



United States Conference of Catholic Bishops Government Relations

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Weekly Update on Immigration and Refugee Legislative Matters 112th Congress, First Session

Monday, August 1, 2011

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Congress is scheduled to begin a four week-long recess following the close of business this week. Apart from dealing with the debt crisis, the major immigration- or refugee-related activity on Congress's agenda this week is the markup in the House Committee on Appropriations of the Fiscal Year 2012 bill that traditionally funds refugee admissions, overseas refugee assistance, and international disaster assistance, and House floor consideration of two noncontroversial immigration bills.

This Week's Hearings

At the time of this writing, one hearing was scheduled for this week in either the House or the Senate that are likely to touch on immigration- or refugee-related matters:

- **Senate Foreign Relations Panel to Hold Hearing on Drought and Famine in the Horn of Africa.** The Senate Foreign Relations Subcommittee on African Affairs is scheduled to hold a hearing this week on drought and famine in the Horn of Africa.

House

At the time of this writing, no hearings were scheduled for this week in the House that are expected to address significant immigration- or refugee-related issues.

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This Week's Hearings (continued)

Senate

Senate Foreign Relations Panel to Hold a Hearing on Drought and Famine in the Horn of Africa:

The Senate Foreign Relations Subcommittee on African Affairs has scheduled a hearing this week on drought and famine in the Horn of Africa. The hearing is scheduled for 2:15 pm on Thursday, August 4, 2011, in Room SD-419 of the Dirksen Senate Office Building.

Anticipated Witnesses. At the time of this writing, the list of witnesses and briefers at the hearing:

Panel I

- Nancy Lindborg, Assistant Administrator, Bureau of Democracy, Conflict, and Humanitarian Assistance, U.S. Agency for International Development
- Donald Yamamoto, Principal Deputy Assistant Secretary of State, Bureau of African Affairs
- Reuben Brigety, Deputy Assistant Secretary of State, Bureau of Population, Refugees and Migration

Panel II

- Robert Laprade, Denior Director, CARE USA
- Jeremy Konyndyk, Director of Policy and Advocacy, Mercy Corps
- J. Peter Pham, Director, Michael S. Ansari Africa Center, Atlantic Council

Panel III

- Afshan Khan, Director of Public-Sector Alliances and Resources Mobilization, UNICEF. ☀ ◆

This Week's Markups

At the time of this writing, one markup of a measure that could impact immigration-, border security- or refugee-related policy is scheduled for this week:

- **Full House Appropriations Committee Markup of FY '12 Spending Bill that Funds Refugee Admissions and Overseas Refugee Assistance.** The House Appropriations Committee is scheduled to mark up its FY '12 State, Foreign Operations Appropriations Bill.

House

Full House Appropriations Committee to Mark Up FY '12 Appropriations Bill that Funds Refugee Admissions and Overseas Refugee Assistance: The

House Appropriations Committee this week is scheduled to mark up its version of the fiscal year 2012 bill that appropriates funding for refugee admissions assistance, and related programs. This week's markup is expected to occur in connection with the Subcommittee-approved version of the yet-to-be-introduced [Draft FY '12 State, Foreign Operations, and Related Programs Appropriations Bill](#). The markup is scheduled for 10:00 am on Wednesday, August 3, 2011, in Room 2359 of the Rayburn House Office Building.

Background. Each year, the State, Foreign Operations, and Related Programs Appropriations Bill appropriates funding for the Department of State's Migration and Refugee Assistance (MRA), Emergency Refugee Migration Assistance (ERMA), and International Disaster Assistance (IDA) accounts. The first two of these accounts are administered by the Department of State's Bureau of Population, Refugees, and Migration (PRM), and they fund the federal government's refugee admissions and overseas refugee assistance programs. The third account is administered by the U.S. Agency for International Development (USAID).

Summary of Refugee-Related Spending Provisions. From a refugee perspective, the Subcommittee-approved Fiscal Year 2012 State, Foreign Operations, and Related Programs Appropriations Bill contains the following provisions:

- **Funding for Migration and Refugee Assistance.** The Subcommittee-approved measure would appropriate \$1.497 BILLION for the MRA account in fiscal year 2012.

The Subcommittee-approved appropriation bill would cut funding for the MRA account by about \$190 MILLION (or 11.3 percent) in FY '12 relative to the FY '11 appropriation, which was approximately \$1.687 BILLION (after applying the .2 percent across-the-board cut) in fiscal year 2011.

The Obama Administration requested an FY '12 appropriation of \$1.614 BILLION for the MRA account in fiscal year 2012.

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This Week's Markups (continued)

- **Funding for Refugees to Israel.** The Subcommittee-approved measure would earmark \$20 MILLION of the FY '12 MRA funds for "refugees resettling in Israel."

The Subcommittee-approved bill would cut funding for refugees resettling in Israel by \$5 MILLION in FY '12 relative to the FY '11 appropriation for that purpose, which was approximately \$25 MILLION.

- **Funding for Emergency Refugee and Assistance.** The Subcommittee-approved measure would appropriate \$32 MILLION for the Department of State's ERMA account in fiscal year 2012.

The Subcommittee-approved appropriation would cut funding for the ERMA account by \$17.9 MILLION (or 35.9 percent) in FY 12 relative to the FY '11 appropriation, which was approximately \$49.9 MILLION (after applying the .2 percent across-the-board cut) that was appropriated for ERMA in fiscal year 2011.

The Obama Administration requested \$32 MILLION for the ERMA account in fiscal year 2012.

- **Funding for Burmese Refugees.** The Subcommittee-approved measure would provide for the use of an unspecified amount of Economic Support Fund (ESF) funding to community based organizations (CBOs) to assist Burmese refugees residing in Thailand.
- **Funding for Columbian Refugees.** The Subcommittee-approved measure would provide for a transfer of \$8 MILLION of ESF funds to the MRA account for non-governmental organizations (NGOs) and international organizations assisting Columbian refugees in neighboring countries.
- **Funding for International Disaster Assistance.** The Subcommittee-approved measure would appropriate \$757.652 MILLION for the USAID's IDA account.

This would be a cut of \$105.618 MILLION (or 12.2 percent) in FY '12 relative to the \$863.270 MILLION (after applying the .2 percent across-the-board cut) that was appropriated for the IDA account in FY '11.

Summary of Immigration- and Refugee-Related Legislative Riders. From a refugee and immigration perspective, the Subcommittee-approved State, Foreign Operations, and Related Programs Appropriations Bill contains the following legislative riders or limitations:

- **Limitation on Funding to Support a Palestinian State.** Section 7036 of the Subcommittee-approved measure would bar funding for Bilateral Assistance, International Security Assistance, Multilateral Assistance, or Export

and Investment Assistance to support a Palestinian state unless the Secretary of State determines and certifies a number of conditions. Among the conditions that the Secretary would have to certify is that the governing entity of the new Palestinian state "is working with other countries in the region to vigorously pursue efforts to establish ... a framework for achieving a just settlement of the refugee program."

- **Limitation on Funding for Palestinian Refugees.** Section 7051(c) of the Subcommittee-approved measure would bar the use of funds from the MRA account for the United Nations Relief and Works Agency (UNRWA), which assists Palestinian refugees, unless the Secretary of State determines and reports to the Committees on Appropriations, in writing, that UNRWA is complying with seven conditions.
- **Exemption of the MRA and ERMA Accounts From the Bill's Bar on Funding to Countries that Don't Extradite Wanted Criminals.** Section 7070(a) of the Subcommittee-approved measure would exempt the MRA and ERMA accounts from a provision that bars funding to the central governments of countries that refuse to extradite to the United States any individual indicted for a criminal offense for which the maximum penalty is life imprisonment without the possibility of parole or for killing a law enforcement officer.
- **Refugee-Related Limitation on Funding for the Russian Federation.** Section 7073(c)(1) of the Subcommittee-approved measure would withhold 60 percent of the funds appropriated under the heading "Assistance for Europe, Eurasia and Central Asia" for assistance to the government of the Russian Federation until the President certifies that the Government of the Russian Federation has met two conditions, one of which is that the Federation "is providing full access to all international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya."
- **Authority to Draw-Down ERMA Funds.** The measure would not continue a provision that was included in the final fiscal year 2011 appropriations bill that permits the Secretary of State to draw-down funds from the ERMA account during fiscal year 2011. This constituted a change over permanent law, which permits only the President to draw-down ERMA funds.

Potential Immigration- and Refugee-Related Amendments in Committee. At the time of this writing, no full Committee amendments had yet been noticed.

Subcommittee Consideration and Amendments. No immigration- or refugee-related amendments were offered to the draft measure during the subcommittee markup.

Administration's FY '12 Request for Refugee Admissions and Overseas Refugee Assistance. With respect to spending for refugee admissions and overseas refugee assistance, the Obama FY '12 budget submission proposed a \$73 MILLION (or 4.3 percent) reduction in the Department of MRA account relative to fiscal year 2011, from \$1.687 BILLION in fiscal year 2011 (after applying the .2 percent across-the-board cut) to \$1.614 BILLION in fiscal year 2012.

Within the proposed budget for the MRA account, the Obama Administration proposed cutting FY '12 funding for overseas refugee assistance relative to FY '10 by 12.98 percent, from \$1.314 BILLION in FY '11 to \$1.192 BILLION in FY '12, a cut of approximately \$122 MILLION (or 9.3 percent). On the other hand, the Administration's proposed budget would increase FY '12 spending for the refugee admissions programs relative to FY '11. More specifically, the Administration's proposed budget would increase spending for refugee admissions from \$323.4 MILLION in fiscal year 2011 to \$367.3 MILLION in FY '12, an increase of nearly \$44 MILLION (or 13.6 percent).

