



# United States Conference of Catholic Bishops Government Relations

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

Monday, March 16, 2009

(Revised on March 20, 2009)

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### Legislative Highlights

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### This Week's Hearings

At the time of this writing, three House panels had scheduled hearings for this week at which significant immigration- or refugee-related matters are expected to be discussed:

- Hearing on Human Trafficking. A House Homeland Security Committee Panel has scheduled a hearing on human trafficking;
- Hearing on Treatment of Refugees. A House Judiciary Committee panel has scheduled a hearing for this week on the treatment of Latin Americans of Japanese Descent, European Americans, and Jewish Refugees During World War II; and
- Biometric Identification. A House Appropriations panel has scheduled a hearing for this week on biometric identification.

### House

**House Homeland Security Subcommittee to Hold Hearing on Human Trafficking:** The House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism has scheduled a hearing for this week to examine human trafficking. This week's hearing is scheduled for 10:00 am on Thursday, March 19, 2009, in Room 311 of the Cannon House Office Building.

**Anticipated Witnesses.** At the time of this writing, the witnesses at this week's hearing included:

- Kumar Kibble, Deputy Director, Office of Investigations, Immigration and Customs Enforcement, Department of Homeland Security;
- Lt. Derek Marsh, Orange County California Human Trafficking Task Force; and
- Anastasia K. Brown, Director of Refugee Programs for the U.S. Conference of Catholic Bishops Migration and Refugee Services. ☼

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## *This Week's Hearings (continued)*

**House Appropriations Panel to Hold Hearing on Biometric Identification:** The House Appropriations Subcommittee on Homeland Security has scheduled a hearing for this week on biometric identification. This week's hearing is scheduled for 10:00 am on Thursday, March 19, 2009, in Room 2362-B of the Rayburn House Office Building.

**Anticipated Witnesses.** At the time of this writing, the witnesses at this week's hearing included:

- Kathleen Kraninger, Deputy Assistant Secretary of Homeland Security for Policy, DHS Screening Coordination Office; and
- Bob Mocny, Director, United States Visitor and Immigrant Status Indicator Technology. ☼

**House Judiciary Panel to Hold Hearing on the Treatment of Refugees During World War II:** The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has scheduled a hearing for this week on the treatment of Latin Americans of Japanese Descent, European Americans, and Jewish Refugees During World War II. This week's hearing is scheduled for 12:00 pm on Thursday, March 19, 2009, in Room 2237 of the Rayburn House Office Building.

**Anticipated Witnesses.** At the time of this writing, the witness list for this week's hearing had not yet been made public. ☼

### Senate

At the time of this writing, no Senate committees had scheduled hearings for this week examining significant immigration- or refugee-related matters. ◇

## *This Week's Markups*

At the time of this writing, no House or Senate committees were contemplating actions on legislation containing significant immigration- or refugee-related provisions. ◇

## *This Week's Floor Activity*

At the time of this writing, no House or Senate floor action was scheduled on legislation that either contains significant immigration- or refugee-related provisions or that is likely to be the vehicle for significant immigration- or refugee-related floor amendments. ◇

## *This Week's Conference Activity*

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

## *This Week's Executive Activity*

**Obama Expected to Sign Religious Worker and Conrad J-1 Visa Programs Extension Measure into Law:** President Barack Obama this week is expected this week to sign legislation into law extending the special immigrant non-minister religious worker and the Conrad 30 J-1 visa programs into law. ◇

## *Last Week's Legislative Activity*

### Last Week's Hearings

Four congressional committees held hearings last week at which significant immigration- or refugee-related matters were discussed:

- Hearing on the Secure Border Initiative: The House Appropriations Subcommittee on Homeland Security held a Tuesday, March 10, 2009, hearing on the Secure Border Initiative; and
- Hearings on U.S.-Mexico Border Violence: The following House Committees held hearings on border violence along the U.S.-Mexico border:
  1. House Appropriations Committee. The House Appropriations Subcommittee on Homeland Security held a Tuesday, March 10, 2009, hearing on violence along the U.S. border with Mexico;

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## *Last Week's Hearings (continued)*

2. House Oversight and Government Reform Committee. The House Oversight and Government Reform Subcommittee on National Security and Foreign Affairs held a Thursday, March 12, 2009, hearing titled "Money, Guns, and Drugs: Are U.S. Inputs Fueling Violence on the U.S.-Mexico Border?";
3. House Homeland Security Committee. The House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism held a Thursday, March 12, 2009, hearing titled "Border Violence: An Examination of DHS Strategies and Resources".

Next week's Weekly Legislative Update will provide coverage of the four hearings.

## Last Week's Markups

No committees held markups last week of measures containing significant immigration- or refugee-related provisions.

## Last Week's Floor Actions

Two measures containing significant immigration- or refugee-related provisions were considered last week by the full House or Senate:

- Fiscal Year 2009 Omnibus Appropriations. The full Senate cleared the fiscal year 2009 omnibus appropriations bill for the President's consideration after first disposing of two dozen amendments, including two immigration- or refugee-related amendments; and
- Extension of the Religious Worker Visa and Conrad 30 Immigration Programs. The full Senate cleared for the President's consideration a measure extending the special immigrant non-minister religious worker and the Conrad 30 visa programs

## **Senate Clears Fiscal Year 2009 Omnibus Appropriations Bill:**

The fiscal year 2009 appropriations cycle finally drew to a close last week as the Senate cleared for the President's consideration a measure containing funding for the nation's immigration court system and its refugee admissions, overseas refugee assistance, and refugee resettlement programs. Last week's Senate floor action occurred in connection with [H.R. 1105](#), the Omnibus Appropriations Act, 2009. The Senate passed the measure on Tuesday, March 10, 2009. There was no direct vote on final passage of the measure. By unanimous consent, once the Senate invoked cloture on the measure, which it did on

Tuesday, March 10, 2009, by a vote of 62-35,<sup>276</sup> the measure was deemed passed by the Senate. President Barack Obama signed H.R. 1105 into law one-day later on Wednesday, March 11, 2009, making it Public Law 111-8.

