visas could apply for permanent legal residence status. Under the Kennedy amendment, guest workers would not need an employer to attest to forthcoming employment. Guest workers seeking to self-petition would need the secretary of Labor to certify that no American worker is available to take the job. They also would be required to provide documentary proof that he or she is employed, including self-employment.

The Senate adopted the Kennedy amendment by a vote of 56-43.<sup>169</sup>

18. Cap on Employment-Based Immigration. Senator Schumer voted against Bingaman (D-NM) Amendment Number 4131 to [S. 2611](#), comprehensive immigration reform legislation. The Bingaman amendment would have limited the total number of aliens granted employment-based permanent residence status to 650,000 per fiscal year. The cap would have applied to workers, as well as to workers' spouses and children.

The Senate adopted the Bingaman amendment by a vote of 51-47.<sup>170</sup>

19. Requirement that Guest Workers Leave the Country for One Year. Senator Schumer voted for Bingaman (D-NM) Amendment Number 1267 to the Kennedy, D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Bingaman amendment would have stricken from the bill the requirement that "Y" non-immigrant visa holders leave the United States before they are able to renew their visa.

The Senate rejected the Bingaman amendment by a vote of 41-57.<sup>171</sup>

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<sup>167</sup> [Senate Roll Call No. 153](#), May 25, 2006

<sup>168</sup> [Senate Roll Call No. 128](#), May 17, 2006

<sup>169</sup> [Senate Roll Call No. 129](#), May 18, 2006

<sup>170</sup> [Senate Roll Call No. 152](#), May 25, 2006

<sup>171</sup> [Senate Roll Call No. 189](#), June 6, 2007

**Family-Based Immigration System (6 votes)**

20. Cutoff for Family-Based Immigration Backlog Reduction. Senator Schumer voted for a Menendez (D-NJ) motion to waive the Budget Act with respect to a Kyl (R-AZ) point of order against the Menendez Amendment Number 1194 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Menendez amendment would have added 100,000 family-based visas per year to the underlying bill's visa backlog effort and changed the family backlog reduction deadline for those currently awaiting green cards from May 1, 2005 (the date in the bill) to Jan. 1, 2007 (the same cutoff date for legalizing aliens), thus including more family members in the bill's backlog reduction effort.

The motion failed by a vote of 53-44 (a three-fifths majority vote (60) of the total Senate is required to waive the Budget Act. (Subsequently, the chair upheld the Kyl point of order and the Menendez amendment fell.)).<sup>172</sup>

21. Cutoff for Family-Based Immigration Backlog Reduction. Senator Schumer voted against Kyl (R-AZ) Amendment Number 1460 to the Kennedy (D-MA) substitute amendment to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Kyl amendment would have allowed applicants awaiting family-based green cards on or before Jan. 1, 2007, or who could reasonably expect to receive a green card by January 2007, to be included in the backlog reduction. The Kyl amendment was a far less generous alternative to an amendment that Senator Bob Menendez (D-NJ) offered and was intended to preempt adoption of the Menendez amendment.

The Senate adopted the Kyl amendment by a vote of 51-45.<sup>173</sup>

22. Expansion of the Definition of "Immediate Relative." Senator Schumer voted for a Kennedy (D-MA) motion to waive the Budget Act with respect to a Kyl (R-AZ) point of order against a Clinton (D-NY) amendment to the Kennedy substitute amendment to [S. 1348](#), comprehensive immigration legislation that the Senate considered during the 110<sup>th</sup> Congress. The Clinton amendment would have expanded the definition of "immediate relative" to include minor children and spouses of lawful permanent residents for the purposes of family-sponsored immigration.

The motion failed by a vote of 44-53 (a three-fifths majority vote (60) of the total Senate is required to waive the Budget Act. (Subsequently, the chair upheld the Kyl point of order and the Clinton amendment fell.)).<sup>174</sup>

23. Sunset of Point System for Immigration to the United States. Senator Schumer voted in favor of his own Amendment Number 1202 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Schumer amendment would have sunset the bill's merit-based evaluation system for immigrants after five years and returned to the current law family-based immigration system.

The Senate rejected the Schumer amendment by a vote of 42-55.<sup>175</sup>

24. Increase Visas for Parents of U.S. Citizens. Senator Schumer voted against a Specter (R-PA) motion to table (kill) Division IV of Kennedy (D-MA) Amendment Number 1639 to [S. 1639](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. Division IV, sponsored by Senator Christopher Dodd (D-CT), would have increased the number of green cards in the bill that were provided for parents of U.S. citizens and increased the duration of the parent visitor program in the bill. It also would have stricken a study of the parent visitor program and restricted the penalty for overstaying that visa to solely the individual visa holder.

The Senate tabled the Dodd amendment by a vote of 56-41.<sup>176</sup>

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<sup>172</sup> [Senate Roll Call No. 193](#), June 6, 2007

<sup>173</sup> [Senate Roll Call No. 194](#), June 6, 2007

<sup>174</sup> [Senate Roll Call No. 195](#), June 6, 2007

<sup>175</sup> [Senate Roll Call No. 200](#), June 6, 2007

<sup>176</sup> [Senate Roll Call No. 232](#), June 27, 2007

25. Increase Points Allocated to Extended Family Members in “Merit-Based” Immigration System. Senator Schumer voted against a Reid (D-NV) motion to table (kill) Division VI of Kennedy (D-MA) Amendment Number 1934 to [S. 1639](#), comprehensive immigration reform legislation that the Senate Considered during the 110<sup>th</sup> Congress. Division VI, sponsored by Senators Bob Menendez (D-NJ), Barack H. Schumer (D-IL), and Russell Feingold (D-WI), would have increased the points allocated to siblings of United States citizens, adult sons and daughters of United States citizens, and adult sons and daughters of legal permanent residents under the underlying bill's 'merit-based' system.

The Senate tabled the Menendez amendment by a vote of 55-40.<sup>177</sup>

#### **Legal Immigration System (1 vote)**

26. Change Eligibility Criteria for the Diversity Visa Program. Senator Schumer voted in favor of Gregg (R-NH) Amendment Number 4114 to [S. 2611](#), comprehensive immigration reform legislation. The Gregg amendment would have revised the federal government's diversity visa lottery program to require that two-thirds of the 55,000 visas granted by the program would have to go to aliens with advanced science degrees, with the remaining one-third distributed according to the current criteria.

The Senate agreed to the Gregg amendment by a vote of 56-42.<sup>178</sup>

#### **Legalization of Undocumented Aliens (16 votes)**

27. Central American Legalization. Daschle (D-SD) motion to suspend Rule XXII to permit the consideration of the Kennedy (D-MA) amendment to S. 2045, legislation to expand high technology visas. The Kennedy amendment would create a set of procedures to allow certain immigrants from Central America, Haiti, Liberia and Eastern Europe and former Soviet bloc countries to apply for permanent residence. It also would change the registry date to from 1972 to 1986, and it would restore a provision in immigration law (known as section 245(i) of the Immigration and Nationality Act) that would allow immigrants seeking to become permanent residents to remain in the U.S. for a \$1000 fee and to apply for permanent residence.

The motion was rejected by a vote of 43-55.

