



United States Conference of Catholic Bishops Government Relations

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

Monday, July 27, 2009
(Revised on August 1, 2009)
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The treatment of immigrants in health care reform legislation hangs in the balance as negotiators in both chambers struggle to reach agreements that would permit Congress to move forward on health care reform legislation. In the meantime, the appropriations process moves forward this week as the Senate Appropriations Committee takes up its last immigration- or refugee-related appropriations bill.

This Week's Hearings

At the time of this writing, only one hearing had been scheduled for this week at which significant immigration- or refugee-related matters are expected to be discussed:

- Pakistan's IDP Crisis. The Senate Committee on Foreign Relations has scheduled a hearing on Pakistan's Internally Displaced Persons crisis.

House

At the time of this writing, no hearings had been scheduled for this week in the House at which significant immigration- or refugee-related matters are expected to be examined.

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This Week's Hearings (continued)

Senate

Senate Foreign Relations Committee to Hold Hearing on Pakistan's IDP Crisis: The Senate Committee on Foreign Relations has scheduled a hearing for this week on Pakistan's Internally Displaced Persons (IDP) crisis. This week's hearing is scheduled for 10:00 am on Wednesday, July 29, 2009, in Room SD-419 of the Dirksen Senate Office Building.

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

Panel I

- Eric Schwartz, Assistant Secretary of State for Population, Refugees and Migration

Panel II

- Jon Brause, Deputy Assistant Administrator, Bureau for Democracy, Conflict and Humanitarian Assistance, U.S. Agency for International Development;
- Wendy Chamberlin, President, Middle East Institute, and former U.S. Ambassador to Pakistan; and
- Imtiaz Ali, Senior Fellow, U.S. Institute of Peace. ☼ ◇

This Week's Markups

At the time of this writing, seven committee or subcommittee actions that have implications for immigration- or refugee-related matters were either scheduled or contemplated for this week. Two of the markups are either occurring or contemplated in the House and the other five are either occurring or are contemplated in the Senate:

- Fiscal Year 2010 Appropriations Refugee Resettlement and Unaccompanied Alien Children. Two markups are scheduled for this week in the Senate--
 1. Subcommittee Markup. The Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has scheduled a markup of the Senate version of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill.
 2. Full Committee Markup. The full Appropriations Committee has scheduled a markup of the Senate version of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill.

- Health Care Reform Legislation. Two committees could hold markups of health care reform legislation this week:
 1. House Committee on Energy and Commerce. The House Committee on Energy and Commerce could continue its markup of what has come to known as the Tri-Committee health care reform bill; and
 2. Senate Committee on Finance. While not officially scheduled at the time of this writing, the Senate Committee on Finance could begin to markup its version of health care reform legislation this week.
- Vote on the Nomination of Alejandro Mayorkas to Lead USCIS. The Senate Committee on the Judiciary could vote on the nomination of Alejandro Mayorkas to be Director of U.S. Citizenship and Immigration Services;
- Senate Committee to Markup PASS ID Act. The Senate Committee on Homeland Security and Governmental Affairs is scheduled to take up legislation to replace portions of the REAL ID Act]; and
- House Judiciary Panel to Markup Study of U.S. Wartime Treatment of Certain Citizens and Permanent Residents. The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has scheduled a continuation of a markup begun last week, in which it hopes to markup legislation requiring a study of the U.S. government's treatment of certain citizens and permanent residents during World War II.

House

House Judiciary Panel to Markup Wartime Treatment Study Act: The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law is scheduled to continue a markup that it began last week of various immigration-related measures. The only measure to be marked up that is left over from last week is a measure that would establish a Commission on Wartime Treatment of European Americans

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This Week's Markups (continued)

and a Commission on Wartime Treatment of Jewish Refugees. This week's markup is scheduled to occur in connection with [H.R. 1425](#), the Wartime Treatment Study Act". The Subcommittee markup will take place at 1:00 pm on Friday, July 31, 2009, in Room 2141 of the Rayburn House Office Building.

Legislative History. H.R. 1425 was introduced in the U.S. House of Representatives by Representative Robert Wexler (D-FL) on March 10, 2009. It was on the agenda during two markup sessions that were held last week by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law. However, in both instances, the Subcommittee recessed before it reached H.R. 1425 on its agenda.

Summary of Immigration- and Refugee-Related Provisions. As introduced, H.R. 1425 would establish two commissions:

- Commission on Wartime Treatment of European Americans. The Commission on Wartime Treatment of European Americans would be charged with reviewing U.S. government wartime treatment of European Americans and European Latin Americans. More specifically, the Commission would be required to review--
 1. government actions with respect to European Americans and European Latin Americans pursuant to United States laws and directives, including the Alien Enemies Acts, Presidential Proclamations 2526, 2527, 2655, 2662, 2685, Executive Orders 9066 and 9095, and related directives pursuant to these and other pertinent laws, proclamations, or executive orders;
 2. registration requirements, travel and property restrictions, internment, and forced abandonment of property;
 3. participation by European Americans in the U.S. Armed Forces; and
 4. appropriate remedies, including public education programs and the creation of a comprehensive online database by the National Archives and Records Administration of documents related to the government's wartime treatment of European Americans and European Latin Americans during World War II.
- Commission on Wartime Treatment of Jewish Refugees. The Commission on Wartime Treatment of Jewish Refugees would be charged with reviewing the U.S.

government's refusal to allow entry into the United States of Jewish and other refugees fleeing persecution or genocide in Europe during World War II. It would direct the Commission to include reviews of--

1. the rationale for such refusal, its perceived benefit, and its impact on refugees; and
2. federal refugee policy concerning those fleeing persecution or genocide.

Subcommittee Hearing. On March 19, 2009, the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law held a hearing focused on the U.S. treatment of European Americans and Latin Americans, Japanese Latin Americans, and Jewish refugees during World War II. Supporters of H.R. 1425 testified at the hearing, providing the Subcommittee with historical background on both the Alien Enemy Control Program (AECP) and the Latin American Special War Problems Division. They also detailed the pain and suffering these programs caused to families and answered questions about related issues.¹⁰⁹⁰

Potential Immigration- or Refugee-Related Amendments. Ranking Republican Steve King (R-IA) is expected to offer numerous amendments to H.R. 1425 during the markup.

Outlook. While the markup is likely to be contentious, it appears at the time of this writing that the Subcommittee is likely to approve H.R. 1425 and forward it to the full Committee on the Judiciary for its consideration. ☼

House Energy and Commerce Committee to Continue Markup of Health Care Reform Legislation: The House Committee on Energy and Commerce is planning this week to continue an uncompleted markup of legislation to reform the nation's health care system. This week's markup will take place in connection with [H.R. 3200](#), the "America's Affordable Health Choices Act of 2009". The markup, which began two weeks ago, was abruptly halted on July 21, 2009, after two days when it became deadlocked on a number of key issues. The Committee hopes to resume the markup on Tuesday, July 28, 2009. No time had been set take place in Room 2123 of the Rayburn House Office Building.

Jurisdiction. The House Committee on Energy and Commerce has broad jurisdiction over health issues, including jurisdiction over health and health facilities (except health care supported by payroll deductions); biomedical research and development; and public health and quarantine.

¹⁰⁹⁰ [Click Here](#) to see a committee print of the March 19, 2009, 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

It is one of three House Committees that produced H.R. 3200, the other two being the House Committee on Education and Labor and the House Committee on Ways and Means.

Summary of Immigration- and Refugee-Related Provisions. Generally speaking, as introduced, H.R. 3200 would bar both undocumented aliens and most nonimmigrants from receiving health care benefits pursuant to the bill or from having federal funds spent on their behalf under the bill. The bill would, however, include nonimmigrants, undocumented aliens, and legal immigrants in the list of persons who would either have to purchase health insurance or face a tax penalty for not having done so.

H.R. 3200 would leave in place current law regarding the eligibility of aliens for Medicaid and the Children's Health Insurance Program (CHIP) unchanged.

Views of the Advocacy Community. Members of the pro-immigrant advocacy community that have engaged the health care reform debate have suggested the following improvements to H.R. 3200:

- Five-Year Bar on Eligibility for Medicaid and CHIP. The pro-immigrant advocacy community has suggested repealing the current law's "five-year after entry" bar for aliens who wish to participate in Medicaid and CHIP.

H.R. 3200 does not address this issue.

- Treatment of Undocumented Aliens Under Medicaid and CHIP. The pro-immigrant advocacy community has suggested making undocumented children and undocumented pregnant women eligible for Medicaid and CHIP.

H.R. 3200 leaves in place current law, which renders undocumented aliens ineligible for CHIP, as well as for all but emergency Medicaid.

- Eligibility of Lawfully Present vs. Lawfully Residing Residents for Affordability Credits. The pro-immigrant advocacy community has suggested refining the bill's provision (found in Section 242(a)(1) of H.R. 3200) that would exclude persons who are not "lawfully present" from eligibility for an Individual Affordability Credit, which is a federal subsidy established in the bill to help persons purchase health insurance. Instead of excluding persons who are not "lawfully present" in the United States, the pro-immigrant advocacy community suggests excluding persons who are not "lawfully residing" in the United States.
- Treatment of Mixed Alienage Families Under the Bill's Individual Affordability Credit. The pro-immigrant advocacy community suggests that the bill permit families to qualify for the Affordable Credit (found in Section 242(a)(2) of H.R. 3200) rather than focusing

eligibility on individuals. It suggests this in order to serve everyone on mixed status families.

- General Exclusion of Federal Individual Affordability Credit Payments to Undocumented Aliens. The pro-immigrant advocacy community has expressed concern about the provision Section 242(a)(2) of H.R. 3200 that precludes Federal affordability credits on behalf of individuals who are not lawfully present in the United States. The pro-immigrant advocacy community believes that the language is too broad and needs to be narrowed.
- Impact of Penalty for Persons Who Fail to Purchase Health Insurance on Undocumented Aliens. The Pro-immigrant advocacy community has expressed concern about the Penalty Tax found in Part VIII, Section 59B(d)(2) of H.R. 3200. The advocacy community fears that the exemption in that paragraph of the bill for "non-resident aliens" is both too narrow and too broad. The community justifies its concerns by asserting that the term, "non-resident" is tax term related to physical presence in the United States during the tax year and that the term is unrelated to immigration status while undocumented persons are considered "resident aliens." It believes that it would be a huge problem to have many persons who are ineligible for tax credits, thereby making it unaffordable for them to purchase coverage, yet subject to penalties for not obtaining coverage.
- Outreach to Immigrant and Limited English Proficient Communities. The pro-immigrant advocacy community is concerned that the outreach provisions found in Sec. 205(a)(1) of the June 19, 2009, draft bill do not adequately provide for outreach to persons who cannot speak English very well.

Mitigating Provisions. The pro-immigrant advocacy community had suggested narrowing the draft bill's provision (found in section 242(a)(1) of the June 19 2009, draft bill) that, as originally drafted, would have excluded all nonimmigrants from eligibility for an Individual Affordability Credit, which is a federal subsidy established in the bill to help persons purchase health insurance.

Advocates contended that by excluding all nonimmigrants from eligibility for the Affordability Credit, the draft health care reform bill would unjustly exclude deserving, vulnerable persons, such as victims of trafficking and victims of domestic violence (T and U visa holders) who are pursuing paths to permanent status, as well as others who have nonimmigrant visas but are in the United States with some permanency.

The drafters of the bill adjusted the bill prior to introduction to exclude K, T, U, and V nonimmigrant visas holders from the bill's provisions.

Potential Immigration- or Refugee-Related Amendments.

At the time of this writing, it was not known whether any immigration-related amendments will be offered to H.R. 3200 during the House Energy and Commerce Committee's markup of the measure.

The pro-immigrant community, itself, is not planning to seek mitigating amendments during the House Energy and Commerce Committee markup.

Outlook. At the time of this writing, numerous disputes between factions of Democrats, as well as disputes between the two parties, make the prospects for H.R. 3200 in the House Committee on Energy and Commerce uncertain. ☼

Senate

Senate Finance Committee Could Markup Health Care Reform Legislation:

While it had not been scheduled at the time of this writing, the Senate Committee on Finance could begin to markup its version of legislation to reform the nation's health care system this week.

At the time of this writing, no bill had been released for review and no day or time had been set for a markup. ☼

Senate Appropriations to Markup FY '10 Appropriations Bill that Funds Refugee Resettlement and Unaccompanied Alien Children:

The Senate Committee on Appropriations and its Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has scheduled markups this week on the fiscal year 2010 bill that funds the federal government's refugee resettlement activities, as well as the federal government's activities relating to trafficking victim assistance, torture victim assistance, and the care and treatment of unaccompanied alien children. The Subcommittee markup is scheduled for 2:30 pm on Tuesday, July 28, 2009, in Room SD-138 of the Dirksen Senate Office Building. The full Committee markup is scheduled for Thursday, July 30, 2009, at a time and location that had not yet been determined at the time of this writing.

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.

Administration's Fiscal Year 2010 ORR Request. On May 7, 2009, President Barack Obama submitted detailed information to Congress about his proposed fiscal year 2010 budget for ORR. As previously noted, while President Obama's submission proposed to increase fiscal year 2010 spending for ORR compared to the amount that was appropriated during the regular fiscal year 2009 appropriations process, when the President's request is compared to the total amount that has actually been appropriated in fiscal year 2009 for ORR, the increase that it has proposed is far less substantial. When supplemental fiscal year 2009 appropriations for ORR are taken into consideration, the increase that the President requested for fiscal year 2010 is only \$25.2 MILLION, or 3.5 percent.¹⁰⁹¹

Among the highlights of the Administration's refugee resettlement-related budget proposals are:

- Overall Funding for the Office of Refugee Resettlement. The Administration's budget submission proposes a fiscal year 2010 appropriation of \$740.6 MILLION for ORR's for Refugee and Entrant Assistance.. This would represent an increase of \$107.3 MILLION over the amount appropriated for ORR in the regular fiscal year 2009 appropriations process. However, it is just \$25.2 MILLION more than the total amount that has been actually appropriated in fiscal year 2009.¹⁰⁹¹

¹⁰⁹¹ *The total fiscal year 2009 appropriation for ORR includes \$633.442 MILLION in the regular appropriation and \$82 MILLION from the Fiscal Year 2009 War Supplemental*

- Refugee Admissions Ceiling for Fiscal Year 2010. The Administration’s budget documents indicate that the Administration’s FY ’10 budget would accommodate 80,000 refugee admissions in fiscal year 2010, which the documents note would be the same number that was planned for in fiscal year 2009.¹⁰⁹²
- Special Immigrant Iraqi and Afghan Arrivals. The Obama budget documents indicate that its fiscal year 2010 budget plans for 29,000 Special Immigrant arrivals from Iraq and Afghanistan in fiscal year 2010. This would be more than double the 12,000 such arrivals that the Administration estimates for fiscal year 2009.¹⁰⁹²
- Domestic Refugee Assistance. Within the Obama fiscal year 2010 budget proposal, it has requested to increase funding for ORR’s resettlement activities by \$54.7 MILLION relative to total fiscal year 2009 funding and to reduce funding for the Division for Unaccompanied Alien Children (DUCS) relative to total fiscal year 2009 funding by \$29.5 MILLION.