**Background.** As cleared for the President's consideration, H.R. 1105 is comprised of the nine fiscal year 2009 appropriations bills that Congress did not act before it adjourned in December of 2008. Among those unfinished bills were the bills that appropriate funds for the Department of State, which administers the nation's refugee admissions and overseas refugee assistance programs; the Department of Health and Human Services, which administers the Office of Refugee Resettlement's refugee resettlement, trafficking victim assistance, torture victim assistance, and unaccompanied alien child programs; and the Department of Justice, which operates the nation's immigration court system. Those agencies and programs were initially funded through Friday, March 6, 2009, pursuant to Division A of [P.L. 110-329](#), the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009", which was considered in the House and Senate as [H.R. 2638](#). On Friday, March 6, 2009, Congress enacted [H.J. Res. 38](#) into law. That measure extended funding for the relevant departments, agencies, functions, and activities through Wednesday, March 11, 2009.

## **Summary Immigration- and Refugee-Related Provisions.**

H.R. 1105 contains fiscal year 2009 appropriations for the following agencies and departments that administer significant immigration- or 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, none collectively as Refugee and Entrant Assistance (REA), 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.

As cleared for the President's consideration, H.R.1105 contains the following immigration- and refugee-related appropriations provisions:

<sup>276</sup> [Senate Roll Call No. 96, March 10, 2009](#)

- Refugee and Entrant Assistance. \$633.4 MILLION refugee and entrant assistance administered by the Department Health and Human Services' Office of Refugee Resettlement (ORR);
- Migration and Refugee Assistance. \$931.0 MILLION for Migration and Refugee Assistance administered by the Department of State's Bureau of Population, Refugees, and Migration (PRM);
- Emergency and Refugee and Migration Assistance. \$40 MILLION for the Emergency Refugee and Migration Assistance (ERMA), administered by PRM; and
- Executive Office for Immigration Review. \$267.6 MILLION for the Executive Office for Immigration Review (EOIR), within the U.S. Department of Justice.
- Extension of the Lautenberg Amendment. Division H, Title VII, Section 7034(g) of H.R. 1105 extends the "Lautenberg Amendment", which provides a relaxed refugee adjudicatory standard for Soviet Jews and others, through the end of fiscal year 2009.
- Prohibition on Hiring Illegal Aliens. Division F, Title V, Section 519 of H.R. 1105 prohibits the use of any funds in the Act to employ workers who are unauthorized to work in the United States.
- Extension of the E-Verify and Investor Visa Regional Center Programs. Division J, Sec. 101 of H.R. 1105 extends the E-Verify and EB-5 Investor Visa Regional Center programs through September 30, 2009.

In the case of Migration and Refugee Assistance, the amounts contained in H.R. 1105 are in addition to emergency MRA funding that was included in P.L. 110-252. When that funding is included, the total fiscal year 2009 appropriation for MRA rises to \$1.281 BILLION.

In addition to the provisions appropriating funds, H.R. 1105 also contains several legislative provisions. Most notably—

- Special Immigrant Status and Refugee Benefits for Afghans. Division F, Title VI, Section 602(b) of H.R. 1105 authorizes the Secretary of Homeland Security to grant Special Immigrant status to up to 1,500 Afghan citizens or nationals each year between fiscal years 2009 and 2013 who—
  1. have been employed for at least a year by or on behalf of the United States government;
  2. received documentation and a positive recommendation from the employee's senior supervisor; and
  3. have received a letter of have experienced or are experiencing an ongoing serious threat as a consequence of the alien's employment by the United States government."

The provision provides for a rolling over of unused visas from year-to-year, excludes any numbers used from the annual limitation on the number of aliens who may be given special immigrant status, and makes special immigrants from Afghanistan admitted pursuant to the provision eligible for refugee benefits and entitlement benefits.

- Adjustment of Status for Iraqi and Afghan Parolees. Division F, Title VI, Section 602(b)(9) of H.R. 1105 would provide for the adjustment of status of parolees or nonimmigrants from Iraq and Afghanistan.

**Immigration- and Refugee-Related Floor Amendments.**  
 The Senate considered two dozen floor amendments to H.R. 1105, only two of which would have had significant immigration- or refugee-related consequences—

- SESSIONS E-VERIFY AMENDMENT.—Senator Jeff Sessions offered Senate Amendment No. 604, which would have extended the E-Verify program for five years rather than for seven months, as was provided for in the House-passed version of H.R. 1105.<sup>277</sup>

The Sessions amendment was a more slimmed down version of the amendment that he sought to offer to H.R. 1, the economic stimulus bill. That amendment would have extended the E-Verify program for five years. But it also would have required that all persons making use of economic stimulus funds use the E-Verify program to verify the employment eligibility of their employees.

The Senate rejected the Sessions amendment, agreeing to a motion to table it by a vote of 50-47<sup>278</sup>

- KYL PALESTINIAN REFUGEE AMENDMENT.—Senator Jon Kyl (R-AZ) offered Senate Amendment No. 629, which would have provided that no funds may be used to resettle Palestinians from Gaza into the United States.

The Kyl amendment was vigorously opposed by the refugee advocacy community. They argued that while it is extraordinarily unlikely that the United States will resettle Palestinians from Gaza in fiscal year 2009, it is important that no precedent be established that

<sup>277</sup> [Click Here](#) to see video of the final portion of the March 10, 2009, floor debate on the Sessions Amendment to H.R. 1105

<sup>278</sup> [Senate Roll Call No. 93, March 10, 2009](#)

discriminates against resettling refugees based on their nationality, ethnicity, or religion.<sup>279</sup>

Senator Kyl withdrew the amendment before the Senate could vote on it.