28. Cloture on AgJOBS Bill. Senator Schumer did not vote on a Frist (R-TN) motion to invoke cloture (thus limit debate) on Craig (R-ID) Amendment Number 375 to H.R. 1268, the Fiscal Year 2007 Supplemental Appropriations Act. The Craig amendment would have granted certain agricultural workers who are in the country illegally temporary resident status and put them on the path toward permanent resident status if they met specified employment and residency requirements.

The Senate failed to invoke cloture by a vote of 53-45 (a three fifths majority vote (60) of the total Senate is required to invoke cloture and cloture was not invoked).<sup>179</sup>

29. Enforcement Trigger for the Legalization Program. Senator Schumer voted against Isakson (R-GA) Amendment Number 3961 to [S. 2611](#), comprehensive immigration reform legislation. The Isakson amendment would have required the Secretary of Homeland Security to certify in writing that the borders are secure and new detention facilities are operational before implementing other provisions in the bill -- including a guest worker program and legalization provisions.

The Senate rejected the Isakson amendment by a vote of 40-55.<sup>180</sup>

<sup>177</sup> [Senate Roll Call No. 233](#), June 27, 2007

<sup>178</sup> [Senate Roll Call No. 147](#), May 24, 2006

<sup>179</sup> [Senate Roll Call No. 98](#), April 19, 2005

<sup>180</sup> [Senate Roll Call No. 121](#), May 17, 2006

30. Strike the Legalization Program from Comprehensive Immigration Reform Bill. Senator Schumer voted against Vitter (R-LA) Amendment Number 3963 to [S. 2611](#), comprehensive immigration reform legislation. The Vitter amendment would have stricken provisions from the bill that would provide a process to obtain legal residence and citizenship for illegal immigrants who have worked in the United States for at least five years. It also would have stricken the bill's agriculture worker program provisions.

The Senate rejected the Vitter amendment by a vote of 33-66.<sup>181</sup>

31. Require Legalized Guest Workers to Return To Their Countries. Senator Schumer voted for a McCain (R-AZ) motion to table (kill) Kyl (R-AZ) Amendment Number 3969 to [S. 2611](#), comprehensive immigration reform legislation. The Kyl amendment would have stricken provisions from the bill that would have allowed guest workers who have been in the United States illegally and come out of the shadows to apply for legal resident status and eventual citizenship. It would have, instead, required such guest workers to leave the country once their visas expire.

The Senate tabled the Kyl amendment by a vote of 58-35.<sup>182</sup>

32. Single-Tiered Legalization Program. Senator Schumer voted for Feinstein (D-CA) Amendment Number 4087 to [S. 2611](#), comprehensive immigration reform legislation. The Feinstein amendment would have replaced the bill's three-tiered legalization approach with a plan to allow all illegal immigrants currently in the country to apply for legal status. Under the Feinstein amendment, after passing national security and background checks, illegal immigrants could apply for an "orange card." The application process would include demonstrating presence in the country, work history, an understanding of English, civics and American history, payment of back taxes and a \$2,000 fine. Orange card holders would be eligible for permanent residence status after six years of work and would follow those currently in line to receive permanent status.

The Senate rejected the Feinstein amendment by a vote of 37-61.<sup>183</sup>

33. Work Requirement for Legalizing Agricultural Guest Workers. Senator Schumer voted for a Gregg (R-NH) motion to table (kill) Chambliss (R-GA) Amendment Number 4084 to [S. 2611](#), comprehensive immigration reform legislation. The Chambliss amendment would have modified the eligibility requirements for illegal immigrants to obtain "blue cards" under the bill's agricultural worker program. The Chambliss amendment would have increased the number of hours an individual must be employed to earn one work day toward card requirements to eight hours, and increased the total number of work days required to 150 per year for two years. It also would have increased the fine agricultural workers must pay to apply for a "blue" card to \$1,000.

The Senate tabled the Chambliss amendment by a vote of 62-35.<sup>184</sup>

34. Permit Sharing of Information from Legalization Application. Senator Schumer voted against Cornyn (R-TX) Amendment Number 4097 to [S. 2611](#), comprehensive immigration reform legislation. The Cornyn amendment would have allowed for increased sharing among government agencies of data in immigration applications by removing limitations on the sharing of information once an application has been denied, and also in other cases.

The Senate rejected the Cornyn amendment by a vote of 49-49.<sup>185</sup>

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<sup>181</sup> [Senate Roll Call No. 127](#), May 17, 2006

<sup>182</sup> [Senate Roll Call No. 135](#), May 18, 2006

<sup>183</sup> [Senate Roll Call No. 138](#), May 23, 2006

<sup>184</sup> [Senate Roll Call No. 149](#), May 24, 2006

<sup>185</sup> [Senate Roll Call No. 151](#), May 25, 2006

35. Criminal Grounds Barring Persons from Legalizing. Senator Schumer voted against Cornyn (R-TX) Amendment Number 1184 to Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Cornyn amendment would have expanded the list of felony crimes for which conviction would prevent illegal aliens from receiving legal status under the bill. The list in the Cornyn amendment would include membership in terrorist organizations or violent gangs, sex offenses, firearms smuggling and repeat drunk driving. It would also bar individuals who have violated court ordered deportations from legalization of immigration status.

The Senate rejected the Cornyn amendment by a vote of 46-51.<sup>186</sup>

36. Requirement that Legalizing Aliens Have Private Health Insurance. Senator Schumer voted against DeMint (R-SC) Amendment Number 1197 to Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The DeMint amendment would have required applicants of a new Z visa program to pledge to maintain a minimum level of health coverage through a qualified health care plan. Under the legislation, Z visas were visas to be given to qualifying illegal immigrants to legalize their status and eventually allow them to earn permanent residency.

The Senate rejected the DeMint amendment by a vote of 43-55.<sup>187</sup>

37. Required Disclosure of Information on Legalization Application to Law Enforcement. Senator Schumer voted against Cornyn (R-TX) Amendment Number 1250 to Kennedy, D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Cornyn amendment would have required certain information on Z visa applicants to be disclosed to law enforcement. Under the legislation, Z visas were visas to be given to qualifying illegal immigrants to legalize their status and eventually allow them to earn permanent residency.

The Senate agreed to the Cornyn amendment by a vote of 57-39.<sup>188</sup>

38. Enforcement Trigger for the Legalization Program. Senator Schumer voted against Vitter (R-LA) Amendment Number 1339 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Vitter amendment would have required completion of the U.S. VISIT system to be included as an enforcement trigger before aliens could be legalized under the bill.

The Senate rejected the Vitter amendment by a vote of 48-49.<sup>189</sup>

39. Enforcement Trigger for the Legalization Program. Senator Schumer voted against Coburn (R-OK) Amendment Number 1311 to the Kennedy (D-MA) Substitute Amendment Number 1150 to [S. 1348](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. The Coburn amendment would have required completion of existing immigration laws, including the 700-mile border security fence, as additional enforcement triggers.