The chart that follows compares what is known about the House FY '12 MRA appropriation with the FY '11 appropriation and the Obama FY '12 request:

FY '11 Appropriations vs FY '12 Appropriations for MRA
(Millions of Dollars)

ITEM	'11 ACTUAL	'12 OBAMA	'12 HOUSE
Refugee Admissions	\$ 323.4	\$ 367.3	
Overseas Assistance	\$ 1,314.0	\$ 1,192.3	
Migrants to Israel	\$ 25.0	\$ 20.0	\$ 20.0
Administrative Expenses	\$ 26.0	\$ 33.5	
MRA TOTAL ⁴⁰⁵	\$ 1,686.6	\$ 1,613.1	\$ 1,496.8

Administration's FY '12 Request for Emergency Refugee and Migration Assistance. With respect to spending for the Department of State's Emergency Refugee and Migration Assistance (ERMA) account, the Obama FY '12 budget submission proposed a \$40 MILLION appropriation, which is approximately \$10 MILLION less than the amount that was appropriated in fiscal year 2011.

Final FY '11 Appropriations for Refugee Admissions, Overseas Refugee Assistance, and Emergency Refugee and Migration Assistance. On April 15, 2011, President Obama signed into law [P.L. 112-10](#), the Fiscal Year 2011 Full-Year Continuing Appropriations Bill containing the

⁴⁰⁵ MRA Total for fiscal year 2011 includes \$1.690 BILLION which was appropriated in [P.L. 112-10](#), the Full Year Fiscal Year 2011 Continuing Appropriations Bill, which was later reduced to \$1.6866 BILLION by a .2 percent across-the-board rescission

following provisions relating to the Migration and Refugee Assistance and Emergency Refugee and Migration Assistance accounts:

- **Migration and Refugee Assistance.** With regard to refugee admissions and overseas refugee assistance, Section 2110 of P.L. 112-10 appropriated \$1.690 BILLION for the MRA account in Fiscal year 2011 (not including a .2 percent across-the-board cut in all programs that is provided for in Section 1119 of the measure). This actually was a slight increase over the amount appropriated during the regular appropriations process in fiscal year 2010, which resulted in a regular fiscal year 2010 appropriation of \$1.685 BILLION. However, when supplemental funds that were appropriated in fiscal year 2010 are included, the total fiscal year 2010 appropriation for the MRA account came to \$1.850 BILLION. Thus, the MRA appropriation in P.L. 112-10 was \$160 MILLION less than the total amount that was appropriated in fiscal year 2010.

The MRA Appropriation in P.L. 112-10 represented an enormous victory for pro-refugee advocates. The House-passed version of the measure would only have appropriated \$1.023 BILLION in fiscal year 2011 for the MRA account. This would have constituted a \$827 MILLION cut in the MRA account relative to the total appropriation in fiscal year 2010. It would have represented a \$662 MILLION cut in the amount appropriated for the account in fiscal year 2010 during the regular appropriations process.

- **Emergency Refugee and Migration Assistance.** With regard to the ERMA account, Section 2110 of P.L. 112-10 appropriated \$50 MILLION in fiscal year 2011 (not including the .2 percent across-the-board cuts that are provided for in Section 1119 of the measure). This represented an increase of \$5 MILLION over the amount appropriated in fiscal year 2010. The measure also permitted the Secretary of State to draw-down funds from the ERMA account during fiscal year 2011. This constituted a change over permanent law, which permits only the President of the United States to draw-down ERMA funds. This represented an enormous victory for pro-refugee advocates. The House-passed version of the measure would have appropriated \$44.635 MILLION for the fund.

Outlook. The Committee is certain to approve the measure. It was unclear at the time of this writing, however, whether any immigration- or refugee-related amendments will be offered to the measure during the full Committee markup. ☼

Senate

At the time of this writing, no markups are scheduled for this week in the Senate on measures containing significant immigration- or refugee-related provisions. ◆

This Week's Floor Activity

At the time of this writing, three measures that could impact immigration- or refugee-related policy or that could become a target for immigration- or refugee-related amendments likely to see floor action this week in the House or Senate:

- **House and Senate Action on Debt and Deficit Reduction Legislation.** The full House and full Senate this week could take up legislation to increase the ceiling on the federal debt limit.
- **House Consideration of Bill Relating to Conditional Residency for Deployed Active Duty Military Personnel and Their Spouses.** The full House of Representatives this week is scheduled to take up a measure relating to conditional residency for deployed active duty military personnel and their spouses.
- **House Consideration of Bill to Admit Nonimmigrant Nurses in Underserved Communities.** The full House of Representatives this week is scheduled to take up legislation that would make it easier to deny and revoke the visas of aliens.

Bicameral

Congress Poised to Enact Debt Limit Legislation Could Have Serious Consequences for Immigration and Refugee Functions: Congress this week hopes to successfully conclude its attempt to enact legislation increasing the limit on the amount of debt the federal government can take on. This week's action is expected to occur on Monday, August 1, in both the House and Senate in connection with the [Budget Control Act of 2011](#), a debt limit/deficit reduction agreement that was reached on Sunday, July 31, 2011, between President Obama and the bipartisan Leadership of the House and Senate.

Background. According to the Department of the Treasury, Congress must act by Tuesday, August 2, 2011, to increase the limit on the amount of debt that the federal government can take on or the U.S. will not be able to completely fulfill its debt and other financial obligations. The White House, the House Leadership, and the Senate Leadership have engaged in frenzied negotiations over the last several months in an effort to reach an agreement on legislation to increase the debt limit.

The White House, the House Leadership, and the Senate Leadership reached agreement on a broad deficit reduction and debt limit measure late in the evening on Sunday, July 31, 2011.

Brief Summary of Agreement. The debt limit/deficit reduction agreement that Congress will take up this week contains the following elements:

- **Debt Limit Increase.** There would be an immediate increase of \$400 BILLION in the federal debt limit, with a total of up to \$2.1 TRILLION in debt limit increases available to the president. It is anticipated that an increase of \$2.1 TRILLION in the debt limit would last into early 2013.

The debt limit increases would be available to the President in three stages. Congress could stop the second and third installments of the debt limit increase by passing a resolution of disapproval, which would be subject to a presidential veto.

- **Discretionary Spending Caps.** The immediate enactment of statutory 10-year long discretionary spending caps generating nearly \$1 TRILLION in deficit reduction. For fiscal years 2012 and 2013, the caps would be divided between security and non-security spending. However, "security" spending would be broadly defined to include not just the Department of Defense, but also the Department of Homeland Security, some intelligence-related spending, and all foreign assistance. Funding for the wars in Iraq and Afghanistan would not be included in the caps for fiscal years 2012 and 2013.

After fiscal year 2013, the discretionary caps would no longer differentiate between security and non-security spending.

- **Bipartisan, Bicameral Super Committee.** The establishment of a special bipartisan committee, named the Joint Select Committee on Deficit Reduction, which would be tasked with identifying an additional \$1.5 TRILLION in deficit reduction, presumably from a combination of cuts in entitlement programs and changes to the tax code. The Committee would be required to report legislation by November 23, 2011, which would receive fast-track protections in the House and Senate. Congress would be required to vote on the Committee recommendations by December 23, 2011. The bill reported by the Committee could not be amended on the House floor or Senate floor, and the votes would be up-or-down with a simple majority required for passage.
- **Enforcement Mechanism.** The establishment of an enforcement mechanism to force all parties to either agree to the deficit reduction measure reported by the special bipartisan, bicameral committee or, if that process fails, submit to across-the-board spending reductions (sequestration) beginning in January of 2013.

The spending reductions through sequestration would be split 50/50 between defense and non-defense spending. The White House contends that the enforcement mechanism would protect Social Security, Medicare beneficiaries, Medicaid, unemployment compensation,

low-income programs, and civilian and military retirement benefits from the across-the-board cuts.

- **Balanced Budget Constitutional Amendment.** The requirement that the House and Senate vote on passage of a balanced budget constitutional amendment between September 30, 2011 and December 31, 2011.

Potential Immigration- and Refugee-Related Consequences. There will likely be significant consequences for the federal government's immigration- and refugee-related operations regardless of what Congress does this week.

- **Potential Consequences of the Enactment of Debt Limit/Deficit Reduction Legislation.** The Budget Control Act of 2011 would require discretionary spending cuts of around \$1 TRILLION over ten years, along with entitlement spending cuts that approach or exceed \$1.5 TRILLION over ten years.

The debt measure does not contain any specific immigration- or refugee-related provisions. Notwithstanding the absence of such provisions, though, it could place long-term downward pressure on both discretionary and entitlement spending, which could result in significant cuts over the long-term in immigration- and refugee-related spending. However, the FY '12 discretionary spending limits provided for in the Budget Control Act of 2011 are higher than those contained in the House-approved FY '12 budget. And so, ironically, the measure could actually decrease the downward pressure on FY '12 spending for such functions as refugee resettlement while increasing the downward pressure on funding for refugee admissions, overseas refugee assistance, immigration enforcement, and immigration services, when compared to the pressure that the House-approved FY '12 budget resolution would have placed on those functions.

The House Committee on Appropriations has already produced a number of FY '12 appropriations bills. Indeed, it was about to mark up the FY '12 bill that funds refugee admissions and overseas refugee assistance this week but canceled the markups in anticipation of reaching an overall deal on the budget. In all likelihood, the House Committee on Appropriations will receive new spending allocations for the various FY '12 spending bills and will have to make adjustments in the bills that either have already passed the House, been approved by the Committee, been approved by one of the Committee's subcommittees, or that were in a draft form at the time that the deal on the Budget Control Act of 2011 was being negotiated.