**Details of Immigration- and Refugee-Related Appropriations Provisions.** The pages and charts that follow provide a detailed analysis of the immigration- and refugee-related provisions in H.R. 1105, as well as of the explanatory language accompanying the measure. This analysis is divided into seven sections. Clicking on the blue, underlined links will take the reader directly to the section:

- [Refugee and Entrant Assistance](#)
- [Migration and Refugee Assistance](#)
- [Executive Office for Immigration Review](#)
- [Non-Appropriations Legislative Riders](#)
  
- [Chart of Immigration- and Refugee Appropriations](#)
- [Chart of Migration and Refugee Assistance](#)
- [Chart of Refugee and Entrant Assistance](#)

A detailed analysis of the immigration- and refugee-related provisions in H.R. 1105 follows:

- [Department of State's Bureau of Population, Refugees, and Migration \(PRM\)](#). Division H of H.R. 1105 appropriates \$931 MILLION for the Department of State's Bureau of Population, Refugees, and Migration (PRM) to administer the Department's Migration and Refugee Assistance (MRA) account. This would be an increase of \$107.8 MILLION over the fiscal year 2008 appropriation, not including supplemental appropriations for fiscal year 2008 and 2009 that have been enacted into law. It would be an increase of \$167 MILLION over the Bush Administration's fiscal year 2009 request.

The \$931 MILLION fiscal year 2009 appropriation is in addition to a \$350 MILLION supplemental appropriation that was enacted into law last year. When the two are combined, the total MRA appropriation for fiscal year 2009 would be \$1.281 MILLION. This compares to a total fiscal year 2008 appropriation of \$1.338 MILLION, including \$822.9 MILLION in regular fiscal year 2008 appropriations and \$515 MILLION in fiscal year supplemental appropriations.

The \$931 MILLION fiscal year 2009 MRA appropriation represents a compromise between the amounts contained in the House and Senate versions of the fiscal year 2009 State, Foreign Operations, and Related Agencies Appropriations bills that were prepared

last summer. The House measure from last summer would have appropriated \$765 MILLION for the MRA account. The Senate bill from last summer would have appropriated \$1.1 BILLION for the MRA account.<sup>280</sup>

In addition to the appropriating language, the explanatory statement accompanying Division H of H.R. 1105 contains "report" language on the following refugee-related matters:

1. [Administrative Expenses](#). The explanatory language accompanying Division H of H.R. 1105 states that "[t]he bill discontinues the limitation on administrative expenses carried under this heading in prior years. The Department of State should continue to hold administrative expenses to a minimum, in order to provide the maximum funding possible for overseas refugee processing and services. The fiscal year 2009 spending plan shall detail the projected administrative expenses and justify any increase above the request.
2. [Columbia](#). The explanatory language accompanying Division H of H.R. 1105 states that "[t]he bill provides \$3,500,000 for assistance for Colombian refugees in neighboring countries by transfer from the ESF account."
3. [Iraqi Refugees](#). The explanatory language accompanying Division H of H.R. 1105 states that "[t]he Department of State and USAID should aggressively support refugee relief and resettlement programs for displaced Iraqis inside and outside of Iraq, including those displaced in Syria, and for religious minorities." The statement goes on to assert that "[t]he Department of State should ensure that the Iraqi resettlement program remains a priority and that the previous backlog is addressed.
4. [Migration to Israel](#). The explanatory language accompanying Division H of H.R. 1105 states that "[t]he bill provides not less than \$30,000,000 for assistance for refugees resettling in Israel.
5. [North Korea](#). The explanatory language accompanying Division H of H.R. 1105 states that "[a]ssistance should be made available for North Korean refugees, as authorized by Public Law 108-333.
6. [Tibetan Refugees](#). The explanatory language accompanying Division H of H.R. 1105 states that "[t]he Department of State should work with the

<sup>279</sup> [Click Here](#) to see video of the March 9, 2009, floor statement made by Senator Patrick Leahy (D-VT) in opposition to Kyl Senate Amendment No. 629 to H.R. 1105

<sup>280</sup> [S. 3288](#), reported to the full Senate as an original measure by the Senate Committee on Appropriations ([S. Rept. 110-425](#), July 18, 2008)

Government of Nepal to ensure the safe transit of Tibetan refugees and to respect the rights of, and provide legal protections to, Tibetans residing in Nepal.”

7. Thai/Burma Border. The explanatory language accompanying Division H of H.R. 1105 states that “[t]here is continued concern with the plight of refugees and internally displaced persons along the Thai-Burma border, and the Department of State shall provide sufficient resources to address these needs.
8. United Nations Relief and Works Agency (UNRWA). The explanatory language accompanying Division H of H.R. 1105 states that “[t]he Department of State is directed to work closely with UNRWA and host governments to develop a strategy for identifying individuals known to have engaged in terrorist activities.”
- Department of Health and Human Services Office of Refugee Resettlement (ORR). Division F of H.R. 1105 appropriates \$633.442 MILLION for the Department of Health and Human Services Office of Refugee Resettlement to administer the Department’s Refugee and Entrant Assistance account. This would be a cut of \$22.189 MILLION below the fiscal year 2008 appropriation. However, it would be an increase of \$5.398 MILLION over the Bush Administration’s fiscal year 2009 request.

The explanatory language accompanying Division F of H.R. 1105 indicates that ORR is expected to carryover \$52.051 MILLION of prior year’s funds into fiscal year 2009, resulting in a total of \$685.493 MILLION that will be available in fiscal year 2009 for ORR’s programs.

The \$633.442 MILLION fiscal year 2009 appropriation for ORR in H.R. 1105 is actually lower than the amount that was appropriated for ORR in both the unpublished House and Senate versions of the fiscal year 2009 Labor, Health and Human Services, and Education Appropriations bill that the House and Senate appropriations committees produced last summer. The House bill would have appropriated \$641.144 MILLION for ORR. The Senate bill would have appropriated \$635.044 MILLION for ORR.

With regard to subaccounts, H.R. 1105 appropriates—

1. Resettlement Services. \$489.7 MILLION for ORR’s resettlement services, which is \$4.6 MILLION less than was appropriated for ORR’s resettlement services in fiscal year 2008 and the same amount less than the Bush Administration requested. All of this reduction is found in ORR’s Transitional and Medical Services account.