The Senate rejected the Coburn amendment by a vote of 42-54.<sup>190</sup>

40. Requirement that Legalization Applicants Return to Country of Origin Before Legalizing. Senator Schumer voted for a Reid (D-NV) motion to table (kill) Division I of Kennedy (D-MA) Amendment Number 1934 to [S. 1639](#), Comprehensive Immigration Reform legislation that the Senate considered during the 110<sup>th</sup> Congress. Division 1,

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<sup>186</sup> [Senate Roll Call No. 187](#), June 6, 2007

<sup>187</sup> [Senate Roll Call No. 188](#), June 6, 2007

<sup>188</sup> [Senate Roll Call No. 190](#), June 6, 2007

<sup>189</sup> [Senate Roll Call No. 199](#), June 6, 2007

<sup>190</sup> [Senate Roll Call No. 202](#), June 7, 2007

sponsored by Senator Kay Bailey Hutchison (R-TX), would have required illegal immigrants to return to their country of origin within two years of registration for probationary status before finalizing the Z visa application. Under the legislation, Z visas were visas to be given to qualifying illegal immigrants to legalize their status and eventually allow them to earn permanent residency.

The Senate voted to table the Hutchison amendment by a vote of 53-45.<sup>191</sup>

41. Strike Possibility of Legal Permanent Residence for Legalizing Aliens. Senator Schumer voted for a Reid (D-NV) motion to table (kill) Division III of the Kennedy (D-MA) Amendment Number 1934, to [S. 1639](#), comprehensive immigration reform legislation that the Senate considered during the 110<sup>th</sup> Congress. Division III, sponsored by Senator Bond (R-MO), would have prohibited Z visa recipients from obtaining a green card. Under the legislation, Z visas were visas to be given to qualifying illegal immigrants to legalize their status and eventually allow them to earn permanent residency.

The Senate voted to table the Bond amendment by a vote of 57-40.<sup>192</sup>

42. Cloture on the DREAM Act. Senator Schumer voted for a Motion to invoke cloture (thus limit debate) on a Reid (D-NV) motion to proceed to S. 2205, the DREAM Act, which would allow children of illegal immigrants who entered the United States before age 16 and who have lived here at least five years to gain conditional legal status and eventual citizenship if they attend college or join the military for at least two years.

The Senate failed to invoke cloture on the DREAM Act by a vote of 57-40 (a three-fifths majority vote (60) of those present and voting is required to invoke cloture).<sup>193</sup>

**House Immigration Voting Record.** Senator Schumer's voting record was slightly less supportive of the pro-immigrant and pro-refugee advocacy communities' positions while he was a member of the U.S. House of Representative than it was while he was in the Senates. This analysis studied 33 key contested immigration- or refugee-related votes that occurred in the House of Representatives between 1985 and 1998, during then-Representative Schumer's time in the House.<sup>194</sup> He participated in all of those votes, supporting the positions of the pro-immigrant and pro-refugee advocacy communities in 81.8 percent of them. In all, in those 33 instances, then-Representative Schumer cast 27 votes in support of the pro-immigrant or pro-refugee advocacy communities' positions and six votes in opposition to their positions.

If any pattern in then-Representative Schumer's House immigration- or refugee-related votes can be discerned, it is that he was a strong supporter of the pro-immigrant and pro-refugee advocacy communities' positions on most categories of immigration- and refugee-related issues. Indeed, he usually could be counted on by the pro-immigrant and pro-refugee advocacy communities to vote in favor of bills that the two communities supported and to vote against bills that the communities opposed. The most significant exception to this in the House was then-Representative Schumer's vote in favor of the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), which ushered in expedited removal and contained a number of provisions that immigration advocates believe deprived aliens in removal proceedings of due process rights. The two communities were vehemently opposed to that measure.

As has been the case with Senator Schumer's Senate record on key contested immigration- and refugee-related votes, then-Representative Schumer's votes in the House on some of the amendments that shaped significant immigration- and refugee-related bills were not always supportive of the pro-immigrant and pro-refugee advocacy communities' positions.

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<sup>191</sup> [Senate Roll Call No. 229](#), June 27, 2007

<sup>192</sup> [Senate Roll Call No. 231](#), June 27, 2007

<sup>193</sup> [Senate Roll Call No. 394](#), October 24, 2007

<sup>194</sup> Representative Schumer served in the U.S. House of Representatives from 1981 through 1998. However, this analysis only studied key contested immigration votes that occurred between 1985 and 1998. Thus, any immigration- or refugee-related votes that occurred in the House during the first four of the 18 years that then-Representative Schumer served there are not included in this analysis. The House took a number of significant immigration-related votes during that four year period, as well.

Like in the Senate, then-Representative Schumer was less supportive of the two communities' positions in the areas of asylum and temporary protection and in the area of verification of employment eligibility. In addition, though, then-Representative Schumer also strayed from the two communities' positions, at times, on the question of the eligibility of legal and illegal immigrants for public benefits, as well as in the area of control of illegal immigration:

However, as has been the case in the Senate, as a Member of the U.S. House of Representatives, he was less supportive in the areas of asylum and temporary protection and the verification of the employment eligibility. However, in addition to those areas, then-Representative Schumer also strayed at times on the question of the eligibility of both legal and illegal immigrants for public benefits and on the area of control of illegal immigration.

- Control of Illegal Immigration. The House conducted three key contested votes on the control of illegal immigration between 1985 and 1998. Then-Representative Schumer opposed the position of the pro-immigrant advocacy community on two of those votes.
- Asylum, Refugees, and Temporary Protection. The House conducted three key contested votes on asylum or temporary protection between 1985 and 1998. Then-Representative Schumer opposed the position of the pro-refugee advocacy community on two of those votes.
- Illegal Alien Eligibility for Public Benefits. The House conducted eight key contested votes on the eligibility for illegal aliens for public benefits between 1985 and 1998. Then-Representative Schumer supported the position of the pro-immigrant advocacy community on seven of those votes and opposed it once.
- Legal Alien Eligibility for Public Benefits. The House conducted four key contested votes on the eligibility of legal immigrants for public benefits between 1985 and 1998. Then-Representative Schumer supported the position of the pro-immigrant advocacy community on three of those votes and opposed it once.

One noteworthy observation about then-Representative Schumer's votes on key contested immigration-related votes while a member of the U.S. House of Representatives is that he supported the position of the pro-immigrant and pro-refugee advocacy communities on final passage of all but one measure (the aforementioned vote he cast in favor of the Anti Terrorism and Effective Death Penalty Act of 1996). His positive votes on final passage of landmark immigration- or refugee-related legislation includes votes that he cast in support of final passage of the Immigration Act of 1990 (IMMACT), which reconfigured the family- and employment-based legal immigration systems and established the Temporary Protected Status (TPS) regime; as well as his vote in favor of final passage of a measure that sought to protect Haitian refugees whom the United States were interdicting on the High Seas and returning to Haiti. It also includes votes that he cast in opposition to final passage of the Illegal Immigration Reform and Immigrant Responsibility act of 1996 (IIRIRA) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

As was the case with the analysis of Senator Schumer's Senate votes, this analysis divides the 33 key contested House immigration-and refugee-related votes that occurred between 1985 and 1998 into 12 different categories:

- Acculturation of Immigrants
- Asylum, Refugee, and Temporary Protection
- Benefits for Illegal Immigrants
- Benefits for Legal Immigrants
- Civil, Constitutional, or Labor Rights of Immigrants
- Comprehensive Immigration Reform
- Control of Illegal Immigration
- Due Process for Aliens in Removal Proceedings
- Employment-Based Immigration System
- Family-Based Immigration System
- Legal Immigration System
- Legalization of Undocumented Aliens.

