



United States Conference of Catholic Bishops Government Relations

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

Monday, November 9, 2009

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Legislative Highlights

Congress on Light Duty in Observance of Veterans Day Holiday ----- [1141](#)

House Passes Health Care Reform Bill; Would Expand Immigrant Access to Insurance ----- [1142-1145](#)

Senate Blocks Consideration of Vitter/Bennett Census and Immigration Status Proposal ----- [1144-1146](#)

Senate Judiciary Approves Bill on Deportation/Denaturalization of Human Rights Violators [1142-1142](#)

Congress faces a light schedule this week in observance of Veterans Day. Appropriations and Health Care await over the next five-to-six weeks as the first session of the 111th Congress sprints toward a Christmas Eve adjournment.

This Week's Hearings

No hearings are scheduled for this week at which significant immigration- or refugee-related matters are expected to be discussed. ◇

This Week's Executive Activity

No executive branch actions are anticipated this week that impact immigration- or refugee-related legislation. ◇

This Week's Markups

No committee actions that have implications for immigration- or refugee-related matters are scheduled for this week in the House or Senate. ◇

This Week's Floor Activity

No significant immigration- or refugee-related floor action is scheduled for this week. ◇

This Week's Conference Activity

No conference activity is planned this week on immigration- or refugee-related bills. ◇

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Last Week's Legislative Activity

Last Week's Hearings

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

Last Week's Markups

There was one markup last week on measures that could have implications for immigration- or refugee-related matters:

- **Human Rights Enforcement Act of 2009.** The Senate Committee on the Judiciary approved S. 1472, the Human Rights Enforcement Act of 2009.

Senate Judiciary Committee Approves Bill to Make it Easier to Denaturalize and Deport Human Rights Violators: The Senate Committee on the Judiciary last week approved a measure that would make it easier to denaturalize and/or deport persons in the United States who have committed human rights violations. Last week's committee action occurred on Thursday, November 5, 2009, in connection with [S. 1472](#), the Human Rights Enforcement Act of 2009. The Committee approved the measure by a unanimous voice vote, reporting it to the full Senate without a written report.

Legislative History. S. 1472 was introduced in the Senate by Senate Judiciary Subcommittee on Human Rights and the Law Chairman Richard J. Durbin (D-IL) on July 20, 2009. It is cosponsored by Senate Judiciary Subcommittee on Human Rights and the Law Ranking Republican Tom Coburn (R-OK) and full Judiciary Committee Chairman Patrick J. Leahy (D-VT).

Summary of Immigration- and Refugee-Related Provisions. As approved by the Senate Committee on the Judiciary, S. 1472 would direct the Attorney General of the United States to --

- establish a section to enforce human rights laws within the Criminal Division of the Department of Justice (DOJ) which is authorized to identify individuals suspected of serious human rights offenses and to prosecute, denaturalize, or extradite such individuals; and
- consult with the Secretaries of State and Homeland Security in making determinations regarding the prosecution, removal, denaturalization, extradition, or exclusion of naturalized citizens or aliens who are suspected of committing serious human rights offenses.

The measure would define "serious human rights offenses" to include genocide, torture, war crimes, Nazi persecution, or the use or recruitment of child soldiers.

The measure, further, would amend the federal criminal code and the Immigration and Nationality Act to revise legal requirements relating to the crime of genocide.

Next Steps. Now that the Senate Committee on the Judiciary has approved S. 1472, the next step in the legislative process is for the full Senate to take up the measure. That could happen at any time. ☀

Last Week's Floor Activity

There was floor action last week on two measures containing significant immigration- or refugee-related provisions:

- **Health Care Reform.** The full House of Representatives passed health care reform legislation.
- **Appropriations for the Immigration Courts, Alternatives to Detention, and State Criminal Alien Assistance Program.** The Senate completed consideration of the FY 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill, which was the target of an unsuccessful effort to deny noncitizens representation in the House of Representatives.