2. Assistance to Trafficking Victims. \$9.8 MILLION for assistance to trafficking victims, which is the same amount that was appropriated for trafficking victims in fiscal year 2008 and the same amount that the Bush Administration requested.
3. Assistance to Torture Victims. \$10.8 MILLION for assistance to torture victims, which is an increase of \$1 MILLION over the fiscal year 2008 appropriation and \$1 MILLION over the Bush Administration’s request.
4. Care and Placement of Unaccompanied Alien Children (UAC). \$123.1 MILLION for the care and placement of unaccompanied alien children, which is \$9.5 MILLION below the fiscal year 2008 appropriation for the care of unaccompanied alien children and \$9 MILLION above the Bush Administration’s fiscal year 2009 request. Explanatory language accompanying the bill explains that “[t]he bill includes \$9,050,000 more than the budget request for the UAC program to ensure that sufficient funds are available for UAC medical and transportation services.”

The \$123.1 MILLION for unaccompanied alien children in H.R. 1105 compares with \$126.2 MILLION that was contained in the fiscal year 2009 appropriations bill that was put together by the House Committee on Appropriations last summer, and \$120 MILLION that was contained in the fiscal year 2009 bill that was put together by the Senate Committee on Appropriations.

In addition to the appropriating language, the explanatory statement accompanying Division F of H.R. 1105 contains “report” language on the following refugee-related matters:

1. Unaccompanied Refugee Minors. The explanatory language accompanying Division F of H.R. 1105 requests that ORR “provide adequate funding under Transitional and Medical Assistance to unaccompanied refugee minor programs for capacity development so that they have the necessary infrastructure to accommodate increasing numbers of unaccompanied and separated refugee children.”
2. Cuban and Haitian Entrants. The explanatory language accompanying Division F of H.R. 1105 provides that, “[w]ithin the funds provided for Social Services, the bill includes \$19,000,000 for continued support to communities with large concentrations of Cuban and Haitian entrants of varying ages whose cultural differences make assimilation especially difficult, justifying a more

intense level and longer duration of Federal assistance.”

3. Refugee School Impact Grants. The explanatory language accompanying Division F of H.R. 1105 requests that the Administration on Children and Families (ACF) continue to adequately fund refugee school impact grants.
4. Unaccompanied Alien Children. The explanatory language accompanying Division F of H.R. 1105 addresses issues related to unaccompanied alien children. More specifically—

A. Transportation of Unaccompanied Alien Children. The explanatory language accompanying Division F of H.R. 1105 directs the Department of Health and Human Services, in conjunction with DHS and OMB, “to submit a report to the House and Senate Committees on Appropriations (Committees) no later than March 1, 2009; recommending which agency is the most appropriate to fund the transportation of unaccompanied alien children (UAC) between DHS and HHS custody. This joint report shall focus on which agency can deliver these services in the most cost effective manner. In addition, starting no later than September 1, 2009, the ORR, in conjunction with Immigration and Customs Enforcement agency, should provide semi-annual briefings to the Committees on the implementation of the recommendations. For fiscal year 2009, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, provides sufficient resources to DHS to pay for this transportation function.”

B. Prompt Transfers of Children. The explanatory language accompanying Division F of H.R. 1105 directs ORR “to respond to the DHS initial call for placement by identifying the ORR placement facility to DHS within six hours, on average, of receiving the DHS call. In addition, ORR shall continue to work with DHS to expedite the transfer and placement of these special needs children in the most appropriate facility as quickly as possible.”

C. Pro Bono Pilot Program. The explanatory language accompanying Division F of H.R. 1105 provides that \$5.05 MILLION of the funds provided in the bill for unaccompanied alien children be used “to continue the pro bono legal services initiative to ensure legal representation of all UAC.” The explanatory language, further, provides that “[t]hese funds should be used to train attorneys to detect abuse,

mistreatment, labor exploitation, and trafficking of these children.” It also provides that, “[i]n addition, a portion of these funds should be used to train attorneys in methods that will ensure the appearance of children at all immigration court hearings.” The language states Congress’ expectation that ORR “use part of these funds to assess the overall impact of the pro bono legal services initiative, including the number and proportion of UAC provided pro bono legal representation.”

- Department of Justice Executive Office for Immigration Review. Division B of H.R. 1105 appropriates \$267.4 MILLION for the Department of Justice’s Executive Office for Immigration Review (EOIR). This would be an increase of \$30.3 MILLION above the fiscal year 2008 appropriation, and it would be an increase of \$6.2 MILLION over the Bush Administration’s fiscal year 2009 request.

The explanatory language accompanying Division B of H.R. 1105 indicates that the \$267.4 MILLION fiscal year 2009 appropriation for EOIR includes \$4,000,000 in fees that are collected by the Department of Homeland Security and transferred to EOIR.

The House and Senate Appropriations Committees each produced versions of the Fiscal Year 2009 Commerce, Justice, Science, and Related Agencies Appropriations bill last summer. Both bills would have appropriated \$266.404 MILLION for EOIR in fiscal year 2009, which is \$1 MILLION less than the amount contained in the House-passed version of H.R. 1.

In the case of the House, the Committee on Appropriations approved the measure on June 25, 2008, but it didn’t actually report the bill to the full House of Representatives until December 10, 2008, reporting it as [H.R. 7322](#), an original measure.<sup>281</sup> In the case of the Senate, the Committee on Appropriations approved the measure on June 19, 2009, reporting it to the full Senate on June 23, 2009. The measure was reported as [S. 3182](#), an original measure.<sup>282</sup>

In addition to the appropriating language, the explanatory statement accompanying Division B of H.R. 1105 contains “report” language on the following immigration-related matters:

1. Hiring New Immigration Judges. The explanatory language accompanying Division B of H.R. 1105 specifies that “[w]ithin funds provided, \$5,000,000

<sup>281</sup> [H. Rept. 110-119, December 10, 2008](#)

<sup>282</sup> [S. Rept. 110-397, June 23, 2008](#)

is made available to hire new immigration judges and support personnel to address the growing caseload.” The explanatory language goes on to direct the Department of Justice and EOIR “within 90 days of enactment of this Act, to submit to the House and Senate Committees on Appropriations a strategic plan to address the case backlogs.”