Major components of the Administration’s overall fiscal year 2010 ORR request are broken down as follows:

1. ORR’s Resettlement Activities. The Administration would appropriate \$544.4 MILLION for ORR’s resettlement activities in fiscal year 2010. This includes four programs: Transition & Medical Assistance, Social Services, Preventive Health, and Targeted Assistance. This would be \$54.7 MILLION, or 11.2 percent, more than the amount appropriated in fiscal year 2009 for these services. The Administration proposes that all of this increase be allocated to Transitional and Medical Services.
2. Unaccompanied Alien Children. The Administration’s fiscal year 2010 budget submission proposes \$175.6 MILLION for ORR’s Unaccompanied Alien Children program. When funds provided in the fiscal year 2009 war supplemental is taken into account, This would be \$29.5 MILLION, or 14.4 percent, below the amount appropriated for this purpose in fiscal year 2009. the regular fiscal year 2009 process. However, it would be \$52.5 MILLION more than the \$123.1 MILLION that was appropriated for unaccompanied alien children in the regular fiscal year 209 appropriations process.

The Administration justifies is request for funding for unaccompanied alien children by noting new mandates contained in P.L. 110-457, the William

Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.¹⁰⁹³

3. Torture Victims Assistance. The Administration’s fiscal year 2010 budget submission requests \$10.8 MILLION to provide support for services to torture victims. This is the same as was appropriated in fiscal year 2009 to assist torture victims.
4. Trafficking Victims Assistance. The Administration’s fiscal year 2010 budget submission requests \$9.8 MILLION to assist trafficking victims. This is the same amount that was appropriated in fiscal year 2009 to assist trafficking victims.

The chart that follows summarizes the Administration’s fiscal year 2010 budget submission for ORR:

Administration’s Fiscal Year 2010 Request for the Office of Refugee Resettlement

ITEM	’08 Actual	’09 Projected	’10 OMB
Transitional & Medical	\$ 296.1	\$ 282.3	\$ 337.1
Social Services	\$ 154	\$154	\$ 154
Preventive Health	\$ 4.75	\$ 4.75	\$ 4.75
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6
SUBTOTAL	\$ 503.4	\$ 489.7	\$ 544.4
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 9.8	\$ 10.8	\$ 10.8
Unaccompanied Alien Children	\$ 132.6	\$ 205.1 ¹⁰⁹⁴	\$ 175.6
TOTAL ORR	\$ 655.6	\$ 715.4¹⁰⁹⁵	\$ 740.6

Millions of Dollars

¹⁰⁹³ See page 259 of the [Department of Health and Human Services Fiscal Year 2010 Administration for Children and Families Justification of Estimates for Appropriations Committees](#)

¹⁰⁹⁴ This amount includes \$123.1 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

¹⁰⁹⁵ This amount includes \$633.4 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

¹⁰⁹² See page 233 of the [Department of Health and Human Services Fiscal Year 2010 Administration for Children and Families Justification of Estimates for Appropriations Committees](#)

Views of the Advocacy Community. The pro-refugee advocacy community has expressed cautious praise for the Administration’s fiscal year 2010 budget proposals for the Department of Health and Human Services’ ORR account.

RCUSA has recommended an appropriation of \$949 MILLION for the Department of Health and Human Services Office of Refugee Resettlement (ORR) in fiscal year 2010.¹⁰⁹⁶ This is \$208.3 MILLION, or 28.2 percent, more than the Administration is requesting for fiscal year 2010.

With regard to funding for ORR, most of the difference between the advocacy community’s recommendations and the Administration’s request is the advocacy community’s support for substantially higher funding for ORR’s resettlement services. RCUSA recommends an appropriation of \$646 MILLION for those services in fiscal year 2010. That is \$101.6 MILLION, or 18.7 percent, more than the Administration has proposed.

The Advocacy Community’s proposed increase in spending for these services is mostly attributable to two factors:

- Greater Use of the Voluntary Agency Matching Grant Program. The pro-refugee advocacy community proposes greater use of the Voluntary Agency Matching Grant program, which leverages private sector contributions with federal dollars to help refugees and others who are eligible for the program reach self sufficiency without reliance on welfare programs. Approximately 25,000 refugees, asylees, and parolees were served by this program in fiscal year 2007. The pro-refugee advocacy community recommends that 57,000 persons be served by the program in fiscal year 2010. This accounts for approximately \$75 MILLION of difference between the Administration’s submission and the advocacy community’s proposal.
- Emergency Housing Assistance. The pro-refugee advocacy community is seeking funding to assist refugees who have lost or are in danger of losing their jobs with their housing needs. The community is fearful that, in the current economic climate, a number of refugees will fall into a cycle of homelessness and poverty. This accounts for approximately \$30 MILLION of difference between the Administration’s submission and the advocacy community’s proposal.
- Services for Special Immigrant Iraqis. The pro-refugee advocacy community assumes the admission of a number of Iraqis and Afghan special immigrants who helped the United States government during the conflict in Iraq and

Afghanistan, all of whom are eligible for ORR services. RCUSA estimates that the cost of providing services to these individuals will be approximately \$68 MILLION.

There are other areas of difference between the Administration and the pro-refugee advocacy community. For instance--

1. Trafficking and Torture Victim Assistance. The pro-refugee advocacy community recommends more spending on trafficking victim assistance and torture victim assistance compared to the Administration’s request for those programs. This would increase spending in each of those programs from the approximately \$20.6 MILLION requested by the Administration (and provided in fiscal year 2009) to \$35 MILLION in fiscal year 2010.
2. Unaccompanied Alien Children. The pro-refugee advocacy community and children’s advocates recommend a substantial increase in fiscal year 2010 spending for the care and placement of unaccompanied alien children compared to the Administration’s request.

The chart that follows compares the Administration’s fiscal year 2010 request for ORR with RCUSA’s recommendations:

**Administration vs. RCUSA
 Fiscal Year 2010 Request for ORR**

ITEM	'09 Projected	'10 OMB	'10 RCUSA
Transitional & Medical	\$ 282.3	\$ 337.1	\$ 391.4
Social Services	\$154	\$ 154	\$ 187.9
Preventive Health	\$ 4.75	\$ 4.75	\$ 5.9
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 60.8
SUBTOTAL	\$ 494.3	\$ 544.4	\$ 646
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 15
Torture Victims	\$ 10.8	\$ 10.8	\$ 20
Unaccompanied Alien Children	\$ 123.1	\$ 175.6	\$ 268
TOTAL ORR	\$ 633.4	\$ 740.6	\$ 949

Millions of Dollars

Outlook. At the time of this writing, no draft of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations bill was available. Consequently, it is not possible to predict how much will be in the measure for the Office of Refugee Resettlement. ☺

¹⁰⁹⁶ RCUSA predicates its recommended level of fiscal year 2010 appropriations for the Office of Refugee Resettlement on 80,000 refugee admissions. It would recommend higher amounts of appropriations for ORR under scenarios where the number of refugee admissions is higher than 80,000

Senate Judiciary Committee Schedules Vote on Nominee to Head USCIS: The Senate Committee on the Judiciary has scheduled a vote for this week on the nomination of Alejandro Mayorkas to be Director of the Department of Homeland Security's U.S. Citizenship and Immigration Services Component. This week's vote is scheduled to occur at 10:00 am on Tuesday, July 28, 2009, during the Committee's executive business meeting. The executive business meeting is set for Room SH-216 of the Hart Senate Office Building.

USCIS Jurisdiction Over Immigration Matters. The [United States Citizenship and Immigration Services](#) (USCIS) component of the Department of Homeland Security is responsible for adjudicating requests for immigration benefits, including applications for admission to the United States as an immigrant or nonimmigrant, applications for naturalization, applications for refugee status, and affirmative applications for asylum. USCIS also is responsible for providing verification of work eligibility of prospective employees and benefit eligibility for aliens.

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



According to materials released by the White House, Mr. Mayorkas was a partner at the law firm of O'Melveny and Myers at the time of his nomination. He previously served as the U.S. 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. Mr. 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 and computer-related crime, organized crime, environmental crime, and international money laundering. The National Law Journal recently named him one of the 50 Most Influential Minority Lawyers in America."

Confirmation Hearing. On June 24, 2009, the Senate Committee on the Judiciary held a brief hearing on Mr. Mayorkas' nomination. In his prepared testimony at that hearing, Mr. Mayorkas told the Committee that being nominated to head USCIS was a privilege and he felt humbled to be considered.¹⁰⁹⁷

He pledged his every effort, if confirmed, "to ensure that USCIS fulfills its mission with energy and focus." He said that "[k]ey to this is ensuring clarity of mission, pursuing robust communication and outreach with Congress and stakeholders, anticipating and planning for future demands, and motivating and retaining personnel."

Mr. Mayorkas spoke about his previous government service, in which he led the U.S. Attorney's Office for the Central District of California, an office of 245 Assistant U.S. Attorneys responsible for the largest federal judicial district in the nation, comprised of approximately 180 cities with an aggregate population of 18 million people. He pointed to that experience, saying that because of it, "I know what it takes and what it means to lead and what can be accomplished when the dedicated men and women of a federal agency are motivated to do their very best in the service of our country. From my nearly twelve years as a federal prosecutor, I learned what it means to enforce the law and to do so in furtherance of our national security and the public safety." He went on to say that "[i]f I am confirmed I will conduct an overall review of the Agency. As a nominee, I have had an opportunity to engage with officials in USCIS and to begin, in my own mind, the task of outlining priorities."

Mr. Mayorkas outlined four priorities that he would have for USCIS under his leadership:

- "First, clarity of mission is critical in enhancing the public profile of the Agency and instilling public confidence in the secure, fair, and effective administration of our nation's immigration laws. I am committed to ensuring USCIS delivers high-quality customer service to those who are eligible to receive benefits. Protecting our national security and public safety is a critical component of the USCIS mission, not an after-thought. This means we must continue to strive to improve the Agency's fraud prevention and detection operations, increase collaboration with US Immigration & Customs Enforcement (ICE) and other law enforcement agencies to respond to fraud, and improve the efficiency and accuracy of the E-Verify system.
- "Second, I believe it is critical to enhance transparency and improve the flow of information from the Agency to Congress and the appropriate stakeholders to ensure those concerned about particular issues understand

¹⁰⁹⁷ [Click Here](#) to see the complete text of the prepared testimony of Alejandro Mayorkas at the June 14, 2009, Senate Judiciary Committee hearing on his nomination to be Director of U.S. Citizenship and Immigration Services

USCIS actions and are able to enact effective immigration regulations and laws. I hope to build an effective relationship with this Committee, both members and your staffs, and to understand your priorities. I know this confirmation process is just the start. I also hope that, if I am confirmed and after I have completed an Agency review, you will be willing to hear from me about the needs of USCIS.

- "Third, we must always look to the future. It is critical to position USCIS to meet current and future immigration demands. To this end, we must ensure the successful progress and implementation of Business Transformation, increase the efficiency of domestic and international operations, and improve detection and prevention of system abuse.
- "Fourth, developing a motivated workforce is important to ensure high-quality service and retaining such a workforce is always a challenge. If I am confirmed, I commit to doing my very best to review the needs of the USCIS workforce and to implement programs and policies that serve to motivate and retain employees."

Mr. Mayorkas told the Committee, that "[a]s one who was granted citizenship through the beneficence of our government and by virtue of my family's journey to this country, I understand deeply the gravity as well as the nobility of the mission to administer our immigration laws efficiently and with fairness, honesty, and integrity. The most important responsibility of USCIS is its authority to bestow citizenship. As a naturalized citizen, I have a deep understanding and appreciation of this mission." He went on to say that his parents, sister, and he, himself were once refugees who fled Cuba in 1960.

He concluded his statement by telling the Committee how honored and humbled he was by the nomination.

Mr. Mayorkas faced questions on only two immigration- or refugee-related subjects during his Senate Judiciary Committee confirmation hearing:

- Fraud Prevention and Detection. Senator Dianne Feinstein (D-CA) asserted that there is a great deal of fraud in virtually all programs connected with immigration. She asked Mr. Mayorkas How we can better detect fraud and take back control of our immigration system so that we can instill public confidence in it.

Mr. Mayorkas responded, that he believes that USCIS "has begun to implement measures such as a fraud and compliance monitoring mechanism with respect to the E-Verify System." He said that, if confirmed, he intends "to conduct an agency review, and one of the critical components of that will be a focus on the prevention, detection, and the ability to address fraud." He

continued, saying that he would be "working with my counterparts, should I be confirmed, in the department to ensure the aggressive prosecution of individuals who are identified and apprehended in connection with fraud and to build systems in each and every facet of our programs to protect the system from fraud so that those individuals who seek, through lawful channels, the benefits of our immigration efforts can enjoy them."

- Treatment of Children at Raids. Senator Dianne Feinstein (D-CA) asked Mr. Mayorkas what USCIS could do to keep track of the number of children, including U.S. citizen children, left behind when undocumented parents are detained or deported, and what policy guidance would you put in place to guide CIS officers when providing ICE information on the deportation of parents.

