



United States Conference of Catholic Bishops Government Relations

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

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Legislative Highlights

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The House of Representatives begins its five week-long August recess this week, leaving behind the Senate, which will not begin its recess until the close of business this week. Both chambers are scheduled to return to Washington on September 8, at which time their primary focus will be completion of the fiscal year 2010 appropriations bills and resumption of the consideration of health care legislation.

This Week's Hearings

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No hearings are scheduled for this week on significant immigration- or refugee-related matters. ◇

This Week's Markups

No markups are scheduled for this week on measures containing significant immigration- or refugee-related provisions. ◇

This Week's Floor Activity

At the time of this writing, only one floor action impacting significant immigration- or refugee-related matters was anticipated in the House or Senate:

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This Week's Floor (continued)

- [Nomination of Alejandro Mayorkas to Head USCIS.](#) While it had not been scheduled at the time of this writing, it is widely anticipated that the full Senate will take up the nomination of Alejandro Mayorkas to head USCIS.

House

With the House of Representatives in recess, there is no floor action anticipated this week in the House on legislation containing significant immigration- or refugee-related provisions.

Senate

Full Senate Could at Any Time Take Up Mayorkas Nomination to Head USCIS: The full Senate this week could take up the nomination of Alejandro Mayorkas to be Director of the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). At the time of this writing, no date or time had been set for the Senate's consideration of the nomination. However, it is believed that the nomination could come before the Senate shortly after the Senate disposes of the nomination of Judge Sonia Sotomayor to be Associate Justice of the United States Supreme Court.

The Senate Committee on the Judiciary last week approved the Mayorkas nomination, doing so on Tuesday, July 28, 2009, by a voice vote.

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.

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

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This Week's Floor (continued)

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."¹¹⁸²

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 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.

Mr. Mayorkas responded, saying 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.

¹¹⁸² [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

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 in the full Senate. ☼ ◇

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 the federal government's immigration enforcement, immigration services, and border security operations. Conferees could begin at any time to resolve differences between the two versions of the bill. However, with the House in recess this week, 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.¹¹⁸³

¹¹⁸³ 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

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.¹¹⁸⁴
 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. 2892,¹¹⁸⁵ passing it by a vote of 389-37.¹¹⁸⁶
 - 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](#)¹¹⁸⁷ and formally reporting the measure to the full Senate.¹¹⁸⁸
 - 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.¹¹⁸⁹

¹¹⁸⁴ 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

¹¹⁸⁵ 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

¹¹⁸⁶ [House Roll Call No. 450](#), June 24, 2009

¹¹⁸⁷ [S. Rept. 111-31](#), June 18, 2009

¹¹⁸⁸ 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

¹¹⁸⁹ 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

2. On July 9, 2009, the full Senate passed its version of H.R. 2892 by a vote of 84-6.¹¹⁹⁰

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 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. ☼ ◇

¹¹⁹⁰ [Senate Roll Call No. 229](#), July 9, 2009

This Week's Executive Activity

No items are anticipated this week. ◇

Last Week's Legislative Activity

Last Week's Hearings

Senate Foreign Relations Panel Holds Hearing on IDPs in Pakistan: The Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs held a hearing last week on Pakistan's Internally Displaced Persons (IDP) crisis. Last week's hearing took place on Wednesday, July 29, 2009.¹¹⁹¹

Witnesses. The witness list for last week's hearing included the following:

Panel I

- Eric Schwartz, Assistant Secretary of State for Population, Refugees and Migration¹¹⁹²

Panel II

- Jon Brause, Deputy Assistant Administrator, Bureau for Democracy, Conflict and Humanitarian Assistance, U.S. Agency for International Development,¹¹⁹³
- Wendy Chamberlin, President, Middle East Institute, and former U.S. Ambassador to Pakistan;¹¹⁹⁴ and
- Imtiaz Ali, Senior Fellow, U.S. Institute of Peace.¹¹⁹⁵ ☼

¹¹⁹¹ [Click Here](#) to see video of the July 29, 2009, Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs hearing on Pakistan's IDP Crisis

¹¹⁹² [Click Here](#) to see the text of the prepared remarks of Assistant Secretary of State Eric Schwartz at the July 29, 2009, Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs hearing on Pakistan's IDP Crisis

¹¹⁹³ [Click Here](#) to see the text of the prepared remarks of Deputy Assistant Administrator Jon Brause at the July 29, 2009, Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs hearing on Pakistan's IDP Crisis

¹¹⁹⁴ [Click Here](#) to see the text of the prepared remarks of Wendy Chamberlin at the July 29, 2009, Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs hearing on Pakistan's IDP Crisis

¹¹⁹⁵ [Click Here](#) to see the text of the prepared remarks of Imtiaz Ali at the July 29, 2009, Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs hearing on Pakistan's IDP Crisis

Last Week's Markups

Five House and Senate panels conducted markups last week of five measures containing significant immigration- or refugee-related provisions:

- Senate Committee on Appropriations. The Senate Committee on Appropriations conducted two markups, one a subcommittee markup and the other a full committee markup--
 1. Subcommittee Markup. The Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies approved its version of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill.
 2. Full Committee Markup. The full Senate Committee on Appropriations approved its version of the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill.
- House Committee on Energy and Commerce.
 1. Health Care Reform. The House Committee on Energy and Commerce approved its version of H.R. 3200, health care reform legislation, considering at least two immigration-related amendments during the markup.
- Senate Committee on the Judiciary.
 1. Nomination of Alejandro Mayorkas to Lead USCIS. The Senate Committee on the Judiciary approved the nomination of Alejandro Mayorkas to be Director of U.S. Citizenship and Immigration Services.
- Senate Homeland Security and Governmental Affairs.
 1. Senate Committee to Markup PASS ID Act. The Senate Committee on Homeland Security and Governmental Affairs approved legislation to replace portions of the REAL ID Act; and
- House Committee on the Judiciary.
 1. 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 approved a measure requiring a study of the U.S. government's treatment of certain citizens and permanent residents during World War II.