The biggest potential impact of the Budget Control Act of 2011 on spending for immigration services, immigration enforcement, border enforcement, refugee admissions, overseas refugee assistance, and refugee

resettlement may be what happens in FY '13. The Budget Control Act of 2011 would mandate across-the-board cuts in discretionary spending beginning in January of 2013 if either the Select Committee on Deficit Reduction fails to report legislation making \$1.2 TRILLION in deficit reduction or if Congress fails to enact those recommendations into law (or fails to enact some other set of provisions making \$1.2 TRILLION in deficit reduction into law).

- **Potential Consequences of the Failure to Increase the Debt Limit.** If Congress fails to increase the federal debt limit, the federal government will likely have to shutter and/or significantly reduce a significant portion of its operations because there will not be adequate funds in the treasury to pay for them.

Under this scenario, the federal government would only be able to fund activities to the extent that revenue is flowing into the treasury from withholdings and other fees. It has been estimated that the federal government borrows about 40 percent of the money that it spends. And so, after paying off bondholders, the President and the Secretary of the Treasury would have to decide on which half of the federal government to fund and which have to shut down.

Such a shutdown or reduction in operations could heavily impact such functions as the refugee admissions and overseas refugee assistance programs. And it could significantly impact refugee resettlement programs. A shutdown or reduction in federal operations also could have a significant impact on interior immigration enforcement operations. It is less clear what the impact would be on immigration services, since most immigration service functions are fee-driven. But in all of the above areas, the decision on what to keep open and at what level would presumably have to be made by the President based on estimates of how much funding is coming into the treasury and his assessment of what should be the most essential funding priorities.

Last Week's House Efforts. The House of Representatives last week passed the [House Amendments to S. 627](#), a bill that originally dealt with the Freedom of Information Act (FOIA) but that was renamed, "The Budget Control Act of 2011". The House passed the measure on Friday, July 29, 2011, by a vote of 218-210,⁴⁰⁶ after the House Republican Leadership made several modifications to it in order to accommodate the demands of conservatives in the chamber. The House gutted the FOIA provisions that were contained in the original Senate-passed bill, substituting the text of its debt relief/deficit reduction measure.

As passed by the House, the measure has two major parts:

⁴⁰⁶ [House Roll Call Number 677](#), July 29, 2011

- The first part of the bill would immediately have increased the federal debt limit by about \$900 BILLION. Of that \$900 BILLION, \$400 BILLION would be made available when the president certifies that the increase is needed, and the other \$500 BILLION would be subject to a congressional resolution of disapproval. It would require about \$915 BILLION in yet-to-be-specified cuts in discretionary spending over the next ten years, accomplishing that feat by setting statutory limitations on discretionary spending for each of the next ten fiscal years.

For fiscal year 2012, the discretionary spending limits would represent a cut of about \$7 BILLION below the level of discretionary spending enacted in the fiscal year 2011 full-year continuing appropriations bill.

The measure provides for enforcement of the discretionary spending caps through a process known as sequestration, a process that would impose across-the-board reductions in all account to bring discretionary spending under the cap amount.

- The second part of the bill would increase the debt limit by an additional \$1.6 TRILLION, contingent on enactment of a yet-to-be-written \$1.8 TRILLION (over ten years) deficit reduction package, presumed to be made up largely of entitlement spending cuts, and on Congress sending a balanced budget constitutional amendment to the states for ratification.

The House-passed bill would establish a Joint select Committee on Deficit Reduction that would be charged with making recommendations on further deficit reduction (presumably from entitlement spending), with its charge being producing \$1.8 TRILLION in spending cuts. The Committee would be composed of 12 Members, appointed by the leaders of both parties in each chamber of Congress. The Committee's recommendations would require seven votes.

Under the House-passed bill, the Committee's recommendations would be voted on under expedited procedures that preclude filibusters and amendments, and they would be adopted by a simple majority vote in each chamber.

Last Week's Senate Efforts. As last week began, the Senate had before it the [Reid Substitute to S. 1323](#), a bill that originally was a sense of the Congress measure on deficit reduction but would be renamed "The Budget Act of 2011".

The Reid Substitute underwent a number of changes since it was first proposed. The final version of the measure would have permitted the President to request \$2.4 TRILLION in additional borrowing authority in multiple installments.

Under the Reid Substitute, Congress would have provided for an immediate increase in the debt ceiling of \$1.2 TRILLION.

However, Congress could have revoked \$784 BILLION of that amount if it passed a disapproval resolution with a veto-proof supermajority. The Reid Substitute would have provided that the President could request a second \$1.2 TRILLION in borrowing authority, and that authority could be rejected by Congress if Congress passes a resolution of disapproval, subject to the President's veto.

The Reid Substitute would have required that \$2.4 TRILLION in spending cuts be made over the next ten years.

Under the Reid Substitute, about 1.2 TRILLION of the \$2.4 TRILLION in spending cuts would have come from unspecified cuts in discretionary spending, implemented by enacting statutory caps on both security and non-security discretionary spending. If Congress failed to make the specific cuts necessary to meet the spending caps in any given fiscal year, a mechanism would have been employed making across-the-board cuts in all discretionary spending in order to achieve the cuts. For fiscal year 2012, the discretionary spending cap would be \$5 BILLION less than was provided for in the fiscal year 2011 full-year continuing appropriations bill, \$3 BILLION of which would come from security spending and \$2 BILLION of which would come from non-security spending.

The Reid Substitute would have provided for an additional \$1.2 TRILLION in deficit reduction would assume about \$1 TRILLION in reduced spending over ten years, to be derived from winding down the wars in Afghanistan and Iraq.

The Reid Substitute would have established a Joint select Committee on Deficit Reduction that would have been charged with making recommendations on further deficit reduction (presumably from entitlement spending and revenue), with its charge being reducing the deficit to 3 percent or less of the nation's Gross Domestic Product (GDP). The Committee would have been composed of 12 Members, appointed by the leaders of both parties in each chamber of Congress. The Committee's recommendations would require seven votes.

Under the Reid Substitute, the Committee's recommendations would be voted on under expedited procedures that preclude filibusters and amendments, and they would be adopted by a simple majority vote in each chamber.

On Friday, July 29, 2011, the Senate tabled an effort to take up the House-passed Amendments to S. 627 by a vote of 59-41. On Saturday, July 30, 2011, 43 Republican senators signed a letter indicating their opposition to the Reid Substitute. And on Saturday, July 30, 2011, the House voted against its interpretation of the Reid Substitute by a vote of 173-246.⁴⁰⁷

⁴⁰⁷ [House Roll Call Number 682](#), July 30, 2011

Outlook. At the time of this writing, the outlook for enactment of the debt limit agreement was uncertain. Most observers felt that the Senate would likely approve the debt limit/deficit reduction agreement by a wide margin. However, there was uncertainty about whether a left-right coalition might be able to muster the votes to defeat it. ☀

House

House to Take Up Bill to Assist Deployed Military Conditional Residents and Their Spouses: The full House of Representatives this week is scheduled to take up a bipartisan measure that would ease the plight of active duty military personnel and their spouses who are seeking to remove the conditional nature of their permanent residency while they are deployed overseas. This week's House floor action is expected to occur in connection with [H.R. 398](#)⁴⁰⁸, a measure that was introduced by House Judiciary Subcommittee on Immigration Policy and Enforcement Ranking Minority Member Zoe Lofgren (D-CA) and is cosponsored by House Judiciary Committee Chairman Lamar Smith (R-TX), House Judiciary Immigration Policy and Enforcement Chairman Elton Gallegly (R-CA), and House Judiciary Committee Ranking Minority Member John Conyers (D-MI). The House is expected to take up the measure on Monday, August 1, 2011.

Parliamentary Situation. The House will take up H.R. 398 under a procedure known as suspension of the rules. Under the procedure, the bill will be debatable for 40 minutes, with the time divided equally between the majority and minority. The procedure precludes anyone from offering amendments to the measure, and proponents of the measure will have to win the votes of two-thirds or more of those Members who are present and voting in order for the measure to be passed.

Background. Under current law, U.S. citizens can sponsor alien spouses for permanent residence with no numerical limitation. In this instance, the alien spouse becomes a conditional permanent resident for two years before they can petition to have the conditional nature of their residency removed and become a full-fledged permanent resident.

After two years, the alien spouse and the U.S. citizen or permanent resident spouse must jointly file a petition with the Department of Homeland Security (DHS) for the removal of the alien's conditional status. The petition must be filed during the 90 day period before the second anniversary of the spouse's becoming a conditional permanent resident. Upon the filing of the petition, DHS will interview the spouses in order to look for any possible marriage fraud. The interview must be conducted within 90 days after the submission of the petition unless DHS waives the deadline for the interview or the requirement for the interview.

Summary of the Bill's Immigration Provisions. In recognition that the filing and interview requirements are a

hardship and disruption to the military for a member of the Armed Forces deployed overseas to have to file a petition and travel back home for a personal interview with DHS, H.R. 398 would provide an exception for individuals who are participating in overseas deployments from the 90 day filing period requirement and the 90 day review period for certain immigration documentation. More specifically, H.R. 398 would amend the Immigration and Nationality Act to allow active-duty personnel and their spouses to suspend during military service abroad the two 90-day periods, allowing the couple to choose when they will be sure that they can begin and complete the process.

Committee Consideration. The House Committee on the Judiciary approved H.R. 398 on Wednesday, January 26, 2011, doing so by a voice vote, with the only "no" vote coming from House Judiciary Subcommittee on Immigration Policy and Enforcement Vice-Chairman Steve King (R-IA). The Committee formally reported the measure to the full House of Representatives on July 8, 2011.

Committee consideration of H.R. 398 occurred just two days after Representative Lofgren introduced the measure in the U.S. House of Representatives. The bill bypassed consideration in the Subcommittee on Immigration Enforcement and Policy.