The following details each of the key contested immigration- and refugee-related votes that occurred in the U.S. House of Representatives during the period between 1985 and 1998. The listing is divided into two groups: votes that he cast in opposition to the pro-immigrant and pro-refugee advocacy communities' positions and votes that he cast in support of the two communities' positions.

- House Votes that Representative Schumer Cast in Opposition to the Two Communities' Positions. The following briefly summarizes the six votes that then-Representative Schumer cast in opposition to the pro-immigrant and pro-refugee advocacy communities' positions during the period between 1985 and 1998, during which time then-Representative Schumer served in the U.S. House of Representatives:

**Asylum, Refugee, and Temporary Protection (2 votes)**

1. Temporary Protected Status for Haitian Nationals. Then-Representatives Schumer voted against a Conyers (D-MI) amendment to H.R. 3844, a bill to suspend for six months the repatriation of Haitians who were in the custody of the United States before February 5, 1992. The Conyers amendment would have granted Temporary Protected Status (TPS) for Haitians who are in the custody of the United States until democracy is returned to Haiti, even if they arrived after February 5, 2005.

The House rejected the Conyers amendment by a vote of 96-304.<sup>195</sup>

2. Expedited Removal. Then-Representative Schumer voted in favor of adoption of the conference report on S. 735, the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), which enacted into law expedited removal and contained numerous other terrorism and death penalty related provisions.

The House adopted the conference report by a vote of 293-133.<sup>196</sup>

**Benefits for Illegal Immigrants (1 vote)**

3. Benefits to Illegal Alien Crime Victims. Then-Representative Schumer voted in favor of a Rohrabacher (R-CA) motion to instruct the House conferees to H.R. 3355, the Omnibus Crime Bill. The Rohrabacher motion was that the House insist on Senate provisions that prohibit federal programs from providing payments to people not lawfully present within the United States.

The House agreed to the Rohrabacher motion to instruct conferees by a vote of 289-121.<sup>197</sup>

**Benefits for Legal Immigrants**

4. Benefits for U.S. Citizen Children of Illegal Aliens. Then-Representative Schumer voted against a Velazquez (D-NY) amendment to H.R. 2202, legislation that was enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The Velazquez amendment would have stricken provisions in the bill which would have kept undocumented aliens from applying for benefits, such as food stamps and Medicaid, on behalf of their U.S. born (and, thus, U.S. citizen) children.

The House rejected the Velazquez amendment by a vote of 151-269.<sup>198</sup>

**Control of Illegal Immigration**

5. Secure Social Security Card. Then-Representative Schumer voted in favor of a McCollum (R-FL) amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The McCollum amendment would have directed the Social Security Administration to improve the design and material of Social Security account number cards in order to secure them against counterfeiting and fraudulent use.

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<sup>195</sup> [House Roll Call No. 32](#), February 27, 1992

<sup>196</sup> [House Roll Call No. 126](#), April 18, 1996

<sup>197</sup> [House Roll Call No. 324](#), July 13, 1994

<sup>198</sup> [House Roll Call No. 74](#), March 20, 1996

The House rejected the McCollum amendment by a vote of 191-121.<sup>199</sup>

6. Basic Pilot Employment Verification Program. Then-Representative Schumer voted against a Chabot (R-OH) amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The Chabot amendment would have stricken the bill's section establishing a voluntary system under which employers in five of the seven states with the highest number of illegal immigrants could use a toll free telephone line to verify the immigrant status of employees.

The House rejected the Chabot amendment by a vote of 159-260.<sup>200</sup>

- House Votes That Representative Schumer Cast in Support of the Two Communities' Positions. The vast majority of the key contested immigration- and refugee-related votes that then-Representative Senator Schumer cast during his Senate career supported the pro-immigrant and pro-refugee advocacy communities' positions.

The following are the key immigration- or refugee-related votes that Senator Schumer cast in support of the positions of the two communities while in the Senate:

### **Benefits for Illegal Immigrants**

1. Then-Representative Schumer voted in favor of an amendment offered by Representative Henry Gonzalez (D-TX to H.R. 3810, legislation that was later enacted into law as the "Immigration Reform and Control Act of 1986 " (IRCA). The Gonzalez amendment sought to assure that a family containing at least one member eligible for housing assistance could receive assistance without regard to legal status of other family members.

The amendment was rejected by a vote of 73-310.<sup>201</sup>

2. Then-Representative Schumer voted against the Collins (R-GA) amendment to H.R. 820, the "National Competitive Act of 1994." The Collins amendment would have required that funds authorized by the measure go only to individuals who are U.S. citizens or nationals, aliens lawfully admitted for permanent residence, or aliens otherwise granted legal resident status.

The House agreed to the Collins amendment by a vote of 263-156.<sup>202</sup>

3. Then-Representative Schumer voted against the Baker (R-CA) amendment to H.R. 2010, a national Service bill. The Baker amendment would have required organizations to have written policies stating that they do not provide services to illegal aliens in order to participate in the National Service program.

The House rejected the amendment by a vote of 180-253.<sup>203</sup>

4. Then-Representative Schumer voted against a Rohrabacher (R-CA) amendment to H.R. 6. The Rohrabacher amendment would have required Title I schools to report on the number of enrolled students who are illegally in the United States or who do not have at least one parent who is a legal resident of the United States.

The House rejected the amendment by a vote of 78-329.<sup>204</sup>

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<sup>199</sup> [House Roll Call No. 72](#), March 20, 1996

<sup>200</sup> [House Roll Call No. 76](#), March 20, 1996

<sup>201</sup> [House Roll Call No. 418](#), October 9, 1986

<sup>202</sup> [House Roll Call No. 171](#), May 19, 1993

<sup>203</sup> [House Roll Call No. 375](#), July 28, 1993

<sup>204</sup> [House Roll Call No. 41](#), March 3, 1994

5. Then-Representative Schumer voted against the Kim (R-CA) amendment to H.R. 3838, Fiscal Year 1995-1996 Housing Reauthorization Bill, as amended. The Kim amendment would have prohibited illegal aliens from receiving benefits under the Food and Shelter Program of the Federal Emergency Management Agency. Before being adopted the Kim amendment was amended on a voice vote by a Roukema (R-NJ) amendment to provide an exception to the Kim amendment when a national disaster is declared by the president.

The House passed the Kim amendment by a vote of 220-176.<sup>205</sup>

6. Then-Representative Schumer voted against the Bryant (R-TN) amendment to H.R. 2202, legislation that was enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), to require public medical facilities, as a condition of receiving reimbursement for their services, to provide the Immigration and Naturalization Service with identifying information about illegal aliens they treated. This information would only have to be provided for individuals over the age of 18.

The Senate rejected the Bryant amendment by a vote of 170-250<sup>206</sup>

7. Then-Representative Schumer voted against the Gallegly (R-CA) amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), to give states the option to deny public education to illegal aliens.