House Energy and Commerce Committee to Approves Health Care Reform Measure: After many twists and turns, the House Committee on Energy and Commerce last week approved its version of health care reform legislation, setting up what will likely be a contentious August as the House Democratic Leadership attempts to meld the bill produced by the Committee with the work of two other House panels. Last week's action occurred in connection with [H.R. 3200](#), the "America's Affordable Health Choices Act of 2009". The markup began several weeks ago. It was abruptly halted on July 21, 2009, amidst complaints from and threats by Blue Dog Democrats. The Committee resumed the markup on Thursday, July 30, 2009, holding two days of markup before finally approving an amended version of the bill on Friday, July 31, 2009, by a vote of 31-28.

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. 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 suggested the following improvements to the version of H.R. 3200 that was introduced in the House:

- 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 (found in 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.

Committee Consideration and Amendments. Only three immigration-related amendments were offered to H.R. 3200 during the House Energy and Commerce Committee's consideration of the measure. The Committee rejected one of the amendments and agreed to the other two:

- DEAL IMMIGRATION STATUS VERIFICATION AMENDMENT.—Representative Nathan Deal (R-GA) offered an amendment that would have required that the SAVE system be used to verify the immigration status of applicants for Medicaid benefits.^{1196 1197}

The Committee rejected the Deal Immigration Status Verification Amendment by a vote of 28-29.¹¹⁹⁸

- ESHOO COMPACT MIGRANTS MEDICAID ELIGIBILITY AMENDMENT.—Representative Anna G. Eshoo (D-CA) offered an amendment that would make migrants to the United States from Compact of Free Association Nations (including Micronesia, the

¹¹⁹⁶ [Click Here](#) to see the text of the Deal Immigration Status Verification Amendment to H.R. 3200

¹¹⁹⁷ [Click Here](#) to see video of the debate in the House Committee on Energy and Commerce on the Deal Immigration Status Verification Amendment to H.R. 3200

¹¹⁹⁸ [Click here](#) to see the roll call vote by which the House Committee on Energy and Commerce rejected the Deal Immigration Status Verification amendment to H.R. 3200

Marshall Islands, and Palau) immediately eligible for Medicaid.¹¹⁹⁹

The Committee agreed to the Eshoo Compact Migrants Medicaid Eligibility Amendment by a voice vote.

- **SPACE ILLEGAL IMMIGRANT CHIP/MEDICAID AMENDMENT.**--Representative Zachary T. Space (D-OH) offered an amendment to provide that nothing in Title VII of Division B of the bill shall change current prohibitions against Federal Medicaid and CHIP payments under titles XIX and XXI of the Social Security Act on behalf of individuals who are not lawfully present in the United States.¹²⁰⁰

The Committee agreed to the Space Illegal Immigrant CHIP/MEDICAID Amendment by a voice vote.

Next Steps. Now that the House Committee on Energy and Commerce has approved its version of H.R. 3200, the next step in the legislative process is for the House Democratic Leadership to fashion a single bill out of the provisions of the differing versions of H.R. 3200 that have been approved by the House Committee on Energy and Commerce; House Committee on Ways and Means; and House Committee on Education and Labor. ☀

Senate Appropriations Committee-Approved Bill would Restore Some of House-Passed Bill's Cuts in FY '10 ORR Funding: The Senate Committee on Appropriations last week approved a fiscal year 2010 appropriations bill that would restore much of the cut in funding for the Department of Health and Human Services Office of Refugee Resettlement (ORR) contained in a measure passed last month by the full House of Representatives. However, the Senate Appropriations Committee-approved measure would still cut funding relative to the Administration's request. Last week's Senate Appropriations Committee action occurred in connection with its version of H.R. 3293, the Fiscal Year 2010 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, a bill that funds the nation's refugee resettlement, trafficking victim assistance, torture victim assistance, and unaccompanied alien child programs. The Committee approved its version of the measure by a vote of 29-1.

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

¹¹⁹⁹ [Click Here](#) to see the text of the Eshoo Compact Migrants Medicaid Eligibility Amendment to H.R. 3200

¹²⁰⁰ [Click Here](#) to see the text of the Space Illegal Immigrant CHIP/Medicaid Amendment to H.R. 3200

- **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 the measure and forwarding it to the full Committee on Appropriations.¹²⁰¹
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.¹²⁰²
3. On July 22, 2009, the House Committee on Appropriations formally reported H.R. 3293 to the full House of Representatives.¹²⁰³

- **House Floor Actions.**

1. On July 24, 2009, the full House of Representatives passed H.R. 3293 by a vote of 264-153.¹²⁰⁴

- **Senate Committee Actions.**

1. On July 28, 2009, the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies marked up its version of H.R. 3293, approving its version of the measure and forwarding it to the full Committee on Appropriations.
2. On Thursday, July 30, 2009, the full Senate Committee on Appropriations approved held a markup session, approving H.R. 3293 and ordering it reported to the full Senate by a vote of 29-1.

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

¹²⁰¹ 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

¹²⁰² 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

¹²⁰³ [H. Rept. 111-220](#), July 22, 2009

¹²⁰⁴ [House Roll Call No. 646](#), July 24, 2009

- Overall Funding for the Office of Refugee Resettlement.—The Senate Appropriations Committee-approved version of H.R. 3293 would appropriate \$730.657 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-approved bill would constitute an increase of \$15.2 MILLION for ORR compared to ORR's total appropriation for fiscal year 2009.¹²⁰⁵ It is \$10 MILLION less than the Administration requested for fiscal year 2010 and \$15.689 MILLION more than was provided in the House-passed version of H.R. 3293.

- Funding for ORR's Refugee Resettlement Activities.—The Senate Appropriations Committee-approved version of H.R. 3293 would appropriate \$560.6 MILLION in fiscal year 2010 for ORR's resettlement activities, which include Transitional and Medical Services, Social Services, Preventive Health, and Targeted Assistance.