Outlook. H.R. 398 is not expected to be controversial. ☀

House to Take Up Bill to Revive H-1C Nurses Nonimmigrant Visa Program: The full House of Representatives this week is scheduled to take up a bipartisan measure that would revive and revise an expired program that once provided for the admission of nonimmigrant nurses to work in underserved communities. This week's House floor action is expected to occur in connection with [H.R. 1933](#)⁴⁰⁹, a bill to amend the Immigration and Nationality Act to modify the requirements for admission of nonimmigrant nurses in health professional shortage areas.

Parliamentary Situation. The House will take up H.R. 1933 under a procedure known as suspension of the rules. Under the procedure, the bill will be debatable for 40 minutes, with the time divided equally between the majority and minority. The procedure precludes anyone from offering amendments to the measure, and proponents of the measure will have to win the votes of two-thirds or more of those Members who are present and voting in order for the measure to be passed.

Background. In 1999, Congress enacted [P.L. 106-95](#), the "Nursing Relief for Disadvantaged Areas Act of 1999", into law. The measure established the H-1C nonimmigrant program, which provided for the admission of up to 500 nurses into the United States each year to work in areas with nursing shortages. The program was initially authorized for a period of four years. It was renewed in 2006 pursuant to P.L.

⁴⁰⁸ [House Report 112-141, Part 1](#), July 8, 2011

⁴⁰⁹ [House Report 112-153](#), July 19, 2011

109-423, the “Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005. The program expired in December of 2009.

The Nursing Relief for Disadvantaged Areas Act of 1999, and its reauthorization in December of 2006, allowed qualifying hospitals to employ temporary foreign workers as Registered Nurses (RNs) for up to three years under H-1C visas. Only 500 H-1C visas could be issued each year during the period of the H-1C program. Additionally, no state with a population of less than nine million persons could receive more than 25 nonimmigrant nurses under the program, and states with a population in excess of nine million persons could have no more than 50 nurses under the program.

To qualify for admission under the H-1C program, a nurse must have met the following criteria:

- Have a full and unrestricted nursing license in the country where your nursing education was obtained, or have received a nursing education and license in the United States
- Be authorized by the appropriate U.S. State Board of Nursing to practice within the state
- Have passed the examination given by the Commission on Graduates for Foreign Nursing Schools (CGFNS), or have a full and unrestricted license to practice as an Registered Nurse in the state where you will work, or have a full and unrestricted Registered Nurse’s license in any state and have received temporary authorization to practice as an Registered Nurse in the state where you will work. For more information, please see the Commission on Graduates for Foreign Nursing Schools (CGFNS) link to the right
- Have been fully qualified and eligible under the state laws of the state of intended employment to practice as a Registered Nurse immediately upon admission to the United States.

Under the H-1C program, the sponsoring employer was required to meet strict criteria to employ foreign registered nurses. Broadly, these included:

- being a "subpart D" hospital under the Social Security Act;
- being located in a Health Professional Shortage;
- having at least 190 acute care beds;
- having a Medicare population of 35%; and
- having a Medicaid population of 28% according to the 1994 cost report.

Under the program, eligible hospitals had to file attestations with the Department of Labor, Office of Foreign Labor Certification which, if approved, supported nonimmigrant worker petitions filed with the Department of Homeland Security, U.S. Citizenship and Immigration Services.

Summary of Immigration- and Refugee-Related Provisions. As approved by the House Committee on the Judiciary, H.R. 1933 would revive the expired H-1C program and extend it for three years. In addition, the measure would make three changes to the program:

- First, H.R. 1933 would reduce the number of visas available to the program to 300 per year rather than 500 per year.
- Second, it would provide that nurses admitted under the program could serve in the United States for two three-year periods rather than just one three-year period.
- Third, it would provide that nurses admitted under the H-1C visa program may move from one H-1C qualified employer to another.

Committee Consideration. The House Committee on the Judiciary approved H.R. 1933 on Thursday, June 23, 2011, by a voice vote after agreeing to one amendment to it. It formally reported the measure on July 19, 2011.

- **Amendments Agreed to.** The Committee agreed to the following amendments during its markup of H.R. 1933:

1. **LOFGREN PORTABILITY AMENDMENT.**— House Judiciary Subcommittee on Immigration Policy and Enforcement Ranking Member Zoe Lofgren (D-CA) offered an amendment to permit strike provisions in the bill that would eliminate judicial review over visa revocations related to persons inside the United States and in removal proceedings.⁴¹⁰

The Committee agreed to the Lofgren Amendment by a voice vote.

Outlook. H.R. 1933 is not expected to be controversial. ☀
Senate

At the time of this writing, apart from the possible consideration of debt limit legislation, no floor actions are anticipated this week in the Senate on measures containing significant immigration- or refugee-related provisions. ◆

⁴¹⁰ [Click Here](#) to see the text of the Lofgren Portability Amendment to H.R. 1933, which was agreed to by the House Committee on the Judiciary by a voice vote on Thursday, June 23, 2011

This Week's Conference Activity

At the time of this writing, one measure containing significant immigration- or refugee-related provisions is ready for conference between the House and the Senate:

- **FY '12 Military Construction Appropriations Bill.** The full House and Senate have passed differing versions of the FY '12 Military Construction, Veterans Affairs, and Related Agencies Appropriations Act.

House and Senate Conferees Must Iron Out Differences in Differing Versions of the FY '12 Military Construction Appropriations Bill: While no action had yet been scheduled at the time of this writing, the House and Senate could at any time constitute a conference committee to iron out differences between the [House-passed](#) and the [Senate-passed](#) versions of H.R. 2055, the FY '12 Military Construction, Veterans Affairs, and Related Agencies Appropriations Act.

The House of Representatives passed its version of H.R. 2055 on Tuesday, June 14, 2011. The Senate pass its version on Wednesday, July 20, 2011.

The most significant immigration-related difference between the two bills is a provision contained in the House-passed version of the bill that was stripped from the Senate-passed measure. The provision, found in Section 414 of the House-passed measure, would bar funding to any contract in which the contractee does not comply with an executive order requiring federal contractees to use the E-Verify System to verify the employment eligibility of its employees. There is no comparable version of the provision in the Senate-passed version of the measure. ☀ ◆

This Week's Executive Activity

At the time of this writing, no executive branch actions that could impact immigration-, border security- or refugee-related policy is scheduled for this week. ◆

Last Week's Legislative Activity

Last Week's Hearings

Three hearings were held last week that touched on immigration- or refugee-related matters:

- **House Judiciary Committee Hearing on the HALT Act.** The House Committee on the Judiciary held a hearing on a bill to strip President Obama of much of his discretionary authority to grant immigration relief.

- **House Homeland Security Committee Hearing on Islamic Radicalization in the United States.** The House Committee on Homeland Security held a hearing on Islamic radicalization in the U.S.
- **Senate Judiciary Hearing on Comprehensive Immigration Reform.** A Senate Judiciary panel held a hearing on the economic imperative of comprehensive immigration reform.

House Judiciary Panel Holds Hearing on the HALT Act: The House Judiciary Subcommittee on Immigration Policy and Enforcement held a hearing last week on a bill that would prohibit President Obama and his administration from granting a number of forms of relief from removal, as well as prohibit the Obama Administration from exercising its authority to designate countries for Temporary Protected Status (TPS), during the remainder of the Obama first term. Last week's hearing was held in connection with [H.R. 2497](#), the HALT (Hinder the Administration's Legalization Temptation) Act". The hearing was held on Tuesday, July 26, 2011.

Witnesses. The witnesses testified at the hearing:

- Senator David Vitter (R-LA), sponsor of the Senate version of the measure
- Chris Crane, President, National ICE Council
- Jessica Vaughan, Policy Director, Center for Immigration Studies
- Margaret D. Stock, Adjunct Professor, University of Alaska, Anchorage.

Opening Statements. The following summarizes the opening statements made by Members at the hearing:

- **Chairman Gallegly.** House Judiciary Subcommittee on Immigration Policy and Enforcement Chairman Elton Gallegly (R-CA) addressed said that, if enacted, the HALT Act "would prevent the Obama administration from engaging in the mass legalization of illegal immigrants." Continuing, he said that "[i]mmigration advocacy groups have been working for years to convince Congress to pass mass amnesty legislation for illegal immigrants. Upon the failure of those efforts, they have been trying to convince the administration to bypass Congress and the administration, administratively legalize millions of illegal immigrants." he said that "[t]hese groups have apparently made headway. Last month, U.S. Immigration and Customs Enforcement issued two memos that laid the groundwork for just such a mass legalization." We will hear from witnesses today about the pressures that ICE officers are now under to refrain from enforcing immigration laws."

Gallegly asserted in his opening statement that "Congress simply cannot allow the administration to grant parole or deferred action, except in narrow circumstances. Congress cannot allow the administration to grant extended voluntary departure or cancellations of removal to grant work authorization except where authorized by law. To grant temporary protective status or to waive the bars of admission admissibility for immigrants who have already been here -- or who are here illegally."

Chairman Gallegly said that if H.R. 2497 is enacted into law, Congress can handle extraordinary humanitarian situations that are bound to occur in the interim by passing private bills to help non-U.S. citizens in the U.S. or outside the U.S. when it deems such an action wise, just and prudent."

- **Ranking Member Lofgren.** In her opening statement, House Judiciary Subcommittee on Immigration Policy and Enforcement Ranking Minority Member Zoe Lofgren called H.R. 2497 "irresponsible and blatantly political." She said that "[b]ills in Congress sometimes have no basis in fact, but this one takes that to a whole new level. It's designed around the conspiracy theory that really boggles the mind. And if I weren't sitting here, I wouldn't believe that the U.S. Congress would actually waste time and money on such a bill, but here we sit."