The House passed the Gallegly amendment by a vote of 257-163.<sup>207</sup>

#### **Benefits for Legal Immigrants**

8. Then-Representative Schumer voted in favor of H. Res. 173, the rule providing for consideration of H.R. 3167, a bill to extend emergency benefits for the long term unemployed. The rule included a self executing amendment to strike provisions from the bill that would have deemed the income of sponsors was also the income of immigrants for the purpose of determining immigrants' eligibility for certain welfare programs, thus cutting immigrants' eligibility for federal welfare programs. Under the original bill, the deeming provision would have offset the cost of extending federal unemployment compensation benefits.

The House rejected the resolution by a vote of 149-274.<sup>208</sup>

9. Then-Representative Schumer voted against House passage of H.R. 3734, legislation that was later enacted into law as the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). As passed by the House, the measure sought to save about \$61.1 billion through fiscal 2002, mostly by cutting aid to legal immigrants and scaling back food stamp benefits. The bill would have end the federal guarantee of welfare benefits, given states broad discretion over their own programs through block grants, required welfare recipients to work within two years of receiving benefits and generally limited recipients to five years of welfare benefits. The bill also would have made it harder for disabled children to qualify for Supplemental Security Income.

With respect to aliens, the measure would have barred illegal immigrants from receiving federal, state, and local welfare benefits, required the sponsors of legal immigrants to execute legally binding affidavits of support, deemed the sponsor's income to the alien for the first five years after alien's entry, and barred legal immigrants from receiving most federal, state, and local welfare benefits for the first five years after entry.

The House passed H.R. 3734 by a vote of 256-170.<sup>209</sup>

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<sup>205</sup> [House Roll Call No. 348](#), July 22, 1994

<sup>206</sup> [House Roll Call No. 73](#), March 20, 1996

<sup>207</sup> [House Roll Call No. 75](#), March 20, 1996

<sup>208</sup> [House Roll Call No. 505](#), October 14, 1993

<sup>209</sup> [House Roll Call No. 331](#), July 18, 1996

10. Then-Representative Schumer voted in favor of a Lincoln Diaz-Balart (R FL) amendment to H.R. 1469. The Diaz-Balart amendment would have postponed the scheduled termination of Supplemental Security Income (SSI) payments to legal immigrants until the end of fiscal 1997. Under the 1996 welfare system overhaul (PL 104 193) such payments to legal immigrants were scheduled to end on August 22, 1997.

The House agreed to the Diaz-Balart amendment by a vote of 345-74.<sup>210</sup>

#### **Civil, Constitutional, and Labor Rights of Immigrants**

11. Then-Representative Schumer voted against a Sensenbrenner (R-WI) amendment to H.R. 3810, legislation that was later enacted into law as the "Immigration Reform and Control Act of 1986 "(IRCA). The Sensenbrenner amendment would have stricken provisions from the legislation that would have barred discrimination based on citizenship status and that would have established a special office within the Justice Department to investigate bias claims.

The House rejected the Sensenbrenner amendment by a vote of 140-260.<sup>211</sup>

12. Then-Representative Schumer voted in favor of a Conte (R-MA) motion to order the previous question (thus end debate and the possibility of amendment) on the Conte motion to instruct House conferees to H.R. 2199, the Fiscal Year 1990 Commerce, Justice, State Appropriations bill. The Conte motion was that the House should agree to a Senate amendment to H.R. 2199 that called on the president to include in a proposed international drug summit consideration of the removal from power of Gen. Manuel Antonio Noriega of Panama. (The effect of the Conte motion was to prevent consideration of a Ridge (R-PA) motion to instruct conferees. The Ridge motion was that the House should agree to a Senate amendment prohibiting the Census Bureau from counting illegal aliens in the 1990 census for purposes of reapportionment of the House).

The House adopted the Conte motion to instruct conferees by a vote of 232-184.<sup>212</sup>

#### **Control of Illegal Immigration**

13. Then-Representative Schumer voted against adoption of the conference report accompanying H.R. 2202, legislation that was later enacted into law as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996" (IIRIRA). As enacted into law, the measure sought to restrict illegal immigration by increasing the number of border agents, installing fences along the California Mexico border and making it easier to deport and detain illegal immigrants. The measure also denies legal immigrants federal, state, and local benefits under means based programs and makes people who use them deportable. It also imposes income requirements of up to twice the poverty level for sponsors of legal immigrants.

The House adopted the conference report by a vote of 305-123.<sup>213</sup>

#### **Diversity Visas**

14. Then-Representative Schumer voted against the Canady (R-FL) amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The Canady amendment would have required immigrants arriving under the Diversity Immigrant Program and the Employment Based classification to demonstrate English proficiency by taking a standardized test administered by the Education Department.

The House agreed to the Canady amendment by a vote of 210-207.<sup>214</sup>

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<sup>210</sup> [House Roll Call No. 133](#), May 15, 1997

<sup>211</sup> [House Roll Call No. 416](#), October 9, 1986

<sup>212</sup> [House Roll Call No. 282](#), October 11, 1989

<sup>213</sup> [House Roll Call No. 432](#), September 25, 1996

**Employment-Based Immigration System**

15. Then-Representative Schumer voted against a Pombo (R-CA) amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The Then-Representative Schumer voted against a Pombo amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The Pombo amendment would have modified the current temporary agriculture worker program by creating a three year alternative pilot program which would enable employers to hire temporary and seasonal workers for no more than 10 months at a time. Under the amendment, employers would be required to give preference to available American workers by hiring any qualified job applicants within the first 25 days after the job becomes available and to withhold 25 percent of a worker's wages until the worker leaves the country. The amendment would phase out the current guest worker program over two years if the pilot program becomes permanent.

The House rejected the Pombo amendment by a vote of 180-242.<sup>215</sup>

**Family-Based Immigration System**

16. Then-Representative Schumer voted against the Bryant (D-TX), substitute amendment to H.R. 4300, legislation that was later enacted into law as the "Immigration Act of 1990" (IMMACT). The Bryant amendment would have stricken all provisions of the bill except ones that he deemed were related to family reunification." The Bryant amendment would have prohibited the deportation of spouses and children of legalized aliens; specified that for five years spouses and children of permanent residents would be limited to an overall total of 115,000 and not subject to immigration limits for individual countries; and provided 10,000 additional visas a year for the next five years for unmarried adult children of permanent residents.

The House rejected the Bryant substitute amendment by a vote of 165-257.<sup>216</sup>

17. Then-Representative Schumer voted against House passage of H.R. 4300 legislation that was later enacted into law as the "Immigration Act of 1990" (IMMACT). As passed by the House, the measure would have increased the number of visas for family relatives and people coming here to work; suspended deportation for the spouses and children of newly legalized aliens; established diversity visas or immigrants from countries that then accounted for a low number of immigrants to the United States; and reformed other immigration procedures.

The House passed H.R. 4300 by a vote of 231-192.<sup>217</sup>

18. Then-Representative Schumer voted in favor of the Chrysler (R-MI) amendment to H.R. 2202, legislation that was later enacted into law as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA),. The Chrysler amendment would have stricken most of the bill's provisions on legal immigration, specifically language relating to new limits on the number of legal immigrants admitted into the United States and restricting the preference system.