The Senate Appropriations Committee-approved bill's appropriation for ORR's resettlement services would constitute an increase of \$66.3 MILLION, or 13.4 percent, when compared to the amount appropriated for those services in fiscal year 2009. It is \$16.2 MILLION, or 3 percent, more than both the amount requested by the Administration and the amount that is contained in the House-passed version of H.R. 3293.

The draft committee report accompanying the Senate Appropriations Committee-approved version of H.R. 3293 contains the following earmarks¹²⁰⁶:

1. Transitional and Medical Services. The committee report specifies that the bill includes \$353.3 MILLION for Transitional and Medical Services in fiscal year 2010, which would be \$71.1 MILLION, or 25.2 percent, more than was appropriated in fiscal year 2009. It is \$16.2 MILLION, or 4.8 percent, more than both the amount requested by the Obama Administration for fiscal year 2010 and the amount contained in the House-passed version of H.R. 3293.

¹²⁰⁵ *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*

¹²⁰⁶ *See Page 893 of this week's edition of the Weekly Legislative Update for the complete Refugee and Entrant Assistance excerpt from the draft committee report accompanying the Senate Appropriations Committee-approved version of H.R. 3293*

2. Social Services. The committee report specifies that the bill includes \$154 MILLION for Social Services in fiscal year 2010, which would be the same amount that was appropriated in fiscal year 2009, the same amount requested by the Obama Administration for fiscal year 2010, and the same amount that is contained in the House-passed version of H.R. 3293.

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, the same requested by the Obama Administration for fiscal year 2010, and the same amount that is contained in the House-passed version of H.R. 3293.

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, and the same amount that is contained in the House-passed version of H.R. 3293.

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

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 2009.¹²⁰⁷ It is \$26.2 MILLION less than both the amount requested by President Obama in his fiscal year 2010 budget submission for ORR and the amount that is contained in the House-passed version of H.R. 3293.

- Funding for Assistance to Trafficking Victims.—The Senate Appropriations Committee-approved version of H.R. 3293 would appropriate \$9.8 MILLION in fiscal year 2010 to assist trafficking victims found in the United States. The Committee-approved bill's trafficking victims appropriation would be the same amount that was appropriated in fiscal year 2009, the same amount that was requested by the Obama Administration for

¹²⁰⁷ *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*

fiscal year 2010, and the same amount that is contained in the House-passed version of H.R. 3293.

- **Funding for Assistance to Torture Victims.**—The Senate Appropriations committee-approved version of H.R. 3293 would appropriate \$10.8 MILLION to assist torture victims who are resettled in the United States. The Committee-approved bill's torture victims appropriation would be the same amount that was appropriated in fiscal year 2009 and that was requested by the Obama Administration for fiscal year 2010. It is \$600,000 less than the amount that is contained in the House-passed version of H.R. 3293.

The Chart that follows compares fiscal year 2009 ORR funding in the House-passed and Senate Appropriations Committee-approved versions of H.R. 3293 with the Administration's fiscal year 2010 budget request:

ORR Funding
Fiscal Year 2009 vs. Fiscal Year 2010

ITEM	'09 Projected	'10 OMB	'10 House	'10 Senate
Transitional & Medical	\$ 282.3	\$ 337.1	\$ 337.1	\$ 353.3
Social Services	\$154	\$ 154	\$ 154	\$ 154
Preventive Health	\$ 4.75	\$ 4.75	\$ 4.75	\$ 4.75
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6	\$ 48.6
SUBTOTAL	\$ 494.3	\$ 544.4	\$ 544.4	\$ 560.6
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 10.8	\$ 10.8	\$ 11.4	\$ 10.8
Unaccompanied Alien Children	\$ 205.1 ¹²⁰⁸	\$ 175.6	\$ 149.4	\$ 149.4
TOTAL ORR	\$ 715.4¹²⁰⁹	\$ 740.6	\$ 715	\$ 730.7

Millions of Dollars

¹²⁰⁸ 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

¹²⁰⁹ 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

Legislative Riders and Limitations. There are no significant immigration- or refugee-related legislative riders in the Senate Appropriations Committee-approved version of H.R. 3293.

Summary of Committee Directives and Observations. The draft committee report accompanying the Senate Appropriations Committee-approved version of H.R. 3293¹²⁰⁶ contains a number of directives to or observations about the Department of Health and Human Services relating to the Office of Refugee Resettlement and its refugee resettlement, unaccompanied alien children, or trafficking victim assistance functions. Among them are the following:

- **Refugee Transitional and Medical Assistance.** The report includes language saying that "[t]he Committee notes that the number of refugees is increasing, approaching for the first time since 2001 the refugee ceiling of 80,000 set by the State Department. In addition, current economic conditions are making it more difficult for refugees and other entrants to find and maintain employment. As a result refugees are accessing cash and medical assistance for longer periods of time. The Committee is concerned that the administration request for transitional and medical assistance may not be adequate to provide the full 8 months of benefits for which refugees are eligible. At the same time, the Committee understands that increased estimates of unaccompanied alien children (UAC needing care and placement due to the implementation of the Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) have thus far failed to materialize. Therefore, the Committee has redirected \$16,120,000 from the UAC activity to fund the increased costs of refugee cash and transitional medical assistance."
- **Unaccompanied Alien Children.**—The report notes that estimates of the increased number of unaccompanied alien children who ORR would need to serve as a result of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 "have thus far failed to materialize." Accordingly, the committee report notes, "the Committee has redirected \$16,120,000 from the UAC activity to fund the increased costs of refugee cash and transitional medical assistance."

The report notes the Committee's belief that the \$149.351 MILLION that is provided in the Committee-approved bill, when combined with supplemental funds from fiscal year 2009, "is sufficient for ORR to meet its increased roles and responsibilities relating to the care and custody of unaccompanied children as a result of the TVPRA."