House Passes Landmark Health Care Reform Bill That Leaves Intact Provisions Increasing Immigrants' Access to Health Insurance: The House of Representatives last week passed a landmark health care reform bill that would require every person in the United States to purchase health insurance, establish a new entitlement to federal health care affordability subsidies for lower income individuals and families, and enact significant new consumer reforms to protect the rights

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Last Week's Legislation (Continued)

and benefits of the insured. The House passed the measure late in the evening on Saturday, November 7, 2009, by a vote of 220-215, with just two votes to spare.¹⁸⁵¹

For the most part, the House-passed health care reform bill would provide legal immigrants with the same access to its benefits that U.S. citizens would enjoy, while barring federal health care affordability subsidies to persons who are not lawfully present in the United States. Unlike the health care reform bill that has been reported by the Senate Committee on Finance, the House-passed measure defies the wishes of President Barack Obama by permitting illegal immigrants to purchase health insurance products with their own funds.

Immigration restrictionists inside and outside of Congress are extraordinarily critical of the House-passed bill's immigration provisions. They have excoriated the bill because it does not extend to health insurance benefits an existing five-years-after-entry bar for legal immigrants who seek access to public benefit programs. They also have been extremely critical of the bill for permitting illegal immigrants to use their own funds to purchase health insurance products that are listed on government-run health insurance exchanges. And, while the bill would impose a citizenship and immigration status verification regime on individuals before they could access federal health insurance affordability subsidies, immigration restrictionists complain that the regime is too weak and that it should be extended to all aspects of health insurance.

Outcome Was in Doubt. For much of the day, the outcome of Saturday's House floor action was in considerable doubt. That doubt existed, in part, because of a deal that the House Democratic Leadership made late Friday night with the U.S. Conference of Catholic Bishops to permit a floor amendment to be offered to the bill that would bar federal funding for abortion. The deal gave pro-choice advocates in Congress heartburn, with a number of them threatening to vote against the bill on final passage. Another significant reason for doubt about the bill's prospects throughout the day on Saturday was the fear that House Republicans would use procedural motions available to them to make immigration changes to the bill that would render it unacceptable to members of the Congressional Hispanic Caucus (CHC). In the end, the GOP Motion to Recommit the bill did not involve immigration issues. And while pro-choice Members remained angry about the deal cut by the House Democratic Leadership on abortion, they did not carry out their threats to vote against the bill.

Saturday's House floor action took place in connection with [H.R. 3962](#), the "Affordable Health Care for America Act". House floor debate on the measure took up most of the day,

beginning at about 10:00 am EST and continuing through about 11:15 pm EST.

Now that the full House of Representatives has passed its version of health care reform legislation, the next step in the process is for the full Senate to take up its version of the measure. That could occur sometime in the next few weeks.

Negotiations Over Eligibility of Undocumented Aliens to Purchase Health Insurance With Their Own Funds. As last week began, the biggest unresolved immigration issue in connection with the House health care reform bill was the question of whether the bill should include an Obama-inspired provision that would bar illegal immigrants from using their own funds to purchase health insurance products that are listed on health insurance exchanges. Speaker of the House Nancy Pelosi (D-CA) finally decided the day before the House took up the bill that it would not contain such a provision. The Speaker's decision, when coupled with a deal that was reached that same night to permit pro-life Democrats to offer an anti-abortion floor amendment to the measure, removed the two biggest obstacles that had emerged to bringing the Health Care reform bill before the full House of Representatives for its consideration.

Summary of Immigration- and Refugee-Related Provisions. As passed by the House, H.R. 3962 is a combination of compromises brokered by the House Democratic Leadership and provisions that were contained in bills produced by three House Committees: the House Committee on Ways and Means, House Committee on Energy and Commerce, and House Committee on Education and Labor.

The following summarizes the treatment of noncitizens under the measure --

- **Health Insurance Mandate.** H.R. 3962 would require all residents (with the exception of some nonimmigrants) to maintain health insurance plans and subject those who do not adhere to the mandate to tax penalties. Even undocumented aliens would be subject to the mandate under H.R. 3962.
- **Affordability Credits.** H.R. 3962 would provide "affordability credits" to persons who are not poor enough to qualify for Medicaid but who cannot afford to purchase health insurance on their own. Legal immigrants would be eligible for affordability tax credits, but under section 347 of the bill, aliens who are not lawfully present and nonimmigrants would not be eligible for such credits. The House bill contains several exceptions to the bar on nonimmigrant eligibility for affordability tax credits. T, U, V and K Visa holders would be eligible for affordability credits, despite the fact that they are nonimmigrants.