The House agreed to the Chrysler amendment by a vote of 238-183.<sup>218</sup>

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<sup>214</sup> [House Roll Call No. 78](#), March 20, 1996

<sup>215</sup> [House Roll Call No. 85](#), March 21, 1996

<sup>216</sup> [House Roll Call No. 404](#), October 3, 1990

<sup>217</sup> [House Roll Call No. 406](#), October 3, 1990

<sup>218</sup> [House Roll Call No. 84](#), March 21, 1996

### **Legalization of Undocumented Aliens**

19. Then-Representative Schumer voted against the McCollum (R-FL) amendment to H.R. 3810, legislation that was later enacted into law as the "Immigration Reform and Control Act of 1986 " (IRCA). The McCollum amendment would have stricken the legalization program that sought to grant legal status to millions of illegal aliens already in the country who could meet certain conditions.

The House rejected the McCollum amendment by a vote of 192-199.<sup>219</sup>

20. Then-Representative Schumer voted against the Gekas (R-PA) amendment to H.R. 4222, a bill to extend the filing period for the legalization program enacted into law by P.L. 99-603, the Immigration Reform and Control Act of 1986 (IRCA). The Gekas amendment would have limited the seven-month filing deadline extension that was provided for in H.R. 4222, applying it only to those aliens who could show "good cause" for failing to apply by May 4, 1988, the program's original deadline.

The House rejected the Gekas amendment by a vote of 167-246.<sup>220</sup>

21. Then-Representative Schumer voted in favor of House passage of H.R. 4222, a bill to extend from May 4, 1988, to Nov. 30, 1988, a program to grant legal status to illegal aliens who arrived in the United States before January 1, 1982, speak English and meet other requirements specified in P.L. 99-603, the Immigration Reform and Control Act of 1986 (IRCA).

The House passed H.R. 4222 by a vote of 213-201.<sup>221</sup>

22. Then-Representative Schumer voted against the Rohrabacher (R CA) motion to instruct House conferees to H.R. 2267, the Fiscal Year 1998 Commerce, Justice, State, Judiciary Appropriations Bill. The Rohrabacher motion sought to put the House on record as disagreeing with a Senate amendment to the bill that would have permanently extended section 245(i) of the Immigration and Nationalities Act, which permits immigrants who have illegally overstayed their visas to remain in the U.S. while seeking permanent legal status after paying a \$1,000 fine.

The House rejected the Rohrabacher motion by a vote of 153-268.<sup>222</sup>

### **Refugee Resettlement**

23. Then-Representative Schumer voted against the Coburn (R OK) amendment to H.R. 2264, FY 1998 Labor, HHS, Education Appropriations Bill. The Coburn amendment would have cut refugee resettlement assistance and other programs in order to increase funding by \$51 million for state AIDS Drug Assistance Programs that support low income people with HIV who do not qualify for Medicaid.

The House rejected the Coburn amendment by a vote of 141-282.<sup>223</sup>

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<sup>219</sup> *House Roll Call No. 419, October 9, 1986*

<sup>220</sup> *House Roll Call No. 60, August 20, 1988*

<sup>221</sup> *House Roll Call No. 61, April 20, 1988*

<sup>222</sup> *House Roll Call No. 541, October 29, 1987*

<sup>223</sup> [\*House Roll Call No. 377, September 9, 1997\*](#)

**Temporary Protection**

24. Then-Representative Schumer voted against the Fish (R-NY) amendment to H.R. 3810, legislation that was later enacted into law as the "Immigration Reform and Control Act of 1986 " (IRCA). The Fish amendment would have stricken from the bill provisions that would have provided temporary legal status to Salvadorans and Nicaraguans already in the United States.

The House rejected the Fish amendment by a vote of 197-199.<sup>224</sup>

25. Then-Representative Schumer voted in favor of House passage of H.R. 45, a bill to grant temporary protected status to nationals of the People's Republic of China, Nicaragua and El Salvador residing in the United States, and to allow the attorney general to grant the special protective status to other foreign nationals who need safe haven because of turmoil in their home countries.

The house passed H.R. 45 by a vote of 258-162.<sup>225</sup>

26. Then-Representative Schumer voted against the McCollum (R-FL) amendment to strike the Moakley (D-MA) amendment to H.R. 4300, legislation that was enacted into law as the "Immigration Act of 1990". The Moakley amendment that Representative McCollum sought to struck would have suspended detention and deportation of illegal immigrants from El Salvador, Lebanon, Liberia, and Kuwait for three years.

The House rejected the McCollum amendment by a vote of 131-285.<sup>226</sup>

27. Then-Representative Schumer voted in favor of House passage of H.R. 3844, a bill to suspend for six months the repatriation of Haitians who were in the custody of the United States before February 5, 1992; require the administration to report on the fate of repatriated Haitians; provide 2,000 refugee admission slots to Haitians; and prohibit the admission to the United States of any person involved in the September 1991 coup in Haiti.

The House passed H.R. 3844 by a vote of 217-165.<sup>227</sup>

**Sponsored Immigration-Related Legislation.** Senator Schumer has sponsored a significant amount of immigration- and refugee-related legislation during his career, including legislation that he introduced in both the Senate and in the U.S. House of Representatives. The following briefly summarizes those measures:

**Asylum, Refugees, and Temporary Protection**

1. During the 109<sup>th</sup> Congress, Senator Schumer introduced S. 297, a bill to provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat, and for other purposes.
2. During the 108<sup>th</sup> Congress, Senator Schumer introduced S. 2816, a bill to provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat, and for other purposes.

**Citizenship and Naturalization**

3. During the 110<sup>th</sup> Congress, Senator Schumer introduced S. 2840, a bill to establish a liaison with the Federal Bureau of Investigation in United States Citizenship and Immigration Services to expedite naturalization applications filed by members of the Armed Forces and to establish a deadline for processing such applications. The measure was enacted into law as P.L. 110-382.

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<sup>224</sup> *House Roll Call No. 420, October 9, 1986*

<sup>225</sup> *House Roll Call No. 307, October 25, 1989*

<sup>226</sup> *House Roll Call No. 402, October 2, 1990*

<sup>227</sup> [\*House Roll Call No. 34, February 27, 1992\*](#)

**Civil and Constitutional Rights of Immigrants**

4. During the 105<sup>th</sup> Congress, Senator Schumer introduced S. 2312, a bill to amend section 1584 of title 18, United States Code, to clarify that forcing immigrants into slave labor by withholding immigration documents, or by threatening to involve immigration authorities, is a violation of such section.
5. During the 106<sup>th</sup> Congress, Senator Schumer introduced S. 3074, a bill to make certain immigration consultant practices criminal offenses.

**Control of Illegal Immigration**

6. During the 102<sup>nd</sup> Congress, then-Representative Schumer introduced H.R. 4556, a bill to amend the Immigration and Nationality Act to provide for the expedited processing of certain aliens and citizens arriving from abroad by air at any port of entry within the United States, and for other purposes. As introduced, H.R. 4556, the Expedited Airport Processing Act of 1992, would have directed the Attorney General to:
  - A. Identify the 20 foreign airports which serve as departure points for the greatest number of improperly documented aliens seeking U.S. entry; establish ten pre-inspection stations at airports in such group; report annually to the appropriate congressional committees regarding departure point airports, including the number and nationality of such aliens; and (4) establish an expedited inspection process for U.S. citizens returning by air from abroad.
  - B. Amended the Immigration and Nationality Act to make the pilot visa waiver program permanent;
  - C. Authorized arriving vessels or aircraft to submit electronic passenger manifests to the Immigration and Naturalization Service;
  - D. Reduced the required length of time for the provision of immigration inspection and pre-inspection service; and
  - E. Changed the reporting date for the annual immigration user fee account report to the Congress.
7. During the 102<sup>nd</sup> Congress, then-Representative Schumer introduced H.R. 5555, a bill to provide for increased pre-inspection at foreign airports, to make permanent the visa waiver pilot program, and to provide for expedited airport immigration processing.