- **Domestic Victims of Trafficking.**—The report notes the Committee's concern "that only international victims of trafficking are eligible for funds provided in ORR." Accordingly, the committee report notes that "the

Committee urges the administration to include funds in its fiscal year 2011 budget request for section 202(d) and 203(g) of the Trafficking Victims Protection Reauthorization Act of 2005 to protect domestic victims of trafficking.”

Committee Consideration and Amendments. The Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies marked up its version of H.R. 2392 on Tuesday, July 28, 2009. The full Committee followed two days later, marking up the measure on Thursday, July 30, 2009. No immigration- or refugee-related amendments were offered to the measure in either the Subcommittee or full Committee markups.

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.¹²¹⁰

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 2009.¹²¹¹

- 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 2009.¹²¹²

- 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 2009.¹²¹³
- 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:

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 2009 appropriations process.

¹²¹⁰ 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

¹²¹¹ 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

¹²¹² 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](#)

¹²¹³ 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

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 2008.¹²¹⁴

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 amount that was appropriated in fiscal year 2009.
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.

Views of the Advocacy Community. The pro-refugee advocacy community expressed cautious praise for the Administration's fiscal year 2010 budget proposals for ORR. However, it accompanied its praise with a request that Congress appropriate substantially more for in fiscal year 2010 than the Administration requested. The community has expressed disappointment that both the House-passed and Senate Appropriations Committee-approved versions of H.R. 3293 would appropriate less for ORR in fiscal year 2010 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 ORR in fiscal year 2010.¹²¹⁵ This is \$208.3 MILLION, or 28.2 percent, more than the Administration requested for fiscal year 2010. It is \$219 MILLION, or 30 percent, more than is contained in the Senate Appropriations Committee-approved version of H.R. 3293. And it is \$234 MILLION, or 32.7 percent, more than is provided in the House-passed version of H.R. 3293.

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 \$85.4 MILLION, or 15.2 percent, more than the amount contained in the Senate-passed version of H.R. 3293. It 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. RCUSA 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 RCUSA's proposal and the Obama budget.
- Emergency Housing Assistance. RCUSA has sought funding to assist refugees who have lost or are in danger of losing their jobs with their housing needs. It 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 RCUSA's proposal and the Obama budget.
- Services for Special Immigrant Iraqis and Afghans. RCUSA 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 the cost of providing services to these individuals will be approximately \$68 MILLION, none of which was provided for in the Obama budget request or either the House-passed or Senate Appropriations Committee-approved versions of H.R. 3293.

There are other areas of difference between the Administration, the House-passed and Senate Appropriations Committee-approved bills, and the pro-refugee advocacy community. For instance—

- Trafficking and Torture Victim Assistance. RCUSA 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 and Senate Appropriations Committee-approved versions 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

¹²¹⁴ 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](#)

¹²¹⁵ 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

assistance and \$20 MILLION in fiscal year 2010 in the case of torture victims assistance.

- Unaccompanied Alien Children. RCUSA 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 House-passed version of H.R. 3293, and the Senate Appropriations Committee-approved version of H.R. 3293.

The chart that follows compares the Obama fiscal year 2010 request for ORR, the amounts provided in the House-passed and Senate Appropriations Committee-approved versions of H.R. 3293, and RCUSA’s recommendations:

Administration vs. RCUSA vs. House vs. Senate Fiscal Year 2010 Request for ORR

ITEM	'09	'10 OMB	'10 RCUSA	'10 House	'10 Senate
Transitionl & Medical	\$ 282.3	\$ 337.1	\$ 391.4	\$ 337.1	\$ 353.3
Social Services	\$154	\$ 154	\$ 187.9	\$ 154	\$ 154
Preventive Health	\$ 4.75	\$ 4.75	\$ 5.9	\$ 4.75	\$ 4.75
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 60.8	\$ 48.6	\$ 48.6
SUBTOTL	\$ 494.3	\$ 544.4	\$ 646	\$ 544.4	\$ 560.6
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 15	\$ 9.8	\$ 9.8
Torture Victims	\$ 10.8	\$ 10.8	\$ 20	\$ 11.4	\$ 10.8
UACs ¹²¹⁶	\$ 205.1	\$ 175.6	\$ 268	\$ 149.4	\$ 149.4
TOTAL ORR¹²¹⁷	\$ 715.4	\$ 740.6	\$ 949	\$ 715	\$ 730.7

Millions of Dollars

Next Steps. Now that the Senate Committee on Appropriations has approved its version of H.R. 3293, the

¹²¹⁶ 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

¹²¹⁷ 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 step in the legislative process is for the Committee to formally report the measure to the full Senate and then for the Senate to take up the measure. There was no word at the time of this writing when those two events will occur. ☀

Senate Homeland Security Committee Approves Bill Repealing and Replacing Some of the REAL ID Act Driver’s License Standards:

The Senate Committee on Homeland Security and Governmental Affairs last week approved 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 the bill’s proponents contend are less onerous. Last week’s markup was held 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 occurred on Wednesday, July 29, 2009. The Committee approved the measure by a voice vote.

Summary of Immigration- and Refugee-Related Provisions.

As approved by the Committee, S. 1261 would repeal the driver’s license mandates that are found in Title II of the REAL ID Act of 2005 and replace them with a revised set of mandates. The measure would retain many of the alienage-related mandates that are found in the REAL ID Act. For instance, under S. 1261, states would still be required to deny driver’s licenses and state-issued identification cards to aliens who are in the United States illegally, they would still be required to obtain identification to verify an applicant’s immigration status, and they still would be required to limit the period during which a driver’s license or state-issued identification card is valid so that the period of its validity matches the period that an alien is authorized to be in the United States.

S. 1261’s alienage-based driver’s license and state-issued identification card provisions are found in Section 3 of the measure. That section would repeal Title II of the REAL ID Act and create a new Subtitle E of Title II of the Homeland Security Act of 2002 (Homeland Security Act). The alienage-based driver’s license and state-issued identification card provisions would be found in Section 242(c)(2) of the proposed new Subtitle E.

