



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

Weekly Update on Immigration and Refugee Legislative Matters 111th Congress, First Session

Monday, April 27, 2009

Page 393

Legislative Highlights

<i>Senate Judiciary Committee to Hold Hearing on Comprehensive Immigration Reform</i>	395-395
<i>Senate to Take Up Sebelius HHS Nomination with 60 Vote Requirement for Confirmation</i>	396-396
<i>House and Senate to Take Up Fiscal Year 2010 Budget Resolution Conference Report</i>	396-396
<i>Senate Appropriations Committee to Hold Hearing on FY '09 War Supplemental Request</i>	395-395
<i>Senate Homeland Security and Governmental Affairs to Vote on Morton ICE Nomination</i>	396-396
<i>Senate Panel Approves Sebelius to Head Department of Health and Human Services</i>	404-404
<i>President to Nominate Alejandro Mayorkas to Head USCIS</i>	405-406
<i>Senate Committee Holds Hearing on Nomination of John T. Morton to Head ICE</i>	400-404
<i>House and Senate Appoint Conferees on Fiscal Year 2010 Budget Resolution</i>	404-405
<i>Secretary Clinton Testifies on the Obama Administration's FY '09 Supplemental Request</i>	399-399
<i>Secretary Clinton Testifies on the Obama Administration's Foreign Policy Priorities</i>	398-399

This Week's Hearings

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

- Comprehensive Immigration Reform. A Senate Judiciary Committee panel has scheduled a hearing on comprehensive immigration reform;
- Director of State Department Trafficking Office. A Senate Foreign Relations Committee panel has scheduled a hearing on the nomination of Lou de Baca to head the State Department's Office on Trafficking; and
- Fiscal Year 2009 Iraq/Afghan War Supplemental. The Senate Appropriations Committee has scheduled a hearing on the President's fiscal year 2009 Iraq/Afghanistan war supplemental appropriations submission.

House

At the time of this writing, no hearings were scheduled in the House on immigration- or refugee-related matters.

Senate

Senate Foreign Relations Subcommittee to Hold Hearing on Nominee to Head Trafficking Office:

The Senate Foreign Relations Subcommittee on African Af-

Continued on Page 394

Inside This Week's Edition

Legislative Highlights	393
This Week's Hearings	393 - 395
This Week's Markups	395 - 396
This Week's Floor Activity	396 - 397
This Week's Conference Activity	397 - 397
This Week's Executive Activity	397 - 406
Last Week's Legislative Activity	397 - 405
Last Week's Executive Activity	405 - 406
Recently Introduced Legislation	406 - 409
Bills in Development	409 - 410
Over the Horizon	410 - 411
Next Week's Weekly Legislative Update ..	411 - 412
Appendix	413 - 413

This Week's Hearings (continued)

fairs has scheduled a hearing for this week on the nomination of Lou de Baca to be Director of the State Department's [Office to Monitor and Combat Trafficking in Persons](#). This week's hearing is scheduled for 9:30 am in SD-419 of the Dirksen Senate Office Building.

Anticipated Witnesses. At the time of this writing, the only person who was known to be a witness at this week's hearing is Lou de Baca, himself.

Office's Jurisdiction Over Trafficking-Related Matters. The Office to Monitor and Combat Trafficking in Persons (the Office) is an agency within the United States Department of State charged with investigating and creating programs to prevent human trafficking both within the United States and internationally. The office also presents the Trafficking in Persons Report annually to Congress, concerning human trafficking in the U.S. and other nations. This report aims to raise awareness about human exploitation and trafficking, and to prevent it. The Director of the Office is an Ambassador-at-large, appointed by the President subject to the advice and consent of the United States Senate.

The office's goals are to make the common people aware, protect victims, take legal action against violators, establish necessary and just sentences for criminals, and train law enforcement individuals.

The Office was established in October 2001 as a result of the enactment of the Trafficking Victims Protection Act of 2000.³⁸⁶ This legislation required the President to create a bureau within the State Department to specifically address human trafficking and exploitation on all levels and to take legal action against perpetrators. The Office's authorities have been further refined over the years by the Trafficking Victims Protection Reauthorization Act of 2003,³⁸⁷ the Trafficking Victims Protection Reauthorization Act of 2005,³⁸⁸ and the Trafficking Victims Protection Reauthorization Act of 2008.³⁸⁹

The Office is housed within the Department of State's Under Secretary for Democracy and Global Affairs. It describes its mission as a "mission to eradicate modern-day slavery." According to the Office, it "provides the tools to combat trafficking in persons and assists in the coordination of anti-trafficking efforts both worldwide and domestically."

³⁸⁶ [P.L. 106-386](#), October 28, 2000

³⁸⁷ [P.L. 108-193](#), December 19, 2003

³⁸⁸ [P.L. 109-164](#), January 10, 2006

³⁸⁹ [P.L. 110-457](#), December 23, 2008

The Office monitors human trafficking and prosecutes perpetrators. It divides nations into the following tiers based on their compliance with standards outlined in the TVPA:

- Tier 1 Countries whose governments fully comply with the TVPA's minimum standards.
- Tier 2 Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.
- Tier 2 Watchlist Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards and—
 1. The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
 2. There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
 3. The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.
- Tier 3 Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

Additionally, the office provides a phone number any individual who suspects human trafficking may use: (1-888-373-7888). Victims can also call this number and receive help, even if they are in the country illegally. Victims are commonly trafficked internationally as well as within their

Continued on Page 395

Writer

Micheal E. Hill, Associate Director
 United States Conference of Catholic Bishops
 Government Relations Office (USCCB/GR)
 Voice: (202) 541-3161
 Mobile: (202) 257-1520
 Fax: (202) 541-3313
 E-Mail Address: MHill@usccb.org
 Real-Time Updates: www.twitter.com/MicEvHill

This Week's Hearings (continued)

own countries. Law enforcement is widely trained to seek out victims and violators.

Background on Luis de Baca. The White House announced the nomination of Luis C. de Baca to be Ambassador-at-Large to Monitor and Combat Trafficking in Persons on March 24, 2009.³⁹⁰



At the time of this writing, Mr. de Baca was serving as Counsel to the U.S. House Committee on the Judiciary, on detail from the Civil Rights Division of the U.S. Department of Justice. On the Judiciary Committee, his duties have included national security, intelligence, immigration, civil rights, and modern slavery issues. He played a key role in drafting and negotiating some of the key provisions of [P.L. 110-457](#), the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, which was enacted into law on December 23, 2008.

de Baca served as Chief Counsel of the Civil Rights Division's Human Trafficking Prosecution Unit. During the Clinton Administration, he was the Department's Involuntary Servitude and Slavery Coordinator and was instrumental in developing the United States' victim-centered approach to combating modern slavery. He has investigated and prosecuted human trafficking cases in which victims were held for prostitution and other forms of sexual exploitation, farm labor, domestic service, and factory work. De Baca received the leading honor given by the national trafficking victim service provider community, the Freedom Network's Paul & Sheila Wellstone Award, and has been named the Michigan Law School's Distinguished Latino Alumnus. De Baca graduated from Iowa State University and holds a J.D. from Michigan Law School, where he was President of the Hispanic Law Students Association and an editor of the Michigan Law Review. ☼

Senate Judiciary Panel to Hold Hearing on Comprehensive Immigration Reform: The House Judiciary Subcommittee on Immigration, Refugees, and Border Security has scheduled a hearing for this week on comprehensive immigration reform. This week's hearing is titled: "Comprehensive Immigration Reform in 2009: Can We Do It and How?" It is scheduled for 2:30 pm on Thursday, April 30, 2009, in Room SD-226 of the Dirksen Senate Office Building.

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

³⁹⁰ [Click Here](#) to see the White House press release announcing the President's nomination of Luis de Baca to be Ambassador-at-Large to Monitor and Combat Trafficking in Persons

Panel I

- Alan Greenspan, Economist and Former Chairman, the Federal Reserve of the United States;
- Dr. Joel Hunter, Senior Pastor, Northland Church and Member, President Obama's Advisory Council on Faith-Based and Neighborhood Partnerships;
- J. Thomas Manger, Montgomery County, Maryland Police Chief and Director, Major Cities Chief Association

Panel II

- Doris Meissner, Senior Fellow, Migration Policy Institute and Former Commissioner, Immigration and Naturalization Service;
- Eliseo Medina, Executive Vice President, Service Employees International Union; and
- Janet Murgia, CEO, National Council of La Raza. ☼

Senate Appropriations Committee to Hold Hearing on President's FY '09 War Supplemental Request:

The Senate Appropriations Committee has scheduled a hearing for this week on the Administration's proposed fiscal 2009 war supplemental appropriations request. This week's hearing is scheduled for 10:00 am on Thursday, April 30, 2009, in Room SD-106 of the Dirksen Senate Office Building.