¹⁸⁵¹ [House Roll Call No. 887](#), November 7, 2009

- **Citizenship and Immigration Status Verification.** Section 341(b)(4) of H.R. 3962 would establish a verification regime, based on the regime in the recently enacted Children's Health Insurance Program Reauthorization Act (CHIPRA), for persons who seek to access affordability credits. All persons, including United States citizens, would be required to undergo verification of their citizenship or immigration status. Under the procedure, a person seeking affordability credits would make a declaration of United States citizenship or of lawful presence. Persons declaring that they are citizens would undergo one verification process. Persons claiming to be lawfully present in the United States would undergo a different process.

The bill also includes a provision that would subject persons seeking coverage in the high risk pools that are established by the measure to a citizenship and immigration status verification procedure.

- **Health Insurance Exchanges.** H.R. 3962 would permit all immigrants to participate in the state health insurance exchanges created by the bill, including those not lawfully present.
- **Five-Year Waiting Period for Medicaid and Medicare.** H.R. 3962 would maintain current law regarding the eligibility of aliens for Medicaid, Medicare, and the Children's Health Insurance Program (CHIP) unchanged.
- **Reaffirmation of Bar on Providing Medicaid or CHIP Benefits to Illegal Immigrants.** Section 1787 of H.R. 3962 would provide that nothing in Title VII 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.

Views of the Pro-Immigrant Advocacy Community. The pro-immigrant advocacy community wanted to see a number of changes to H.R. 3962 in order to make health insurance more accessible to immigrants. However, in the end, the community focused its efforts on trying to keep the Obama proposal to bar illegal immigrants from using their own funds to purchase health insurance products out of the House bill, as well as preparing to fight what turned out to be a non-existent immigration-related GOP motion to recommit relating to immigrants.

Next Steps. Now that the House of Representatives has passed its version of health care reform legislation, the ball moves to the Senate, where immigration is expected to be a hotly contested issue. There is no reliable word on when the Senate will take up its version of health care reform legislation. ☀

Senate Blocks Consideration of Vitter/Bennett Census and Immigration Status Amendment to the C-J-S Bill: The Senate last week used a procedural maneuver to block consideration of a proposal by Senators David Vitter (R-LA) and Robert Bennett (R-UT) to deny noncitizens representation in the U.S. House of Representatives. The Senate acted on Thursday, November 5, 2009, invoking cloture by a vote of 60-39 on the bill to which Senators Vitter and Bennett had sought to attach their proposal.¹⁸⁵² In order to prevail on the procedural motion, the Senate Democratic Leadership needed the votes of 60 senators. They achieved that number, with no votes to spare.

Senator Vitter had stated that he intended to use any data gained by citizenship or immigration census questions asked pursuant to his amendment to ensure that noncitizens are not represented in the United States House of Representatives.

The Vitter/Bennett proposal was embodied in an amendment that the two senators sought to offer to the [Senate Appropriations Committee-reported version of H.R. 2847](#), the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Act (C-J-S Appropriations Bill). The amendment would have required the Census Bureau to ask every person in the United States about his or her citizenship and immigration status. Following the Senate's vote on blocking the Vitter/Bennett amendment, the Senate went on to pass the underlying measure by a vote of 71-28.¹⁸⁵³

Opposition to the Amendment. The Vitter/Bennett amendment was vigorously opposed by the Administration, former census bureau directors of both parties, Democratic leaders in the House, rank-and-file Democratic Members from the three minority caucuses in the House, and by much of the immigrant, civil rights, and minority communities:

- **Senator Mary Landrieu.** Senator Vitter's fellow home state senator, Senator Mary Landrieu (D-LA), has expressed her opposition to the Vitter/Bennett amendment, saying in a letter to him that it is unconstitutional, contending that it would cost the country \$1 BILLION to administer, denying that the amendment would prevent Louisiana from losing a seat in Congress, and accusing her colleague of engaging in "political gamesmanship."
- **House Majority Leader Hoyer.** Majority Leader Steny Hoyer (D-MD) recently blasted the Vitter/Bennett amendment, saying that "the census doesn't exist to score political points -- It exists to give us an accurate picture of our country." He went on to assert that "adding a new question to the census, especially at this late date, would be damaging and irresponsible. That's also the opinion of

¹⁸⁵² [Senate Roll Call No. 335](#), November 5, 2009

¹⁸⁵³ [Senate Roll Call No. 340](#), November 5, 2009

every living Director of the Census." Continuing, the House Majority Leader said that the Vitter/Bennett amendment would "lead to an inaccurate count. With a question about citizenship, immigrants who fear being deported, along with their families and friends, are much more likely to avoid the census."