S. 1261 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.

- Changes that would Ease the REAL ID Act's Alienage-Based Restrictions. S. 1261 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;¹²¹⁸
2. add aliens who have 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;¹²¹⁹
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 may issue driver's licenses and state-issued identification cards;¹²²⁰
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;¹²²¹ 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.¹²²²

- Changes that would Make the REAL ID Act's Alienage-Based Restrictions More Rigorous. S. 1261 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,¹²²³ 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.¹²²⁴

Committee Consideration and Amendments. The Committee marked up S. 1261 on Tuesday, July 28, 2009. During the course of the markup, Senate Homeland Security and Governmental Affairs Committee Chairman Joseph I. Lieberman (I-CT) offered a substitute amendment that did not contain any provisions making substantive changes to the bill's alienage-based provisions.¹²²⁵ No other immigration-related amendments were offered to S. 1261 during the course of last week's markup.

Committee Hearing. On July 15, 2009, the Senate Committee on Homeland Security and Governmental Affairs held a hearing on the REAL ID Act and S. 1261. All but one of the witnesses at the hearing were critical of the REAL ID Act and expressed support for S. 1261.¹²²⁶

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

Next Steps. Now that the Senate Committee on Homeland Security and Governmental Affairs has approved S. 1261, the next step in the legislative process is for the Committee to formally report the measure to the full Senate and for the Senate to take up the measure. There was no word at the time of this writing when those events would occur. ☼

Senate Judiciary Committee Approves Mayorkas

USCIS Nomination: The Senate Committee on the Judiciary last week approved the nomination of Alejandro Mayorkas to head the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). The

¹²¹⁸ See the proposed new Section 242(c)(2)(B)(ii)

¹²¹⁹ See the proposed new Section 242(c)(2)(B)(vii)

¹²²⁰ See the proposed new Section 242(c)(2)(B)(v)

¹²²¹ See the proposed new Section 242(c)(2)(B)(xi)

¹²²² See the proposed new Section 242(c)(2)(B)(xii)

¹²²³ See the proposed new Section 242(c)(2)(B)(viii)

¹²²⁴ See the proposed new Section 242(c)(2)(B)(vii)

¹²²⁵ [Click Here](#) to see the text of the Lieberman-Collins Substitute Amendment to S. 1261 that the Senate Committee on Homeland Security and Governmental Affairs adopted during its July 28, 2009, markup of the measure

¹²²⁶ 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.

Committee approved the nomination on Tuesday, July 28, 2009, by a voice vote with no debate.

Next Steps. Now that the Senate Committee on the Judiciary has approved the nomination of Alejandro Mayorkas to be Director of USCIS, the next step in the legislative process is for the full Senate to take up the nomination. No date for the Senate's consideration has been scheduled. However, insiders believe it is possible that the Senate will take up the nomination this week, after the Senate disposes of the nomination of Judge Sonia Sotomayor to be Associate Justice of the United States Supreme Court. ☼

House Subcommittee Approves Bill to Study U.S. Wartime Treatment of Certain Citizens and Permanent Residents:

The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law last week approved a measure requiring that a study be conducted of the U.S. government's treatment of certain citizens and permanent residents during World War II. Last week's Subcommittee action occurred in connection with [H.R. 1425](#), the "Wartime Treatment Study Act". The Subcommittee approved the measure on Friday, July 31, 2009, by a vote of 9-1.

Legislative History. H.R. 1425 was introduced in the U.S. House of Representatives by Representative Robert Wexler (D-FL) on March 10, 2009.

Summary of Immigration- and Refugee-Related Provisions. As approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, 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.

As amended during the course of the Subcommittee markup, H.R. 1425 would require that the selection of the members of the European American Commission should be made so as to ensure the members can fairly review the facts and discharge the duties of the commission without bias. The measure also was amended during the markup to clarify that the European American Commission should include two members with professional expertise relating to the treatment of Italian-Americans and two members with professional expertise relating to the treatment of German-Americans.

- 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.

As amended during the course of the Subcommittee markup, the measure would require that the membership of the Jewish Refugee Commission should include two members with professional expertise relating to the treatment of Jewish refugees.

Subcommittee Consideration and Amendments. The House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law began its markup of H.R. 1425 on Friday, July 24, 2009, but did not complete action on it. It resumed (and completed) the markup on Friday, July 31, 2009.

Three amendments were offered to H.R. 1425 during the course of the Subcommittee's consideration of the measure:

- CHAFFETZ IMPARTIALITY OF COMMISSION MEMBERS AMENDMENT.--Representative Jason Chaffetz (R-UT) offered an amendment that would have required that any member appointed to the European American Commission be an author or scholar who has

made no prior judgment on the facts the commission will examine.

Representative Chaffetz withdrew the amendment before the Subcommittee could vote on it.

- CHAFFETZ COMMISSION MEMBERSHIP AMENDMENT.--Representative Jason Chaffetz (R-UT) offered an amendment that would:

1. require that the selection of the members of the European American Commission should be done to ensure the members can fairly review the facts and discharge the duties of the commission without bias.
2. clarify that the European American Commission should include two members with professional expertise relating to the treatment of Italian-Americans and two members with professional expertise relating to the treatment of German-Americans.
3. clarify that the Jewish Refugee Commission should include two members with professional expertise relating to the treatment of Jewish refugees.

The Subcommittee agreed to the Chaffetz Commission Membership Amendment by a voice vote.

- KING 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 Reparations Amendment by a vote of 4-6.