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

- Hillary Rodham Clinton, Secretary of State; and
- Robert M. Gates, Secretary of Defense. ☼ ◇

This Week's Markups

Only one markup is anticipated this week having implications for immigration- or refugee-related matters:

- Nomination of John T. Morton to Head Immigration and Customs Enforcement Bureau. The Senate Committee on Homeland Security and Governmental Affairs has scheduled a markup to vote on the nomination of John T. Morton to head ICE.

House

At the time of this writing, no markups were scheduled in the House on measures containing significant immigration- or refugee-related provisions.

Senate

Senate Panel to Vote on Morton Nomination to Head Immigration and Customs Enforcement:

The Senate Committee on Homeland Security and Governmental Affairs has scheduled a markup for this week to vote on the nomination of John T. Morton to be Assistant Secretary of Homeland Security for Immigration and Customs Enforcement (ICE). This week's markup is scheduled for 5:30 pm on Monday, April 27, 2009, in Room S-216 of the Capitol Building.

ICE Jurisdiction Over Immigration-Related Matters. The Department of Homeland Security's Immigration and Customs Enforcement (ICE) bureau is the Department of Homeland Security's largest investigative agency. Among its many duties is its responsibility for interior immigration enforcement, including detention, removals, and worksite enforcement.

During the latter years of the Bush Administration, ICE dramatically stepped up its enforcement efforts, conducting numerous immigration raids and sweeps in factories, meatpacking plants, janitorial services, temp agencies, restaurants, and other workplaces, as well as carrying out other interior immigration enforcement actions aimed at detecting, arresting, detaining, and eventually deporting illegal immigrants. ICE also is the agency within the Department of Homeland Security that works with state and local governments in reaching and monitoring 287(g) agreements.

The increased raid and other enforcement activity was lauded by the Department of Homeland Security and immigration restrictionists. However, it angered the pro-immigration advocacy community, which pointed to a number of high profile incidents that either showed ICE insensitivity, endangered children, or even deported United States citizens.

Immigration Background on John T. Morton. John T. Morton is a career employee of the U.S. Department of Justice who was serving as chief of the criminal division's domestic security section at the time President Obama nominated him to head ICE. He has overseen several complex and high profile immigration and terrorism cases during his career at the Department of Justice.

Mr. Morton's nomination was the subject of a confirmation hearing in the Committee last week. During that hearing, as well as in response to written questions that he was given prior to the hearing, Mr. Morton asserted concern about ICE's detention practices, indicated his support for the mandatory use of the e-verify system, and pledged to review the 287(g) program. ☼³⁹¹ ◇

³⁹¹ See Pages 400-404 of this week's edition of the *Weekly Legislative Update* for a detailed analysis of the April 22, 2009, Senate Homeland Security and Governmental Affairs confirmation hearing on the nomination of John T. Morton to head ICE

This Week's Floor Activity

At the time of this writing, House or Senate floor action is anticipated on only two items that could have a significant immigration- or refugee-related impact:

- Sebelius Nomination to be Secretary of HHS. The full Senate is scheduled to take up the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services; and
- Fiscal Year 2010 Budget Resolution. The House and Senate could take up the conference report accompanying the fiscal year 2010 budget resolution should conferees reach an agreement on the measure.

House

House and Senate to Take Up Fiscal Year 2010 Budget Resolution Conference Report:

The full House and Senate are expected this week to take up the yet-to-be-filed conference report accompanying H. Con. Res. 85, the Fiscal Year 2010 budget resolution.

Published reports indicate that the conference agreement will include reconciliation instructions that preclude the possibility of a Senate filibuster on health care and student loan legislation, and that it trims President Obama's proposed fiscal year 2010 discretionary spending by \$10 BILLION. However, at the time of this writing, there were no details available beyond that information.

House and Senate Leaders plan to file the conference report on Monday, April 27, 2009. They reportedly have set Tuesday, April 28, 2009, as the day for House consideration of the budget resolution conference agreement and Wednesday, April 29, 2009, as the day on which the Senate will take up the conference agreement. ☼

Senate

Full Senate to Take Up Nomination of Kathleen Sebelius to be Secretary of Health and Human Services:



The full Senate this week is scheduled to take up the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services.

At the time of this writing, it was anticipated that the Senate would take up the nomination beginning at 10:00 am on Tuesday, April 28, 2009, and vote on the nomination before the end of Tuesday's session.

President Obama nominated Governor Sebelius to be Secretary of Health and Human Services on March 2, 2009, following the withdrawal of former Senate Majority Leader Tom Daschle's nomination for tax reasons. The Senate

Committee on Finance approved Secretary-Designate Sebelius' nomination on Thursday, April 21, 2009, by a vote of 15-8.³⁹²

Parliamentary Situation. When the Senate takes up the Sebelius nomination, it will do so under a unanimous consent agreement that provides for eight hour of debate on the nomination and requiring that the nomination receive the affirmative vote of 60 or more senators for her to be confirmed.

HHS Jurisdiction Over Immigration- and Refugee-Matters. The Department of Health and Human Services has broad jurisdiction over many programs and activities of government, it operates several specific programs that assist refugees and other vulnerable populations of noncitizens:

- Resettlement Services to Refugees, Asylees, Special Immigrant Iraqis, and Certain Amerasians. These programs provide resettlement services to refugees who have been admitted to the United States and aliens, individuals who have been granted asylum in the United States, individuals from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.
- Trafficking Victims. These programs assist aliens found in the United States who are the victims of trafficking;
- Torture Victims. These programs assist alien torture victims who are found in the United States; and
- Unaccompanied Alien Children. These programs provide care and custody for unaccompanied aliens in federal custody while their immigration status is being resolved.

Outlook. At the time of this writing, the fate of Secretary-Designate Sebelius' nomination appeared to be somewhat in doubt, owing to an anti-abortion bill that the Kansas Legislature passed and that she vetoed last week. Her veto of the measure is threatening to drain her support among anti-abortion Republicans in the United States Senate, leaving her precariously balanced. ✨ ◇

This Week's Conference Activity

One measure that has significant immigration- or refugee-related consequences is pending before a House-Senate conference committee:

³⁹² See Pages 365-367 of the March 20, 2009, edition of the *Weekly Legislative Update* for a detailed analysis of Secretary-Designate Sebelius' record on immigration and refugee issues during her time as governor of Kansas

- Fiscal Year 2010 Budget Resolution: House and Senate Conferees are considering the fiscal year 2010 budget resolution.

Budget Resolution Conferees Appointed: The House and Senate last week formally appointed conferees to settle the differences between the House- and Senate-approved versions of H. Con. Res. 85, the Fiscal Year 2010 Budget Resolution. A formal meeting of the conferees is expected to occur on Monday, April 27, 2009, at which time a tentative agreement will be ratified.

- House Conferees. The House conferees are:
 1. Spratt (D-SC)
 2. Boyd (D-FL)
 3. DeLauro (D-CT)
 4. Ryan (R-WI)
 5. Hensarling (R-TX)
- Senate Conferees. The Senate conferees are:
 1. Conrad (D-ND)
 2. Murray (D-WA)
 3. Gregg (R-NH) ◇

This Week's Executive Activity

No items this week. ◇

Last Week's Legislative Activity

Last Week's Hearings

Four Congressional panels held hearings last week, at which significant immigration- or refugee-related matters were discussed:

- Hearing on Obama Foreign Policy Priorities. The House Foreign Affairs Committee held a hearing on the Obama Administration's foreign policy priorities, at which Secretary of State Hillary Rodham Clinton testified;
- Hearing on Border Violence. The Senate Homeland Security and Governmental Affairs Committee held a field hearing on southern border violence;
- Confirmation of ICE Assistant Secretary. The Senate Homeland Security and Governmental Affairs Committee held a confirmation hearing on the nomination of John T. Morton to head the Immigration and Customs Enforcement bureau; and

- Fiscal Year 2009 War Supplemental. A House Appropriations panel held a hearing on the Obama Fiscal Year 2009 Iraq/Afghanistan Supplemental Appropriations request for programs administered by the Department of State.

House Foreign Affairs Committee Holds Hearing on Obama Foreign Policy Priorities: The House Committee on Foreign Affairs held a hearing last week on the Obama Administration's foreign Policy priorities. Last week's hearing was titled "New Beginnings: Foreign Policy Priorities in the Obama Administration." It was held on Wednesday, April 22, 2009.³⁹³

Witnesses. The sole witness at last week's hearing was Secretary of State Hillary Rodham Clinton.