Mr. Mayorkas responded, "I am very well aware of the difficulties and the tragedies that could befall a family upon separation of parents and children and the dangers that children can be placed in should that separation be effected. I commit to you, Senator, and to this entire committee, that I will work with personnel in the department, and specifically with personnel at ICE under the leadership of John Morton, whom I had the privilege of working with side by side when we both served in the Department of Justice, to address this issue. And I commit to you that I will work with you, with other members of this committee and your staffs to develop programs that address this issue and try, to the best of our abilities in compliance with the law, to avoid a separation that only brings tragedy and danger to others."

Outlook. The Mayorkas nomination is not expected to generate any controversy. ☀

Senate Homeland Security Committee to Markup Bill Repealing Some of the REAL ID Act Driver's License Standards:

The Senate Committee on Homeland Security and Governmental Affairs has scheduled a markup for this week of legislation that would repeal a number of the standards for driver's licenses and state issued identification cards set by the Division B of [P.L. 109-13](#), the REAL ID Act of 2005, and replace them with requirements that its authors believe are less onerous. This week's markup is scheduled to take place in connection with [S. 1261](#), the "Providing for Additional Security in States' Identification Act of 2009" or "PASS ID Act", which was introduced in the Senate by Senator Daniel K. Akaka (D-HI). The markup is scheduled for 10:00 am on Wednesday, July 29, 2009, in Room SD-342 of the Dirksen Senate Office Building.

Jurisdiction. The Senate Homeland Security and Governmental Affairs Committee has jurisdiction over intergovernmental relations, as well as studying the intergovernmental relationships between the United States

and the States and municipalities, and between the United States and international organizations of which the United States is a member. Those areas of jurisdiction give the Committee jurisdiction over the REAL ID Act.

Summary of Immigration- and Refugee-Related Provisions. As introduced, the PASS ID Act would repeal Title II of the REAL ID Act of 2005 and replace it with a new regime. However, in repealing and replacing Title II of the REAL ID Act, the PASS ID Act would retain many of the immigration-related features of the REAL ID Act. More specifically, with regard to aliens' eligibility for driver's licenses and state identification cards, the PASS ID Act would replace Section 202(c)(2) of the REAL ID Act of 2005, creating a new Section 242(c)(2).

As is the case with the REAL ID Act, as a general rule, the PASS ID Act seeks to preclude states from issuing driver's licenses and state-issued identification cards to aliens who are not in the United States legally. Moreover, as is the case with the REAL ID Act, the PASS ID Act would require states to issue temporary driver's licenses or temporary state-issued identification cards for aliens who are in the United States legally but on a temporary basis.

The PASS ID Act would make a number of changes to the REAL ID Act's alienage-based restrictions on the issuance of driver's licenses and state-issued identification cards. Some of the changes would ease the REAL ID Act's alienage-based restrictions and others would make those restrictions more rigorous.

- PASS ID Act Changes that would Ease the REAL ID Act's Alienage-Based Restrictions. The PASS ID Act contains provisions that would ease the REAL ID Act's alienage-based restrictions in the following cases--
 1. add aliens who have been granted withholding of removal to the list of aliens to whom states may issue driver's licenses and state-issued identification cards;¹⁰⁹⁸
 2. add aliens who a pending application for withholding of removal to the list of aliens to whom states may issue driver's licenses and state-issued identification cards, provided that such aliens have been granted employment authorization;¹⁰⁹⁹
 3. add aliens who have been granted parole under Section 212(d)(5) of the Immigration and Nationality Act to the list of aliens to whom states

¹⁰⁹⁸ See the proposed new Section 242(c)(2)(B)(ii) of Division B of P.L. 109-13

¹⁰⁹⁹ See the proposed new Section 242(c)(2)(B)(vii) of Division B of P.L. 109-13

may issue driver's licenses and state-issued identification cards;¹¹⁰⁰

4. add aliens who have been granted employment authorization to the list of aliens to whom states may issue driver's licenses and state-issued identification cards;¹¹⁰¹ and
 5. confer unreviewable authority to the Secretary of Homeland Security to list any other class of aliens not listed in the Act as aliens who are lawfully present in the United States and, therefore, are aliens to whom states may issue driver's licenses or state-issued identification cards.¹¹⁰²
- PASS ID Act Changes that would Make the REAL ID Act's Alienage-Based Restrictions More Rigorous. The PASS ID Act contains provisions that would make restrictions on state authority to issue driver's licenses and state-issued identification cards more rigorous than the REAL ID Act in the following cases--
 1. limit the authority that states have under the REAL ID Act to issue driver's licenses and state-issued identification cards to aliens who have a pending application for Temporary Protected Status (TPS) by providing that states may only issue driver's licenses and state-issued identification cards to such aliens if the aliens have been granted employment authorization;¹¹⁰³ and
 2. limit the authority that states have under the REAL ID Act to issue driver's licenses and state-issued identification cards to aliens who have a pending application for asylum by providing that states may only issue driver's licenses and state-issued identification cards to such aliens if the aliens have been granted employment authorization.¹¹⁰⁴

¹¹⁰⁰ See the proposed new Section 242(c)(2)(B)(v) of Division B of P.L. 109-13

¹¹⁰¹ See the proposed new Section 242(c)(2)(B)(xi) of Division B of P.L. 109-13

¹¹⁰² See the proposed new Section 242(c)(2)(B)(xii) of Division B of P.L. 109-13

¹¹⁰³ See the proposed new Section 242(c)(2)(B)(viii) of Division B of P.L. 109-13

¹¹⁰⁴ See the proposed new Section 242(c)(2)(B)(vii) of Division B of P.L. 109-13

Committee Hearing. On July 15, 2009, the Senate Committee on Homeland Security and Governmental Affairs held a hearing on the REAL ID Act and the PASS ID Act. All but one of the witnesses at the hearing were critical of the REAL ID Act and expressed support for the PASS ID Act.¹¹⁰⁵

Administration's Views. Secretary of Homeland Security Janet Napolitano has expressed the Obama Administration's support for the PASS ID Act.

Potential Immigration- or Refugee-Related Amendments. At the time of this writing, it was not possible to determine whether any immigration-related amendments will be offered to the bill during this week's markup.

Outlook. While it appeared likely at the time of this writing that the Committee would approve S. 1261, its outlook in the full Senate is uncertain. ☼ ◇

This Week's Floor Activity

At the time of this writing, no measures containing significant immigration- or refugee-related provisions are scheduled for House or Senate floor action this week. ◇

This Week's Conference Activity

At the time of this writing, only one measure containing significant immigration- or refugee-related provisions is pending before a conference committee:

- FY '10 Funding for Immigration Services, Immigration Enforcement, and Border Security. The full House and Senate have each passed their respective versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill.

Conferees Have Significant Differences to Resolve on Fiscal Year 2010 Homeland Security Appropriations Bill: The House and Senate have passed differing versions of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Act, which funds immigration enforcement, immigration services, and border security departments, agencies, programs, activities, and functions of federal government. Conferees could meet at any time to begin resolving differences between the two

¹¹⁰⁵ See Pages 804-809 of the [July 20, 2009, edition of the Weekly Legislative Update](#) for an analysis of the July 15, 2009, Senate Homeland Security and Governmental Affairs Committee hearing on the REAL ID Act and the PASS ID Act. [Click Here](#) to see video of the hearing.

versions of the measure. However, it seems more likely that the formal conference will not occur until September.

Legislative History. The following is a brief legislative history of the [House-passed](#) and [Senate-passed](#) versions of the Fiscal Year 2010 Homeland Security Appropriations Act:

- House Committee Actions.

1. On June 8, 2009, the House Appropriations Subcommittee on Homeland Security marked up its version of H.R. 2892, forwarding the measure to the full House Committee on Appropriations.¹¹⁰⁶
2. On June 12, 2009, the full House Committee on Appropriations held a markup session, ordering that the bill be reported to the full House of Representatives as an original measure.¹¹⁰⁷
3. On June 16, 2009, the full House Committee on Appropriations formally reported H.R. 2892 to the House of Representatives.

- House Floor Actions.

1. On June 24, 2009, the full House of Representatives took up H.R. 2892,¹¹⁰⁸ passing it by a vote of 389-37¹¹⁰⁹

- Senate Committee Actions.

1. On June 17, 2009, the Senate Appropriations Subcommittee on Homeland Security marked up its version of S. 1298, forwarding the measure to the full Senate Committee on Appropriations.
2. On June 18, 2009, the full Senate Committee on Appropriations held a markup session, approving [S. 1298](#)¹¹¹⁰ and formally reporting the measure to the full Senate.¹¹¹¹

¹¹⁰⁶ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 8, 2009, House Appropriations Subcommittee on Homeland Security markup of the fiscal year 2010 Homeland Security Appropriations bill

¹¹⁰⁷ See Pages 634-641 of [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 12, 2009, full House Appropriations Committee markup of the fiscal year 2010 Homeland Security Appropriations bill

¹¹⁰⁸ See Pages 703-707 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2892

¹¹⁰⁹ [House Roll Call No. 450](#), June 24, 2009

¹¹¹⁰ [S. Rept. 111-31](#), June 18, 2009

- Senate Floor Actions.

1. On July 7, 2009, the full Senate took up H.R. 2892, considering the text of S. 1298 for the purposes of floor amendments.¹¹¹²
2. On July 9, 2009, the full Senate passed its version of H.R. 2892 by a vote of 84-6.¹¹¹³

Key Immigration-Related Funding Differences. There are a number of significant differences in the level of funding in the House- and Senate-passed bills for various bureaus and programs. The most prominent difference is found in the area of appropriations for U.S. Citizenship and Immigration Services (USCIS).

The House-passed bill would appropriate \$2.8 BILLION for USCIS, including \$298 MILLION in directly appropriated funds. However, the Senate-passed bill would appropriate \$2.639 BILLION for USCIS, including only 135.7 MILLION in directly appropriated funds. The big difference between the two chambers on USCIS appropriations is that the House-passed bill would fund close to half of the Obama Administration's \$201 MILLION request for direct appropriations to fund refugee and asylum adjudications. The Senate did not fund any of the Administration's request for that item.

Key Immigration-Related Policy Differences. There are enormous differences between the House- and Senate-passed bills on immigration policy matters. Included in the House-passed measure is a two year-long authorization of the controversial E-Verify program. However, the Senate-passed bill included numerous immigration-related policy provisions. For instance, the Senate-passed bill contains provisions that would permanently authorize the E-Verify System; make the use of the E-Verify System mandatory for federal contractors; permanently extend authorization for the EB-5 Regional Center Program; extend the Special Immigrant Non-Minister Religious Worker and Conrad State 30 J-1 Visa Waiver programs for three years; provide immigration relief to widows and orphans of deceased U.S. citizens and permanent residents; bar the Administration from taking certain actions with regard to the SSA No-Match

¹¹¹¹ See Pages 673-678 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 18, 2009, Senate Appropriations Committee and the June 17, 2009, Senate Appropriations Subcommittee on Homeland Security markup of the Fiscal Year 2010 Homeland Security Appropriations bill

¹¹¹² See Pages 768-771 of the [July 13, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the Senate's consideration of its version of H.R. 2892, the Fiscal Year 2010 Homeland Security Appropriations Bill

¹¹¹³ [Senate Roll Call No. 229](#), July 9, 2009

letters; and increase mandates with regard to construction of fencing along the U.S. border with Mexico.

Some of the policy matters included in the Senate-passed version of H.R. 2892 are extraordinarily controversial and will make for a number of difficult issues to address during the upcoming House-Senate conference committee deliberations.

Side-by-Side Comparison. See the Appendix section of the July 20, 2009, edition of the Weekly Legislative Update for a side-by-side comparison of some of the key immigration-related policy provisions that appear in the House- and Senate-passed versions of the Fiscal Year 2010 Homeland Security Appropriations Act. ☼ ◇

This Week's Executive Activity

At the time of this writing, there were no executive branch actions anticipated to occur this week that would have a significant impact on the course of immigration- or refugee-related legislation. ◇

Last Week's Legislative Activity

Last Week's Hearings

Congress held three hearings last week at which significant immigration- or refugee-related matters were examined. Both hearings occurred in the House of Representatives:

- Employment Verification Systems.

1. Senate Judiciary. The Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security held a hearing on employment verification systems.¹¹¹⁴
2. House Oversight and Government Reform. The House Oversight and Government Reform Subcommittee on Government Management, Organization, and Procurement held a hearing on the E-Verify system; and

- Job Creation and EB-5 Regional Centers. The Senate Judiciary Committee held a hearing on job creation and EB-5 Regional Centers.¹¹¹⁵

¹¹¹⁴ [Click Here](#) to see video of the July 21, 2009, Senate Judiciary Subcommittee on Immigration, Refugees, Border Security hearing on employment verification systems

¹¹¹⁵ [Click Here](#) to see video of the July 22, 2009, Senate Judiciary Committee hearing on the EB-5 Regional Centers Program.

See next week's edition of the Weekly Legislative Update for a detailed analysis of those hearings.

Last Week's Markups

Three committees conducted markups last week of six measures containing significant immigration- or refugee-related provisions:

- House Committee on Financial Services. The House Committee on Financial Services approved [H.R. 3045](#), the "Section 8 Voucher Reform Act of 2009", after first approving an amendment aimed at ensuring that illegal immigrants not make use of such housing.
- House Committee on Homeland Security. The House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism approved several bills, two of which contained significant border security provisions:
 1. [H.R. 1726](#), the "Border Security Search Accountability Act of 2009", which would require the Secretary of Homeland Security to issue a rule with respect to border security searches of electronic devices; and
 2. [H.R. 3239](#), a bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to submit a report on the effects of the Merida Initiative on the border security of the United States.
- House Committee on the Judiciary. The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law approved three bills, readying them for consideration by the full House Committee on the Judiciary:
 1. [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009";
 2. [H.J. Res. 26](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously; and
 3. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act."

House Financial Services Committee Approves Housing Bill Containing Provision Aimed at Barring Illegal Immigrants from Public Housing:

The House Committee on Financial Services has approved public housing legislation containing a provision aimed at ensuring that adult residents of federally subsidized housing are legally present in the United States. The Committee

finally acted on July 23, 2009, approving [H.R. 3045](#) by a vote of 41-24.