Criticizing Republican assertions that recent ICE memos are intended to lay the groundwork for the Administration to grant a widespread amnesty to illegal aliens, Representative Lofgren said, "anyone who reads the memos will see there's nothing sinister about them. Like every other law enforcement agency on the planet, ICE has limited resources and it must layout enforcement priorities so that resources are not squandered." She added, "[a]s crazy as it sounds, these memos put terrorists, criminals and otherwise dangerous individuals at the top of that list. If we can only deport a limited number of people, around 400,000 this year, the memos say, then ICE should focus its resources on those who would do us harm. That's just common sense."

Accusing Republicans of hypocrisy, Representative Lofgren pointed to a 1999 letter that Representatives Lamar Smith (R-TX), Henry Hyde (R-IL), F. James Sensenbrenner (R-WI), Nathan Deal (R-GA), Sam Johnson (R-TX), and David Dreier (R-CA) sent to then Attorney General Janet Reno that she said stressed "the importance of prosecutorial discretion in the immigration context" and asked her "to issue necessary guidance." Lofgren said that, "[i]n that letter, the Congressmen cited quote, 'widespread agreement that some deportations were unfair and resulted in unjustifiable hardship' and they asked why the INS pursued removal in such cases when so many other more serious cases existed." Lofgren said that the Members in that letter "urged for a prioritization of enforcement resources, asking the

Attorney General to develop INS guidelines for the use of its prosecutorial discretion similar those used by U.S. attorneys." She added derisively, "I guess prosecutorial discretion wasn't so bad back then."

Representative Lofgren asserted of H.R. 2497 that, "[b]y eliminating prosecutorial discretion, it says that ICE cannot prioritize criminals over the spouses of soldiers. It says that ICE must go after innocent children the same way it goes after murders and rapists. That is absurd and so is this bill."

As she drew to a close, Representative Lofgren took an unusual personal jab at one of the scheduled witnesses, Senator David Vitter (R-LA), who is the sponsor of the Senate version of the HALT Act. Said Lofgren, "[y]ou know, in the District of Columbia, it is a crime to engage in prostitution. In July of 2007, Ms. Deborah Palfrey, known as the D.C. Madam who had been convicted under this statute, published her phone records indicating that one of our witnesses was her client. Later, Senator Vitter said 'this was a very serious sin in my past, for which I am, of course, completely responsible.'" Continuing, Representative Lofgren said, "[u]nder the D.C. criminal statute related to solicitation, the Senator could have faced 90 to 180 days for each solicitation, but he never faced trial. In fact, prosecutors never brought charges. Sure looks like he benefited from prosecutorial discretion." Concluding, Representative Lofgren asserted, "I would not mention this incident today if it did not expose the hypocrisy of seeking to prevent the use of discretion to benefit others when one has enjoyed the benefit himself." She said that Senator Vitter's testimony on the bill "really takes the cake to get the benefit of discretion and urge that it be denied to others."

- **Chairman Smith.** In his prepared remarks, House Judiciary Committee Chairman Lamar Smith (R-TX) said that "[t]he American people have called upon Congress to defeat several amnesty bills in recent years. Following Congress' rejection of these attempts, the current administration now wants to grant a 'backdoor amnesty' to illegal immigrants." He said that, "[w]hat had once been rumor fueled by leaked administration memos is now official Department of Homeland Security (DHS) policy as of last month. The Director of U.S. Immigration and Customs Enforcement (ICE) issued two directives on the scope of DHS officers' prosecutorial discretion that could allow millions of illegal and criminal immigrants to avoid our immigration laws."⁴¹¹

Smith said that "[t]he memos tell agency officials when to exercise 'prosecutorial discretion,' such as when to defer the removal of immigrants, when not to stop,

⁴¹¹ [Click Here](#) to see the opening statement of Chairman Lamar Smith (R-TX) at the July 26, 2011, House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on the HALT Act

question, arrest or detain an immigrant, and when to dismiss a removal proceeding." He said that "[t]he directives also tell officials not to seek to remove illegal immigrants who have been present illegally for many years. Millions of illegal immigrants have been in the U.S. since the 1990s. So the ICE directives literally apply to millions of illegal immigrants."

Smith proclaimed in his opening statement that "DHS's plan to open the door to mass administrative amnesty is a rejection of Congress' constitutional rights and shows utter disdain towards the wishes of the American people." He said that "[p]rosecutorial discretion is justifiable when used responsibly. In fact, I and others asked Clinton administration INS Commissioner Doris Meissner to issue guidelines recognizing that '[t]rue hardship cases [involving deportable legal immigrants] call for the exercise of discretion.'

Chairman Smith said that, "[u]nfortunately, the ICE memos make clear that DHS plans not to use but to abuse these powers. If the Obama administration has its way, millions of illegal immigrants will be able to live and work legally in the United States. This unilateral decision will saddle American communities with the costs of providing education and medical care to illegal immigrants. It will also place our communities at risk by not deporting criminal immigrants." He said that, "[a]s a result, Senator Vitter and I introduced the HALT Act. This legislation prevents the Obama administration from abusing its authority to grant a mass administrative amnesty to illegal immigrants."

Chairman Smith concluded his opening statement by asserting, "[t]he Obama administration should not pick and choose which laws it will enforce. Congress must put a halt to the administration's backdoor amnesty."

- **Ranking Member Conyers.** In his opening statement, House Judiciary Committee Ranking Member John Conyers (D-MI) called H.R. 2497 an attack on President Obama. He amplified on that assertion, complaining that "the basic premise of the bill is that President Obama cannot be trusted to enforce our immigration laws. And I think that's just plain wrong, and -- and -- and very unfair to the president."

Representative Conyers pointed out in his statement that "[i]n the first two fiscal years under President Obama, the Department of Homeland Security deported more than 779,000 people. These are record numbers at an -- an 18 percent increase over President George Bush's last two years in office."

Prepared Testimony. The following summarizes the refugee-related remarks contained in the prepared testimony of the witnesses at the hearing:

- **Senator Vitter.** Senator David Vitter (R-LA) was scheduled to testify at the hearing. However, according to Subcommittee Chairman Gallegly, because the hearing got started nearly an hour later than scheduled, the Senator had to leave before the hearing began.

In his prepared remarks for the hearing, Senator David Vitter told the Subcommittee that he was offering his views on H.R. 2497 in his capacity as a U.S. Senator and as "Chairman of the U.S. Senate Border Security and Enforcement First Immigration Caucus. I founded the Caucus during my first Senate term in response to escalating illegal immigration and the failure of our federal government to address the consequences of this serious problem. The principle mission of the Caucus is to promote a true, achievable alternative to mass amnesty for illegal aliens: attrition through enforcement."⁴¹²

Vitter said that one reason why H.R. 2497 is important is that, "[l]iving illegally in the United States will become more difficult and less satisfying over time when the government enforces all of the laws already on the books." He promoted several ideas for dealing with the problem with illegal immigration, including supporting ending "birthright citizenship" for children born in the United States to parents who are not American citizens or legal residents, and opposing and defeating "amnesty in all of its forms." The Senator boasted that he has "had the opportunity to fight and help defeat amnesty measures such as "so-called comprehensive immigration reform and the DREAM Act."

Senator Vitter asserted in his prepared testimony that, "I have noticed that amnesty advocates have modified their tactics. Out of desperation to push their amnesty agenda, the Obama administration has made the stunning decision to bypass Congress completely. We now face a new challenge as Members of Congress: we must prevent the Obama administration from abusing its authority by granting mass amnesty by administrative fiat."

Pointing to two memoranda on prosecutorial discretion that were issued in June of 2011 by Assistant Secretary of Homeland Security for Immigration and Customs Enforcement (ICE) John Morton, Senator Vitter declared that "[t]he Obama administration is picking and choosing which laws it will enforce in order to grant amnesty to a sweeping number of illegal aliens." He said that "[t]his policy not only undermines the stability of our immigration system, but has severe fiscal consequences. Should ICE move forward with plans to grant 'deferred

⁴¹² [Click Here](#) to see the prepared testimony of Senator David Vitter (R-LA) at the July 26, 2011, House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on H.R. 2497, the HALT Act

action' to an unrestricted number of illegal aliens who would otherwise be removed, those illegal and deportable aliens would then be eligible for work authorization. I am not suggesting that DHS officials do not have the authority to exercise prosecutorial discretion in making decisions to grant parole in specific cases, but I am concerned that this authority is being abused. In 1996, Congress clearly limited the Administration's parole authority to be used 'only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.' However, these memos make clear that DHS plans to abuse these powers to grant mass legalization without any Congressional authorization."

Senator Vitter concluded his prepared remarks by asserting, "[i]t is astounding that the executive branch of the U.S. government has adopted a practice that allows, even encourages, individuals to exploit the loopholes of our immigration system. It is clear that Congress has the authority and the obligation to put a stop to it once and for all. The Constitution grants Congress the authority to determine our immigration policies and the Supreme Court has long upheld our authority to do so. Awarding backdoor amnesty over the objections of Congress and the American people would be a slap in the face to taxpayers and legal immigrants. I would like to thank Mr. Smith for allowing me to join him in addressing this critical issue."