Opening Statements. Neither Chairman Howard L. Berman (D-CA) nor Ranking Republican Ileana Ros-Lehtinen (R-FL) mentioned refugees or internally displaced persons in their opening statements at last week's hearing.

Prepared Testimony. Secretary of State Clinton did not reference refugees or internally displaced persons in her prepared opening statement for last week's hearing.³⁹⁴

Q&A Session. The following is a summary of the immigration- and refugee-related questions that were posed to the secretary during last week's hearing:

- Admission of Greece Into the Visa Waiver Program. Representative Gus Bilirakis (D-FL) asked Secretary Clinton about whether Greece would be admitted into the visa waiver program.

Secretary Clinton replied that she is working with Greece on helping it meet the requirements for entry into the program.

- Darfurian Refugees. House Appropriations Subcommittee on Africa and Global Health Chairman Donald Payne (D-NJ) asked the Secretary what the United States intended to do about Darfurian refugees in Chad as part of a larger question about Africa.

Representative Brad Sherman also addressed the situation in Darfur, telling the Secretary that "[the United States] bargaining position will be strengthened if we

³⁹³ [Click Here](#) to see a video of the April 22, 2009, House Foreign Affairs Committee hearing on the foreign policy priorities of the Obama administration

³⁹⁴ [Click Here](#) to see the complete text of Secretary of State Hillary Rodham Clinton's prepared remarks for the April 22, 2009, House Committee on Foreign Affairs hearing on the Obama Administration's foreign policy priorities. [Click Here](#) to see a video of Secretary of State Clinton's opening statement at the hearing.

don't tell the Sudanese government in advance that we are dismissing out of hand any military or lethal option. We should at least not dismiss out of hand the idea of a no-fly zone, the idea of using our Air Force to hit the Sudanese government, or even the possibility of providing assistance to insurgent groups in Darfur.

Secretary Clinton was nonresponsive to both comments.

- Refugees in the Democratic Republic of Congo. Representative David Scott (D-GA) had just returned from a trip to Africa where he viewed refugee situations in Congo. He related how he had helicoptered into a camp of 42,000 refugees, 20,000 of whom were children who were living in deplorable conditions. He asked the Secretary "what are we doing specifically to make sure that the money that we're spending for these humanitarian efforts are getting to that source?"

Secretary Clinton responded that "Africa is a matter of great national security concern to the United States. This is a continent of such diversity, such promise, and such peril." She said that she was "committed to doing a better job on the aid we deliver" because she shared his concerns. She said that she doesn't know where a lot of aid ends up and that "our transparency and our accountability measures are not adequate. We waste way too much money on contractors." She noted that "[f]ifty cents out of every dollar doesn't even end up -- it's not even in the pipeline to end up serving the people it should serve. And once it's on the ground, it is really hard to make the case that our aid over decades has made the difference it should have made in the lives of the people of so many African countries." She said that "we have to start over ... I think we've got to ask ourselves, what are we doing? And how do we do it better? How do we define our mission? And how do we have mechanisms that we can say to the American people are working and look to see the results in so many places elsewhere?"

- Sri Lankan Camps for Displaced Tamil. Representative Brad Sherman (D-CA) asked the Secretary to oppose IMF loans to the Sri Lankan government until that government agrees to a brief humanitarian cease-fire to allow journalists and human rights officials to inspect the displaced persons camps where Tamils were being held and to generally respect human rights.

Representative Michael E. McMahon commend the State Department's April 16, 2009, call on both the Sri Lankan government and the Tamil Tigers to allow the over 140,000 trapped Tamil civilians to escape the conflict zone. He also expressed support for the department's appeal to the Sri Lankan government to enforce international humanitarian standards in IDP camps, to grant visas to international aid groups, and to permit entry into Sri Lanka of international monitors and media

access to those camps. Noting that “the conflict has been brutal,” he expressed concern for the prospects of post-conflict resolution for the Sinhalese and Tamil people. He asked the Secretary if the State Department has any post-conflict plans for the region? And if so, what are they?

Secretary Clinton was nonresponsive to Representative Sherman’s question. However, she did address Representative McMahon’s comments. In response to Representative McMahon, she said “this is such a terrible humanitarian tragedy. And we have been pressing the Sri Lankan government for a halt in the fighting so that we could secure a safe passage for as many of the trapped civilians as possible.

“As you know, there was a very short lull, but then the fighting has continued. There seems to be very little openness on the part of the Tamil Tiger leadership to cease their efforts so that we could try to get in and -- and help the people.

“So we are beginning intensive post-conflict planning. We have discussed this with a number of our other allies and partners who share our concerns. I think that the Sri Lankan government knows that the entire world is very disappointed, that in its efforts to end what it sees as 25 years of conflict, it is causing such untold suffering.

“We have made it clear that, as soon as there is some lull in the fighting or an end to the fighting, that there has to be not only massive humanitarian air, but a political resolution. The people who have been waging this internal insurgency for all these years are going to have to be brought into the political process in some way.

“So we are determined to do what we can, along with others, to be ready.” ☼

House Appropriations Subcommittee Holds Hearing on Obama Iraq/Afghanistan Supplemental Request: The House Appropriations Subcommittee on State, Foreign Operations, and Related Agencies held a hearing last week on the Obama Administration’s fiscal year 2009 Iraq/Afghanistan supplemental appropriations request for programs administered by the Department of State. Last week’s hearing was held on Thursday, April 23, 2009.

Witnesses. The sole witness at last week’s hearing was Secretary of State Hillary Rodham Clinton.

Opening Statements. Neither Chairwoman Nita Lowey (D-NY) nor Ranking Republican Kay Granger (R-TX) addressed refugees or internally displaced persons in their opening statements.

Prepared Testimony. In her only reference to refugees in her prepared testimony, Secretary Clinton asserted that “the United States has to remain a world leader in providing food aid and life-sustaining support for refugees and other victims of conflict. And these efforts will be complemented by investments in the supplemental budget for emergency food aid.”³⁹⁵

Q&A Session. There were no refugee-related questions asked of Secretary Clinton during her appearance before the Subcommittee. ☼

Senate Homeland Security Committee Holds Field Hearing on Violence along U.S.-Mexico Border: The Senate Committee on Homeland Security and Governmental Affairs held a field hearing last week at which it examined violence along the U.S. border with Mexico. Last week’s hearing was titled “Southern Border Violence: State and Local Perspectives.” It was held on Monday, April 20, 2009.

Witnesses. The following is the witness list at last week’s hearing:

Panel I

- Governor Jan Brewer (R-AZ);
- Terry Goddard, Arizona Attorney General;

Panel II

- Phil Gordon, Mayor, Phoenix, Arizona;
- Octavio Garcia-Von Borstel, Mayor, Nogales, Arizona;
- Ned Norris Jr., Chairman, Tohono O’odham Nation

Panel III

- Jack F. Harris, Public Safety Manager, Phoenix, Arizona;
- Clarence W. Dupnik, Sheriff, Pima County, Arizona; and
- Larry Dever, Sheriff, Cochise County, Arizona.

Opening Statements. The following summarizes the immigration-related comments made by senators in their opening statements at last week’s hearing:

³⁹⁵ [Click Here](#) to see the complete text of Secretary of State Hillary Rodham Clinton’s prepared statement for the April 23, 2009, House Appropriations Subcommittee on Commerce, Justice, State Appropriations hearing on President Obama’s Fiscal Year 2009 Iraq Supplemental request. [Click Here](#) to see a video of Secretary of State Clinton’s opening statement at the hearing

- Chairman Lieberman. In his opening statement, Chairman Joseph Lieberman (I-CT) recounted statistics on increased violence along the U.S.-Mexico border and blamed that violence on drug cartels operating in Mexico. He noted that the United States is increasing resources to the U.S. border with Mexico, that the President has appointed Alan Bersin as a new “Border Czar”, and is devising a government-wide contingency plan if violence spills across the border to the United States. He also spoke in his opening statement about the \$1.4 BILLION Merida Initiative, which he said would screen and train Mexican law enforcement officers, purchase helicopters for the Mexican military, reform Mexico’s judicial system, and purchase and deploy scanning technology at border crossings.

Chairman Lieberman said more needed to be done and pledged to expand resources available to the Department of Homeland Security, Department of Justice, and state and local law enforcement agencies in the border region.