Summary of Immigration- and Refugee-Related Appropriations Provisions. As approved by the House Committee on Financial Services, H.R. 3045 seeks to widen access to Section 8 housing vouchers, under which qualifying low-income families can secure government rental subsidies.

As introduced, H.R. 3045 did not contain any immigration- or refugee-related provisions. However, the Committee agreed to an amendment during the course of its markup of the measure that could have significant immigration consequences. The provision, offered by Representative Tom Price (R-GA), would require all adult residents in public housing where the household makes use of federal housing vouchers to present at least one of several specified forms of identification. More specifically, the provision would provide that "rental housing assistance under section 8(0) of the United States Housing Act of 1937 may not be provided on behalf of any individual or household unless the individual provides, or, in the case of a household, all adult members of the household provide, valid personal identification..." The only forms of acceptable identification under the provision would be specified identification documents that demonstrate a person's legal residence in the United State.

Committee Consideration and Amendments. The House Committee on Financial Services marked up H.R. 3045 over a period of several weeks, holding markup sessions on Wednesday, July 8, 2009, Thursday, July 9, 2009, and Thursday, July 23, 2009.

The following is the only immigration-related amendment that was offered to H.R. 3045 during the several days of markup:

- PRICE IDENTIFICATION AMENDMENT.-- Representative Tom Price (R-GA) offered an amendment to H.R. 3045 that would require all adult residents in public housing where the household makes use of federal housing vouchers to present at least one of several specified forms of identification.¹¹¹⁶

The Committee agreed to the Price Amendment by a vote of 37-31.

Next Steps. Now that the House Committee on Financial Services has approved H.R. 3045, the next step in the legislative process is for the Committee to formally report the measure to the full House of Representatives. ☼

¹¹¹⁶ [Click Here](#) to see the text of the Price Amendment to H.R. 3045

House Homeland Security Panel Approves Two Border Security Bills:

The House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism approved several bills last week, two of which contained significant border security provisions. Last week's Subcommittee action occurred in connection with [H.R. 1726](#), the "Border Security Search Accountability Act of 2009", and [H.R. 3239](#), a bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to submit a report on the effects of the Merida Initiative on the border security of the United States. The Subcommittee approved both bills on Wednesday, July 22, 2009, each by voice vote.

Summary of Immigration- and Refugee-Related Appropriations Provisions. The following summarizes the immigration- or refugee-related provisions of each bill --

- Border Security Search Bill. As approved by the Subcommittee, H.R. 1726 would require the Department of Homeland Security to issue a rule within 180 days of the bill's enactment governing border searches of electronic devices.

The bill would require the rule to include:

1. a requirement that commercial information collected during a border search be handled consistent with laws governing such information;
2. a requirement that authorized agents conduct all border searches of electronic devices in the presence of a supervisor to the greatest extent possible and in the presence of the device's owner when appropriate;
3. a limitation on the number of days an electronic device may be retained without probable cause and a requirement that information still in an agent's custody be destroyed after that time;
4. a requirement that device owners will receive notice if information from the device is copied, shared, retained, or put in a database unless such notification would hinder an investigation involving national security;
5. a requirement that device owners will receive a receipt for devices removed from their possession;
6. a requirement that device owners will receive notice of how to report abuses or concerns and how to seek redress from the department;
7. a requirement that information on individuals' rights with respect to border searches be posted at all ports of entry in locations likely to be viewed by individuals subject to border searches;

8. a privacy impact assessment of the rule;
9. a civil liberties impact assessment of the rule;

The bill would require the secretary of HHS to provide appropriate training to conduct border searches of electronic devices. It also would require the secretary to report to Congress:

1. the number of devices searched;
2. the number of instances information from a device was retained, copied, shared, or entered in a database;
3. the race, ethnicity, national origin, and citizenship of each individual whose device was subjected to a search; and
4. the number of instances information collected from a device was referred to a law enforcement or intelligence agency for further action.

As amended, the bill would remove the time limitation for retaining an electronic device for search if the owner refuses to cooperate with authorized agents. It would also clarify that nothing in the bill would give special security protections to individuals on a federal terrorist watch list, subjects any open warrants or warrants, or individuals required to register with the National Sex Offender Public Registry.

- Merida Initiative Bill. As approved by the Subcommittee, H.R. 3239 would require the Secretary of Homeland Security to report to Congress within 18 months of the bill's enactment on the effects of the Merida Initiative on enhancing border security, reducing the potential for border violence, and preventing the illicit flow of arms and bulk cash across the border between the United States and Mexico.

As amended in the Subcommittee, the bill also would require the report to include the effects of the initiative on preventing the flow of human trafficking and illegal narcotics across the border, as well as a description of how cooperation between the Department of Homeland Security and its foreign counterparts has or has not improved under the initiative.

Next Steps. Now that the House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism has approved H.R. 3045, the next step in the legislative process is for the full Committee on Homeland Security to take up the measure.

At the time of this writing, no date for the full committee's consideration of the measure had been set. ☺

House Judiciary Panel Approves Three Immigration Measures:

The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law approved several bills last week during a sometimes contentious markup, readying the measures for consideration by the full Committee on the Judiciary. Last week's Subcommittee action occurred in connection with [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009"; [H.J. Res. 26](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously; and [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act". The Subcommittee approved the three measures during two days of markups, beginning on Thursday, July 23, 2009 and continuing on Friday, July 24, 2009.

Summary of Immigration- and Refugee-Related Appropriations Provisions. The following summarizes the immigration- or refugee-related provisions of each bill --

- Honorary Citizenship Bill. As approved by the Subcommittee, H.J. Res. 26 would convey honorary U.S. citizenship on Casimir Pulaski, a Polish citizen who fought on behalf of the United States during the Revolutionary War and died while in combat in 1779. It is a symbolic bill that does not have any impact on the legal status of surviving family or relatives.

The Subcommittee approved the measure on Thursday, July 23, 2009, by a vote of 10-1.

- September 11 Survivors Bill. As approved by the Subcommittee, H.R. 3290 would permit aliens who lost a spouse or parent in the Sept. 11, 2001, terrorist attacks in the United States to adjust their status to that of legal permanent resident.

The measure would apply only to the family members of immigrants killed in the attacks who have already been identified as a beneficiary by the Sept. 11 Victims Compensation Fund.

It would require that alien beneficiaries of the measure not be inadmissible for a criminal offense and have satisfied all outstanding federal tax liability before their status can be adjusted.

The Subcommittee approved the measure on Thursday, July 23, 2009, by a vote of 7-5, after a contentious debate, during which Ranking Republican Steve King (R-IA) offered two amendments to the measure, both of which were rejected on party-line votes.

The following summarizes the amendments offered during the Subcommittee markup:

1. KING TAX AMENDMENT.--House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA) offered an amendment that would have prohibited any illegal immigrant who had not satisfied federal tax liability during the period of time required by law from being eligible for a change in immigration status.

The Subcommittee rejected the King Tax Amendment by a vote of 5-8.

2. KING PRESENCE BEFORE SEPTEMBER 11 AMENDMENT.-- House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA) offered an amendment to prohibit any illegal immigrant who was not in the United States on or before Sept. 11, 2001, from being eligible for a change in immigration status.

The Subcommittee rejected the King Presence Before September 11 Amendment by a vote of 5-7.

- Commission on Wartime Relocation and Internment Bill. As approved by the Subcommittee, H.R. 42 would establish a Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent, which would be directed to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate U.S. relocation, internment and deportation to Axis countries of Latin Americans of Japanese descent held in U.S. custody from December 1941 through February 1948.

The measure would require the Commission to recommend appropriate remedies to Congress.

The measure would terminate the commission 90 days after submission of its report to Congress.

The Subcommittee approved the measure on Friday, July 24, 2009, by a vote of 7-2, after a contentious debate, during which Subcommittee Ranking Republican Steve King offered four amendments. Each of the King amendments were rejected on party-line votes.

The following summarizes amendments offered by Members during last week's Subcommittee markup:

1. LOFGREN SUBSTITUTE AMENDMENT.-- House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Chairwoman Zoe Lofgren (D-CA) offered a substitute amendment that deleted some of the provisions in the "findings" section of the measure; added a provision allowing the commission to review any relevant documents

concerning the underlying rationale for the internment or deportation; eliminated a section allowing for compensation of the members of the commission; and made a number of "minor technical or conforming changes" to the measure.

The Subcommittee agreed to the Lofgren Substitute Amendment by a vote of 9-0.

2. **KING IMPARTIALITY OF COMMISSIONERS AMENDMENT**--House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA) offered an amendment to require that any member appointed to the commission be an author or scholar who has made no prior judgment on the facts the commission will examine.

The Subcommittee rejected the King Commissioner Impartiality Amendment by a vote of 4-5.

3. **KING PROHIBITION OF REPARATIONS AMENDMENT**-- House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA) offered an amendment that would have specified that "appropriate remedies" recommended by the commission may not include reparations or any monetary compensation..

The Subcommittee rejected the King Prohibition of Reparations Amendment by a vote of 4-5.

4. **KING PRO-AXIS ACTIVITIES AMENDMENT**-- House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA) offered an amendment that would have required the commission to investigate any pro-Axis activities by individuals of Japanese descent, including espionage or activities of sympathy.

The Subcommittee rejected the King Commissioner Pro-Axis Activities Amendment by a vote of 4-5.

5. **KING REVIEW OF MILITARY CASUALTIES AMENDMENT**-- House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Ranking Republican Steve King (R-IA) offered an amendment that would have required the commission to review all U.S. military casualties, list the names of those casualties and depict how those sacrifices benefited the U.S.

The Subcommittee rejected the King Review of Military Casualties Amendment by a voice vote.

Next Steps. Now that the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has approved the three immigration measures, the next step in the legislative process is for the full Committee on the Judiciary to take them up.

At the time of this writing, no date for the full committee's consideration of the measures had been set. ☀

Last Week's Floor Activity

Floor action occurred last week on two measures containing significant immigration- or refugee-related provisions:

- **FY '10 Appropriations for Refugee Resettlement and Unaccompanied Alien Children**. The full House of Representatives passed the FY '10 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, which contained funding for the federal government's refugee resettlement activities, as well as the federal government's activities relating to trafficking victim assistance, torture victim assistance, and the care and treatment of unaccompanied alien children; and
- **Torture Victims Relief Act Reauthorization**. The full House of Representatives passed legislation reauthorizing programs under the Torture Victims Relief Act.

House Passes FY '10 Bill Appropriating Funds for Refugee Resettlement and Unaccompanied Alien Children:

The full House of Representatives last week passed the fiscal year 2010 appropriations bill that funds the nation's refugee resettlement, trafficking victim assistance, torture victim assistance, and unaccompanied alien child programs. Last week's House floor action occurred in connection with [H.R. 3293](#), the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill.¹¹¹⁷ The House passed the measure on Friday, July 24, 2009, by a vote of 264-153.¹¹¹⁸

Legislative History. The following is a brief legislative history of the FY '10 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill:

- **House Committee Actions**
 1. On July 10, 2009, the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies marked up its version of H.R. 3293, approving its version of

¹¹¹⁷ [H. Rept. 111-220](#), July 22, 2009

¹¹¹⁸ [House Roll Call No. 646](#), July 24, 2009

the measure and forwarding it to the full Committee on Appropriations.¹¹¹⁹

2. On July 17, 2009, the full House Committee on Appropriations held a markup session, approving H.R. 3293 and ordering it reported to the full House as an original measure.¹¹²⁰
3. On July 22, 2009, the House Committee on Appropriations formally reported H.R. 3293 to the full House of Representatives.¹¹²¹

• House Floor Actions.

1. On July 24, 2009, the full House of Representatives passed H.R. 3293 by a vote of 264-153.¹¹²²

Summary of Immigration- and Refugee-Related Appropriations Provisions. As passed by the House, H.R. 3293 contains the following immigration- and refugee-related provisions:

- Overall Funding for the Office of Refugee Resettlement.—The House-passed version of H.R. 3293 would appropriate \$714.968 MILLION for Refugee and Entrant Assistance, administered by the Department of Health and Human Services Office of Refugee Resettlement (ORR). For the most part, under the House-passed bill, funds appropriated for ORR would remain available through the end of fiscal year 2012.

The Committee contends that the bill would increase ORR's fiscal year 2010 funding by nearly 13 percent relative to fiscal year 2009. However, in reality, the bill would actually appropriate \$432,000 less for ORR in fiscal year 2010 than the total amount that was appropriated for ORR in fiscal year 2009.¹¹²³

¹¹¹⁹ See Page 764 of [July 13, 2009, edition of the Weekly Legislative Update](#) for a report on the July 10, 2009, House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies markup of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill

¹¹²⁰ See Pages 810-817 of the [July 20, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the July 17, 2009, House Appropriations Committee markup of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill

¹¹²¹ [H. Rept. 111-220](#), July 22, 2009

¹¹²² [House Roll Call No. 646](#), July 24, 2009

¹¹²³ The total fiscal year 2009 appropriation for ORR was \$715.4 MILLION. This includes \$633.4 MILLION that was appropriated in the regular fiscal year 2009 appropriations process and an

The \$714.968 MILLION for ORR that is contained in the Committee-approved measure is \$25.6 MILLION less than the amount requested by President Obama in his fiscal year 2010 budget submission for ORR.

- Funding for ORR's Refugee Resettlement Activities.—The House-passed version of H.R. 3293 would appropriate \$544.4 MILLION in fiscal year 2010 for ORR's resettlement activities. These activities include Transitional and Medical Services, Social Services, Preventive Health, and Targeted Assistance.

The House-passed bill's appropriation for ORR's resettlement services would constitute an increase of \$50.1 MILLION, or 10 percent, when compared to the amount appropriated for ORR's resettlement services in fiscal year 2009. It is the same amount that was requested by the Obama Administration.

The committee report accompanying H.R. 3293 contains the following earmarks:

1. Transitional and Medical Services. The committee report specifies that the bill includes \$337.1 MILLION for Transitional and Medical Services in fiscal year 2009, which would be \$54.8 MILLION more than was appropriated in fiscal year 2010 and the same requested by the Obama Administration for fiscal year 2010.¹¹²⁴
2. Social Services. The committee report specifies that the bill includes \$154 MILLION for Social Services in fiscal year 2009, which would be the same amount that was appropriated in fiscal year 2010 and the same requested by the Obama Administration for fiscal year 2010.