As passed by the House, H.R. 5555 would have—

- A. Amended the Immigration and Nationality Act to direct the Attorney General to establish pre-inspection stations within two years of enactment of the Act in at least three of the ten foreign airports identified as last departure points for the greatest numbers of passengers arriving at U.S. entry ports (Such pre-inspection stations would have had to be in addition to any stations established before enactment of this Act.);
- B. Directed the Attorney General to maintain records (including records of foreign airport of departure) of aliens arriving by air at U.S. ports of entry without valid documentation;
- C. Directed the Attorney General to establish three inspection stations by November 1, 1996, at foreign airports for the purpose of achieving maximum prevention of illegal immigration into the United States. (Such pre-inspection stations would have had to be in addition to those required to be established by the Act within two years of enactment, or those established before its enactment.);
- D. Directed the Attorney General to assign additional immigration officers to foreign airports without pre-inspection stations when significant numbers of aliens without valid documentation depart for the United States; and
- E. Set forth conditions to be met before a pre-inspection station could be established in a foreign country, including: (1) diplomatic protection for U.S. employees and their families; (2) facility compliance with Federal Inspection Services standards; (3) the country's maintenance of adequate refugee and asylum procedures; and (4) a

- prohibition against establishing a station in a country from which a resident has been granted refugee or asylum status in the United States during the previous three years;
- F. Revised the pilot visa waiver program to: (1) make it permanent; (2) repeal certain paperwork requirements; (3) subject participants to exclusion or deportation without appeal (except for an asylum claim); and (4) require carriers to distribute program information to passengers;
  - G. Authorized arriving vessels or aircraft to submit electronic passenger manifests to the Immigration and Naturalization Service. Limits such information to passenger name, date of birth, citizenship, passport number, and flight identification;
  - H. Stated that nothing in such Act shall be construed as requiring a personal interview of arriving passengers.
  - I. Required immigration inspections to be conducted within 30 minutes (currently 45 minutes) of arrival;
  - J. Directed the Attorney General to establish an expedited inspection process for U.S. citizens returning by air from abroad; and
  - K. Repealed the January 1, 1993, deadline for retired international organization officials and employees and spouses (G-4 visa) to apply for special immigrant status.
8. During the 103<sup>rd</sup> Congress, then-Representative Schumer introduced H.R. 1153, a bill to amend the Immigration and Nationality Act to provide for expanded pre-inspection at foreign airports, to provide for a permanent visa waiver program, and to expedite airport immigration processing. As introduced, H.R. 1153, the Immigration Pre-inspection Act of 1993 would have –
- A. Amended the Immigration and Nationality Act to direct the Attorney General to: (1) establish pre-inspection stations in at least three of the ten foreign airports identified as last departure points for the greatest numbers of passengers arriving at U.S. entry ports; (2) maintain records of aliens arriving by air at U.S. ports of entry without valid documentation; (3) establish three inspection stations at foreign airports for the purpose of achieving maximum prevention of illegal immigration into the United States; (4) assign additional immigration officers to foreign airports without pre-inspection stations when significant numbers of aliens without valid documentation depart for the United States; and (5) establish an expedited inspection process for U.S. citizens returning by air from aboard.
  - B. Made the pilot visa waiver program permanent;
  - C. Authorized arriving vessels or aircraft to submit electronic passenger manifests to the Immigration and Naturalization Service; and
  - D. Reduced the required length of time for the provision of immigration inspection and pre-inspection services.

### **Criminal Aliens**

- 9. During the 102<sup>nd</sup> Congress, then-Representative Schumer introduced H.R. 4440, a bill to require the transfer of certain closed military installations to the Department of Justice, to transfer certain aliens to such installations, to provide grants to States to assist States and units of local government in resolving certain difficulties relating to the incarceration of certain aliens, and for other purposes.
- 10. During the 103<sup>rd</sup> Congress, then-Representative Schumer introduced H.R. 2348, a bill to amend the Immigration and Nationality Act to provide for confinement in a Federal facility of illegal aliens sentenced to imprisonment under State law and to authorize the Attorney General to deport aliens sentenced to imprisonment before the completion of the sentence.

**Employment-Based Immigration System**

11. During the 100<sup>th</sup> Congress, then-Representative Schumer introduced H.R. 5329, a bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during the 5-year period beginning on April 1, 1989, of nurses as temporary workers.
12. During the 101<sup>st</sup> Congress, then-Representative Schumer introduced H.R. 1507, a bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers.
13. During the 101<sup>st</sup> Congress, then-Representative Schumer introduced H.R. 3259, a bill to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers.

**Legal Immigration System.**

14. During the 100<sup>th</sup> Congress, then-Representative Schumer introduced H.R. 3916, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States. As introduced, the "Legal Immigration Reform Act of 1988" would have –
  - A. Amended the Immigration and Nationality Act to establish a two-tiered immigration level of 670,000 annual entries made up of specified numbers of "family connection" immigrants and "independent" (employment-related) immigrants;
  - B. Set forth FY 1990 through 1992 numerical limitations on backlogged immigrants;
  - C. Required the Attorney General, in consultation with the Secretaries of Labor, State, Health and Human Services, and Housing and Urban Development and the Administrator of the Environmental Protection Agency, to report annually, beginning in FY 1993, to the President and to the appropriate congressional committees on the social, economic, and environmental impacts of immigration;
  - D. Required the President, at three-year intervals, to submit to the Congress a determination to maintain or change immigration levels;
  - E. Provided that: (1) if the determination contains a change of less than ten percent, such change would become effective unless the Congress objected within five months; and (2) if the determination contained a change of ten percent or more, the Congress would be required to take specified affirmative approval action;
  - F. Limited annual preference immigrants from each foreign country;
  - G. Revised the immigration admissions preference system, allocating "family connection" preferences as follows: (1) parents and unmarried sons and daughters of U.S. citizens; (2) spouses and unmarried sons and daughters of permanent resident aliens; and (3) certain married sons and daughters of U.S. citizens and brothers and sisters of U.S. citizens;
  - H. Allocated "independent" preferences as follows: (1) special immigrants; (2) aliens with doctoral degrees or of exceptional ability; (3) skilled workers; (4) employer-commercial investors; and (5) selected immigrants chosen on a point system basis;
  - I. Set forth a preference allocation for backlogged immigrants;
  - J. Amended petitioning procedures and labor certification provisions; and
  - K. Provided for congressional veto procedures regarding refugee admissions.