2. Legal Orientation Program (LOP). The explanatory language accompanying Division B of H.R. 1105 specifies that directs that “[w]ith funds provided in this bill and in prior year appropriations, EOIR is directed to provide not less than \$4,000,000 for the LOP program during fiscal year 2009.”
  3. Immigration Court Reforms. The explanatory language accompanying Division B of H.R. 1105 contains language stating that “[w]ithin 30 days of enactment of this Act, the Department is directed to report to the House and Senate Committees on Appropriations on the implementation status of the 22 reform measures to improve the efficiency of immigration courts that were identified by the Attorney General in August, 2006.”
  4. Competency Evaluation Standards. The explanatory language accompanying Division B of H.R. 1105 encourages EOIR “to work with experts and interested parties in developing standards and materials for immigration judges to use in conducting competency evaluations of persons appearing before the courts.”
- Other Significant Immigration- or Refugee-Related Appropriations Provisions. H.R. 1105 contains a number of other significant immigration- or refugee-related appropriations provisions that do not fall under the category of MRA, ORR, ERMA, or EOIR. For instance, the measure contains appropriations of \$400 MILLION for the State Criminal Alien Assistance Program; \$ 31 MILLION for Southwest Border Prosecutor Program; \$3 MILLION for Northern Border Prosecutor Program; and \$10 MILLION for Victims of Trafficking Grants.

**Non-Appropriations Immigration-Related Items.** In addition to appropriating funds for refugee admissions, overseas refugee assistance, refugee resettlement, and the nation’s immigration court system, H.R. 1105 contains a number of immigration- and refugee-related legislative provisions. Most notably—

- Special Immigrant Status and Refugee Benefits for Afghans. Division F, Title VI, Section 602(b) of H.R. 1105 authorizes the Secretary of Homeland Security to grant Special Immigrant status to up to 1,500 Afghan citizens or nationals each year between fiscal years 2009 and 2013 who—

1. have been employed for at least a year by or on behalf of the United States government;
2. received documentation and a positive recommendation from the employee’s senior supervisor; and
3. have received a letter of have experienced or are experiencing an ongoing serious threat as a consequence of the alien’s employment by the United States government.”

The provision provides for a rolling over of unused visas from year-to-year, excludes any numbers used from the annual limitation on the number of aliens who may be given special immigrant status, and makes special immigrants from Afghanistan admitted pursuant to the provision eligible for refugee benefits and entitlement benefits.

- Adjustment of Status for Iraqi and Afghan Parolees. Division F, Title VI, Section 602(b)(9) of H.R. 1105 provides for the adjustment of status of parolees or nonimmigrants from Iraq and Afghanistan.
- Extension of the Lautenberg Amendment. Division H, Title VII, Section 7034(g) of H.R. 1105 extends the “Lautenberg Amendment”, which provides a relaxed refugee adjudicatory standard for Soviet Jews and others, through the end of fiscal year 2009.
- Prohibition on Hiring Illegal Aliens. Division F, Title V, Section 519 of H.R. 1105 prohibits the use of any funds in the Act to employ workers who are unauthorized to work in the U.S.
- Extension of the E-Verify and Investor Visa Regional Center Programs. Division J, Sec. 101 of H.R. 1105 extends the E-Verify and EB-5 Investor Visa programs through September 30, 2009.

**Charts Showing FY ’09 Spending Under H.R. 1105.** The following charts provide a brief summary of immigration- and refugee-related spending in H.R. 1105, along with detailed spending estimates and comparisons for Migration and Refugee Assistance, Refugee and Entrant Assistance, and Emergency Refugee and Migration Assistance.

The chart that follows provides a brief summary comparing the fiscal year 2009 appropriation for REA, MRA, ERMA, and EOIR with the fiscal year 2008 appropriation for those four accounts, the amount requested in fiscal year 2009 by the Bush Administration, and the amounts that were contained in the House and Senate draft Fiscal Year 2009 State-Foreign Operations appropriations bills from last summer:

**Brief Overview of FY '09  
 Refugee and Immigration Funding**

ITEM	'08 ACT'L	'09 BUSH	'09 HOUSE <sup>283</sup>	'09 SENATE <sup>284</sup>	'09 FINAL <sup>285</sup>
REA	\$ 655.6	\$ 628.0	\$ 641.1	\$ 635.0	\$ 633.4
MRA <sup>286</sup>	\$ 1,338.2	\$ 764.0	\$ 1,174.0	\$1,450.0	\$1,281.0
ERMA <sup>287</sup>	\$ 75.6	\$ 45.0			\$ 40.0
EOIR	\$ 230.3	\$ 261.5	\$ 266.4	\$ 266.4	\$ 267.6

Millions of Dollars

<sup>283</sup> Unpublished committee report accompanying the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies-approved Fiscal Year 2009 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill

<sup>284</sup> Unpublished committee report accompanying the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies-approved Fiscal Year 2009 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill

<sup>285</sup> Subject to action in the Senate on H.R. 1105

<sup>286</sup> The fiscal year 2008 appropriation for PRM includes a regular appropriation of \$823.2 MILLION and two emergency supplemental appropriations. The first fiscal year 2008 emergency supplemental appropriation was for \$200 MILLION and was provided in P.L. 110-161. The second fiscal year 2008 emergency supplemental appropriation was for \$315 MILLION and was provided in P.L. 110-252

The fiscal year 2009 "final" appropriation for PRM includes an appropriation of \$931 MILLION in H.R. 1105 and an emergency supplemental fiscal year 2009 appropriation of \$350 MILLION that was provided in P.L. 110-252