Within Social Services, the committee report sets aside \$19 MILLION 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."¹¹²⁵

3. Preventive Health. The committee report specifies that the bill includes \$4.75 MILLION for Preventive Health, which would be the same amount that was appropriated in fiscal year 2009 and the same

additional \$82 MILLION that was appropriated in the fiscal year 2009 war supplemental appropriations bill

¹¹²⁴ [H. Rept. 111-220](#), Page 162

¹¹²⁵ [H. Rept. 111-220](#), Page 164

requested by the Obama Administration for fiscal year 2010.¹¹²⁶

4. Targeted Assistance. The committee report specifies that the bill includes \$48.6 MILLION for Targeted Assistance, which would be the same amount that was appropriated in fiscal year 2009 and the same requested by the Obama Administration for fiscal year 2010.¹¹²⁷

- Funding for the Care and Placement of Unaccompanied Alien Children.—The House-passed version of H.R. 3293 would appropriate \$149.4 MILLION in fiscal year 2010 for care, placement, and services to unaccompanied alien children.¹¹²⁸

The Committee-approved bill's appropriation for unaccompanied alien children would constitute a decrease of \$55.7 MILLION relative to the total amount that was appropriated for unaccompanied alien children in fiscal year 2009.¹¹²⁹ It is \$26.2 MILLION less than the amount requested by President Obama in his fiscal year 2010 budget submission for ORR.

Within funding for the care and placement of unaccompanied alien children, the committee report accompanying the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill sets aside \$6 MILLION for the continuation and expansion of the Pro Bono Pilot Program for unaccompanied alien children.

- Funding for Assistance to Trafficking Victims.— The House-passed version of H.R. 3293 would appropriate \$9.8 MILLION in fiscal year 2010 to assist trafficking victims found in the United States.¹¹³⁰

The Committee-approved bill's trafficking victims appropriation is the same amount appropriated in fiscal year 2009 and the same amount that was requested by the Obama Administration for fiscal year 2010.

- Funding for Assistance to Torture Victims.— The House-passed version of H.R. 3293 would appropriate \$11.358 MILLION to assist torture victims who are resettled in the United States.¹¹³¹

The Committee-approved bill's appropriation for assistance to torture victims would constitute a \$541,000 increase over the amount appropriated for that purpose in fiscal year 2009 and the amount that was requested by the Obama Administration for fiscal year 2010.

The Chart that follows compares fiscal year 2009 ORR funding with the Administration's fiscal year 2010 budget request and the House-passed version of the Fiscal Year 2010 Labor, HHS, Education Appropriations Bill:

ORR Funding
Fiscal Year 2009 vs. Fiscal Year 2010

ITEM	'09 Projected	'10 OMB	'10 House
Transitional & Medical	\$ 282.3	\$ 337.1	\$ 337.1
Social Services	\$154	\$ 154	\$ 154
Preventive Health	\$ 4.75	\$ 4.75	\$ 4.75
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6
SUBTOTAL	\$ 494.3	\$ 544.4	\$ 544.4
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 10.8	\$ 10.8	\$ 11.4
Unaccompanied Alien Children	\$ 205.1 ¹¹³²	\$ 175.6	\$ 149.4
TOTAL ORR	\$ 715.4¹¹³³	\$ 740.6	\$ 715

Millions of Dollars

Legislative Riders and Limitations. There are no significant immigration- or refugee-related legislative riders in the House-passed version of H.R. 3293.

Summary of Committee Directives and Observations. The committee report accompanying H.R. 3293 contains a number of directives to the Department of Health and Human

¹¹²⁶ H. Rept. 111-220, Page 164

¹¹²⁷ H. Rept. 111-220, Page 164

¹¹²⁸ H. Rept. 111-220, Pages 164-166

¹¹²⁹ The total fiscal year 2009 appropriation for unaccompanied alien children was \$205.1 MILLION. This includes \$123.1 MILLION that was appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION that was appropriated in the fiscal year 2009 war supplemental appropriations bill

¹¹³⁰ H. Rept. 111-220, Page 163

¹¹³¹ H. Rept. 111-220, Page 166

¹¹³² This amount includes \$123.1 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

¹¹³³ This amount includes \$633.4 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

Services relating to the Office of Refugee Resettlement and its refugee resettlement, unaccompanied alien children, and trafficking victim assistance functions.¹¹³⁴ Among them are the following:

- ORR's Refugee Resettlement Activities.—Funding for ORR's resettlement activities include funding for four accounts: Transitional and Medical Services, Social Services, Preventive Health, and Targeted Assistance.

The committee report accompanying H.R. 3293 contains the following directives relating to ORR's refugee resettlement operations --

1. Resettlement, Generally. The committee report accompanying H.R. 3293 notes that "[t]he Committee recommends that the Government Accountability Office (GAO) conduct an evaluation of ORR's administration of the refugee assistance programs, including an assessment of the effectiveness of ORR programs at helping refugees achieve self-sufficiency."

The report notes that "[t]he Committee is particularly interested in GAO identifying any inequities in the system, evaluating the Voluntary Agency Matching Grant program compared to State-administered and Wilson-Fish programs, and recommending possible improvements to ensure all refugees receive the assistance they need to achieve self-sufficiency within a reasonable period of time."¹¹³⁵

2. Voluntary Agency Matching Grant Program. The committee report accompanying H.R. 3293 makes extended mention of the Voluntary Agency Matching Grant Program. It notes that "[w]hile the economic downturn has created new challenges, the Committee continues to recognize the positive outcomes of this program, which has experienced success in facilitating economic self-sufficiency for newly arriving refugees within a short period of time. The Committee requests that ORR include in their fiscal year 2011 Congressional budget justification, additional information on the Voluntary Agency Matching Grant program, including actual and projected information on funding levels; the number of refugees participating in the program; demographics of refugees participating in the program including country of

origin and level of education attainment; and the number of refugees achieving self-sufficiency within four and six months in the United States."¹¹³⁶

3. Unaccompanied Refugee Minors. The committee report commends "the initial steps taken by ORR to address the problem of separated children and refugee family breakdown by piloting a family preservation specialist initiative in the URM Program." The report notes that the Committee "urges ORR to consider expanding this initiative. In addition, the Committee requests that ORR provide adequate funding to URM programs for capacity development so that they have the necessary infrastructure to accommodate increasing numbers of unaccompanied and separated refugee children. The Committee requests ORR to provide estimates in its fiscal year 2011 Congressional budget justification on the number of family preservation specialists funded, along with actual and projected data on the number of refugee children in the URM program."¹¹³⁷

4. Social Services. The committee report notes that, "[w]hile ORR does not plan on carrying over any unobligated balances into fiscal year 2010, the Committee urges the Administration for Children and Families (ACF) to allocate any unexpected carryover in fiscal year 2010 for social services activities."¹¹³⁸

Within the Social Services line item, the report accompanying H.R. 3293 notes the following--

- A. Cuban/Haitian Issues. The committee report notes that the bill includes \$19 MILLION "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."¹¹³⁹
- B. Emergency Housing Assistance. The committee report notes that "the Committee urges ACF to use any unobligated balances under this account carried over into fiscal year 2010 to expand social services to refugees, particularly for emergency housing assistance to

¹¹³⁴ See Pages 825-829 of the [July 20, 2009, edition of the Weekly Legislative Update](#) to view an extended excerpt from H. Rept. 111-220, the committee report accompanying H.R. 2392, relating to the Office of Refugee Resettlement

¹¹³⁵ H. Rept. 111-220, Page 162

¹¹³⁶ H. Rept. 111-220, Page 163

¹¹³⁷ H. Rept. 111-220, Page 163

¹¹³⁸ H. Rept. 111-220, Page 162

¹¹³⁹ H. Rept. 111-220, Page 164

refugees. The Committee is concerned that the current economic downturn has left many refugees unable to find or maintain employment and, as a result, facing eviction and homelessness. The economic climate has intensified an already difficult transition and the Committee urges ACF to use any unanticipated carryover to help refugees as they contend with new and unforeseen challenges."¹¹⁴⁰

C. Refugee School Impact Program. The committee report notes that "[t]he Committee continues to request that ACF adequately fund the Refugee School Impact program. This program provides grants to support impacted school districts to fund activities that will lead to the effective integration and education of refugee children."¹¹⁴¹

- Unaccompanied Alien Children.—Funding for ORR includes funding for ORR's responsibilities with regard to the care and placement of unaccompanied alien children. The committee report accompanying H.R. 3293 contains the following directives and observations relating to this function--

1. New Requirements Pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act. The committee report notes that "TVPRA includes new requirements regarding the treatment and care of unaccompanied alien children interdicted from Mexico and Canada whom the Department of Homeland Security (DHS) determines to be victims of trafficking, at risk of trafficking upon returns, or who have a credible fear of persecution upon return, must be transferred to AFC's care." It, further, notes that "[t]he TVPRA also provides for increased monitoring, screening, and assessments for children, increased home studies before children are placed with a sponsor, mandatory follow-up for children for whom a study is conducted, and specialized training for Federal, State, and local personnel."¹¹⁴²

The committee report expresses the Committee's support for these new provisions, which it says are "aimed at ensuring the proper care and treatment of unaccompanied alien children." Noting how new the requirements are, the report says that "[t]he Committee requests ACF to provide a report within 60 days of enactment of this Act to the Committees

on Appropriations of the House of Representatives and the Senate on how ACF has implemented the provisions of the TVPRA and the costs associated with carrying out these new provisions, including information on the number of children transferred to ACF's care, the length of stay while under ACF's care, and other costs associated with implementing the TVPRA."¹¹⁴³

2. Transportation of Unaccompanied Alien Children. The committee report notes that "[t]he Committee does not include funding for the transportation of unaccompanied alien children from the point of apprehension to placement in an ORR facility." The report notes that the Administration has specified that DHS will continue to be responsible for this transportation in fiscal year 2010 and that it will prepare an extensive report by the end of fiscal year 2009 detailing specific recommendations concerning improvements to the program. The report urges that, in preparing this report, OMB, HHS, and DHS "consider the best interest of the unaccompanied alien children."¹¹⁴⁴
3. Placement of Children Near Services. The committee report notes that "the Committee urges HHS and DHS to work to ensure the placement of children in areas with access to important medical, mental, health, and legal services. Many facilities are currently located in rural areas close to the border to facilitate an easier transfer of children between DHS and HHS. However, many of these areas lack access to key services."¹¹⁴⁵
4. Pro Bono Pilot Program. The committee report notes that "[u]naccompanied alien children are not guaranteed legal representation and many children appear before a judge to determine their immigration status without an attorney." It asserts that "[p]ro bono legal representation is absolutely critical to ensure that children understand their rights as they navigate the legal process to determine their status in the United States."

The committee report commends ORR "for implementing a pro bono pilot program for unaccompanied alien children and includes no less than \$6,000,000 within the UAC program to continue and expand this initiative."

¹¹⁴⁰ H. Rept. 111-220, Page 164

¹¹⁴¹ H. Rept. 111-220, Page 164

¹¹⁴² H. Rept. 111-220, Page 165

¹¹⁴³ H. Rept. 111-220, Page 165

¹¹⁴⁴ H. Rept. 111-220, Page 165

¹¹⁴⁵ H. Rept. 111-220, Page 165

The committee report, further, notes that the Committee "urges ORR to continue to work towards ensuring that all unaccompanied alien children understand their legal rights and have access to pro bono representation." The report notes that the Committee "requests a report be included in the fiscal year 2011 budget justification on the effectiveness of this initiative, including the number and proportion of unaccompanied alien children provided pro bono legal representation."¹¹⁴⁶

5. Independent Evaluation of the Unaccompanied Alien Children Program. the committee report notes that when Congress transferred responsibility for the care and placement of unaccompanied alien children to the Department of Health and Human Services, it intended that "the child welfare needs of children are protected." Noting that there has not been a comprehensive evaluation of the unaccompanied alien children program since the transfer in 2002, the report notes that the Committee "recommends up to \$250,000 for an independent evaluation of the UAC program to determine if the UAC program is operating consistent with child welfare best practices."¹¹⁴⁷
6. Field Coordinator Program. The committee report notes that the Committee "recognizes the importance of the field coordinator program to properly evaluate children, make recommendations based on their independent evaluation of the child, and advocate in the best interests of the child." The report states that, "[g]iven the expected increase in the number of unaccompanied alien children resulting from the TVPRA, the Committee urges ORR to expand the field coordinator program to ensure that children are properly evaluated and their best welfare protected."¹¹⁴⁸
- Assistance to Trafficking Victims.—The committee report accompanying H.R. 3293 expresses the Committee's encouragement "that the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) grants the Secretary of Health and Human Services new authority to provide interim assistance to child victims of trafficking." The report indicates that the Committee "also supports efforts to ensure that child trafficking victims do not remain trapped in life-threatening

situations out of fear of being interrogated by law enforcement authorities."¹¹⁴⁹

Floor Consideration. The House of Representatives took up H.R. 2392 on Friday, July 24, 2009, under procedures that sharply limited amendments that could be offered to it on the House floor. No immigration- or refugee-related amendments were offered to the bill on the House floor.