He pledged to push for more resources in the fiscal year 2009 emergency war supplemental appropriations measure that is now pending in Congress.³⁹⁶

- Senator McCain. In his opening statement, Senator John McCain (R-AZ) called for the deployment of the National Guard to the U.S. border with Mexico. He said that “[d]ue to the unsecure border and the high demand for illegal drugs in the United States, the drug cartels’ activities are impacting the security of the United States and particularly border states like Arizona. The City of Phoenix is now the kidnapping capital of the United States and second only to Mexico City for the most kidnappings in any city in the world. The City of Nogales has seen several gun battles break out in broad daylight between Mexican police and the drug cartels just a couple of miles from the border. The City of Tucson has seen its crime rate increase this past year, especially for property crimes and car thefts. Each of these instances can be traced to an increase of violence along the Mexican border and the high demand for illegal drugs within the United States”

He commended the Administration’s recent actions in dealing with border violence. But he declared that the Administration’s actions heretofore were not enough. He declared that “[a]dditional federal action is urgently needed and in my judgment, our failure to do more puts

at risk the safety and security of our citizens each and every day.”³⁹⁷

Prepared Testimony. The following are links to the prepared testimony of the witnesses at last week’s hearing:

Panel I

- [Governor Jan Brewer \(R-AZ\)](#)
- [Terry Goddard, Arizona Attorney General](#)

Panel II

- [Phil Gordon, Mayor, Phoenix, Arizona](#)
- [Octavio Garcia-Von Borstel, Mayor, Nogales, Arizona](#)
- [Ned Norris Jr., Chairman, Tohono O’odham Nation](#)

Panel III

- [Jack F. Harris, Public Safety Manager, Phoenix, Arizona](#)
- [Clarence W. Dupnik, Sheriff, Pima County, Arizona](#)
- [Larry Dever, Sheriff, Cochise County, Arizona](#) ☀

Senate Homeland Security Committee Holds Confirmation Hearing for ICE Nominee:

The Senate Committee on Homeland Security and Governmental Affairs held a hearing last week on the nomination of John T. Morton to be Assistant Secretary of Homeland Security for Immigration and Customs Enforcement. Last week’s hearing occurred on Thursday, April 22, 2009.³⁹⁸

Witnesses. The sole witness at last week’s hearing was John T. Morton.

Opening Statements. The following summarizes the opening statements made by senators at last week’s hearing:

- Chairman Lieberman. In his opening statement, Committee Chairman Joseph Lieberman (I-CT) indicated that he was pleased by the Morton nomination. Noting Morton’s experience in prosecuting civil immigration violations at the now defunct Immigration and Naturalization Service (INS) and his experience in prosecuting human smuggling, large immigration fraud, money laundering, and human rights cases elsewhere in the Department of Justice, he said that Morton’s extensive work experience at the Department of Justice makes him “qualified to lead the agency at this pivotal period in its history.”

³⁹⁶ [Click Here](#) to see the complete text of Senate Homeland Security and Governmental Affairs Chairman Joseph Lieberman (I-CT) at the April 20, 2009, Committee field hearing on violence along the U.S.-Mexico border

³⁹⁷ [Click Here](#) to see the complete text of Senator John McCain’s opening statement at the April 20, 2009, Senate Homeland Security and Governmental Affairs Committee field hearing on violence along the U.S.-Mexico border

³⁹⁸ [Click Here](#) to see a video of the April 22, 2009, Senate Homeland Security and Governmental Affairs confirmation hearing on the nomination of John T. Morton Immigration and Customs Enforcement bureau

Chairman Lieberman asserted in his opening statement that “there are unacceptable turf wars going on between ICE, the Drug Enforcement Administration, and Alcohol, Tobacco, and Firearms.” He said that “those simply cannot be tolerated” given the challenges the United States is facing from sophisticated and well-armed criminal networks that operate not just in the border region, but as the FBI has told us 230 metropolitan areas across America.

Chairman Lieberman spoke about asylum seekers in his statement, asserting that at any given time, ICE has approximately 30,000 people or more in its custody. He said that “[m]ost of them non-criminals; many of them asylum seekers -- which is the group that I’ve been particularly concerned about, people coming here for asylum based on religious or political discrimination at home -- and long-time residents.” Chairman Lieberman asserted that “[m]any have come here fleeing oppression or seeking a better life for their families are being incarcerated, as you know, in county jails or other such facilities because we don’t have adequate facilities. And I’m particularly concerned that medical care for these people under our control and in our detention has been deplorable. In fact too many people have died while in custody. It seems to me, at least in part if not in whole because the physical conditions they had went untreated.”

Chairman Lieberman indicated that he planned to reintroduce legislation that he sponsored during the 110th Congress titled the “Secure and Safe Asylum and Detention Act.” He urged Morton to “take a look at it, and hopefully support it.”

Chairman Lieberman said he was encouraged by some steps that Secretary Napolitano has taken thus far, including directing a review of our immigration detention and enforcement policies. He expressed appreciation for the commitments that Mr. Morton had made privately to him to pursue such reforms.

- Ranking Republican Collins. In her opening statement, Ranking Republican Susan Collins (R-ME) indicated that she intended to explore two subjects with Mr. Morton at the hearing. First, she indicated she was interested in what ICE was planning to do to forge effective partnerships with state and local law enforcement, given conflicts that often occur with other federal agencies, including the AFT, with ICE. And second, she indicated concern about the appointment of a border czar by Secretary Napolitano and wanted to know how the czar would work with ICE.

Prepared Testimony. In his prepared statement, Mr. Morton told the Committee that, as a son of immigrants, he has “a personal appreciation for our rich immigration tradition. Coupled with my experience as a prosecutor, this background

serves as a constant reminder that law enforcement involves real people and must be pursued with a firm but measured hand.” He spoke of his previous experience in the Department of Justice and asserted that his experience makes him well-suited to head the Immigration and Customs Enforcement bureau.

Mr. Morton said in his opening statement that, if confirmed, his priorities would include—

- Improving the investigation and prosecution of major crimes, including international money laundering and organized crime, weapons proliferation and export controls, sex trafficking and child exploitation, intellectual property and counterfeiting, and frauds that promote travel by terrorists, criminals, and others who pose a threat to public safety.
- Securing our borders, both North and South.
- Addressing the ongoing crime and violence on both sides of our border with Mexico, particularly with regard to the illegal movement of drugs, money, guns, and people.
- Increasing the identification and removal of criminal aliens from our communities and of those who intentionally flout a final order of deportation.
- Reforming our immigration detention system.
- Refining our worksite enforcement efforts to deter employers from the knowing use of illegal labor.
- Improving coordination with Customs and Border Protection and U.S. Citizenship and Immigration Services, as well as with our other partners in federal, state, and tribal law enforcement.

Mr. Morton continued, saying that he also would want to bring focused attention to a number of important management issues, including—

- Improving the morale of the dedicated employees of the agency.
- Reforming the immigration detention system and the provision of medical care to those detained.
- Providing for greater accountability and performance measurement.

Mr. Morton concluded his opening statement by saying that, in short, he wants “to give the agency a greater sense of identity and purpose, improve its management, and increase its coordination with and support of its government partners.” He said that “[t]he issues and challenges facing ICE are

considerable, and I would very much want to continue the dialogue we have started in the confirmation process.”³⁹⁹

Q&A Session. The following is a summary of the immigration- and refugee-related questions that were posed to the secretary during last week’s hearing:

- The 287(g) Program. Senator Roland Burris (D-IL) asked Mr. Morton about racial profiling in the 287(g) program.

Mr. Morton replied that “I’m not aware of the particular concerns in your state, but I am aware generally that there have been concerns about the implementation and execution of 287(g), which is a statutory authority that Congress has provided for. Here’s what I would say generally in terms of 287(g). As a federal prosecutor I’m very supportive of federal efforts to coordinate and support state and local law enforcement, and work together to address the challenges in their communities, and I think that also applies in the context of the work that ICE does. That said, and this is what I think some of the specific attention needs to be placed with regard to 287(g). That coordination needs to be done with very careful oversight, training, and basic integrity. Particularly in the context of 287(g) you are talking about the delegation of some degree of federal immigration enforcement authority, and we need to make sure that that is done under clear guidelines with appropriate training, and that when allegations of racial profiling or abuse are raised there are mechanisms in place for a prompt, independent investigation of those claims, and that if there are any problems that they’re addressed directly and on the merits.”

Senator Burris pressed Mr. Morton, asking him if he would be willing to impose a moratorium on 287(g) programs until he is assured “that all of the local law enforcement have been properly trained and understand what your situation -- what the authority is in the 287(g), and it’s just not to stop people based on the color of their skin?”