Next Steps. Now that the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law has approved H.R. 1425, the next step in the legislative process is for the full House Committee on the Judiciary to take up the measure. At the time of this writing, no timetable had been announced for the full Committee's consideration of the measure. ☀

Last Week's Floor Activities

There were no immigration- or refugee-related actions on the House or Senate floor last week. ◇

Last Week's Executive Activity

Administration Extends TPS Designation for Somalia: The Obama Administration last week moved to

extend by 18 months, through March 17, 2011. Last week's announcement was made in the Monday, July 27, 2009, edition of the Federal Register.¹²²⁷

In addition to extending the designation of Somalia for TPS, the Administration also is automatically extending employment authorization documentation for Somalian TPS beneficiaries. ☀ ◇

Recently Introduced Legislation

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

House

Asylum

- **Elimination of Per Country Ceiling Offsets Under the Chinese Student Protection Act:** Representative David Wu (D-OR) has introduced H.R. 3532, a bill to amend the Chinese Student Protection Act of 1992 to eliminate the offset in per country numerical level required under that Act.

As introduced, [H.R. 3532](#) would amend the Chinese Student Protection Act of 1992 to eliminate the offset in per country numerical level required under that Act.

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

Control of Illegal Immigration

- **Unlawful Border Entry Prevention Act of 2009:** Representative Duncan D. Hunter (R-CA) has introduced [H.R. 3289](#), a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to authorize the Secretary of Homeland Security to construct not less than 350 miles of reinforced fencing along the United States-Mexico border and to gain operational control over such border.

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

- **Secure America Through Verification and Enforcement Act of 2009:** Representative Heath Shuler (D-NC) has introduced [H.R. 3308](#), a bill to provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical employer verification program.

As introduced, H.R. 3308 would enact into law a number of immigration enforcement provisions,

¹²²⁷ [Click Here](#) to see the Federal Register notice announcing the extension of Somalia's designation for TPS

including increased border patrol and interior immigration enforcement personnel; a requirement that all employers use a computerized employment verification system run administered jointly by the Social Security Administration and the Department of Homeland Security; a requirement that the Administration send no-match letters to all employers whenever an employee's Social Security number does not match the record in the Social Security Administration and require that employees so-flagged be terminated within ten days if the dispute cannot be resolved; establishment of electronic birth and death registries; increases in detention beds and federal judgeships; increased resources on the U.S. border; and implementation of a targeted media campaign to inform illegal aliens of new laws and penalties, while also informing employers of penalties for hiring illegal immigrants.

It has been referred to the House Committee on Homeland Security, House Committee on the Judiciary, House Committee on Ways and Means, House Committee on Oversight and Government Reform, and House Committee on Armed Services.

- **Repeal of REAL ID Act:** Representative Stephen I. Cohen (D-TN) has introduced [H.R. 3471](#), to repeal title II of the REAL ID Act of 2005, to reinstitute section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, which provides States additional regulatory flexibility and funding authorization to more rapidly produce tamper- and counterfeit-resistant driver's licenses, and to protect privacy and civil liberties by providing interested stakeholders on a negotiated rulemaking with guidance to achieve improved 21st century licenses to improve national security.

It has been referred to the House Committee on Oversight and Government Reform and House Committee on the Judiciary.

Legalization

- **September 11 Family Humanitarian Relief and Patriotism Act of 2009:** Representative Carolyn B. Maloney (D-NY) has introduced [H.R. 3290](#), an act to provide the spouses and children of aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence.

As introduced, 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.

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

Senate

Control of Illegal Immigration

- **Secure America Through Verification and Enforcement Act of 2009:** Senator Mark Pryor (D-AR) has introduced [S. 1505](#), a bill to provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical employer verification program, and for other purposes.

As introduced, H.R. 3308 would enact into law a number of immigration enforcement provisions, including increased border patrol and interior immigration enforcement personnel; a requirement that all employers use a computerized employment verification system run administered jointly by the Social Security Administration and the Department of Homeland Security; a requirement that the Administration send no-match letters to all employers whenever an employee's Social Security number does not match the record in the Social Security Administration and require that employees so-flagged be terminated within ten days if the dispute cannot be resolved; establishment of electronic birth and death registries; increases in detention beds and federal judgeships; increased resources on the U.S. border; and implementation of a targeted media campaign to inform illegal aliens of new laws and penalties, while also informing employers of penalties for hiring illegal immigrants.

It has been referred to the Senate Committee on Finance.

- **Protect Citizens from Unlawful Detention Act:** Senator Robert Menendez (D-NJ) has introduced [S. 1549](#), a bill to protect United States citizens from unlawful arrest and detention. As introduced, S. 1549 would establish minimum standards of procedure and treatment for U.S. citizens, lawful permanent residents and immigrants who are impacted by immigration enforcement and detention operations. It has been referred to the Senate Committee on the Judiciary.

Detention

- **Strong Safe Treatment, Avoiding Needless Deaths, and Abuse Reduction in the Detention System (STANDARDS) Act, tor Strong STANDARDS Act:** Senator Robert Menendez (D-NJ) has introduced [S. 1550](#), a bill to ensure that individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specified rights.

As introduced, S. 1550 would set minimum detention standards and require the Secretary of Homeland Security to ensure that laws concerning the treatment of detainees are properly enforced.

It has been referred to the Senate Committee on the Judiciary. ◇

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 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, 2009.¹²²⁸

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.

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.¹²²⁹

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.¹²³⁰

¹²²⁸ 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

¹²²⁹ *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.*

¹²³⁰ *The U nonimmigrant visa is available for up to 10,000 victims of specific crimes per year who cooperate in the investigation or*

- 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.

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."

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.

Chairman Lieberman Working on 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.¹²³¹

Chairman Kerry Working on 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.¹²³²

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 action 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

****Two Committee-Approved Immigration-Related Measures Await Consideration by the Full House:** The following measures that contain significant immigration- or refugee-related provisions have been approved by various House committees and are awaiting consideration by the full House of Representatives:

¹²³¹ 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

¹²³² 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

- 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.

At the time of this writing, the Committee had yet to formally report the measure to the full House.¹²³³

- Multiple House Committees. The House Committee on Energy and Commerce, House Committee on Ways and Means, and House Committee on Education and Labor have all approved differing versions of [H.R. 3200](#), the "America's Affordable Health Choices Act of 2009". The measure is popularly referred to as the House Health Care Reform Bill.