Administration's Fiscal Year 2010 ORR Request. On May 7, 2009, President Barack Obama submitted detailed information to Congress about his proposed fiscal year 2010 budget for ORR. As previously noted, while President Obama's submission proposed to increase fiscal year 2010 spending for ORR compared to the amount that was appropriated during the regular fiscal year 2009 appropriations process, when the President's request is compared to the total amount that has actually been appropriated in fiscal year 2009 for ORR, the increase that it has proposed is far less substantial. When supplemental fiscal year 2009 appropriations for ORR are taken into consideration, the increase that the President requested for fiscal year 2010 is only \$25.2 MILLION, or 3.5 percent.¹¹⁵⁰

Among the highlights of the Administration's refugee resettlement-related budget proposals are:

- Overall Funding for the Office of Refugee Resettlement. The Administration's budget submission proposes a fiscal year 2010 appropriation of \$740.6 MILLION for ORR's for Refugee and Entrant Assistance.. This would represent an increase of \$107.3 MILLION over the amount appropriated for ORR in the regular fiscal year 2009 appropriations process. However, it is just \$25.2 MILLION more than the total amount that has been actually appropriated in fiscal year 2009.¹⁰⁹¹
- Refugee Admissions Ceiling for Fiscal Year 2010. The Administration's budget documents indicate that the Administration's FY '10 budget would accommodate 80,000 refugee admissions in fiscal year 2010, which the documents note would be the same number that was planned for in fiscal year 2009.¹¹⁵¹
- Special Immigrant Iraqi and Afghan Arrivals. The Obama budget documents indicate that its fiscal year 2010 budget plans for 29,000 Special Immigrant arrivals

¹¹⁴⁹ *H. Rept. 111-220, Page 163*

¹¹⁵⁰ *The total fiscal year 2009 appropriation for ORR includes \$633.442 MILLION in the regular appropriation and \$82 MILLION from the Fiscal Year 2009 War Supplemental*

¹¹⁵¹ *See page 233 of the [Department of Health and Human Services Fiscal Year 2010 Administration for Children and Families Justification of Estimates for Appropriations Committees](#)*

¹¹⁴⁶ *H. Rept. 111-220, Pages 165-166*

¹¹⁴⁷ *H. Rept. 111-220, Page 166*

¹¹⁴⁸ *H. Rept. 111-220, Page 166*

from Iraq and Afghanistan in fiscal year 2010. This would be more than double the 12,000 such arrivals that the Administration estimates for fiscal year 2009.¹⁰⁹²

- **Domestic Refugee Assistance.** Within the Obama fiscal year 2010 budget proposal, it has requested to increase funding for ORR’s resettlement activities by \$54.7 MILLION relative to fiscal year 2009 and to reduce funding for the Division for Unaccompanied Alien Children (DUCS) by \$29.5 MILLION.

Major components of the Administration’s overall fiscal year 2010 ORR request are broken down as follows:

5. **ORR’s Resettlement Activities.** The Administration would appropriate \$544.4 MILLION for ORR’s resettlement activities in fiscal year 2010. This includes four programs: Transition & Medical Assistance, Social Services, Preventive Health, and Targeted Assistance. This would be \$54.7 MILLION, or 11.2 percent, more than the amount appropriated in fiscal year 2009 for these services. The Administration proposes that all of this increase be allocated to Transitional and Medical Services.

6. **Unaccompanied Alien Children.** The Administration’s fiscal year 2010 budget submission proposes \$175.6 MILLION for ORR’s Unaccompanied Alien Children program. When funds provided in the fiscal year 2009 war supplemental is taken into account, This would be \$29.5 MILLION, or 14.4 percent, below the amount appropriated for this purpose in fiscal year 2009. the regular fiscal year 2009 process. However, it would be \$52.5 MILLION more than the \$123.1 MILLION that was appropriated for unaccompanied alien children in the regular fiscal year 2009 appropriations process.

The Administration justifies its request for funding for unaccompanied alien children by noting new mandates contained in P.L. 110-457, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.¹¹⁵²

7. **Torture Victims Assistance.** The Administration’s fiscal year 2010 budget submission requests \$10.8 MILLION to provide support for services to torture victims. This is the same amount that was appropriated in fiscal year 2009.

8. **Trafficking Victims Assistance.** The Administration’s fiscal year 2010 budget submission requests \$9.8 MILLION to assist trafficking victims.

This is the same amount that was appropriated in fiscal year 2009 to assist trafficking victims.

The chart that follows summarizes the Administration’s fiscal year 2010 budget submission for ORR:

Administration’s Fiscal Year 2010 Request for the Office of Refugee Resettlement

ITEM	'08 Actual	'09 Projected	'10 OMB
Transitional & Medical	\$ 296.1	\$ 282.3	\$ 337.1
Social Services	\$ 154	\$154	\$ 154
Preventive Health	\$ 4.75	\$ 4.75	\$ 4.75
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6
SUBTOTAL	\$ 503.4	\$ 489.7	\$ 544.4
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 9.8	\$ 10.8	\$ 10.8
Unaccompanied Alien Children	\$ 132.6	\$ 205.1 ¹¹⁵³	\$ 175.6
TOTAL ORR	\$ 655.6	\$ 715.4¹¹⁵⁴	\$ 740.6

Millions of Dollars

Views of the Advocacy Community. The pro-refugee advocacy expressed cautious praise for the Administration’s fiscal year 2010 budget proposals for the Department of Health and Human Services’ ORR account but has suggested that Congress should appropriate substantially more for ORR in fiscal year 2010 than the Administration requested. It has expressed disappointment that H.R. 3293 would appropriate less for ORR than even the Administration has requested.

Refugee Council USA (RCUSA), the nation’s leading coalition of refugee resettlement, human rights, and humanitarian organizations, has recommended an appropriation of \$949 MILLION for the Department of Health and Human Services Office of Refugee Resettlement (ORR) in fiscal year 2010.¹¹⁵⁵ This is \$208.3 MILLION, or

¹¹⁵³ This amount includes \$123.1 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

¹¹⁵⁴ This amount includes \$633.4 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

¹¹⁵⁵ RCUSA predicates its recommendations on 80,000 refugee admissions. It would recommend higher amounts of appropriations for ORR under scenarios where the number of refugee admissions is higher than 80,000

¹¹⁵² See page 259 of the [Department of Health and Human Services Fiscal Year 2010 Administration for Children and Families Justification of Estimates for Appropriations Committees](#)

28.2 percent, more than the Administration requested for fiscal year 2010. And it is \$234 MILLION, or 32.7 percent, more than is provided in H.R. 3293.

With regard to funding for ORR, most of the difference between the advocacy community's recommendations and the Administration's request is the advocacy community's support for substantially higher funding for ORR's resettlement services. RCUSA recommends an appropriation of \$646 MILLION for resettlement services in fiscal year 2010. That is \$101.6 MILLION, or 18.7 percent, more than both the amount that the Administration has proposed for those services in fiscal year 2010 and than the amount contained in The House-passed version of H.R. 3293.

The Advocacy Community's proposed increases in spending are mostly attributable to three factors:

- **Greater Use of the Voluntary Agency Matching Grant Program.** The pro-refugee advocacy community proposes greater use of the Voluntary Agency Matching Grant program, which leverages private sector contributions with federal dollars to help refugees and others who are eligible for the program reach self sufficiency without reliance on welfare programs. Approximately 25,000 refugees, asylees, and parolees were served by this program in fiscal year 2007. It recommends that 57,000 persons be served by the program in fiscal year 2010. This accounts for approximately \$75 MILLION of the difference between the advocacy community's proposal and both the Obama budget and the House-passed version of H.R. 3293.
- **Emergency Housing Assistance.** The pro-refugee advocacy community has sought funding to assist refugees who have lost or are in danger of losing their jobs with their housing needs. The community is fearful that, in the current economic climate, a number of refugees will fall into a cycle of homelessness and poverty. This accounts for approximately \$30 MILLION of difference between the advocacy community's proposal and both the Obama budget and the House-passed version of H.R. 3293.
- **Services for Special Immigrant Iraqis and Afghans.** The pro-refugee advocacy community assumes the admission of a number of Iraqis and Afghan special immigrants who helped the United States government during the conflict in Iraq and Afghanistan, all of whom are eligible for ORR services. RCUSA estimates that the cost of providing services to these individuals will be approximately \$68 MILLION, none of which was provided for in either the Administration's fiscal year 2010 budget request or H.R. 3293.

There are other areas of difference between the Administration, the House-passed bill, and the pro-refugee advocacy community. For instance--

- **Trafficking and Torture Victim Assistance.** The pro-refugee advocacy community recommends more spending on trafficking victim assistance and torture victim assistance compared to the Administration's request for those programs and compared to the amount provided for in the House-passed version of H.R. 3293.

This would increase spending in each of those programs from the approximately \$9.8 MILLION and \$10.8 MILLION, respectively, requested by the Administration (and provided in fiscal year 2009) to \$15 MILLION in fiscal year 2010 in the case of trafficking victims assistance and \$20 MILLION in fiscal year 2010 in the case of torture victims assistance.

- **Unaccompanied Alien Children.** The pro-refugee advocacy community and children's advocates recommend a substantial increase in fiscal year 2010 spending for the care and placement of unaccompanied alien children compared to the Administration's request.

The chart that follows compares the Administration's fiscal year 2010 request for ORR with RCUSA's recommendations:

**Administration vs. RCUSA
 Fiscal Year 2010 Request for ORR**

ITEM	'09 Projected	'10 OMB	'10 RCUSA
Transitional & Medical	\$ 282.3	\$ 337.1	\$ 391.4
Social Services	\$154	\$ 154	\$ 187.9
Preventive Health	\$ 4.75	\$ 4.75	\$ 5.9
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 60.8
SUBTOTAL	\$ 494.3	\$ 544.4	\$ 646
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 15
Torture Victims	\$ 10.8	\$ 10.8	\$ 20
Unaccompanied Alien Children	\$ 205.1 ¹¹⁵⁶	\$ 175.6	\$ 268
TOTAL ORR	\$ 715.4¹¹⁵⁷	\$ 740.6	\$ 949

Millions of Dollars

¹¹⁵⁶ This amount includes \$123.1 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

¹¹⁵⁷ This amount includes \$633.4 MILLION appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION appropriated in the fiscal year 2009 war supplemental appropriations bill

Next Steps. Now that the House has passed H.R. 2392, the next step in the legislative process is the consideration of the measure by the Senate.

The Senate Committee on Appropriations and its Subcommittee on Labor, Health and Human Services, Education, and Related Agencies are scheduled to markup the Senate version of H.R. 2392 this week. ☀

House Passes Bill Reauthorizing Programs Under the Torture Victims Protection Act: The full House of Representatives this week is scheduled to take up legislation authorizing funding for programs to assist the victims of torture who are resettled in the United States. This week's House floor action will take place in connection with [H.R. 1511](#), the "Torture Victims Relief Reauthorization Act of 2009". The House took up the measure on Wednesday, July 22, 2009, passing it by a voice vote.

Legislative History. Representative Christopher Smith (R-NJ) introduced H.R. 1511 on March 16, 2009. It was referred to two committees: the House Committee on Foreign Affairs and House Committee on Energy and Commerce. Neither committee has held a hearing or markup of the measure. The two committees were discharged from considering the measure and the measure was brought directly to the House floor.

Summary of Immigration- and Refugee-Related Provisions. As passed by the House, H.R. 1511 contains a number of provisions, including Section 2, which would authorize up to \$25 MILLION in each of fiscal years 2010 and 2011 for the Department of Health and Human Services to fund domestic treatment centers for trafficking victims.

Floor Consideration. The House of Representatives took up H.R. 1511 under a procedure known as "suspension of the rules", which limits debate to 40 minutes, equally divided by the majority and minority; precludes floor amendments; and requires the affirmative votes of two-thirds of the Members present and voting in order for a measure to be passed or agreed to.

The House debated H.R. 1511 for about 13 minutes. It was floor managed by Representative Ron Klein (D-FL) for the majority and by Representative Christopher Smith (R-NJ) for the minority. Both Members supported the measure.

Members who spoke in favor of H.R. 1511 were:

- Representative Ron Klein (D-FL)
- Representative Christopher Smith (R-NJ)

No Members spoke against the measure.¹¹⁵⁸

¹¹⁵⁸ [Click Here](#) to see video of the July 22, 2009, House floor debate on H.R. 1511

Next Steps. Now that the House of Representatives has passed H.R. 1511, the next step in the legislative process is for the bill to be taken up by the Senate. It has been received in the Senate, where it was referred to the Senate Committee on Foreign Relations. No timeline has been announced for the Senate Foreign Relations Committee's consideration of the measure ☀ ◇

Last Week's Executive Activity

Department of State Issues Rule that Would Permit Gay Partners of Diplomats to Come to the U.S. as Nonimmigrants: The Department of State last week published a final rule that could permit the gay partners of foreign diplomatic personnel to be admitted to the United States as an "immediate family member" under some circumstances. Last week's rule was published in the July 22, 2009, edition of the Federal Register. It is effective immediately.

The new rule amends the definition of "immediate family" for the Foreign Government Official category of nonimmigrants as authorized by section 101(a)(15)(A) of the Immigration and Nationality Act. The term "immediate family" previously required that immediate family members other than the spouse and unmarried sons and daughters be related to the principal or spouse by blood, marriage or adoption.

The new rule now includes in the definition, upon authorization from the Department of State on a case by case basis, any other alien who is not a member of some other household; will reside regularly in the household of the principal alien; and is recognized as a family member of the principal alien by the sending Government as demonstrated by eligibility for rights and benefits from that Government, such as the issuance of a diplomatic or official passport or travel or other allowances. This will allow the Department greater flexibility in responding to requests by foreign governments to issue a diplomatic visa to a person who regularly resides with and is a member of the household of a qualified principal alien and is considered by the principal alien and the sending Government to be a member of the immediate family of the principal alien.¹¹⁵⁹ ☀ ◇

Recently Introduced Legislation

See next week's edition. ◇

¹¹⁵⁹ [Click Here](#) to see a copy of the July 22, 2009, rule on immediate relatives of diplomatic personnel

Bills in Development

The following is a listing of immigration- or refugee-related bills that are currently under development and that could soon be introduced in the Senate or House of Representatives. Items that were added or that have substantially changed since the previous edition of the Weekly Legislative Update was issued are marked with a double asterisk (**).

House

Representative Luis Gutierrez Working on Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), who chairs the Congressional Hispanic Caucus' Immigration Task Force, has become the first member of the U.S. House of Representatives to stick his toe into the comprehensive immigration reform bill derby. Representative Gutierrez was quoted last week by the Capitol Hill newspaper Roll Call as saying he planned to draft a comprehensive immigration reform bill and would ready to introduce it sometime in September. The newspaper reported that Representative Gutierrez intends to combine provisions from the bill that Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY) is drafting with provisions from [H.R. 1645](#), legislation that Gutierrez introduced during the 110th Congress along with Representative Jeff Flake (R-A) that was known as the "Security Through Regularized Immigration and a Vibrant Economy Act of 2007" Act, or the STRIVE Act.