15. During the 101<sup>st</sup> Congress, then-Representative Schumer introduced H.R. 4165, a bill to amend the Immigration and Nationality Act with respect to employment-sponsored and independent immigration, and for other purposes. As introduced, H.R. 4165, the "Employment-Related Immigration Act of 1990," would have –
  - A. Amended the Immigration and Nationality Act to establish the following immigrant categories: (1) family-sponsored immigrants; (2) employment-sponsored immigrants; and (3) independent immigrants;
  - B. Set worldwide and per country admission levels. (Treats Hong Kong as a foreign state for such purposes.)
  - C. Classified H-1 nonimmigrant aliens (temporary non-agricultural workers) as: (1) preeminent individuals; and (2) professionals, including nurses;
  - D. Required: (1) the Secretary of Labor to consult with industry and labor, and report to the Congress, when immigrants make up more than one percent of the members of a profession in a particular region; and (2) that employer hiring petitions for such immigrants contain assurances with respect to wages, labor disputes, and citizen or immigrant recruitment;
  - E. Defined "managerial capacity" and "executive capacity" for L-1 nonimmigrant visa purposes;
  - F. Established a nonimmigrant classification (O visa) for artists, entertainers, and athletes;
  - G. Provided pre-immigrant status adjustment for professional and management nonimmigrant aliens;
  - H. Revised the immigration admissions preference system to allocate family connection immigrant preferences as follows: (1) unmarried sons and daughters of U.S. citizens; (2) spouses and unmarried sons and unmarried daughters of U.S. permanent residents; (3) married sons and daughters of citizens; and (4) brothers and sisters of citizens;
  - I. Allocated employment-sponsored immigrant preferences as follows: (1) professionals of exceptional ability; (2) managers and executives; and (3) non-temporary shortage workers. Requires labor certification for such immigrants;
  - J. Allocated independent immigrant preferences as follows: (1) employment creation; and (2) diversity immigrants;
  - K. Subjected an employer-alien to deportation for failure to comply with capital investment and employment requirements;
  - L. Revised labor certification and visa petition provisions; and
  - M. Treated religious workers as temporary workers or as special immigrants under specified circumstances.
16. During the 103<sup>rd</sup> Congress, then-Representative Schumer introduced H.R. 3859, a bill to amend the Immigration and Nationality Act to provide for the complete use of visas available under the diversity transition program.
17. During the 103<sup>rd</sup> Congress, then-Representative Schumer introduced H.R. 5063, a bill to amend the Immigration Act of 1990 to provide for complete use of visas made available under the diversity transition program.
18. During the 105<sup>th</sup> Congress, then-Representative Schumer introduced H.R. 4502, a bill to provide for adjustment of status for aliens who became eligible for such adjustment based on a diversity immigrant visa available for fiscal year 1997 or 1998, but whose eligibility expired due to paperwork processing delays.

#### **Legalization of Undocumented Aliens**

19. During the 100<sup>th</sup> Congress, then-Representative Schumer introduced H.R. 3816, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

### Miscellaneous Immigration Measures

20. During the 99<sup>th</sup> Congress, then-Representative Schumer introduced H.R. 3236, a bill to amend the Immigration and Nationality Act to provide for the temporary admission to the United States of the operators of motor common carriers of passengers.

**Cosponsored Immigration-Related Legislation.** Senator Schumer has added his name as a cosponsor of a number of immigration- or refugee-related bills during his time in the Senate and House of Representatives.

- Cosponsorships While in the Senate. In the nascent 111<sup>th</sup> Congress, Senator Schumer has added his name as a cosponsor of three immigration-related bills. They are S. 9, the placeholder comprehensive immigration reform bill introduced by Senate Majority Leader Harry Reid (D-NV); S. 424, a bill to provide for the immigration of permanent partners of gay individuals, introduced by Senator Patrick Leahy (D-VT); and S. 168, a bill to provide for compensation to States incarcerating undocumented aliens charged with a felony or 2 or more misdemeanors, introduced by Senator Dianne Feinstein. However, Senator Schumer has at one time or another cosponsored most of the marquee legislation that the pro-immigrant and pro-refugee advocacy communities have supported, including the DREAM Act, AgJOBS, the Unaccompanied Alien Child Protection Act, and the Immigrant Children’s Health Improvement Act (ICHIA).

In addition to the above legislation, Senator Schumer has cosponsored legislation during his time in the Senate to lock in the current administratively established oath of naturalization, increase the number of H-2B workers permitted in the United States, legislation to make it easier for aliens who are the victims of domestic violence to self-petition for immigration benefits, and legislation to afford immigration protections to alien trafficking victims who are trafficked into the United States.

- Cosponsorships While in the House. Senator Schumer had a more mixed record of cosponsorships while in the House. For example, he cosponsored two bills, each authored by House Judiciary Immigration Subcommittee Chairman Romano Mazzoli (D-KY), that were the forerunners of expedited removal.<sup>228</sup> He also cosponsored legislation by Representative Bill McCollum (R-FL) in multiple congresses to require a secure social security card and criminalize the fraudulent use of work authorization documents.<sup>229</sup>

The majority of the immigration-related bills that then-Representative Schumer cosponsored while in the House, however, were bills that were supported by the pro-immigrant advocacy community. They included bills that would have made it easier for aliens who were the victims of domestic violence to self-petition for immigration benefits, assist permanent residents who were seeking to become naturalized United States citizens, and to expand immigrants eligibility for Supplemental Security Income (SSI) benefits.

**Conclusion.** The future of immigration is at a crossroad. The issue has become extremely polarized along partisan and ethnic lines. The Senate has failed on three occasions in recent years to enact comprehensive immigration reforms after devoting enormous time and political capital on the effort. For more than a decade now, the House has been mired in warfare on the issue of immigration, passing one immigration control measure after another and facing one politically-charged immigration enforcement vote after another.

It is common for casual observers and relative newcomers to a legislative battle to look at the battlefield that they currently are in and view it as a rare, unprecedented, and intractable situation. Some relative newcomers to the immigration debate view the current immigration legislative landscape through that prism. However, the ascendancy of Senator Schumer to the chairmanship of the Immigration Subcommittee could prove them wrong.

As a Member of the U.S. House of Representatives in the 1980s and 1990s, then-Representative Schumer was engaged in a legislative battlefield on immigration that is not unlike the one that exists today. He emerged from that battlefield having contributed the seminal ideas that legalized millions of aliens, re-ordered the family- and employment-based immigration systems, established expedited removal and instituted the pre-inspection of arriving aliens at their foreign ports of departure.

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<sup>228</sup> *Then-Representative Schumer cosponsored [H.R. 2602](#) and [H.R. 3363](#), the ‘Immigration Enforcement and Asylum Reform Act of 1993’, during the 103<sup>rd</sup> Congress*

<sup>229</sup> *Then-Representative Schumer cosponsored [H.R. 231](#).*

**Weekly Immigration and Refugee Legislative Update (continued)**  
**Monday, February 16, 2009**

If history is a guide, Chairman Schumer will likely prove to be an engaged and active chairman of the Immigration Subcommittee who will show independence, imagination and great political skill when trying to navigate the difficult waters of immigration law and policy. His history shows that he likely will support many of the goals of the pro-immigrant advocacy community. But his history of independence also foreshadows a few moments and positions that the pro-immigrant and pro-refugee communities will find maddening. ☼ ◇

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