- **Congressional Hispanic Caucus.** The Congressional Hispanic Caucus (CHC), Congressional Black Caucus (CBC), and the Congressional Asian and Pacific American Caucus (CAPAC) all have expressed opposition to the Vitter/Bennett amendment. Said CHC Chair Nydia Velazquez, "[e]very census since 1790 has included citizens and noncitizens alike, and presidential administrations of both parties have repeatedly upheld counting all persons residing in the United States."
- **Census Bureau.** The Department of Commerce, which administers the U.S. Census Bureau, has said of the Vitter/Bennett amendment, "[a]dding a new question to the 2010 Census questionnaire less than six months before Census Day (April 1, 2010) would mean the Census Bureau could not complete the enumeration, processing, and deliver of census results by the statutory deadline of December 31, 2010. It is too late to shift gears at this point in the process."
- **Former Census Chiefs.** A bipartisan group of eight former Census Bureau chiefs also has weighed-in against the amendment, saying that "[a]dding a new census question now would require redesigning and reformatting questionnaires and all related materials, such as language assistance guides and web-based instructions; redesigning instructions and training manuals for more than a million temporary census workers; reconfiguring or rebuilding data capture and processing software, which is designed for the specific questionnaire already in place; and revising a \$400 million outreach and promotional campaign, much of it already deployed, which highlights the new short form's ten questions and often confirms that the census does not ask about immigration status."

Vitter Pressed On, Despite Opposition. Notwithstanding the opposition of the Obama Administration, former census chiefs, and others, however, Senators Vitter and Bennett have persisted in their support for their amendment. "Illegal immigration is a very real and significant concern for our country," Senator Vitter said in a statement. "In the past, some states have included illegal immigrants during the census, resulting in the allocation of additional congressional seats. We shouldn't let these states be rewarded for skirting our federal laws." Senator Bennett, too, has explicitly stated his intention that the census data gleaned from the question should be used to ensure that illegal immigrants are not counted for the purposes of representation in the U.S. House of Representatives.

Other Immigration-Related Amendments. Once cloture was invoked on H.R. 25847, the Senate went on to consider other amendments to the bill. It only considered one immigration-related amendment :

- **INCREASED FUNDING FOR SCAAP AMENDMENT.** Senator John Ensign (R-NV) offered an amendment (Senate Amendment Number 2648) that would have increased funding in the bill for the State Criminal Alien Assistance Program (SCAAP) by \$172 MILLION.

The Senate rejected the Ensign SCAAP Amendment by a vote of 32-67.

Senate Floor Consideration. The Senate took up H.R. 2847 beginning on Monday, October 5, 2009. It had it under consideration off-and-on throughout that week.

On October 7, 2009, the Senate rejected a proposal that sought to bar funding to state and local governments that have policies restricting communications between their local law enforcement agencies and Department of Homeland Security enforcement personnel. On that same day, Senators David Vitter and Bennett offered their amendment to require the 2010 decennial census enumeration to ask every person living in the United States about their citizenship and immigration status.

The Senate briefly resumed consideration of H.R. 2847 on October 13, 2009, when Senate Majority Leader Reid attempted to shut off debate on the measure and bar nongermane amendments (including the Vitter/Bennett Amendment) from being offered to it. However, that attempt failed by three votes. Following his failure to shut off debate on the measure, Majority Leader Reid pulled the bill from the floor.

The following lists the immigration-related votes that occurred during the Senate's consideration of H.R. 2847:

- **VITTER SANCTUARY AMENDMENT.** On Wednesday, October 7, 2009, Senator David Vitter (D-LA) offered Senate Amendment Number 2630 to H.R. 2847, the Fiscal Year 2010 Commerce, Justice, Science, and Related Agencies Appropriations Bill. The amendment would have to barred Community Oriented Policing Services (COPS) funding to jurisdictions that have a "sanctuary" policy barring local law enforcement personnel from communicating with Department of Homeland Security enforcement personnel.

The Senate tabled (killed) the Vitter Sanctuary Amendment by a vote of 61-38.

- **FIRST MOTION TO INVOKE CLOTURE.** On Tuesday, October 13, 2009, Senate Majority Leader Harry Reid (D-NV) moved to invoke cloture on H.R.

2847, a procedural tactic that would have shut off debate on the measure and barred nongermane amendments from being offered to the bill.