- **Chris Crane.** In his prepared remarks for the hearing, Chris Crane launched a broad attack against ICE and Department of Homeland Security (DHS) leadership and policies, accusing the leadership of both agencies of being dishonest and of making decisions that are designed to please pro-immigrant advocates at the expense of proper law enforcement goals. Mr. Crane was critical of the ICE Leadership's use of prosecutorial discretion, what he viewed as the Administration's failure to ask for adequate resources, what he viewed as the Administration's failure to properly utilize resources that it has, what he viewed as the Administration's disregard for the safety of ICE officers, and what he viewed as the Administration's deference to an improperly constituted Homeland Security Advisory Committee. Crane told the Subcommittee that the National ICE Council, which he was representing at the hearing, supports H.R. 2497, and he commended the Committee's "efforts to bring oversight to the activities of this troubled agency."⁴¹³

Crane told the Subcommittee that on June 25, 2010, "ICE union leaders across the nation publicly issued a unanimous vote of no confidence in ICE Director John Morton." He said that "ICE union leaders are in the papers and on television like never before in full public

view speaking out about gross mismanagement and matters of public safety; warning that ICE and DHS are misleading the public."

Crane went on to assert that "ICE is broken. Law enforcement and public safety are no longer the priority at ICE; politics are the priority at ICE. Immigrant's advocacy groups are now brought in by ICE and DHS leadership to create ICE's law enforcement practices in the field as well as security protocols for ICE detention centers. ICE agents and officers in the field are excluded from essentially all pre-decisional involvement involving changes to law enforcement policies in the field. While we applaud public outreach, input from special interest groups and outside agencies cannot replace sound law enforcement practices and input from ICE officers and agents in the field."

Crane was critical of the prosecutorial discretion memorandum issued by Assistant Secretary Morton on June 17, 2011, saying it "cannot be effectively applied in the field and has the potential to either completely overwhelm ICE's limited manpower resources or result in the indiscriminate and large scale release of aliens encountered in all ICE law enforcement operations." He accused ICE and Department of Homeland Security (DHS) leadership of "scrambling to issue policies and press releases intended to satisfy complaints from immigrant's advocacy groups," adding that "[t]hese policies do not appear to improve law enforcement practices or better utilize ICE's resources."

- **Jessica Vaughan.** In her prepared remarks for the hearing, Jessica Vaughan told the Subcommittee that the Center for Immigration Studies (CIS) supports H.R. 2497, contending that it "would help uphold popular and revered principles for immigration policy, namely that immigration to the United States should occur through legal, fair and open processes, and in numbers and characteristics that are consistent with our national interest and determined by our elected representatives, not by administrative fiat or in service of the political agenda of executive branch appointees."⁴¹⁴

Vaughan accused the Obama Administration of pursuing a policy of open admissions, minimal enforcement, and legalization.

Vaughan listed a couple of crimes in which the perpetrators were illegal immigrants who had been arrested in the past but not removed. She said that the deaths resulting from those crimes "could have been prevented by even modestly more rigorous immigration

⁴¹³ [Click Here](#) to see the prepared testimony of Chris Crane at the July 26, 2011, House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on H.R. 2497, the HALT Act

⁴¹⁴ [Click Here](#) to see the prepared testimony of Jessica Vaughan at the July 26, 2011, House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on H.R. 2497, the HALT Act

law enforcement of the sort that is held in contempt by the Obama administration."

Vaughan was critical of the June 17, 2011, prosecutorial discretion memoranda issued by ICE Assistant Secretary John Morton, saying that they call for carrying out prosecutorial discretion to an extreme, and that it would constitute "an abuse of authority."

Vaughan also was critical of an undated memorandum that was drafted last year listing options for providing immigration relief to undocumented aliens in the absence of the enactment of comprehensive immigration reform legislation. She said that memorandum outlined 17 different ways to "legalize unqualified and/or ineligible aliens." She said that "[i]t proposes several re-interpretations of law and regulation and also the use of certain sections of the Immigration and Nationality Act (INA)." She said that "[t]he Obama Administration has already begun testing and pushing the limits of their authority over immigration policy, and has so far enacted at least seven mini or quasi-amnesties using some of these tactics and tools." Vaughan praised the HALT Act, saying that it "temporarily negates certain sections of the INA, thus taking away the opportunity for the Obama Administration to use these tools as a means to legalize large numbers of illegal aliens who would be covered under its unpopular immigration reform goals." She said that "[i]t is a reasonable response to the highly controversial executive actions outlined above."

- **Margaret Stock.** In her prepared remarks for the hearing, Margaret D. Stock expressed opposition to the HALT Act, contending that it "would hurt many Americans and their families, would harm the Government's power to respond to foreign policy emergencies, and would lead to untold hardship for many noncitizens in cases where the rigid and complex nature of US immigration law provides no avenue for them to enter or stay in the United States legally."⁴¹⁵

Stock told the Subcommittee that "[t]he powers suspended include protections for U.S. citizens and lawful permanent residents (``green card`` holders) who would suffer hardship if their family members were deported. The government could no longer provide humanitarian parole, deferred action, or work authorization in many extremely compelling cases. The HALT Act would also suspend the President's power to designate Temporary Protected Status (TPS). The Executive Branch's power to respond to many foreign affairs emergencies would be curtailed."

In her prepared testimony, Stock went through a long list of actions that the Administration would not be able to take under the HALT Act. She added that the HALT Act's "stated purpose is to prevent a 'backdoor amnesty' by the Obama administration. But none of the provisions targeted by HALT provide any amnesty or permanent legal status to anyone. Instead, the HALT Act suspends an extremely narrow set of protections that the government can extend only on a highly selective and case-by-case basis when there are humanitarian concerns or other compelling circumstances and no other avenue of relief is available. These are also often cases where a Member of Congress or Senator has requested that the agency provide a remedy."

Stock listed a number of people who she thought were deserving of relief who would not be able to or would not have been able to receive relief if the HALT Act was law. She said that the Administration currently is using its discretionary authority sparingly, but that "[s]ome level of enforcement and prosecutorial flexibility is present in every law enforcement program in this country. Local police, for example, do not devote the same level of enforcement effort to minor property crimes or prostitution as they do to violent felonies. The costs of deporting someone are substantial; deportation costs include the expenses of arrest, detention, hearings, and physical removal. Congress has not provided the Department of Homeland Security with the funding or resources to deport every immigration law violator."

Stock asserted that, "[w]hen faced with a choice of allocating limited enforcement dollars between, for example, undocumented aliens engaged in criminal activities and individuals who were brought to this country illegally as young children through no fault of their own, who have subsequently succeeded in school, and who now enjoy extensive community (and often Congressional delegation support) for their remaining in the country, DHS has reasonably prioritized enforcement action against the undocumented aliens engaged in criminal activity." She said, "deportation figures have substantially increased under the Obama administration as compared to the prior Bush administration, so much so that the President's own supporters are complaining about the level of these deportations," pointing to figures published by the Associated Press that "the Administration deported nearly 393,000 people in the fiscal year that ended Sept. 30, half of whom were considered criminals." She said that "[t]his is almost 10% more than the number of deportations in 2008, the last full year of the Bush administration."

Stock concluded her prepared testimony by declaring, "[t]here is no basis for asserting that the Obama administration has implemented any amnesty program, and thus no need for the HALT Act. Instead of improving an already broken and dysfunctional system,

⁴¹⁵ [Click Here](#) to see the prepared testimony of Margaret Stock at the July 26 2011, House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on H.R. 2497, the HALT Act

the HALT Act would worsen the current dire situation. Instead of constituting a step towards sensible and comprehensive immigration reform, the HALT Act would constitute a major step backwards."

Q&A Session. The question-and-answer session at the hearing fell along predictable lines.⁴¹⁶

House Homeland Security Committee Holds Hearing on Islamic Radicalization in the United States:

The House Committee on Homeland Security last week held a hearing on Islamic radicalization in the United States. It was the third in a series of hearings that the Committee has held on the subject. The title of last week's hearing was "Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland." It was held on Wednesday, July 27, 2011.

Witnesses. The witnesses list for the hearing included:

- Ahmed Hussen, member, Cross Cultural Roundtable on Security, Canada⁴¹⁷
- Tom Smith, Chief of Police, Saint Paul, Minnesota.⁴¹⁸
- Thomas Joscelyn, Senior Fellow and Executive Director, Center for Law and Counterterrorism, Foundation for Defense of Democracies⁴¹⁹
- William Anders Folk, former Assistant U.S. Attorney, Minnesota⁴²⁰

⁴¹⁶ [Click Here](#) to see a transcript of the July 26, 2011, House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on H.R. 2497, the HALT Act

⁴¹⁷ [Click Here](#) to see the prepared testimony of Ahmed Hussen at the July 27 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

⁴¹⁸ [Click Here](#) to see the prepared testimony of St. Paul, Minnesota Chief of Police Tom Smith at the July 27 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

⁴¹⁹ [Click Here](#) to see the prepared testimony of Thomas Joscelyn at the July 27 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

⁴²⁰ [Click Here](#) to see the prepared testimony of former Assistant Secretary Anders Folk at the July 27 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

Opening Statements. The following Members made opening references to refugees in the opening statements that they made at the hearing:

- **Chairman King.** House Homeland Security Committee Chairman Peter King (R-NY) addressed several immigration and refugee matters during his opening statement.⁴²¹
- **Ranking Member Thompson.** House Homeland Security Committee Ranking Minority Member Bennie Thompson (D-MS) addressed several immigration and refugee matters during his opening statement.⁴²²

Q&A Session. The question-and-answer session at the hearing fell along predictable lines.⁴²³

Senate Judiciary Panel Holds Hearing on the Potential Economic Benefits of CIR:

The Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security held a hearing last week on the potential economic benefits of comprehensive immigration reform titled, "The Economic Imperative for Enacting Immigration Reform." The hearing was held on Tuesday, July 26, 2011.