There was no word at the time of this writing whether Representative Flake will join Representative Gutierrez in cosponsoring the measure that Mr. Gutierrez is planning to introduce during the 111th Congress.

Members Working on Violence Against Women

Technical Corrections Bill: Representative Debbie Wasserman Schultz (D-FL) and Ted Poe (R-TX) are working on a measure that could contain several changes in law that would expand protections for aliens who are victims of domestic violence and sex trafficking. While no text was available at the time of this writing, the measure reportedly will be closely patterned after provisions in [S. 327](#), the "Improving Assistance to Domestic and Sexual Violence Victims Act of 2009", a measure that the Senate Committee on the Judiciary approved on May 7, 2009.¹¹⁶⁰

As reported by the Senate Committee on the Judiciary, S. 327 contains four provisions that would expand protections for aliens who are victims of domestic violence and sex trafficking.

¹¹⁶⁰ See Pages 475-477 of the [May 11, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the Senate Judiciary Committee's markup of S. 327

More specifically—

- **Extension of T Nonimmigrant Status.** Section 114 of S. 327 would amend section 214(o)(7) of the Immigration and Nationality Act to allow an alien to apply for an extension of her T nonimmigrant visa retroactively after the expiration of the visa.¹¹⁶¹

Advocates contend that the provision is necessary because a number of aliens who received T visas were unable to adjust their status in a timely way because it took the Department of Homeland Security (and its predecessor agency, the Immigration and Naturalization Service) eight years to issue regulations providing for adjustment of status of T visa holder.

- **T and U Nonimmigrant Protections.** Section 115 would amend section 107(b)(1)(E)(i)(II)(aa) of the Trafficking Victims Protection Act of 2000 to permit U visa victims to get work authorization while their case is being adjudicated if they can show prima facie evidence that they meet the qualifications of the visa. This would lower the standard in current law, which currently requires them show bona fide evidence.
- **Nonimmigrant Adjustment of Status.** Section 116 would amend Section 245(m)(3) of the Immigration and Nationality Act to permit an unmarried sibling (under the age of 18) of a U visa holder to adjust her status along with the victim.^{40F26F5F}¹¹⁶²
- **Housing Assistance for Qualified Aliens.** Section 117 would amend Section 214 of the Housing and Community Development Act of 1980 to permit alien victims of domestic violence to remain eligible for public housing if the perpetrators of violence against them have been evicted from or otherwise have left public housing.

Secure American through Verification and Enforcement Act: Representative Heath Shuler (D-NC) is planning to reintroduce [H.R. 4088](#), the "Secure America

¹¹⁶¹ *The T nonimmigrant visa is available for up to 5,000 victims of "severe forms of trafficking" per year. Severe forms of trafficking include: the use of force, fraud, or coercion for sex trafficking and/or involuntary servitude, peonage, debt bondage, or slavery.*

¹¹⁶² *The U nonimmigrant visa is available for up to 10,000 victims of specific crimes per year who cooperate in the investigation or prosecution of the persons charged with the criminal activity. Crimes covered include: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact; prostitution; sexual exploitation, female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.*

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 190 signers on a discharge petition.¹¹⁶³

Senate

Chairman Schumer Working on Comprehensive Immigration Reform Bill:

Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY), has announced that he is working on a comprehensive immigration reform bill, which he says will be ready for introduction before Labor Day.

In an Associated Press story that moved on the wires on Wednesday, July 8, 2009, the Associate Press quoted Chairman Schumer as saying, "I think we'll have a good bill by Labor Day" and that "the fundamental building blocks are in place to do comprehensive immigration reform."

The Associated Press article also attributed the following assertions to Chairman Schumer:

- His bill would be more generous to highly skilled immigrant workers than those who are lower skilled
- His bill would be tough on future waves of illegal immigration.
- A comprehensive immigration reform bill could be passed by the end of the year.
- Disagreements between labor and business interests on the flow of legal foreign workers can be worked out.
- The U.S. should encourage legal immigration and find some kind of path for people now here to find a way to legal citizenship.
- The U.S. has "a shortage maybe of engineers here or Ph.D's in physics, but we probably don't have a shortage of people who can do construction work."

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.¹¹⁶⁴

Foreign Relations Authorization Bill: Senate Foreign Relations Committee Chairman John F. Kerry (D-MA) is working on the Senate version of the Foreign Relations Authorization Act, which he reportedly plans to introduce shortly after Congress returns from its week-long Independence Day recess.

The House of Representatives passed [H.R. 2410](#), the House version of Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, on Wednesday, June 10, 2009. As passed by the House, the measure contains among its many provisions numerous provisions making reforms to the United States refugee admissions process.¹¹⁶⁵

It was unclear at the time of this writing to what degree the bill that Chairman Kerry is planning to introduce will replicate the refugee admissions reform provisions in the House-passed version of H.R. 2410. ◇

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 (**).

House

****Committee-Approved Immigration-Related Measures Awaiting Consideration by the Full House:**

The following measures containing significant immigration- or refugee-related provisions have been approved by various House committees and are awaiting consideration by the full House of Representatives:

- [House Committee on Financial Services](#). The House Committee on Financial Services has approved H.R. 3045, the "Section 8 Voucher Reform Act of 2009", after first approving an amendment aimed at ensuring that illegal immigrants not make use of such housing.

¹¹⁶³ See Pages 409-410 of the [April 27, 2009, edition of the Weekly Legislative Update](#) for a more detailed description of the immigration-related provisions in the 110th Congress' H.R. 4088

¹¹⁶⁴ See Page 410 of the [April 27, 2009, edition of the Weekly Legislative Update](#) for a more detailed description of the immigration-related provisions in the 110th Congress' S. 3114

¹¹⁶⁵ See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provision that are included in the House-passed version of H.R. 2410

At the time of this writing, the Committee had yet to formally report the measure to the full House of Representatives.¹¹⁶⁶☀

****Five Immigration- or Border Security-Related Measures Await Committee Consideration in the House:** The following measures containing significant immigration-, refugee-, or border security-related provisions have been approved by subcommittees of Congress and are awaiting consideration in their full committees:

- House Committee on the Judiciary. The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has approved three bills that contain significant immigration-related provisions and now await consideration by the full House Committee on the Judiciary:
 1. [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009";
 2. [H.J. Res. 26](#), a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously; and
 3. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act."

The Subcommittee approved all three measures during markups that occurred on Thursday, July 23, 2009, and Friday, July 24, 2009. No full committee markup of the measures had been scheduled at the time of this writing.¹¹⁶⁷

- House Committee on Homeland Security. The House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism has approved two bills that contain significant border security provisions and await consideration by the full House Committee on Homeland Security:
 1. [H.R. 1726](#), the "Border Security Search Accountability Act of 2009", which would require the Secretary of Homeland Security to issue a rule

¹¹⁶⁶ See Page 847 of this week's edition of the Weekly Legislative Update for an analysis of the immigration-related provisions in House Financial Services Committee-approved version of H.R. 3045

¹¹⁶⁷ See Pages 849-850 of this week's edition of the Weekly Legislative Update for an analysis of the immigration-related provisions in H.R. 3290, H.J. Res. 26, H.R. 42, three bills that were approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during two days of markup beginning on July 23, 2009

with respect to border security searches of electronic devices; and

2. [H.R. 3239](#), a bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to submit a report on the effects of the Merida Initiative on the border security of the United States.

The Subcommittee approved both measures during markups that occurred on Wednesday, July 22, 2009, and Friday, July 24, 2009. No full committee markup of the bills had been scheduled at the time of this writing.¹¹⁶⁸

Senate

****Senate Judiciary Panel to Hold Hearing Next Week on Employment-Based Immigration:** The Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security plans to hold a hearing next week on how best to structure our employment-based immigration system for the future. The Subcommittee originally had set aside the morning of Wednesday, July 29, 2009, for the hearing on the future of the nation's employment-based immigration system. However, at the time of this writing, the hearing had been rescheduled for the morning of August 6, 2009. No witnesses had been publicly identified at the time of this writing. ☀

****Six House-Passed Immigration-Related Measures are Awaiting Consideration by the Full Senate:** The following measures containing significant immigration- or refugee-related provisions have been passed by the House of Representatives and are awaiting consideration in the Senate:

- Fiscal Year 2010 Immigration- and Refugee-Related Appropriations Bills. The House of Representatives has passed three fiscal year 2010 appropriations bills that still await action in the Senate:
 1. Fiscal Year 2010 Appropriations for Refugee Resettlement and Unaccompanied Alien Children. The House of Representatives has passed H.R. 3293, the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill (Labor, HHS Appropriations Bill), which funds the federal government's refugee resettlement, trafficking victims assistance, torture victim assistance, and unaccompanied alien child programs.

¹¹⁶⁸ See Page 848 of this week's edition of the Weekly Legislative update for an analysis of the immigration-related provisions in H.R. 1726 and H.R. 3239, two bills that were approved by the House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism during its July 22, 2009, markup session

Included in the bill is a cut of \$432,000 in fiscal year 2010 for ORR compared to the total fiscal year 2009 appropriation;¹¹⁶⁹ and an increase of \$50.1 MILLION, or 10 percent, for ORR's resettlement activities when compared to the amount appropriated for ORR's resettlement activities in fiscal year 2009.¹¹⁷⁰

The Senate Committee on Appropriations is scheduled to take up the Senate version of the measure this week.

2. Fiscal Year 2010 Appropriations for the Immigration Court System. The House of Representatives has passed [H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill (C-J-S Appropriations Bill), which funds the immigration court system, as well as a grant program that reimburses states for the cost they incur in incarcerating criminal aliens.

Included in the bill is a substantial increase in spending for the Executive Office for Immigration Review (EOIR); increased funding for legal orientation presentations to detained aliens; and continued funding for the State Criminal Alien Assistance Program (SCAAP), which the Obama Administration has proposed ending.¹¹⁷¹

The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#), reporting it to the full Senate.¹¹⁷²

The Senate could take up the measure at any time.¹¹⁷³

3. Fiscal Year 2010 Appropriations for Refugee Admissions and Overseas Refugee Assistance. The

House of Representatives has passed [H.R. 3081](#), its version the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill, which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs.

Included in the House-passed measure are substantial increases in funding for Migration and Refugee Assistance (MRA) and International Disaster Assistance (IDA), relative to appropriations for those accounts during the regular fiscal year 2009 appropriations cycle. However, when supplemental fiscal year 2009 appropriations spending is taken into account, the House-passed measure would actually appropriate less in fiscal year 2010 for the MRA account than the total amount that was appropriated for that account in fiscal year 2009.¹¹⁷⁴

The Senate Committee on Appropriations has approved [S. 1434](#), the Senate version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill.¹¹⁷⁵ Its version would appropriate substantially more for the Migration and Refugee Assistance account than is contained in the House-passed version of the bill. The Senate could take up the measure at any time.¹¹⁷⁶

- Torture Victims Assistance. The House of Representatives has passed [H.R. 1511](#), the "Torture Victims Relief Reauthorization Act of 2009", which would fund programs to assist the victims of torture who are resettled in the United States.¹¹⁷⁷

Following House passage of the measure, it was referred to the Senate Committee on Foreign Relations.

- Reforms to the Refugee Admissions Process. The House of Representatives has passed [H.R. 2410](#), the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, which contains among its many provisions

¹¹⁶⁹ *The total fiscal year 2009 appropriation for ORR was \$715.4 MILLION. This includes \$633.4 MILLION that was appropriated in the regular fiscal year 2009 appropriations process and an additional \$82 MILLION that was appropriated in the fiscal year 2009 war supplemental appropriations bill*

¹¹⁷⁰ *See Pages 850-858 of this week's edition of the Weekly Legislative Update for an analysis of the immigration- and refugee-related provisions in the House-passed version of H.R. 3293*

¹¹⁷¹ *See Pages 681-682 of the [June 22, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives' consideration of H.R. 2847*

¹¹⁷² [S. Rept. 111-34](#), June 25, 2009

¹¹⁷³ *See Pages 702-703 of the [June 29, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the June 25, 2009, Senate Appropriations Committee markup of H.R. 2847*

¹¹⁷⁴ [H. Rept. 111-187, June 26, 2009](#)

¹¹⁷⁵ [S. Rept. 111-44](#), July 9, 2009

¹¹⁷⁶ *See Pages 772-743 of the [July 13, 2009, edition of the Weekly Legislative Update](#) for an analysis of the House-passed version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill*

¹¹⁷⁷ *See Page 858 of this week's edition of the Weekly Legislative Update for an analysis of the House-passed version of H.R. 1511*

numerous ones that would make reforms to the United States refugee admissions process.¹¹⁷⁸

Following House passage of the measure, it was referred to the Senate Committee on Foreign Relations. Senate Foreign Relations Committee Chairman John F. Kerry (D-MA) is working on a version of the bill of his own that he could introduce as soon as late July.¹¹⁷⁹

- Increased Penalties for Alien Smuggling. The House of Representatives has passed [H.R. 1029](#), the “Alien Smuggling and Terrorism Prevention Act of 2009” It would increase penalties for alien smuggling and make other changes in law that the bill’s proponents contend will help combat the crime of alien smuggling.

While there was no organized opposition to H.R. 1029 during House consideration of the measure, several pro-immigrant and pro-refugee advocacy organizations expressed concerns about the potential impact that the measure would have on good Samaritans and refugees. Those concerns were expressed behind the scenes in the House but are expected to be voiced more vociferously should the Senate take up the measure.

The measure has been referred to the Senate Committee on the Judiciary.