Mr. Morton said that “ICE is in the process of reviewing the memorandum of agreements that are issued to make sure that they’re uniform, that they have the appropriate safeguards in place, and I very much want to join that process if confirmed and make sure that the agreements meet the needs of the federal government, meet the needs of the state and local governments involved, but at the same time do so in a way that several rights and liberties are protected and that there are clear safeguards in case there are abuses.” He said that “[a] number of these agreements are ongoing and reflect agreements in place,

and I think we need to look at those as well and see if some of them either need to be modified or if the case might be with particular abuses restricted or terminated.”

- Appointment of a Border Czar. Ranking Republican Collins expressed concern about the “proliferation of czars” in the White House and asked Mr. Morton whether he had concerns about the appointment of a border czar and whether believed it would make it more complicated for him to carry out his responsibilities.

Mr. Morton responded that he did not, at this point, have a concern. He said it was his understanding that Mr. Bersin’s role is that of an adviser. He said that Bersin’s “principle responsibility is one of facilitation and coordination among the many components within the department that have some responsibilities along the border, but that it is not an operational one.” He assured the Committee that “[t]he secretary fully intends and expects that whomever is confirmed as the assistant secretary for Immigrations and Customs Enforcement is going to lead and direct that agency’s day-to-day operations, and if I am confirmed I can tell you that’s exactly what I plan to do.” He went on to say that he knows Mr. Bersin from his time at the Department of Justice. He complimented Mr. Bersin, saying that he “has a lot of experience along the border. I look forward to getting his perspective and advice. But I don’t anticipate any difficulties in pursuing my tasks and responsibilities under the statute.”

- Authority to Pursue Smuggling Offenses. Chairman Lieberman asked what legal authorities Mr. Morton believed ICE needs to be given in order to better target smuggling organizations operating in the United States?

Mr. Morton responded, saying that he thought ICE needs “Title 21” authority across-the-board, a reference to authority to pursue drug offenses.

- Coordination Between ICE and Other Agencies. Chairman Lieberman asked Mr. Morton to speak about the extent to which he is aware of the this lack of coordination between ICE and other federal law enforcement agencies. More specifically, he asked what specific actions he will take, if confirmed, to ensure that ICE is actively coordinating with at least and most particularly DEA and ATF?

Mr. Morton responded by saying that as a federal prosecutor, he was very familiar with the issues of turf wars and differences of views in responsibility and jurisdiction. He said that they do not “have a positive place in federal law enforcement as a general matter, and I particularly don’t think they have a place in the fight along the southwest border, which is a central focus for us right now. It needs to have our full attention, not just as an agency but as a department and a broader

³⁹⁹ [Click Here](#) to see the complete text of John T. Morton’s prepared statement at the April 22, 2009, Senate Homeland Security and Governmental Affairs hearing on his nomination to head the Immigration and Customs Enforcement bureau

government.” He said that he was aware of turf issues between DEA, ICE, and between ICE and ATF. He said that he doesn’t believe that these issues are insurmountable and that he intended to focus on them immediately. He said that he has had some discussions with his colleagues at the Department of Justice. He noted that he knows the new acting director of the ATF, Ken Nelson, who is a long-time colleague. And he assured the Committee that he intends to sit down with these leaders and try to resolve these issues promptly in good faith based on our collective shared experience as prosecutors, knowing that we have to come together on these issues.

- Detention Practices. Chairman Lieberman asked Mr. Morton what his plans were on detention, “beginning with exploring a system where we make some rational determinations about some of these folks are simply not a risk of flight or a threat to public safety, and we have adjudicative process of some kind to determine that?”

Mr. Morton replied that ICE spends \$1.5 BILLION, which is 40 percent of its budget, on detention. He said that detention is an area of particular concern and focus for him. After saying that, he said, “[l]et me be clear. The power of detention is a very important power to carrying out the duties of the agency and securing the border.

Mr. Morton went on to assert that “[t]he agency does need to detain people who are a risk of flight and a danger to the community or where Congress has otherwise provided for it by law. But I think we need to take a hard look and make sure that the people we are detaining are being detained for those reasons, and they were being detained in conditions in facilities that are commensurate with their risk of flight or danger.” Mr. Morton said that “[o]ver the decades we have developed a system that is largely dependent on using facilities designed for incarceration as opposed to civil detention. And particularly when you’re talking about non-criminal respondents in the immigration system, or people who have particular vulnerabilities, it doesn’t jump out at you as that being the right answer. And so I want to take a hard look at that, and are there different conditions in which we can detain people, even if they are a risk of flight. Are there alternatives to detention that we can explore that assure their appearance and compliance without having to go through the expense to the taxpayer of detaining people?”

Mr. Morton continued, saying that “providing for uniform medical care that is consistent with our obligations as the detainer is really important. The system again has some unevenness. Some healthcare is provided for certain detainees by the Division of Immigration Health Services, but for others different

providers provide for it, and that needs a lot of attention.”

Mr. Morton went on, saying that “this isn’t a question of whether or not the agency detains people, but it’s a question of who do they detain, how do they detain them, and are there better ways to do this? And I think there are.” He called for “a greater sense of innovation more targeted to the populations that we are in fact responsible for” and said that detention is “a very weighty exercise of government power that needs to be done carefully.”

- E-Verify System. In response to a written question on the E-Verify system, Mr. Morton expressed support for proposals that would require employers throughout the country to use the E-Verify system to confirm their employees are legally allowed to work in the country.
- Fraud in the H-1B Program. Ranking Republican Susan Collins (R-ME) asked about fraud in the H-1B program.

Mr. Morton responded, saying that he was aware of fraud in the H-1B program. He said that he has “spent many years prosecuting widespread fraud in the permanent labor certification program, which is a sister program to the H-1B” and that he has “prosecuted a number of cases where the fraudulent submissions were literally in the thousands.” He said that “[h]ere we have very important programs to the interest of the United States where we’re allowing people to come here to perform specific tasks with specialized skills. And it makes no sense for those programs to be marked by a high degree of fraud, one that undermines confidence in those programs in the first place. It detracts from the people who are trying to play by the rules. And, very importantly, it means that a great deal of resources at CIS are being spent, and with the Department of Labor, on adjudicating claims that are fraudulent or false.”

Mr. Morton went on to say that he worked with the Department of Labor for several years to help them improve the integrity of their own program in the labor certification -- the permanent program. And that he looks forward to working with them in the other areas.”

Mr. Morton continued, saying that he thought there needs to be a closer relationship between ICE and USCIS immigration benefit fraud matters. He said that one of ICE’s primary responsibilities is to ensure the integrity of the system, which brings lots of good people here for good reasons, but that the system “needs to be marked by integrity, and my job is to work with the leaders at CIS to ensure that that happens.”

- Prosecution of Employers who Hire Illegal Immigrants. Senator Claire McCaskill (D-MO) noted a disparity in the number of employers who are prosecuted for hiring illegal immigrants and the number of illegal immigrants

who are targeted for enforcement actions. She asked how ICE goes about making such decisions.

Mr. Morton responded that he is not sure if there is a formal delineation. He said that he has received some briefings on the past approach, but that he is not aware of that delineation. He said that ICE has “undertaken a number of investigations. It’s a question of whether they need to do more, and I think we do. But I’m not aware of a formal delineation. There might be one, I’m just not aware.” ☀

Last Week’s Markups

Only one markup occurred last week having implications for immigration- or refugee-related matters:

- Vote on Sebelius Nomination. The Senate Committee on Finance voted on the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services.

Senate Finance Committee Approves Sebelius

HHS Nomination: The Senate Committee on Finance last week approved the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services. The Committee approved the nomination on Tuesday, April 21, 2009, by a vote of 15-8.

President Obama announced Governor Sebelius’ nomination to be Secretary of Health and Human Services on Monday, March 2, 2009. Hers was the last of the four cabinet departments with significant jurisdiction over immigration- or refugee-related functions and programs to have their cabinet secretaries confirmed. The three departments that have heads in place are the Department of Homeland Security, department of State, and Department of Justice.

Governor Sebelius was President Obama’s second choice to head the Department of Health and Human Services. His first choice, former Senate Majority Leader Tom Daschle (D-SD), withdrew his nomination for the position in early February following revelations that he had not paid income taxes on all of his income over the last several years.

Governor Sebelius was twice elected governor of Kansas. She was first elected in 2002 and reelected in 2006. Prior to being elected governor, she served for eight years as Kansas Insurance Commissioner, beginning in 1995. From 1987 to 1995 she served in the Kansas State House of Representatives. She has no experience in Washington.