Witnesses. The witness list for the hearing included:

Panel I

- Robert Greifield, Chief Executive Officer, NASDAQ-OMX Group⁴²⁴
- David J. Skorton, President, Cornell University⁴²⁵

⁴²¹ [Click Here](#) to see the prepared opening statement of Chairman Peter King (R-NY) at the July 27, 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

⁴²² [Click Here](#) to see the prepared opening statement of Ranking Minority Member Bennie Thompson (D-MS) at the July 27, 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

⁴²³ [Click Here](#) to see a transcript of the July 27 2011, House Homeland Security Committee hearing titled, *Al Shabaab: Recruitment and Radicalization within the Muslim American Community and the Threat to the Homeland.*"

⁴²⁴ [Click Here](#) to see the prepared testimony of Robert Greifield at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴²⁵ [Click Here](#) to see the prepared testimony of David J. Skorton at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

- Brad Smith, General Counsel and Senior Vice President for Legal and Corporate Affairs, Microsoft Corporation⁴²⁶
- Puneet S. Arora, Vice President, Immigration Voice, Los Angeles, California.⁴²⁷
- Ronil Hira, Associate Professor of Public Policy, Rochester Institute of Technology, Rochester, New York⁴²⁸

Panel II

- Laurent F. Gilbert, Sr., Mayor, Lewiston, Maine⁴²⁹
- David Roefaro, Mayor of Utica, New York⁴³⁰
- Paul Bridges, Mayor, Uvalda, Georgia.⁴³¹

Opening Statements. The following Members made opening references to refugees in the opening statements that they made at the hearing:

- **Chairman Schumer.** Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Chairman Charles Schumer (D-NY) said during his opening statement that the two issues that will determine America's global competitiveness for the 21st century in the long term is education and immigration, and that is

⁴²⁶ [Click Here](#) to see the prepared testimony of Brad Smith at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴²⁷ [Click Here](#) to see the prepared testimony of Puneet S. Arora at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴²⁸ [Click Here](#) to see the prepared testimony of Ronil Hira at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴²⁹ [Click Here](#) to see the prepared testimony of Mayor Laurent F. Gilbert at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴³⁰ [Click Here](#) to see the prepared testimony of Mayor David Roefaro at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴³¹ [Click Here](#) to see the prepared testimony of Mayor Paul Bridges at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

why he is so adamant in his support for comprehensive immigration reform. He said that, "[i]f we do not enact an immigration policy that continues to attract the world's best minds, we will cease to be the world's economic leader." He went on to say that unless comprehensive immigration reform is enacted, "[n]ot only will our economy be at great risk, eventually, our national security will as well. Unfortunately, our broken immigration system actually discourages the world's best and brightest minds from coming to America to create jobs."⁴³²

Schumer told the Subcommittee that "every year, there are about 250,000 foreign students enrolled in our American universities to study Science, Technology, Engineering and Math, that is known as STEM subjects. Foreign students represent the majority of our degree recipients in these subjects. So what happens to these students after they graduate from our colleges? Are we putting them to work to invent new technologies that would employ American workers? No, we're not. Instead, we're telling these folks to return to their home countries to compete for a limited number of temporary visas known as H-1Bs. Even if you're lucky enough to obtain one of these visas, the visa is temporary, does not allow your spouse to work in the country and does not permit you to earn a promotion or switch jobs unless the Immigration Service approves a lengthy second application filed by your employer."

Schumer told the Subcommittee that "[t]he immigration proposal that we are working on will ensure that the best and brightest students from around the world in Science, Engineering, Technology and Math, who study in our universities can stay here after getting degrees."

Chairman Schumer concluded his remarks by asserting that "immigration is a job creator. That's the key and it's vital that we reform our immigration system to keep America the greatest job engine in the world."

- **Ranking Member Cornyn.** Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Ranking Minority Member John Cornyn (R-TX) toed a fine line in his opening statement between being both critical of immigration and supportive of it. He said that it is "hard to ignore the benefits to our nation of attracting high-skilled talent. For example in Texas, one study reports that one of every five technology companies was founded by an immigrant. And we all know the success stories of Intel, eBay, Yahoo and Google, American companies founded in part or in

⁴³² [Click Here](#) to see the prepared opening statement of Chairman Charles Schumer (D-NY) at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

whole by immigrants, which, of course, now employed thousands of workers." Continuing, Senator Cornyn said, "[i]t's a fact that America's lack of a sensible and coherent high-skilled immigration policy is causing our nation lose too many entrepreneurs and job creators to our competitors abroad, who are more than happy to take advantage of our failure to compete effectively for this talent. It's also a fact that in order to remain competitive in today's global marketplace, U.S. companies must have access to high-skilled temporary labor pool from abroad which includes top foreign national -- foreign graduates who are educated in American universities."⁴³³

Senator Cornyn said he agreed with the Dallas Federal Reserve, which he said contends that "U.S. Immigration System has not kept up with global competition, that piecemeal fixes have turned the current wall into a web of outmoded, contradictory and inefficient quotas, rules and regulations." He said that "one example, the number of high-skilled immigrant workers admitted on a temporary visa has doubled since 1996, but the number of employment base, permanent residents' visas or Green Cards has remained roughly the same. As a result, the rate for employment-based Green Cards extends now to more than a decade."

Senator Cornyn concluded his remarks by that President Obama had just spoken to NCLR, in which he used the forum to criticize Congress for lack of action on immigration reform. Senator Cornyn asserted that, "[i]ndeed, it was in July 2008 when then-candidate Obama before he was president said that if elected, he would make immigration reform -- comprehensive immigration reform a top priority. Well, I think it's clear at least to me that he has not done so, and we need to find a way to try to work together to solve this particular aspect of our broken immigration system, but I am committed once again to working with you to fix the entire system, which does not serve the best interest of the United States of America."

Chairman Leahy. Senate Judiciary Committee Chairman Patrick Leahy (D-VT) said during his opening statement that "[t]he economic benefits of immigration reform are just one of the many reasons why I have strongly supported broad reforms to our immigration system for many years. The United States loses too many talented foreign-born students who graduate from professional and other higher-education institutions in the United States. We must ensure that American companies have access to the well-trained and highly skilled individuals they need to stay at the leading edge

of innovation and productivity. It is self-defeating to educate foreign-born men and women in our graduate schools and then erect a bureaucratic maze between these graduates and potential employment in the United States after they graduate."⁴³⁴

Chairman Leahy indicated his strong support for increasing the number of H-1B visas issued each year to highly skilled workers, as well as for other reforms that would assist in "creating a more sensible system for foreign workers who seek employment in the United States and those who seek their assistance," including expanding the EB-5 Regional Center program.

Chairman Leahy concluded his remarks by asserting that "[t]he status quo on immigration is not sustainable. From multi-national corporations to Vermont dairy farms, I hear the constant plea for a more orderly, workable immigration system that can efficiently meet employment needs that often go unmet. We can do better. I am confident that Congress can enact responsible reforms to bolster our national economy, meet our humanitarian objectives, and protect opportunities for Americans."

- **Ranking Member Grassley.** Senate Judiciary Committee Ranking Minority Member Charles Grassley (R-IA) pointed to the fragile state of the United States economy during his opening statement, asserting, "I have concerns with the notion that increasing immigration levels and enacting legalization programs is the answer to the current economic downturn. We know it's unlikely that this Administration will push immigration reform in the next year and half. However, it's my firm belief that we can find agreement on reforms for high skilled workers - and this hearing is a good first step in starting the discussion."⁴³⁵

Senator Grassley concentrated much of his statement to criticisms of the H-1B, L, and B-1 visa programs, saying they are rife with fraud and unfair to American workers. He also expressed concerns about a program called the Optional Practical Training (OPT) program.

Senator Grassley also was critical of the notion that international students should be afforded permanent

⁴³³ [Click Here](#) to see the prepared opening statement of Ranking Minority Member John Cornyn (R-TX) at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴³⁴ [Click Here](#) to see the prepared opening statement of full Judiciary Committee Chairman Patrick Leahy (D-VT) at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

⁴³⁵ [Click Here](#) to see the prepared opening statement of full Judiciary Committee Ranking Minority Member Charles Grassley (R-IA) at the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

residency upon graduation, saying that “[w]hile it is important to keep the best and the brightest, getting a degree from a U.S. institution should not equate to a fast track to citizenship for all. Should this happen, the demand for enrollment in U.S. universities by international students would only increase and further erode the opportunities for American students.”

Senator Grassley concluded his remarks by asserting, “I will continue to push for more reforms in our immigration system to ensure Americans are the number one priority and are not displaced.”

Q&A Session. The question-and-answer session at the hearing fell along predictable lines.⁴³⁶ ☀

Last Week’s Markups

One markup was held last week on measures containing significant immigration- or refugee-related provisions:

- **House Appropriations Panel Markup of FY '12 Spending Bill that Funds Refugee Admissions and Overseas Refugee Assistance.** The House Appropriations Subcommittee on State, Foreign Operations, and Related Agencies marked up its FY '12 State, Foreign Operations, and Related Agencies Appropriations Bill.

House Appropriations Subcommittee Approves Measure Making Cuts in FY '12 Funding for Refugee Admissions and Assistance: The House Appropriations Subcommittee on State, Foreign Operations, and Related Programs last week approved its version of the fiscal year 2012 bill that appropriates funding for the Department of State's refugee admissions, overseas refugee assistance, and related refugee programs, making significant cuts in the venerable programs. The Subcommittee's approval of the reduced refugee funding levels occurred in connection with a [Draft Fiscal Year 2012 State, Foreign Operations, and Related Programs Appropriations Bill](#). The Subcommittee marked up the draft bill on Wednesday, July 27, 2011, approving it by a voice vote.

Background. Each year, the State, Foreign Operations, and Related Programs Appropriations Bill appropriates funding for the Department of State's Migration and Refugee Assistance (MRA), Emergency Refugee Migration Assistance (ERMA), and International Disaster Assistance (IDA) accounts. The first two of these accounts are administered by the Department of State's Bureau of Population, Refugees, and Migration (PRM), and they fund the federal government's refugee admissions and overseas refugee assistance programs. The third account is

administered by the U.S. Agency for International Development (USAID).