As approved by each of the three committees, 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.

At the time of this writing, none of the three committees that have acted on the measure had formally reported the measure to the full House of Representatives.

The House Democratic Leadership is expected to fashion a single bill out of the provisions of the differing versions of H.R. 3200 that have been approved by the House Committee on Energy and Commerce, House Committee on Ways and Means, and House Committee on Education and Labor. ☼

****Six Immigration- or Border Security-Related Measures Await Committee Consideration in House Committees:** The following measures containing significant immigration-, refugee-, or border security-related provisions have been approved by subcommittees 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:

¹²³³ See Page 847 of the [July 27, 2009, 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

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;
3. [H.R. 42](#), the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act"; and
4. [H.R. 1425](#), the "Wartime Treatment Study Act".

The Subcommittee approved the first three measures during markups that occurred on Thursday, July 23, 2009, and Friday, July 24, 2009.¹²³⁴ It approved the last bill in a markup that occurred on Friday, July 31, 2009. No full committee markup of the measures had been scheduled at the time of this writing.¹²³⁵

- House Committee on Homeland Security. The House Homeland Security Subcommittee on Border, Maritime and Global Counterterrorism has approved two bills containing 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.

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.¹²³⁶

¹²³⁴ See Pages 849-850 of the [July 27, 2009, 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

¹²³⁵ See Pages 883-884 of this week's edition of the [Weekly Legislative Update](#) for an analysis of the immigration-related provisions in H.R. 1425, which was approved by the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law during its July 31, 2009, markup

¹²³⁶ See Page 848 of the [July 27, 2009, 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

Senate

Senate Judiciary Panel Cancels This Week's Scheduled Hearing on Employment-Based Immigration:

For the second time since originally scheduling it, the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security has canceled a planned hearing 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. That hearing was canceled and rescheduled for the morning of August 6, 2009. However, late last week, the Subcommittee canceled the August 6 hearing without announcing a date on which it would be held.

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.

The House-passed version of H.R. 3293 would appropriate \$432,000 less in fiscal year 2010 for ORR funding compared to the total fiscal year 2009 ORR appropriation.¹²³⁷ The House-passed measure would increase funding for ORR's resettlement

and Global Counterterrorism during its July 22, 2009, markup session

¹²³⁷ 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

activities by of \$50.1 MILLION, or 10 percent, when compared to the amount appropriated for ORR's resettlement activities in fiscal year 2009.¹²³⁸

The Senate Committee on Appropriations approved its version of H.R. 3293 last week. It would appropriate more funding for refugee resettlement than would the House-passed bill. However, it would not fully fund the Administration's request for ORR.

The Senate could take up the Senate Appropriations Committee-approved version of H.R. 3293 at any time. However, at the time of this writing, there was no word on when the full Senate will take up the measure.

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.¹²³⁹

The Senate Committee on Appropriations has approved the [Senate version of H.R. 2847](#), reporting it to the full Senate.¹²⁴⁰

The Senate could take it up the Senate Appropriations Committee-approved version of H.R. 2847 at any time. However, at the time of this writing, there was no word on when the full Senate will take up the measure.¹²⁴¹

¹²³⁸ See Pages 850-858 of the [July 27, 2009, 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

¹²³⁹ 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

¹²⁴⁰ [S. Rept. 111-34](#), June 25, 2009

¹²⁴¹ 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

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 2009.¹²⁴²

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.¹²⁴³ It would provide substantially more for the MRA account than is contained in the House-passed version of the bill.

The Senate could take up the Senate Appropriations Committee-approved version of H.R. 3081 at any time.¹²⁴⁴ However, at the time of this writing, there was no word on when the full Senate will take up the measure.

- 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.¹²⁴⁵

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

¹²⁴² [H. Rept. 111-187, June 26, 2009](#)

¹²⁴³ [S. Rept. 111-44, July 9, 2009](#)

¹²⁴⁴ 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

¹²⁴⁵ See Page 858 of the [July 27, 2009, edition of the Weekly Legislative Update](#) for an analysis of the House-passed version of H.R. 1511

- 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 numerous ones that would make reforms to the United States refugee admissions process.¹²⁴⁶

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.¹²⁴⁷

- 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.¹²⁴⁸ That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up. ☼

¹²⁴⁶ 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

¹²⁴⁷ 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

¹²⁴⁸ 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

****Five Committee-Approved Immigration-Related Measure are Awaiting Consideration by the Full Senate:** The following measures containing significant immigration- or refugee-related provisions have been approved by various committees and are awaiting consideration by the full Senate:

- Senate Committee on Appropriations. The Senate Committee on Appropriations has approved three appropriations bills that contain significant immigration- or refugee-related provisions and that await consideration by the full Senate:

1. Fiscal Year 2010 Appropriations for Refugee Resettlement and Unaccompanied Alien Children. The Senate Committee on Appropriations has approved its version of 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.

The Senate Appropriations Committee-approved version of the measure would restore much of the cut in funding for the Department of Health and Human Services Office of Refugee Resettlement (ORR) contained in a measure passed last month by the full House of Representatives. However, the Senate Appropriations Committee-approved measure would still cut funding relative to the Administration's request.¹²⁴⁹

The Senate could take up the measure at any time after it returns from its August recess.

2. Fiscal Year 2010 Appropriations for the Immigration Court System. The Senate Committee on Appropriations has approved the Senate version of H.R. 2847,¹²⁵⁰ 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 funding a grant program that reimburses states for the costs they incur in incarcerating criminal aliens.

The Senate Appropriations Committee-reported version of H.R. 2847 would significantly increase funding for the Executive Office for Immigration

¹²⁴⁹ See Pages 876-881 of this week's edition of the *Weekly Legislative Update* for a detailed analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of H.R. 3293

¹²⁵⁰ S. Rept. 111-34, June 25, 2009

Review (EOIR) and maintain funding for the State Criminal Alien Assistance Program (SCAAP), a program that the Obama Administration has sought to terminate.¹²⁵¹

The Senate could take up the measure at any time after it returns from its August recess.