HHS Jurisdiction over Refugees and Immigration. While the Department of Health and Human Services has broad jurisdiction over many programs and activities of government, it operates several specific programs that assist refugees and other vulnerable populations of noncitizens:

- Resettlement Services to Refugees, Asylees, Special Immigrant Iraqis, and Certain Amerasians. These programs provide resettlement services to refugees who have been admitted to the United States and aliens, individuals who have been granted asylum in the United States, individuals from Vietnam who are admitted to the U.S. as immigrants pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.
- Trafficking Victims. These programs assist aliens found in the United States who are the victims of trafficking;
- Torture Victims. These programs assist alien torture victims who are found in the United States; and
- Unaccompanied Alien Children. These programs provide care and custody for unaccompanied aliens in federal custody while their immigration status is being resolved.

The Department operates these programs through its [Office of Refugee Resettlement](#) (ORR), which is an office within the Department’s [Administration for Children and Families](#) (ACF).

Two other Federal departments also play a major role in refugee protection. The Department of State, through its Bureau of Population, Refugees, and Migration (PRM) operates programs to assist in the admission of refugees to the United States and provide overseas refugee assistance to refugees in camps of first asylum. And the Department of Homeland Security, through its U.S. Citizenship and Immigration Services Bureau (USCIS), interviews and adjudicates refugee applicants once they have been identified.

Next Steps. At the time of this writing, Secretary-Designate Sebelius appears headed for certain confirmation by the full United States Senate. ☀

Last Week’s Floor Actions

There were no floor actions last week on measures that contained significant immigration- or refugee-related provisions.

Last Week’s Conference Activity

One measure that has significant immigration- or refugee-related consequences is pending before a House-Senate conference committee:

- Fiscal Year 2010 Budget Resolution: House and Senate Conferees are considering the fiscal year 2010 budget resolution.

House and Senate Appoint Conferees on Fiscal Year 2010 Budget Resolution:

The House and Senate last week formally appointed conferees to settle the differences between the House- and Senate-approved

versions of H. Con. Res. 85, the Fiscal Year 2010 Budget Resolution. Observers expect a quick conference, with the possibility that conferees could reach an agreement this week.

Immigration- and Refugee-Related Provisions. At the time of this writing, no details of the conference agreement had been made publicly available.

- House Conferees. The House conferees are:
 1. Spratt (D-SC)
 2. Boyd (D-FL)
 3. DeLauro (D-CT)
 4. Ryan (R-WI)
 5. Hensarling (R-TX)
- Senate Conferees. The Senate conferees are:
 1. Conrad (D-ND)
 2. Murray (D-WA)
 3. Gregg (R-NH)

The chart that follows compares the amount recommended in the House-passed version of the fiscal year 2010 budget resolution for the three functions that contain immigration-related funding with the amounts provided in fiscal year 2009 and in the Senate-passed version of the budget resolution.

FY '10 Functional Breakdown of Immigration and Refugee Spending in Budget Resolutions

Function	Office	'09 Actual	'10 Obama	'10 House	'10 Senate
(150) Intern'l Affairs	PRM ⁴⁰⁰	\$40.885	\$50.520	\$45.320	\$50,520
(500) Education, Training, Emplmnt, and Social Services	ORR ⁴⁰¹	\$164.276	\$93.689	\$93.689	\$94,430

⁴⁰⁰ Department of State's Bureau of Population, Refugees, and Migration, which oversees the Department of State's refugee admissions and overseas refugee assistance programs

⁴⁰¹ Department of Health and Human Services' Office of Refugee Resettlement, which oversees the Department's refugee resettlement, torture victim assistance, trafficking victim assistance, and unaccompanied alien children programs

Function	Office	'09 Actual	'10 Obama	'10 House	'10 Senate
(750) Admin' of Justice	USCIS ⁴⁰² ICE ⁴⁰³ CBP ⁴⁰⁴ EOIR ⁴⁰⁵	\$55.783	\$52.857	\$52.857	\$52,857

☼ ◇

Last Week's Executive Activity

President Chooses Nominee to Head USCIS: The Obama Administration last week announced President Barack



Obama's intention to nominate Alejandro Mayorkas, a Cuban-born trial lawyer, to be the new Director of the Department of Homeland Security's U.S. Citizenship and Immigration Services bureau. The announcement was made on Friday, April 24, 2009, in a [White House press release](#).

Obama Administration last week announced President Barack Obama's intention to nominate Alejandro Mayorkas, a Cuban-born trial lawyer, to be the new Director of the Department of Homeland Security's U.S. Citizenship and Immigration Services bureau. The announcement was made on Friday, April 24, 2009, in a [White House press release](#).

According to materials released by the White House, Mayorkas is currently a partner at the law firm of O'Melveny and Myers. He previously served as the United States Attorney for the Central District of California.

The White House bio of Mr. Mayorkas boasts that that "[a]s a litigation partner at O'Melveny, Mr. Mayorkas represents Fortune 100 and other companies in their highest profile and most complex and sensitive matters throughout the country and the world. He advises boards of directors and top executives, tries cases, leads internal investigations, and litigates bet-the-company matters in a wide array of industries, including telecommunications, health care, consumer safety, sports and entertainment, aerospace, media, and real estate." The White House press materials go on to assert that "[a]t 39 he was the youngest U.S. Attorney in the nation and the first in the Central District of California to be appointed from within the Office. Mayorkas led an office of 240 Assistant U.S. Attorneys in the prosecution of cases in varied areas of law enforcement, including cases of public corruption, investment fraud, civil rights violations, high-tech

⁴⁰² Department of Homeland Security's U.S. Citizenship and Immigration Services bureau, which administers immigration and refugee benefit adjudication and service activities

⁴⁰³ Department of Homeland Security's Bureau of Immigration and Customs Enforcement, which administers federal government's interior immigration and customs enforcement activities

⁴⁰⁴ Department of Homeland Security's Bureau of Customs and Border Protection, which administers the federal government's border enforcement activities

⁴⁰⁵ Department of Justice's Executive Office for Immigration Review, which administers the federal government's immigration court system

and computer-related crime, organized crime, environmental crime, and international money laundering. The National Law Journal recently named Mr. Mayorkas one of the ‘50 Most Influential Minority Lawyers in America.’” ☀

Administration Announces Grant Program to Provide Emergency House Assistance to Refugees in the United States: The Department of State last week announced the establishment of a grant program to provide emergency housing assistance to refugees who have been resettled in the United States.

The program will be administered by the Department of State’s Bureau of Population, Refugees, and Migration (PRM). It is intended to provide refugee emergency housing assistance (REHA) to assist the most vulnerable refugees that have not yet found employment and have extreme unmet housing needs in paying rent and other associated housing costs during their first 90 days in the U.S.

According to the Department, “[t]he purpose of REHA is to provide approximately \$5 million in emergency housing assistance to refugees (defined as persons admitted to the United States under section 207(c) of the Immigration and Nationality Act, as amended, or persons to whom eligibility for the resettlement assistance available to individuals admitted under section 207(c) has been extended by statute (hereinafter collectively referred to as “refugees”)), which were admitted to the U.S. in fiscal year (FY) 2009.”

The Department says that grants “will be provided through a one-time assistance award to public or private non-profit agencies (hereinafter referred to as ‘Recipients’) currently participating in the Reception and Placement Program (R&P) managed by the Bureau of Population, Refugees, and Migration of the Department of State (hereinafter referred to as the ‘Bureau’).” It says that grant funding will “complement the U.S. Reception and Placement Program, the purpose of which is to promote the effective resettlement of all persons who are admitted to the United States under the U.S. Refugee Admissions Program, including assisting refugees to achieve economic self-sufficiency through employment as quickly as possible.”⁴⁰⁶ ☀ ◇

Recently Introduced Legislation

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

House

Control of Illegal Immigration

- **Increased Funding for ICE:** Representative Michael McCaul (R-TX) has introduced H.R. 2048, a

⁴⁰⁶ [Click Here](#) to see more information about the Refugee Emergency Housing Assistance grant program

bill to authorize appropriations for the Office of Detention and Removal of United States Immigration and Customs Enforcement.

As introduced, [H.R. 2048](#) would authorize increased appropriations for the Office of Detention Removal of United States Immigration and Customs Enforcement.

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

- **Increased Funds for Operation Stonegarden:** Representative Michael McCaul (R-TX) has introduced H.R. 2047, a bill to authorize appropriations for Operation Stonegarden of the Department of Homeland Security.

As introduced, [H.R. 2047](#) would authorize appropriations for "Operation Stonegarden", which is a series of pilot programs that "give states flexibility to use DHS grant dollars to support closer coordination of state and federal law enforcement agencies at our borders."