The Senate failed to invoke cloture by a vote of 56-38 (60 votes were necessary to invoke cloture)

SECOND MOTION TO INVOKE CLOTURE. On Thursday, November 5, 2009, Senate Majority Leader Harry Reid (D-NV) moved for a re-vote of the October 13, 2009, vote by which the Senate failed to invoke cloture on H.R. 2847.

The Senate invoked cloture by a vote of 60-39 (60 votes were necessary to invoke cloture)

- **INCREASED FUNDING FOR SCAAP AMENDMENT.** On Thursday, November 5, 2009, the Senate rejected an amendment offered by Senator John Ensign (R-NV) (Senate Amendment Number 2648) that would have increased funding in the bill for the State Criminal Alien Assistance Program (SCAAP) by \$172 MILLION.

The Senate rejected the Ensign SCAAP Amendment by a vote of 32-67.

Next Steps. Now that the Senate has passed H.R. 2847, the next step in is the convening of a conference committee between the House and Senate to resolve differences between the two versions of the measure. ☼

Last Week's Conference Activity

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

Last Week's Executive Activity

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

Recently Introduced Legislation

See next week's issue. ◇

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 Unveils Principles In His Comprehensive Immigration Reform Bill:

Representative Luis V. Gutierrez (D-IL), Chairman of the Congressional Hispanic Caucus (CHC) Immigration Task



Force, has unveiled what he calls "the core principles" that will be included in a comprehensive immigration reform bill that he is drafting.¹⁸⁵⁴ The Congressman indicated that he expects to have the bill ready for introduction sometime around Thanksgiving Day, 2009. Representative Gutierrez unveiled his plans on Tuesday, October 13, 2009,

in front of thousands of pro-immigrant advocates at a rally and prayer vigil that took place on the West Lawn of the U.S. Capitol Building. The Congressman was joined at the vigil by Senator Bob Menendez (D-NJ), Congressional Hispanic Caucus Chair Nydia Velazquez (D-NY), Congressional Asian and Pacific American Caucus Chairman Mike Honda (D-CA), and others.

Representative Gutierrez's list of "core principles" for comprehensive immigration reform include:

- Pathway to Legalization for Undocumented Workers
- Professional and Effective Border Enforcement
- Smart and Human Interior Enforcement
- Protecting Workers
- Verification Systems
- Family Unity as a Cornerstone of Our Immigration System
- Future Flows of Workers
- Enactment of AgJOBS Legislation
- Enactment of the DREAM Act
- Promoting Immigrant Integration

Representative Gutierrez pledged during a September 17, 2009, National Citizenship Day celebration in Washington, DC to introduce the bill in the coming weeks. However, that timetable subsequently slipped.¹⁸⁵⁵

¹⁸⁵⁴ [Click Here](#) to see the text of the October 13, 2009, press release issued by the office of Representative Luis Gutierrez (D-IL) announcing his ten core principles for his comprehensive immigration reform bill

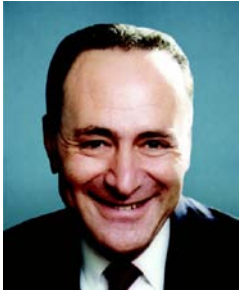
¹⁸⁵⁵ [Click Here](#) to see the September 17, 2009, press release issued by the office of Representative Luis Gutierrez (D-IL) announcing his impending introduction of comprehensive immigration reform legislation

It is unclear at the time of this writing how closely the bill that Representative Gutierrez is drafting will hue to the provisions in [H.R. 1645](#), comprehensive immigration reform legislation that Gutierrez introduced during the 110th Congress along with Representative Jeff Flake (R-A). That bill was known as the "Security Through Regularized Immigration and a Vibrant Economy Act of 2007" Act, or the STRIVE Act.¹⁸⁵⁶ ☀

Senate

Chairman Schumer Working on Comprehensive Immigration Reform Bill:

Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles S. Schumer (D-NY), is working along with Senator Lindsay Graham (R-SC) and the Department of Homeland Security to write a comprehensive immigration reform bill that he hopes to introduce in the Senate in the coming months.



The Chairman has set a number of goals over the last several months for when he hoped to release the text of his bill. However, that goal has turned out to be a moving target. Most recently, Chairman Schumer pledged to have a broad outline of a comprehensive immigration reform bill available for inspection sometime in September. However, September has come and gone with no sign of either the text of legislation or a detailed summary of such a measure.