The fiscal year 2009 House appropriation for PRM includes an appropriation of \$824 MILLION in the bill that the House Appropriations Committee prepared last summer and an emergency fiscal year 2009 supplemental appropriation of \$350 MILLION provided in P.L. 110-252

The fiscal year 2009 Senate appropriation for PRM includes an appropriation of \$1.1 BILLION in the bill that the Senate Appropriations Committee prepared last summer and an emergency fiscal year 2009 supplemental appropriation of \$350 MILLION provided in P.L. 110-252

<sup>287</sup> The fiscal year 2008 actual appropriation for ERMA includes a regular appropriation of \$44.635 MILLION in the fiscal year 2008 appropriation bill and an additional appropriation of \$31 MILLION provided in P.L. 110-252

The chart that follows compares FY '09 appropriations for the Department of State's MRA account with the actual amounts appropriated in FY '08, the amount requested in FY '09 by the Bush Administration, and the amounts that were contained in the House and Senate draft FY '09 State-Foreign Operations appropriations bills from last summer:

**Detailed Fiscal Year 2009 Appropriations for  
 Migration and Refugee Assistance**

ITEM	'08 ACT'AL	'09 BUSH	'09 <sup>283</sup> HOUSE	'09 <sup>284</sup> SENATE	'09 <sup>285</sup> FINAL
Refugee Admissions <sup>288</sup>	\$ 549.0	\$ 498.0			
Overseas Assistance	\$ 212.0	\$ 213.0			
Refugees to Israel	\$ 40.0	\$ 30.0			\$ 30.0
Administrative Expenses	\$ 22.0	\$ 23.1			
Reimbursable Programs	\$ 1.0	\$ 1.0			
Permanent Reductions	-\$ 7.0				
<b>SUBTOTAL</b>	<b>\$ 822.9</b>	<b>\$ 765.0</b>	<b>\$ 824.0</b>	<b>\$ 1,100.0</b>	<b>\$ 931.0</b>
Suppl #1 <sup>289</sup>	\$ 200.0	-----	-----	-----	-----
Suppl #2	\$ 315.0	-----	\$ 350.0	\$ 350.0	\$ 350.0
<b>TOTAL</b>	<b>\$ 1,337.9</b>	<b>\$ 765.0</b>	<b>\$ 1,174.0</b>	<b>\$ 1,450.0</b>	<b>\$ 1,281.0</b>

Millions of Dollars

The chart that follows compares the proposed final fiscal year 2009 appropriation for the Department of Health and Human Services Office of Refugee Resettlement with the actual amounts appropriated in fiscal year 2008, the amount requested in fiscal year 2009 by the Bush Administration, and the amounts that were contained in the House and Senate draft Fiscal Year 2009 Labor, Health and Human Services, Education, and Related Agencies appropriations bills from last summer:

<sup>288</sup> Regular Appropriation provided in [P.L. 110-161](#), December 26, 2007

<sup>289</sup> [P.L. 110-161](#), December 26, 2007, appropriated \$200 MILLION in emergency MRA funds for fiscal year 2008, all of which was devoted to overseas refugee assistance

**Detailed Fiscal Year 2009 Appropriations for the  
Office of Refugee Resettlement**

ITEM	'08 ACT'AL	'09 BUSH	'09 HOUSE	'09 SENATE	'09 FINAL
Transitional & Medical	\$ 296.1	\$ 287.0	\$ 287.0	\$ 287.0	\$ 282.3
Social Services	\$ 154.0	\$ 154.0	\$ 154.0	\$ 154.0	\$ 154.0
Preventive Health	\$ 4.7	\$ 4.7	\$ 4.7	\$ 4.7	\$ 4.7
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6	\$ 48.6	\$ 48.6
<b>SUBTOTAL</b>	<b>\$ 503.4</b>	<b>\$ 494.3</b>	<b>\$ 494.3</b>	<b>\$ 494.3</b>	<b>\$ 489.7</b>
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 9.8	\$ 9.8	\$ 10.8	\$ 10.8	\$ 10.8
Unaccompanied Alien Children	\$ 132.6	\$ 114.1	\$ 126.2	\$ 120.0	\$ 123.1
<b>ORR TOTAL</b>	<b>\$ 655.6</b>	<b>\$ 628.0</b>	<b>\$ 641.1</b>	<b>\$ 635.0</b>	<b>\$ 633.4</b>

Millions of Dollars

**Next Steps.** The president signed H.R. 1105 into law on March 11, 2009, making it Public Law 111-8. ☀

**Senate Clears Bill Extending Religious Worker and Conrad 30 J-1 Visa Programs:** The Senate last week passed a measure extending two expired immigration programs through the end of fiscal year 2009 and clearing it for the President's consideration. Last week's Senate action, take place in connection with [H.R. 1127](#), which was introduced in the House of Representatives by House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Zoe Lofgren (D-CA). The Senate passed the measure on Wednesday, March 11, 2009, by unanimous consent.

**Legislative History.** Representative Lofgren introduced H.R. 1127 on February 23, 2009. The House of Representatives bypassed the House Committee on the Judiciary, where the measure was referred, taking it up and passing it on Wednesday, March 4, 2009, by a voice vote. Upon receiving the measure from the House, the Senate held the measure at the desk.

**Need for the Bill.** When the 110<sup>th</sup> Congress adjourned in December, 2008, it did so without providing long-term

extensions of four expiring immigration programs: the E-Verify program, the Investor Visa Regional Centers, Conrad State 30, and Special Immigrant Nonminister Religious Worker Visa programs. Congress extended the E-Verify and Investor Visa programs in the fiscal year 2009 continuing appropriations resolution it enacted last December and it extended the religious worker visa and Conrad State 20 programs in separate legislation. All four programs were extended through Friday, March 6, 2009.

H.R. 1105 extends the E-Verify and Investor Visa programs through September 30, 2009. However, it would not extend the Religious Worker and Conrad State 30 programs. H.R. 1127 extends those the Religious Worker and Conrad 30 programs through the end of fiscal year 2009.