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

- **New Employee Verification Act of 2009:** Representative Sam Johnson (R-TX) has introduced [H.R. 2028](#), a bill to amend the Social Security Act to prevent unauthorized earnings from being credited toward benefits under title II of such Act and to make improvements in provisions governing totalization agreements, to amend the Social Security Act and the Immigration and Nationality Act to prevent unauthorized employment, and to improve coordination of the provisions of such Acts, and for other purposes.

As introduced, H.R. 2028 would have amended the Immigration and Nationality Act (INA) to require employers to verify employee identification and employment eligibility under the Electronic Employment Verification System (EEVS) or the Secure Employment Eligibility Verification System (SEEVS) (as established by this Act).

The measure would permit employers subject to employee verification requirements to do so under EEVS or SEEVS.

The measure would set forth provisions respecting:

1. voluntary and expedited participation;
2. employer penalties for failure to participate in EEVS or SEEVS;

3. employer and employee information and document requirements;
4. employer liability protection;
5. attestation; and
6. consequences of EEVS determinations.

It would stat that nothing in the Act shall be construed to require a national identification card.

The measure, further, would amend title II (Old Age, Survivor's and Disability Insurance) of the Social Security Act (SSA) to direct the Commissioner of Social Security to establish EEVS utilizing information in the National Directory of New Hires.

It would state that EEVS shall have the capacity to determine whether:

1. employer-submitted information is consistent with information maintained by the Commissioner with respect to U.S. citizens and nationals and by the Secretary of Homeland Security with respect to aliens; and
2. the individual is a citizen or national or is not an unauthorized alien.

It would set forth provisions respecting:

1. submission for confirmation of an individual's identification and employment eligibility and related EEVs determinations;
2. administrative and judicial review of employment disapproval;
3. EEVS implementation; and
4. data use by EEVS.

It would direct the Commissioner to establish SEEVS to provide, through government certified private entities, for verification of identity and employment eligibility respecting new employees.

It would permit an employer to opt out of SEEVS after one year's participation.

It would set forth provisions respecting:

1. certification of entities;
2. database management, including limitations on accessibility and the use and storage of biometric data;

3. employer responsibilities;
4. employee protections; and
5. information security and confidentiality, including penalties for violations.

It would direct the Commissioner to establish the Employment Verification Advisory Council, which shall terminate five years after enactment of this Act.

It would amend the INA to:

1. apply certain antidiscrimination provisions to EEVS and SEEVS;
2. increase civil money penalties for unfair employment practice violations;
3. increase civil money penalties for certain hiring, recruiting, and referral violations (reduces certain penalties for small employers, exempts certain good faith, first-time violations, and provides a safe harbor for certain contractors); and
4. increase criminal penalties for pattern or practice violations.

It would amend the SSA to:

1. provide for disclosure to the Secretary of Homeland Security of certain National Directory of New Hires information about employees with the greatest number or percentage of mismatched social security information;
2. deny credit toward earnings benefits from unauthorized work;
3. revise totalization agreement provisions; and
4. prohibit survivor's lump sum death payments to individuals who have been removed from the United States under INA.

It has been referred to the House Committee on the Judiciary, House Committee on Education and Labor, and House Committee on Ways and Means.

- **Border Sovereignty and Protection Act:** Representative Duncan D. Hunter (R-CA) has introduced [H.R. 2083](#), a bill to secure smuggling routes on the U.S.-Mexico border, better prevent the smuggling of narcotics and weapons across the border, and for other purposes.

As introduced, H.R. 2083 would require the construction of an additional 350 miles of double-layered, reinforced pedestrian fencing along the U.S.-Mexico border. This infrastructure would supplement the approximate 350 miles of fencing completed between October 2006 and April 1, 2009, effectively reinstating the original mandate under the Secure Fence Act for 700 miles of pedestrian fencing.

The measure also would provide the Department of Homeland Security with legal authority to investigate criminal drug violations of the Controlled Substances Act or the Controlled Substances Import and Export Act. The authority to fully investigate drug crimes, referred to as "Title 21" authority, is currently maintained by the Drug Enforcement Agency (DEA). The number of Homeland Security agents that can investigate transnational drug cases is arbitrarily limited by DEA. For example, only 1,500 Immigration and Customs Enforcement agents - a force that exceeds 6,000 special agents, are currently permitted to investigate criminal drug cases. Nearly 5,000 ICE agents who are fully trained in all aspects of border crime are prohibited from participating in these investigations.

It would increase the mandatory minimum sentence for all weapons smuggling offenses to 15 years. Weapons smugglers are often prosecuted under "non-trafficking" statutes that make it unlawful for certain persons to be in possession of firearms or import/export any merchandise, material or object contrary to U.S. laws.

It would deny reimbursement for SCAAP funding for state and local governments that maintain sanctuary policies and prohibit local law enforcement officials from gathering data or information on an individual's immigration status.

It would permit immigration officers to expeditiously remove undocumented aliens not continuously present in the U.S. for three years unless that individual has been charged with a crime or is seeking asylum.

It would permit the Secretary of Homeland Security to expeditiously remove criminal aliens.

And it would require all employers to verify the immigration status of employees through the E-Verify system.

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

- **Establishment of a Border Protection Strategy:** Representative Raul M. Grijalva (D-AZ) has introduced [H.R. 2076](#), a bill to provide for the

establishment of a border protection strategy for the international land borders of the United States, to address the ecological and environmental impacts of border security infrastructure, measures, and activities along the international land borders of the United States, and for other purposes.

As introduced, H.R. 2076 would provide for the establishment of a border protection strategy for the international land borders of the United States, to address the ecological and environmental impacts of border security infrastructure, measures, and activities along the international land borders of the United States.

It has been referred to the House Committee on Homeland Security, House Committee on Armed Services, and House Committee on Agriculture.

Legalization

- **Immigration Fraud Prevention Act of 2009:** Representative Yvette Diane Clarke (D-NY) has introduced [H.R. 1992](#), 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, H.R. 1992 would make it a federal crime to exploit people, citizens and non-citizens alike who are preyed on when seeking immigration assistance and penalize those who engage in such schemes.

More specifically, the measure would establish a new section in the fraud offenses of the criminal code which 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. It also would create a new section in the fraud offenses of the criminal code which would make it a federal crime for anyone to willingly, knowingly, and falsely represent that he or she is an attorney or accredited representative (as defined currently in regulations) in any matter arising under federal immigration law.

Under the measure, violations of the new crimes would result in a fine, imprisonment of not more than 5 years, or both. The bill, further, would 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 also work to prevent immigration fraud by increasing awareness of notario, fraud to immigrants. Along these lines, the measure would amend the Immigration and Nationality Act to provide warnings about notario fraud to immigrants in removal proceedings, parallel to the current law that requires

notification of pro bono legal services to said immigrants. It would require the Attorney General to provide outreach to the immigrant community on notario fraud and representation in immigration proceedings to prevent immigrants from being subjected to fraud. It would provide that any materials used to carry out notification on notario fraud would be required to be done in the language appropriate for the specific immigrant community. And it would require the distribution of the disciplinary list maintained by the Executive Office of Immigration Review (EOIR) of individuals not authorized to appear before the immigration courts and the Board of Immigration Appeals (BIA).

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

Senate

There were no bills introduced in the Senate last week containing significant immigration- or refugee-related provisions. ◇

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 (**).

House

****Foreign Assistance Reform:** House Foreign Affairs Committee Chairman Howard L. Berman (D-CA) is reportedly working on a much slimmed down version of a foreign assistance reform bill that he may introduce in the House of Representatives as early as this week. According to Congressional Quarterly (CQ), Chairman Berman has set aside for the moment plans to introduce a comprehensive re-write of the Foreign Assistance Act of 1961, as it has been amended over the years. CQ reports that, Instead, he will introduce legislation as early as this week that would direct the Obama administration to create a global development strategy. The CQ report says that the Chairman will introduce a more complete re-write of the Foreign Assistance Act later this year.

****State Department Authorization Bill:** House Foreign Affairs Committee Chairman Howard L. Berman (D-CA) is reportedly working on a State Department Authorization Bill that could be introduced soon. Traditionally, the State Department Authorization bill contains among its many provisions sections that authorize funding for the Department of State's Bureau of Population, Refugees, and Migration (PRM), which administers the United States refugee admissions and overseas refugee assistance programs.

****Secure American through Verification and Enforcement Act:** Representative Heath Shuler (D-NC) is planning to introduce a new version of [H.R. 4088](#), the "Secure America Through Verification and Enforcement Act of 2007" or "SAVE Act", which he introduced in the 110th Congress. The measure was strongly supported during the 110th Congress by the immigration restrictionist advocacy community and vociferously opposed by the pro-immigrant advocacy community. It generated 157 House cosponsors and was the object of a discharge petition that secured 190 signatures.