The goal of releasing an outline by the end of September was itself, a retrenchment of an earlier assertion that he made, in which he had pledged to have a comprehensive immigration reform bill ready for introduction by Labor Day. It was, however, in sync with remarks made by President Obama last week and this week, in which the President indicated a bill would be drafted by the end of 2009 and could be taken up by Congress in early 2010.

Principles Embodied in the Schumer Bill. In a June 24, 2009, speech that Chairman Schumer made at the Sixth Annual Immigration and Law Policy Conference sponsored by the Migration and Policy Institute, Chairman Schumer outlined seven principles that would be embodied in his bill:

- Illegal immigration is wrong, and a primary goal of comprehensive immigration reform must be to dramatically curtail future illegal immigration.
- Operational control of our borders--through significant additional increases in infrastructure, technology, and

border personnel--must be achieved within a year of enactment of legislation.

- A biometric-based employer verification system—with tough enforcement and auditing—is necessary to significantly diminish the job magnet that attracts illegal aliens to the United States and to provide certainty and simplicity for employers.
- All illegal aliens present in the United States on the date of enactment of our bill must quickly register their presence with the United States Government—and submit to a rigorous process of converting to legal status and earning a path to citizenship—or face imminent deportation.
- Family reunification is a cornerstone value of our immigration system. By dramatically reducing illegal immigration, we can create more room for both family immigration and employment-based immigration.
- We must encourage the world's best and brightest individuals to come to the United States and create the new technologies and businesses that will employ countless American workers, but must discourage businesses from using our immigration laws as a means to obtain temporary and less-expensive foreign labor to replace capable American workers; and finally
- We must create a system that converts the current flow of unskilled illegal immigrants into the United States into a more manageable and controlled flow of legal immigrants who can be absorbed by our economy.

Additional Details. Since his June 24, 2009, address to the Migration Policy Institute, Chairman Schumer and his staff have revealed a few more details about the effort they are undertaking. Among them are the following:

- His bill will be bipartisan and more than a half-dozen Republican Senators will be involved in drafting it.
- His bill will be more generous to highly skilled immigrant workers than those who are lower skilled
- His bill will be tough on future waves of illegal immigration.
- 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."

¹⁸⁵⁶ See e Pages 1089-1090 of the [October 19, 2009, edition of the Weekly Legislative Update](#) for a more detailed description of Representative Gutierrez' comprehensive immigration reform efforts

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 previously had hoped to introduce shortly after Congress returns from its week-long Independence Day recess. There is no more recent word as to when he will introduce his bill.

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.¹⁸⁵⁷

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

Over the Horizon ...

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

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

Immigration and Refugee Legislative Agenda for the Year Winding Down to a Trickle:



As adjournment for the year looms just over the horizon, Congress' immigration and refugee legislative agenda has greatly narrowed.

By most accounts, there are only five-to-six weeks of legislative session left in the year. Most of that time will be taken up with Congress' efforts to complete action on the remaining fiscal year 2010

appropriations bills and its efforts to enact health care reform legislation into law.

The following is a listing of several immigration- or refugee-related items that have either not yet been scheduled for action or on which it is possible that some action will occur during the remaining weeks of the first session of the 111th Congress.

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

Four Committee-Approved Immigration-Related Measures Await Consideration by the Full House:

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

- **House Committee on Financial Services.** The House Committee on Financial Services has approved [H.R. 3045](#), the "Section 8 Voucher Reform Act of 2009."¹⁸⁵⁸ The Committee approved the bill after first approving an amendment aimed at ensuring that illegal immigrants not make use of such housing.

The Committee reported the measure to the full House of Representatives on Wednesday, September 30, 2009.¹⁸⁵⁹

- **House Committee on the Judiciary.** The House Committee on the Judiciary has approved three measures that await floor consideration:

1. [H.R. 3290](#), the "September 11 Family Humanitarian Relief and Patriotism Act of 2009".
2. [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.
3. [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.

At the time of this writing, the Committee had yet to formally report any of the three measures to the full House of Representatives. ☼

¹⁸⁵⁸ [H. Rept. 111-277](#), September 30, 2009

¹⁸⁵⁹ 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

¹⁸⁵⁷ 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

Two Immigration- or Border Security-Related Measures Await 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 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.¹⁸⁶⁰

Senate

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 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 floor consideration 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

¹⁸⁶⁰ 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 and Global Counterterrorism during its July 22, 2009, markup session

resettlement, trafficking victims assistance, torture victim assistance, and unaccompanied alien child programs.