It was widely believed at the time that the House acted that the Senate Committee on Commerce, Science, and Transportation would address the issues that are included in H.R. 1029 when it took up [S. 1194](#), the Coast Guard Authorization Act for Fiscal Years 2010 and 2011. The Committee marked up the measure on Wednesday, July 8, 2009, however, without including any immigration-related provisions.¹¹⁸⁰ That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up. ☼

One Senate Committee-Approved Immigration-Related Measure is Awaiting Consideration by the Full Senate: The following measures containing significant immigration- or refugee-related provisions have

¹¹⁷⁸ See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provisions in the House-passed version of H.R. 2410, the Foreign Relations Authorization Act, 2010 and 2011

¹¹⁷⁹ See Pages 642-650 of the [June 15, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the refugee-related provision that are included in the House-passed version of H.R. 2410

¹¹⁸⁰ See Page 383 of the [April 20, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the full House of Representatives’ consideration of H.R. 1029

been approved by various committees and are awaiting consideration by the full Senate:

- Eased Visa Requirements for Victims of Domestic Violence. The Senate Committee on the Judiciary has approved [S. 327](#), the “Improving Assistance to Domestic and Sexual Violence Victims Act of 2009”, which contains four provisions that would amend the Immigration and Nationality Act, the Trafficking Victims Protection Act of 2000, and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to expand protections for aliens who are victims of domestic violence and sex trafficking.

The bill has been hotlined. Reports indicate that S. 327 has been cleared by the Senate Democratic cloakroom. However, those reports indicate that it has not yet been cleared by the Senate Republican cloakroom. It is anticipated that once the bill has been cleared by both the Democratic and Republican cloakrooms, the Senate will take it up by unanimous consent.¹¹⁸¹ ◇

Next Week’s Edition ...

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

- Fiscal Year 2010 Appropriations for Refugee Resettlement and Unaccompanied Alien Children. Next week’s Weekly Legislative Update will report on this week’s expected markups in the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies Subcommittee, as well as in the full Committee on Appropriations, of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, which funds the federal government’s refugee resettlement activities, as well as the federal government’s activities relating to trafficking victim assistance, torture victim assistance, and the care and treatment of unaccompanied alien children.
- Treatment of Immigrants in Health Care Reform Legislation. Next week’s Weekly Legislative Update will report on any developments that occur this week in either the House Committee on Energy and Commerce, Senate Committee on Finance, or in any other congressional forum on the treatment of aliens in pending health care reform legislation.

¹¹⁸¹ See Pages 475-477 of the [May 11, 2009, edition of the Weekly Legislative Update](#) for a detailed report on the Senate Judiciary Committee’s markup of S. 327

- Vote on the Mayorkas Nomination to Head USICS. Next week's Weekly Legislative Update will report on this week's scheduled vote on the nomination of Alejandro Mayorkas to be Director of the Department of Homeland Security's U.S. Citizenship and Immigration Services.
- Markup of Bill to Replace Provisions of the REAL ID Act. Next week's Weekly Legislative Update will report on this week's expected markup in the Senate Committee on Homeland Security and Governmental Affairs of S. 1261, the PASS ID Act, legislation that contains among its numerous provisions those that would make a number of changes to the REAL ID Act's alienage-based restrictions on the issuance of driver's licenses and state-issued identification cards.
- Treatment by the U.S. of Certain Citizens and Permanent Residents During World War II. Next week's Weekly Legislative Update will report on this week's expected House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law markup of legislation requiring a study of the U.S. government's treatment of certain citizens and permanent residents during World War II.
- Pakistan's Internally Displaced Persons Crisis. Next week's Weekly Legislative Update will report on this week's scheduled hearing in the Senate Committee on Foreign Relations on Pakistan's Internally Displaced Persons crisis. ◇

Appendix

**Excerpt from H. Rept. 111-220, Report on FY '10 Labor, HHS, Education Appropriations Bill
 July 22, 2009**

REFUGEE AND ENTRANT ASSISTANCE

The Committee provides \$714,968,000 for Refugee and Entrant Assistance programs. This amount is \$81,526,000 more than the fiscal year 2009 funding level and \$25,689,000 less than the budget request. The Committee includes bill language making most of these funds available through September 30, 2012, as requested. This funding would provide assistance to over 160,000 arriving refugees, asylees, entrants, trafficking victims, and unaccompanied alien children, including 29,000 special immigrants from Iraq and Afghanistan.

The Office of Refugee Resettlement (ORR) programs are designed to help refugees, asylees, Cuban and Haitian entrants, and trafficking victims become employed and self-sufficient. These programs also assist unaccompanied immigrant children in Federal custody and victims of torture.

The Committee notes the inherent uncertainties in estimating the necessary funding level for ORR programs. A significant amount of ORR's expenses are determined by the number of refugees arriving in the United States and the number of unaccompanied alien children transferred to ORR's care. In particular, in recent years, the number of refugees arriving in the United States, while increasing, has been lower than expected, resulting in significant carryover of unobligated balances. While ORR does not plan on carrying over any unobligated balances into fiscal year 2010, the Committee urges the Administration for Children and Families (ACF) to allocate any unexpected carryover in fiscal year 2010 for social services activities.

The Committee recommends that the Government Accountability Office (GAO) conduct an evaluation of ORR's administration of the refugee assistance programs, including an assessment of the effectiveness of ORR programs at helping refugees achieve self-sufficiency. As the number of refugees entering the United States continues to rise, with some of the largest increases in those from Iraq and Afghanistan, this growing caseload will continue to put stress on ORR programs. It is critical that the United States follow through in this humanitarian mission and provide adequate services to this very vulnerable population. The Committee is particularly interested in GAO identifying any inequities in the

system, evaluating the Voluntary Agency Matching Grant program compared to State-administered and Wilson-Fish programs, and recommending possible improvements to ensure all refugees receive the assistance they need to achieve self-sufficiency within a reasonable period of time.

Transitional and Medical Services

The Committee provides \$337,102,000 for Transitional and Medical Services, which is \$54,075,000 more than the fiscal year 2009 funding level and the same as the budget request. The Transitional and Medical Services program provides, through State governments and non-profit organizations, cash, medical, and other assistance to eligible refugees, asylees, entrants, and victims of trafficking who are not categorically eligible for Temporary Assistance for Needy Families, Medicaid, or SSI. State refugee programs are reimbursed for their costs of providing assistance, while non-profit organizations are awarded grants to provide assistance in States not participating in the program, or participating in only parts of the program. Transitional and Medical Services also provides funding for the Voluntary Agency Matching Grant program.

While still falling below the ceiling established by the State Department, the number of refugees arriving in the United States has been increasing in recent years. From fiscal year 2003 to fiscal year 2008 the number of arriving refugees more than doubled, from less than 30,000 to over 60,000. In fiscal years 2009 and 2010, ACF expects these numbers to approach the 80,000 ceiling established by the State Department. ACF expects an additional 29,000 special immigrants arriving from Iraq and Afghanistan, up from only 100 in fiscal year 2007. At the same time, the economic downturn has resulted in refugees receiving assistance for a longer period of time, often for the full eight months for which they are eligible. The Committee recommendation will ensure that eligible refugees continue to receive transitional and medical assistance in their first vulnerable months in the United States.

Voluntary Agency Matching Grant Program.--Under the Voluntary Agency Matching Grant program, national voluntary refugee resettlement agencies match Federal funds and provide job placement, job development, and interim cash assistance with the goal of refugees attaining self-sufficiency in their first four to six months in the United States. Refugees participating in the program are not eligible for other cash assistance. While the economic downturn has created new challenges, the Committee continues to recognize the positive outcomes of this program, which has experienced success in facilitating economic self-sufficiency for newly arriving refugees within a short period of time. The Committee requests that ORR include in their fiscal year 2011 Congressional budget justification, additional information on the Voluntary Agency Matching Grant program, including actual and projected information on funding levels; the number of refugees participating in the program; demographics of refugees participating in the program including country of origin and level of education attainment; and the number of refugees achieving self-sufficiency within four and six months in the United States.

Family Preservation for Unaccompanied Refugee Minors (URM).--The Committee commends the initial steps taken by ORR to address the problem of separated children and refugee family breakdown by piloting a family preservation specialist initiative in the URM Program. The Committee urges ORR to consider expanding this initiative. In addition, the Committee requests that ORR provide adequate funding to URM programs for capacity development so that they have the necessary infrastructure to accommodate increasing numbers of unaccompanied and separated refugee children. The Committee requests ORR to provide estimates in its fiscal year 2011 Congressional budget justification on the number of family preservation specialists funded, along with actual and projected data on the number of refugee children in the URM program.

Victims of Trafficking

The Committee provides 9,814,000 for Victims of Trafficking, which is the same as the fiscal year 2009 funding level and the budget request. The Committee strongly supports the continued administration of a national network for identification, tracking, and certification of trafficking victims. The Committee is encouraged that the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) grants the Secretary of Health and Human Services new authority to provide interim assistance to child victims of trafficking. The Committee also supports efforts to ensure that child trafficking victims do not remain trapped in life-threatening situations out of fear of being interrogated by law enforcement authorities.

Social Services

The Committee provides \$154,005,000 for Social Services, which is the same as the fiscal year 2009 funding level and the budget request. Funding is distributed by a combination of formula and discretionary grants to states and non-profit organizations and supports a variety of services for refugees including employment preparation, job placement, social adjustment services, interpretation and translation services, English language training, and childcare.

Within the funds provided, the Committee 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.

In addition the Committee urges ACF to use any unobligated balances under this account carried over into fiscal year 2010 to expand social services to refugees, particularly for emergency housing assistance to refugees. The Committee is concerned that the current economic downturn has left many refugees unable to find or maintain employment and, as a result, facing eviction and homelessness. The economic climate has intensified an already difficult transition and the Committee urges ACF to use any unanticipated carryover to help refugees as they contend with new and unforeseen challenges.

The Committee continues to request that ACF adequately fund the Refugee School Impact program. This program provides grants to support impacted school districts to fund activities that will lead to the effective integration and education of refugee children.

Preventive Health

The Committee provides \$4,748,000 for Preventive Health, which is the same as the fiscal year 2009 funding level and the budget request. These funds are awarded through discretionary grants to States to support the coordination and promotion of health screening, treatment, and medical follow-up services to refugees.

Targeted Assistance

The Committee provides \$48,590,000 for the Targeted Assistance program, which is the same as the fiscal year 2009 funding level and the budget request. These grants provide assistance to areas with high concentrations of refugees.

Unaccompanied Alien Children

The Committee provides \$149,351,000 for the Unaccompanied Alien Children (UAC) program, which is \$26,231,000 more than the fiscal year 2009 funding level and \$26,230,000 less than the Budget

request. Subsequent to the fiscal year 2010 request, the Supplemental Appropriations Act, 2009, included an additional \$82,000,000 for the UAC program for costs associated with the TVPRA. These additional funds will remain available through September 30, 2011.

The UAC program provides for the care and placement of unaccompanied alien children who are apprehended in the U.S. by law enforcement and taken into care pending resolution of their immigration cases. ACF provides grants and contracts to State-licensed facilities to provide temporary shelter, medical care, pro bono legal services, family reunification services, and other support services for children in ACF's care.

The TVPRA includes new requirements regarding the treatment and care of unaccompanied alien children interdicted from Mexico and Canada whom the Department of Homeland Security (DHS) determines to be victims of trafficking, at risk of trafficking upon returns, or who have a credible fear of persecution upon return, must be transferred to ACF's care. Previously, all children from contiguous countries apprehended at the border were immediately returned and not transferred to ACF. The TVPRA also provides for increased monitoring, screening, and assessments for children, increased home studies before children are placed with a sponsor, mandatory follow-up for children for whom a study is conducted, and specialized training for Federal, State, and local personnel. The Committee supports these new provisions aimed at ensuring the proper care and treatment of unaccompanied alien children. However, these new requirements have only become effective as of March 2009 and limited data are available on the actual costs of carrying out the provisions of the TVPRA. The Committee requests ACF to provide a report within 60 days of enactment of this Act to the Committees on Appropriations of the House of Representatives and the Senate on how ACF has implemented the provisions of the TVPRA and the costs associated with carrying out these new provisions, including information on the number of children transferred to ACF's care, the length of stay while under ACF's care, and other costs associated with implementing the TVPRA.

Transportation of Unaccompanied Alien Children.--The Committee does not include funding for the transportation of unaccompanied alien children from the point of apprehension to placement in an ORR facility. The Office of Management and Budget (OMB), in consultation with HHS and DHS, released a memo in June 2009 specifying that DHS will continue to be responsible for this transportation in fiscal year 2010. In addition, a more extensive report will be completed by September 30, 2009, detailing specific recommendations concerning improvements to the program. In preparing this report, the Committee urges OMB, HHS, and DHS to consider the best interest of the unaccompanied alien children. The Committee urges HHS and DHS to work to ensure the placement of children in areas with access to important medical, mental, health, and legal services. Many facilities are currently located in rural areas close to the border to facilitate an easier transfer of children between DHS and HHS. However, many of these areas lack access to key services.

Pro Bono Pilot Program.--Unaccompanied alien children are not guaranteed legal representation and many children appear before a judge to determine their immigration status without an attorney. Pro bono legal representation is absolutely critical to ensure that children understand their rights as they navigate the legal process to determine their status in the United States. The Committee commends ORR for implementing a pro bono pilot program for unaccompanied alien children and includes no less than \$6,000,000 within the UAC program to continue and expand this initiative. The Committee urges ORR to continue to work towards ensuring that all unaccompanied alien children understand their legal rights and have access to pro bono representation. The Committee requests a report be included in the fiscal year 2011 budget justification on the effectiveness of this initiative, including the number and proportion of unaccompanied alien children provided pro bono legal representation.

Independent Evaluation.--The Homeland Security Act of 2002 transferred responsibility for the care and treatment of unaccompanied alien children to HHS to ensure that the child welfare needs of children are protected. Since that time there has not been a comprehensive evaluation of the UAC

program. The Committee recommends up to \$250,000 for an independent evaluation of the UAC program to determine if the UAC program is operating consistent with child welfare best practices.

Field Coordinator Program.--The Committee recognizes the importance of the field coordinator program to properly evaluate children, make recommendations based on their independent evaluation of the child, and advocate in the best interests of the child. Given the expected increase in the number of unaccompanied alien children resulting from the TVPRA, the Committee urges ORR to expand the field coordinator program to ensure that children are properly evaluated and their best welfare protected.

Victims of Torture

The Committee provides \$11,358,000 to provide a comprehensive program of support for domestic centers and programs for victims of torture. This amount is \$541,000 above the fiscal year 2009 funding level and the budget request. Funding supports services and rehabilitation for victims of torture, including social and legal services and training for healthcare providers on treating the physical and psychological effects of torture. ◇