As introduced in the 110th Congress, H.R. 4088 would have would enacted into law a number of immigration enforcement provisions, including—

- Employment Verification System. a requirement that all employers use a computerized employment verification system run administered jointly by the Social Security Administration and the Department of Homeland Security;
- Social Security No-Match Letters. a requirement that the Administration send no-match letters to all employers whenever an employee's Social Security number does not match the record in the Social Security Administration and require that employees so-flagged be terminated within ten days if the dispute cannot be resolved;
- Electronic Birth and Death Registry. establishment of electronic birth and death registries;
- Increased Detention Beds and Judgeships. increases in detention beds and federal judgeships;
- Increased Border Resources. increased resources on the U.S. border.
- Media Campaign. begin a targeted media campaign to inform illegal aliens of new laws and penalties, while also informing employers of penalties for hiring illegal immigrants.

Proponents of H.R. 4088 contended it would greatly increase the ability of the United States to detect, deter, and deport aliens who are illegally in the United States. They countered criticisms that called the bill a “deportation only” bill by contending that it would promote an “attrition through enforcement” policy.

The pro-immigrant advocacy community, civil rights organizations, religious organizations, employer groups, and a number of labor unions strongly opposed the measure, calling it a draconian immigration enforcement-only measure that would have resulted in many people, including many U.S. citizens and legal permanent residents, erroneously losing their jobs and many communities being terrorized by ill-advised enforcement actions.

In addition to concerns expressed by employers and the pro-immigrant advocacy community, the Bush Administration and the leaders on the House Committee on Ways and Means expressed grave concerns about the impact that the bill would have had on the ability of the Social Security Administration to perform its mission.

****Family-Based Immigration Backlogs:** Representative Mike Honda (D-CA) is working on legislation that would re-order the family preference immigration system and eliminate backlogs in family preference visas. The bill is reportedly in the final stages of production and could be introduced as soon as this week.

Senate

****Secure and Safe Detention and Asylum Act:** Senate Homeland Security and Governmental Affairs Committee Chairman Joseph Lieberman (I-CT) is planning to introduce a new version of [S. 3114](#), the “Secure and Safe Detention and Asylum Act”, which he introduced in the 110th Congress.

As introduced in the 110th Congress, S. 3114 would have set forth provisions regarding procedures and standards applicable to aliens detained in Department of Homeland Security (DHS) custody and the conditions of such custody.

The measure addressed—

- fair and humane treatment
- solitary confinement limitations
- investigation of grievances
- access to telephones and legal assistance
- detainee transfers
- translation capabilities
- medical care
- vulnerable populations
- standards for non-criminal detainees
- personnel training
- reporting of detainee deaths.

The measure also would have established within the Department of Homeland Security an Office of Detention Oversight and a detention alternatives program under which detainees could be released under enhanced supervision.

Finally, the measure would have provided for legal orientation for immigration and asylum detainees; construction or use of less restrictive detention facilities, including facilities for families with children; and quality assurance procedures regarding expedited removal interviews.

****Family-Based Immigration Backlogs:** Senator Bob Menendez (D-NJ) is working on legislation that would re-order the family preference immigration system and eliminate backlogs in family preference visas. The bill is reportedly in the final stages of production and could be introduced as soon as this week. ◇

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 (**).

Executive Branch

****President Expected to Submit Detailed Budget During First Week of May:** House and Senate staff have indicated that the President will submit his detailed fiscal year 2010 budget to Congress on Tuesday, May 5, 2009.

President Obama took the first step toward producing his first federal budget on February 26, 2009, when he submitted a 142-page fiscal year 2010 “Budget Overview” to Congress. While the document, which was titled, ["A New Era of Responsibility: Renewing America's Promise"](#), sent a few encouraging smoke signals to the pro-immigrant and pro-refugee advocacy communities about where their priorities might fit within the new Administration's budget plans, it did not contain sufficient detail to provide any meaningful guidance on that question. The May 5, 2009, detailed submission is expected to provide that detail.⁴⁰⁷

⁴⁰⁷ See Pages 259-260 of the March 2, 2009, edition of the Weekly Legislative Update for more information about the immigration- and refugee-related provisions in President Obama's February 26, 2009, budget overview

House

****House Appropriations Committee Likely to Markup Fiscal Year 2009 War Supplemental in Early May:** Committee sources indicate, despite earlier indications that the House Appropriations Committee could markup the fiscal year 2009 Iraq/Afghanistan supplemental appropriations bill as soon as this week, it is beginning to look more like action on the supplemental appropriations request will not occur in the Committee until at least the first week of May.

The Administration submitted an \$83.4 BILLION fiscal year 2009 supplemental request to Congress on Thursday, April 9, 2009. The submission asked for \$75.5 billion in defense funding and \$7.1 billion for the State Department and foreign operations. With respect to refugee funding, the measure contains a request for \$293 MILLION in supplemental fiscal year 2009 funds for the Department of State's Migration and Refugee Assistance (MRA) account, as well as hundreds of millions of dollars in other refugee- and immigration-related purposes.⁴⁰⁸

****House Judiciary Committee Plans Hearing on Border Violence:** The House Judiciary Committee is planning to add its name to the list of committees that have held hearings this year on U.S.-Mexico border violence. At the time of this writing, it was unclear whether the hearing would be a full committee hearing, a hearing of one of its subcommittees, or a joint hearing of two or more of its subcommittees. No date for the proposed hearing was publicly available at the time of this writing. However, there are indications that the hearing could occur sometime in the next several weeks.

Senate

****Senate Debate on Mortgage Relief Measure Postponed Until After the April Recess:** While it had not been officially scheduled, Senate floor consideration of House-passed legislation to provide mortgage relief to homeowners filing for bankruptcy could occur as soon as this week.

Should it occur, Senate action could be taken on a Senate vehicle or on [H.R. 1106](#), the Helping Families Save Their Homes Act, which the House of Representatives passed on March 5, 2009, by a vote of [234-191](#). The House-passed version of the measure would permit courts to reduce the principal owed for principal residences down to the current market value of the home, and to reduce interest rates or fees on the mortgage.

As passed by the House, H.R. 1106 did not contain any provisions specifically focused on immigrants. However, it is widely expected that the measure will become a target of amendments that would impose immigration-related restrictions in the Senate.

****Senate Judiciary Scheduled Oversight Hearing on Department of Homeland Security:** The Senate Committee on the Judiciary has scheduled an oversight hearing for the first week in May on the operations of the Department of Homeland Security. The sole witness at the hearing will be Secretary of Homeland Security Janet Napolitano. The hearing is tentatively scheduled for 10:00 am on Wednesday, May 6, 2009, in Room SD-106 of the Dirksen Senate Office Building. ◇

Next Week's Edition ...

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

- [Comprehensive Immigration Reform](#). Next week's Weekly Legislative Update will provide full coverage of this week's Senate Judiciary Committee hearing on comprehensive immigration reform.
- [Fiscal Year 2009 War Supplemental](#). Next Week's Weekly Legislative Update will report on hearings taking place in the Senate this week on President Barack Obama's Fiscal Year 2009 war supplemental request as well as preview House action on the supplemental should the House Appropriations Committee, as anticipated, markup the resolution next week.
- [Fiscal Year 2010 Budget Resolution](#). Next week's Weekly Legislative Update will provide an analysis of the immigration- and refugee-related consequences that can be discerned from the conference report accompanying the fiscal year 2010 budget resolution, which the House and Senate are expected to consider this week.
- [Sebelius HHS Nomination](#). Next week's Weekly Legislative Update will provide coverage of this week's Senate's consideration of the nomination of Governor Kathleen Sebelius (D-KS) to be Secretary of Health and Human Services.
- [Morton ICE Nomination](#). Next Week's Weekly Legislative Update will provide coverage of this week's Senate Homeland Security and Governmental Affairs Committee hearing on the nomination of John T. Morton to be Assistant Secretary of Homeland Security for Immigration and Customs Enforcement.

⁴⁰⁸ See Pages 387-388 of the April 20, 2009, edition of the Weekly Legislative Update for an analysis of the immigration- and refugee-related provisions contained in the Administration's fiscal year 2009 Iraq/Afghanistan War Supplemental request

Weekly Immigration and Refugee Legislative Update (continued)
Monday, April 27, 2009

- de Baca Nomination. Next Week's Weekly Legislative Update will provide coverage of this week's Senate Foreign Relations Committee hearing on the nomination of Luis de Baca to be Ambassador-at-Large to Monitor and Combat Trafficking in Persons. ◇

Appendix

No items this week.

☀ ◇

This Page Intentionally Left Blank