**Background on Religious Worker Visa Program.** The Non-Minister Religious Worker Visa Program allows religious organizations to sponsor non-minister religious workers from abroad to perform service here in the United States. Congress enacted the program as part of P.L. 101-649, the Immigration Act of 1990.

The program is composed of two parts:

- The *first* part provides for up to 5,000 Special Immigrant visas (or permanent resident visas) per year which religious denominations or organizations in the United States can use to sponsor foreign nationals to perform religious service in the United States. Once granted, this type of visa allows religious workers to permanently immigrate to the United States and eventually become citizens of our country. This program expires from time-to-time. It currently is set to expire at the end of fiscal year 2008. Unless Congress acts to prevent it, this part of the program will expire on September 30, 2008.
- The *second* part of the program provides religious denominations and organizations with the ability to sponsor temporary religious workers, called Nonimmigrants, to perform religious service in the United States. Nonimmigrant religious workers under this part of the program may remain and work in the United States for no more than five years. Unlike the special immigrant provision, the nonimmigrant provision is permanent law which has no expiration date.

Non-minister religious workers are persons in a religious vocation or occupation, other than those who lead a religious congregation or group (such as ministers, pastors, priests and rabbis.) Examples of non-minister religious workers include those called to religious vocations, such as nuns and monks, as well as lay persons who work as religious instructors, cantors, liturgical musicians, religious broadcasters, missionaries, pastoral care providers, and in other religious occupations.

Since its enactment, the Special Immigrant provision of the Non-Minister Religious Worker Visa Program has been extended four times.

**Background on Conrad State 30 Program.** The Conrad State 30 Program was designed to provide each of the fifty U.S. states with 30 waivers for J-1 physicians each fiscal year. Under the program, each State has been given some flexibility to implement its own guidelines, but there are some basic requirements that are common to all STATE 30 programs.

While the exact requirements vary from state to state, the following is generally required:

- an offer of employment as a primary care physician in a medically underserved area in a particular State;
- a letter of support from the particular State Director of Health supporting the physician's STATE 30 request; and
- a three-year employment contract.

**Summary of Immigration Provisions.** As passed by the House—

- Religious Worker Visa Program. Section 1 of H.R. 1127 would amend subclauses (I) and (II) of Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act to extend from March 6, 2009, to September 30, 2009, special immigrant nonminister religious worker visa program; and
- Conrad State 30 Program. Section 2 of H.R. 1127 would amend Section 220(c) of the Technical Corrections Act of 1994 to extend from March 6, 2009, to September 30, 2009, the provision of law that permits certain foreign medical graduates (FMGs) to work at health care facilities located in geographic areas designated by the Secretary of Health and Human Services (HHS) as having a shortage of health care professionals.

**Next Steps.** Now that the Senate has cleared H.R. 1127 for the President's consideration, the next step in the legislative process is the presentation of the bill to President Barack Obama for his consideration. This could occur at any time. The President is expected to sign the measure into law. ☀

### Last Week's Conference Activity

There was no conference committee activity last week on measures that contain significant immigration- or refugee-related provisions. ◇

## *Last Week's Executive Activity*

**Obama Signs Fiscal Year 2009 Omnibus Appropriations Bill:** President Barack Obama last week signed into law a measure appropriating funds for the nation's immigration court system and its refugee admissions, refugee resettlement, and overseas refugee assistance programs for the remainder of fiscal year 2009. The President acted in connection with [H.R. 1105](#), the Omnibus Appropriations Act, 2009, which the House of Representatives passed on February 25, 2009 and the Senate cleared on Tuesday, March 10, 2009. The President signed the bill into law on Wednesday, March 11, 2009, making in Public Law 111-8. ◇

## *Recently Introduced Legislation*

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

### House

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

- **Establishment of Southern Border Security Task Force:** Representative Henry Cuellar (D-TX) has introduced H.R. 1437, a bill to establish a Southern Border Security Task Force to coordinate the efforts of Federal, State, and local border and law enforcement officials and task forces to protect United States border cities and communities from violence associated with drug trafficking, gunrunning, illegal alien smuggling, violence, and kidnapping along and across the international border between the United States and Mexico.

As introduced, H.R. 1437 would establish a Southern Border Security Task Force to coordinate the efforts of Federal, State, and local border and law enforcement officials and task forces to protect United States border cities and communities from violence associated with drug trafficking, gunrunning, illegal alien smuggling, violence, and kidnapping along and across the international border between the United States and Mexico.

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

Senate

**Miscellaneous Immigration**

- **Immigration Fraud Prevention Act of 2009:** Senator Dianne Feinstein (D-CA) has introduced S. 577, a bill to amend title 18, United States Code, to provide penalties for individuals who engage in schemes to defraud aliens and for other purposes. As introduced, S. 577 would make it a Federal crime to willfully and knowingly defraud or obtain or receive money or anything else of value from any person by false or fraudulent pretences, representations, or promises; and to willfully, knowingly, and falsely represent that an individual is an attorney or accredited representative in any matter arising under Federal immigration law.

The measure would provide for fines or imprisonment of not more than 5 years, or both for violations of the Act.

S. 577 would also authorize the Attorney General and the Secretary of Homeland Security to use task forces currently in existence to detect and investigate individuals who are in violation of the immigration fraud crimes as created by the bill. It would require that Immigration Judges issue warnings about unauthorized practice of immigration law to immigrants in removal proceedings, similar to the current law that requires notification of pro bono legal services to these immigrants; require the Attorney General to provide outreach to the immigrant community to help prevent fraud; provide that any materials used to carry out notification on immigration law fraud is done in the appropriate language for that community; and require the distribution of the disciplinary list of individuals not authorized to appear before the immigration courts and the Board of Immigration Appeals, BIA, currently maintained by the Executive Office of Immigration Review, EOIR.

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 (\*\*).

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

The following is a listing of several immigration- or refugee-related items that have either not yet been scheduled for action in Congress or on which it is anticipated that some Congressional will occur within the next several weeks.