The [House-passed version of H.R. 3293](#)¹⁸⁶¹ would appropriate \$432,000 less in ORR funding in fiscal year 2010 compared to the total fiscal year 2009 ORR appropriation.¹⁸⁶² The House-passed measure would increase funding for ORR's resettlement activities by of \$50.1 MILLION, or 10 percent, when compared to the amount appropriated for ORR's resettlement activities in fiscal year.¹⁸⁶³

The Senate Committee on Appropriations reported the [Senate Appropriations Committee-approved version of H.R. 3293](#)¹⁸⁶⁴ on August 4, 2009. 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, it appears likely that the measure's provisions will be folded into a year-end catch-all spending bill.

2. **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 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

¹⁸⁶¹ [H. Rept. 111-220](#), July 22, 2009

¹⁸⁶² *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*

¹⁸⁶³ 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

¹⁸⁶⁴ [S. Rept. 111-66](#), August 4, 2009

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 2009.¹⁸⁶⁵

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.¹⁸⁶⁶ 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.¹⁸⁶⁷ However, at the time of this writing, it appears likely that the measure's provisions will be folded into a year-end catch-all spending bill.

- **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.¹⁸⁶⁸

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

- **Reforms to the Refugee Admissions Process.** The House of Representatives has passed [H.R. 2410](#), the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011, which contains among its many provisions numerous ones that would make reforms to the United States refugee admissions process.¹⁸⁶⁹

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.¹⁸⁷⁰

- **Increased Penalties for Alien Smuggling.** The House of Representatives has passed two measures that would increase penalties for alien smuggling:

1. [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.¹⁸⁷¹ That measure now awaits Senate floor consideration, where the issues embodied in H.R. 1029 could come up.

2. [H.R. 3619](#), the Coast Guard Authorization Act of 2010." Title XII of the measure is identical to the text of H.R. 1029, which the House of Representatives passed on March 31, 2009. The House of Representatives passed H.R. 3619 on Friday, October 24, 2009. ☀

¹⁸⁶⁵ [H. Rept. 111-187, June 26, 2009](#)

¹⁸⁶⁶ [S. Rept. 111-44, July 9, 2009](#)

¹⁸⁶⁷ 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

¹⁸⁶⁸ 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

¹⁸⁶⁹ 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

¹⁸⁷⁰ 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

¹⁸⁷¹ 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 Measures 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.¹⁸⁷²

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

2. **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,¹⁸⁷³ 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

¹⁸⁷² See Pages 876-881 of the [August 3, 2009, 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

¹⁸⁷³ [S. Rept. 111-44](#), July 9, 2009

substantially more for the Migration and Refugee Assistance account than is contained in the House-passed version of the bill.¹⁸⁷⁴

The Senate could take up the measure at any time.

- **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 was hotlined during the Summer. Reports indicate that it was cleared by the Senate Democratic cloakroom, however, there were objection voiced in the Senate Republican cloakroom. Those objections precluded the Senate from moving the measure by unanimous consent.

On Thursday, October 1, 2009, the Senate Committee on the Judiciary filed a written report on the measure, complete with minority views.¹⁸⁷⁵ It is unusual for the Senate Committee on the Judiciary to file written reports on bills that it reports to the Senate.

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.¹⁸⁷⁶

2. **Human Rights Enforcement Act of 2009.** The Senate Committee on the Judiciary has approved [S. 1472](#), the Human Rights Enforcement Act of 2009, which would make it easier to denaturalize and/or deport persons in the United States who have committed human rights violations.

¹⁸⁷⁴ 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

¹⁸⁷⁵ [S. Rept. 111-85](#), October 1, 2009

¹⁸⁷⁶ 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

The Judiciary Committee acted on Thursday, November 5, 2009, approving the measure by a unanimous voice vote, reporting it to the full Senate without a written report.

The Senate could take up the measure at any time.

- **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 U.S. 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 U.S.

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.¹⁸⁷⁷ ☼ ◇

Next Week's Edition ...

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

- **Health Care Reform Legislation.** Next week's Weekly Legislative Update will report on any developments in the Senate on health care reform legislation. ◇

¹⁸⁷⁷ See Pages 881-882 of the [August 3, 2009, 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

No items this week. ◇

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