3. Fiscal Year 2010 Appropriations for Refugee Admissions and Overseas Refugee Assistance. 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,¹²⁵² which contains among its many provisions those that fund the federal government's refugee admissions and overseas refugee assistance programs.

The Senate Appropriations Committee-approved version of the measure would appropriate substantially more for the Migration and Refugee Assistance account than is contained in the House-passed version of the bill.¹²⁵³

The Senate could take up the measure at any time after it returns from its August recess.

- Senate Committee on the Judiciary.

1. 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.

S. 327 has been hotlined. Reports indicate that it has been cleared by the Senate Democratic cloakroom.

¹²⁵¹ See Pages 702-703 of the *June 29, 2009, edition of the Weekly Legislative Update* for an analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of H.R. 2847

¹²⁵² S. Rept. 111-44, July 9, 2009

¹²⁵³ See Pages 764-767 of the *July 13, 2009, edition of the Weekly Legislative Update* for an analysis of the immigration- and refugee-related provisions in the Senate Appropriations Committee-approved version of the Fiscal Year 2010 State, Foreign Operations, and Related Programs Appropriations Bill

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.¹²⁵⁴

- Senate Committee on Homeland Security.
 1. Revision of the REAL ID Act's Driver's License Provisions. The Senate Committee on Homeland Security and Governmental Affairs has approved [S. 1261](#), the "Providing for Additional Security in States' Identification Act of 2009", or PASS ID Act, which would retain many of the alienage-related mandates that are found in the REAL ID Act.

Under S. 1261, states would still be required to deny driver's licenses and state-issued identification cards to aliens who are in the United States illegally, they would still be required to obtain identification to verify an applicant's immigration status, and they still would be required to limit the period during which a driver's license or state-issued identification card is valid so that the period of its validity matches the period that an alien is authorized to be in the United States.

S. 1261 would make a number of changes to the alienage-based restrictions on states' issuance of driver's licenses and identification cards. Some would ease those restrictions. Others would make them more rigorous.¹²⁵⁵

The Senate could take the measure up at any time after it returns from its August recess. ◇

Next Week's Edition ...

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

- Vote on the Mayorkas Nomination. Next week's Weekly Legislative Update will report on any action occurring this week in the full Senate on the nomination of Alejandro Mayorkas to be Director of U.S. Citizenship and Immigration Services. ◇

¹²⁵⁴ 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

¹²⁵⁵ See Pages 881-882 of this week's edition of the Weekly Legislative Update for a more detailed analysis of the immigration-related provisions in the Senate Homeland Security and Governmental Affairs Committee-approved version of S. 1261

Appendix

**Excerpt from Draft Senate Report on FY '10 Labor, HHS, Education Appropriations Bill
July 30, 2009**

REFUGEE AND ENTRANT ASSISTANCE

Appropriations, 2009	¹ \$715,442,000
Budget Estimate, 2010	\$740,657,000
House Allowance	\$714,968,000
Committee recommendation	\$730,657,000

¹ Includes \$82,000,000 in Supplemental Appropriations Act, 2009, funding (Public Law 111-32)

The Committee recommends \$740,657,000 for refugee and entrant assistance. The comparable funding level for fiscal year 2009 is \$715,442,000, which includes \$82,000,000 in funding from the Supplemental Appropriations Act, 2009. The budget request is \$740,657,000.

The refugee and entrant assistance program is designed to assist States in their efforts to assimilate refugees, asylees, Cuban and Haitian entrants, and adults and minors who are trafficking victims, into American society as quickly and effectively as possible. The program funds State-administered transitional and medical assistance, the voluntary agency matching grant program, programs for victims of trafficking and torture, employment and social services, targeted assistance, and preventive health. This appropriation enables States to provide 8 months of cash and medical assistance to eligible refugees and entrants, a variety of social and educational services, as well as foster care for refugee and entrant unaccompanied minors.

The Committee recommends \$353,332,000 for transitional and medical assistance, including State administration and the voluntary agency program. The Committee notes that the number of refugees is increasing, approaching for the first time since 2001 the refugee ceiling of 80,000 set by the State Department. In addition, current economic conditions are making it more difficult for refugees and other entrants to find and maintain employment. As a result refugees are accessing cash and medical assistance for longer periods of time. The Committee is concerned that the administration request for transitional and medical assistance may not be adequate to provide the full 8 months of benefits for which refugees are eligible. At the same time, the Committee understands that, increased estimates of unaccompanied alien children (UAC) needing care and placement due to the implementation of the Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) have thus far failed to materialize. Therefore, the Committee has redirected \$16,120,000 from the UAC activity to fund the increased costs of refugee cash and transitional medical assistance.

The Committee recommendation also includes: \$9,814,000 for victims of trafficking; \$154,005,000 for social services; \$4,748,000 for preventive health; and \$48,590,000 for targeted assistance.

For unaccompanied alien children, pursuant to section 462 of the Homeland Security Act of 2002, the Committee recommends \$149,351,000. Funds provided are for the care and placement of unaccompanied alien children (UAC) who are apprehended in the United States by the Department of Homeland Security (DHS) or other law enforcement agencies. The Committee believes that the recommendation, together with funding provided in the Supplemental Appropriations Act, 2009 and available through fiscal year 2011, is sufficient for ORR to meet its increased roles and responsibilities relating to the care and custody of unaccompanied children as a result of the TVPRA.

The Committee recommends \$10,817,000 to treat and assist victims of torture. These funds provide medical and psychological treatment, social and legal services and rehabilitation for survivors of torture in their home countries as they attempt to rebuild their lives in the United States.

The Committee is concerned that only international victims of trafficking are eligible for funds provided in ORR. Therefore the Committee urges the administration to include funds in its fiscal year 2011 budget request for section 202(d) and 203(g) of the Trafficking Victims Protection Reauthorization Act of 2005 to protect domestic victims of trafficking.

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