Items added to this listing since the previous edition of the Weekly Legislative Update and items on the listing which have substantially changed since the last Weekly Legislative Update was issued are marked with a double asterisk (\*\*).

Bicameral

**Authorizing Committees to Begin Producing Views & Estimates Reports:** Now that President Obama has submitted his fiscal year 2010 budget outline to Congress, the six authorizing committees of the House and Senate that have principal jurisdiction over the federal government’s immigration- and refugee-related departments, agencies, functions, programs, and activities have begun to produce their “Views and Estimates” letters outlining their ideas on the budget for programs and agencies under their jurisdiction.

By law, the committees must produce their “Views & Estimates” reports by no later than six weeks after the President submits his budget. However, they also face a deadline of the date on which the Budget Committee produces its budget resolution to complete their work on their Views and Estimate reports.

Some committees conduct formal markups at which the draft reports are subjected to amendment. Other Committees produce the reports in a less formal manner.

The following chart lists the House and Senate authorizing committees that have jurisdiction over significant immigration- and refugee-related agencies, functions, programs, and activities and the functions and agencies over which those committees exercise their jurisdiction:

**Major Federal Immigration- and Refugee-Related Functions and the Congressional Authorizing Committees that Have Jurisdiction over Them**

Agencies/Programs	House Committee	Senate Committee
The Department of Justice’s Board of Immigration Appeals (BIA), Executive Office for Immigration Review (EOIR), Office of Special Counsel (OSC), and Office of Immigration Litigation (OIL)	House Judiciary	Senate Judiciary
The Department of Health and Human Services’ refugee resettlement and unaccompanied alien child programs, administered by the Office of Refugee Resettlement (ORR).	House Judiciary	Senate Judiciary
The Department of Health and Human Services’ trafficking victims assistance programs, administered by the Office of	House Foreign Affairs	Senate Foreign Relations

Agencies/Programs	House Committee	Senate Committee
Refugee Resettlement (ORR)		
The Department of Health and Human Services' torture victims assistance programs, administered by the Office of Refugee Resettlement (ORR)	House Foreign Affairs  House Energy & Commerce	Senate Foreign Relations
The Department of State's administration of the nation's refugee admissions and overseas refugee assistance programs, administered by the Department's Bureau of Population, Refugees, and Migration (PRM)	House Foreign Affairs	Senate Foreign Relations
The Department of Homeland Security's immigration benefits adjudication services, administered by the Department's U.S. Citizenship and Immigration Services Bureau (USCIS)	House Judiciary	Senate Judiciary
The Department of Homeland Security's detention and interior immigration enforcement functions, administered by the Department's Immigration and Customs Enforcement (ICE) Bureau	House Judiciary	Senate Judiciary
The Department of Homeland Security's border and port-of-entry enforcement functions, administered by the Department's U.S. Customs and Border Protection Bureau (CBP)	House Homeland Security	Senate Judiciary

At the time of this writing, none of the six committees that have jurisdiction over significant immigration- and refugee-related agencies, functions, and activities of the federal government had yet announced their schedules for considering their Views & Estimates reports. ☼

**House**

**\*\*House Judiciary Committee to Hold Hearing on 287(g) Program:** The House Committee on the Judiciary is expected to hold a hearing within the next several weeks on the 287(g) program. At the time of this writing, the precise hearing date and time had not yet been determined. The hearing will take place in Room 2141 of the Rayburn House Office Building.

**House to Produce Budget Resolution in March:** Speaker of the House Nancy Pelosi has indicated that the House will take up its fiscal year 2010 budget resolution in March, prior to receiving the detailed budget that the Obama Administration promises to deliver to Congress in mid-April.

**Senate**

**\*\*Senate Panel to Hold Oversight Hearing on the FBI:** The Senate Committee on the Judiciary has scheduled an oversight hearing on the Federal Bureau of Investigation (FBI) for Wednesday, March 25, 2009. The witness for the late-March hearing is scheduled to be Robert S. Mueller III, Director of the FBI. It will take place in Room SD-216 of the Dirksen Senate Office Building.

**Senate Panel to Hold Hearing in Washington, DC on Border Violence:** The Senate Homeland Security and Governmental Affairs Committee has scheduled a hearing for March 25, 2009, at which it will examine the national and homeland security consequences of violence along the U.S.-Mexico border. Neither the time nor the witness list for the March 25 hearing had been determined at the time of this writing. It will take place in Room SD-342 of the Dirksen Senate Office Building.

**Senate Panel to Hold Field Hearing in Arizona on Border Violence:** The Senate Homeland Security and Governmental Affairs Committee anticipates holding a field hearing sometime in April, at which it will examine the national and homeland security consequences of violence along the U.S.-Mexico border. No date or witness list for the April field hearing had been determined at the time of this writing. The hearing will take place in Arizona. ◇

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

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

- Immigration- and Refugee-Related Views and Estimates. Next week's Weekly Legislative Update will report on the immigration- and refugee-related items in various House and Senate authorizing committees' Views and Estimates on the fiscal year 2010 budget.
- Hearing on Biometric Identification. Next week's Weekly Legislative Update will report on this week's House Appropriations Subcommittee on Homeland Security hearing on biometric identification.
- Hearing on Treatment of Certain Refugees During World War II. Next week's Weekly Legislative Update will report on this week's House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law hearing on the treatment of Latin Americans of Japanese Descent, European Americans, and Jewish Refugees During World War II.
- Hearing on Human Trafficking. Next week's Weekly Legislative Update will report on this week's House Homeland Security Committee hearing on human trafficking.
- Hearings on Violence along the U.S. Border with Mexico. Next Week's Weekly Legislative Update will report on the three hearings that were held last week in the U.S. House of Representatives on violence along the U.S. border with Mexico.

- Hearing on the Secure Border Initiative. Next week's Weekly Legislative Update will report on last week's House Appropriations Subcommittee on Homeland Security hearing on the Secure Border Initiative.
- 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. ◇

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*Appendix*

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No items this week.

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