Summary of Refugee-Related Spending Provisions. From a refugee perspective, the Subcommittee-approved Fiscal Year 2012 State, Foreign Operations, and Related Programs Appropriations Bill contains the following provisions:

- **Funding for Migration and Refugee Assistance.** The Subcommittee-approved measure would appropriate \$1.497 BILLION for the MRA account in FY '12.

The Subcommittee-approved appropriation bill would cut funding for the MRA account by about \$190 MILLION (or 11.3 percent) in FY '12 relative to the FY '11 appropriation, which was approximately \$1.687 BILLION (after applying the .2 percent across-the-board cut) in fiscal year 2011.

The Obama Administration requested an FY '12 appropriation of \$1.614 BILLION for the MRA account in FY '12.

- **Funding for Refugees to Israel.** The Subcommittee-approved measure would earmark \$20 MILLION of the FY '12 MRA funds for "refugees resettling in Israel."

The Subcommittee-approved bill would cut funding for refugees resettling in Israel by \$5 MILLION in FY '12 relative to the FY '11 appropriation for that purpose, which was approximately \$25 MILLION.

- **Funding for Emergency Refugee and Assistance.** The Subcommittee-approved measure would appropriate \$32 MILLION for the Department of State's ERMA account in FY '12.

The Subcommittee-approved appropriation would cut funding for the ERMA account by \$17.9 MILLION (or 35.9 percent) in FY 12 relative to the FY '11 appropriation, which was approximately \$49.9 MILLION (after applying the .2 percent across-the-board cut) that was appropriated for ERMA in FY '11.

The Obama Administration requested \$32 MILLION for the ERMA account in FY '12.

- **Funding for Burmese Refugees.** The Subcommittee-approved measure would provide for the use of an unspecified amount of Economic Support Fund (ESF) funding to community based organizations (CBOs) to assist Burmese refugees residing in Thailand.

- **Funding for Columbian Refugees.** The Subcommittee-approved measure would provide for a transfer of \$8 MILLION of ESF funds to the MRA account for non-governmental organizations (NGOs) and international

⁴³⁶ [Click Here](#) to see a transcript of the July 26, 2011, Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security hearing titled, titled, "The Economic Imperative for Enacting Immigration Reform."

organizations assisting Columbian refugees in neighboring countries.

- **Funding for International Disaster Assistance.** The Subcommittee-approved measure would appropriate \$757.652 MILLION for the USAID's IDA account.

This would be a cut of \$105.618 MILLION (or 12.2 percent) in FY '12 relative to the \$863.270 MILLION (after applying the .2 percent across-the-board cut) that was appropriated for the IDA account in FY '11.

Summary of Immigration- and Refugee-Related Legislative Riders. From a refugee and immigration perspective, the Subcommittee-approved State, Foreign Operations, and Related Programs Appropriations Bill contains the following legislative riders or limitations:

- **Limitation on Funding to Support a Palestinian State.** Section 7036 of the Subcommittee-approved measure would bar funding for Bilateral Assistance, International Security Assistance, Multilateral Assistance, or Export and Investment Assistance to support a Palestinian state unless the Secretary of State determines and certifies a number of conditions. Among the conditions that the Secretary would have to certify is that the governing entity of the new Palestinian state "is working with other countries in the region to vigorously pursue efforts to establish ... a framework for achieving a just settlement of the refugee program."
- **Limitation on Funding for Palestinian Refugees.** Section 7051(c) of the Subcommittee-approved measure would bar the use of funds from the MRA account for the United Nations Relief and Works Agency (UNRWA), which assists Palestinian refugees, unless the Secretary of State determines and reports to the Committees on Appropriations, in writing, that UNRWA is complying with seven conditions.
- **Exemption of the MRA and ERMA Accounts From the Bill's Bar on Funding to Countries that Don't Extradite Wanted Criminals.** Section 7070(a) of the Subcommittee-approved measure would exempt the MRA and ERMA accounts from a provision that bars funding in the bill to the central governments of countries that refuse to extradite to the United States any individual indicted for a criminal offense for which the maximum penalty is life imprisonment without the possibility of parole or for killing a law enforcement officer.
- **Refugee-Related Limitation on Funding for the Russian Federation.** Section 7073(c)(1) of the Subcommittee-approved measure would withhold 60 percent of the funds appropriated under the heading "Assistance for Europe, Eurasia and Central Asia" for assistance to the government of the Russian Federation

until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation has met two conditions, one of which is that the Federation "is providing full access to all international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya."

- **Authority to Draw-Down ERMA Funds.** The measure would not continue a provision that was included in the final fiscal year 2011 appropriations bill that permits the Secretary of State to draw-down funds from the ERMA account during fiscal year 2011. This constituted a change over permanent law, which permits only the President of the United States to draw-down ERMA funds.

Subcommittee Consideration and Amendments. No immigration- or refugee-related amendments were offered to the State, Foreign Operations, and Related Operations Bill during the Subcommittee markup.

Administration's FY '12 Request for Refugee Admissions and Overseas Refugee Assistance. With respect to spending for refugee admissions and overseas refugee assistance, the Obama FY '12 budget submission proposed a \$73 MILLION (or 4.3 percent) reduction in the Department of MRA account relative to fiscal year 2011, from \$1.687 BILLION in fiscal year 2011 (after applying the .2 percent across-the-board cut) to \$1.614 BILLION in fiscal year 2012.

Within the proposed budget for the MRA account, the Obama Administration proposed cutting FY '12 funding for overseas refugee assistance relative to FY '10 by 12.98 percent, from \$1.314 BILLION in FY '11 to \$1.192 BILLION in FY '12, a cut of approximately \$122 MILLION (or 9.3 percent). On the other hand, the Administration's proposed budget would increase FY '12 spending for the refugee admissions programs relative to FY '11. More specifically, the Administration's proposed budget would increase spending for refugee admissions from \$323.4 MILLION in fiscal year 2011 to \$367.3 MILLION in FY '12, an increase of nearly \$44 MILLION (or 13.6 percent).

Administration's FY '12 Request for Emergency Refugee and Migration Assistance. With respect to spending for the Department of State's Emergency Refugee and Migration Assistance (ERMA) account, the Obama FY '12 budget submission proposed a \$40 MILLION appropriation, which is approximately \$10 MILLION less than the amount that was appropriated in fiscal year 2011.

The chart that follows compares what is known about the House FY '12 MRA appropriation with the FY '11 appropriation and the Obama FY '12 request:

FY '11 Appropriations vs FY '12 Appropriations for MRA
(Millions of Dollars)

ITEM	'11 ACTUAL	'12 OBAMA	'12 HOUSE
Refugee Admissions	\$ 323.4	\$ 367.3	
Overseas Assistance	\$ 1,314.0	\$ 1,192.3	
Migrants to Israel	\$ 25.0	\$ 20.0	\$ 20.0
Administrative Expenses	\$ 26.0	\$ 33.5	
MRA TOTAL ⁴³⁷	\$ 1,686.6	\$ 1,613.1	\$ 1,496.8

Final FY '11 Appropriations for Refugee Admissions, Overseas Refugee Assistance, and Emergency Refugee and Migration Assistance. On April 15, 2011, President Obama signed into law P.L. 112-10, the Fiscal Year 2011 Full-Year Continuing Appropriations Bill.

- **Migration and Refugee Assistance.** With regard to refugee admissions and overseas refugee assistance, Section 2110 of P.L. 112-10 appropriated \$1.690 BILLION for the Department of State's Migration and Refugee Assistance (MRA) account in Fiscal year 2011 (not including a .2 percent across-the-board cut in all programs that is provided for in Section 1119 of the measure). This actually was a slight increase over the amount appropriated during the regular appropriations process in fiscal year 2010, which resulted in a regular fiscal year 2010 appropriation of \$1.685 BILLION. However, when supplemental funds that were appropriated in fiscal year 2010 are included, the total fiscal year 2010 appropriation for the MRA account came to \$1.850 BILLION. Thus, the MRA appropriation in P.L. 112-10 was \$160 MILLION less than the total amount that was appropriated in fiscal year 2010.

The MRA Appropriation in P.L. 112-10 represented an enormous victory for pro-refugee advocates. The House-passed version of the measure would only have appropriated \$1.023 BILLION in fiscal year 2011 for the MRA account. This would have constituted a \$827 MILLION cut in the MRA account relative to the total appropriation in fiscal year 2010. It would have represented a \$662 MILLION cut in the amount appropriated for the account in fiscal year 2010 during the regular appropriations process.

- **Emergency Refugee and Migration Assistance.** With regard to the Department of State's Emergency Refugee and Migration Assistance (ERMA) Fund, Section 2110 of P.L. 112-10 appropriated \$50 MILLION in fiscal year

2011 (not including the .2 percent across-the-board cuts that are provided for in Section 1119 of the measure). This represented an increase of \$5 MILLION over the amount appropriated in fiscal year 2010. The measure also permitted the Secretary of State to draw-down funds from the ERMA account during fiscal year 2011. This constituted a change over permanent law, which permits only the President of the United States to draw-down ERMA funds.

The ERMA appropriation in P.L. 112-10 represented an enormous victory for pro-refugee advocates. The House-passed version of the measure would have appropriated \$44.635 MILLION for the fund.

Next Steps. Now that the Subcommittee has approved its version of the Fiscal Year 2012 State, Foreign Operations, and Related Programs appropriations bill, the next step in the legislative process is for the full Committee on Appropriations to take up the measure. A full Committee markup of the bill has tentatively been scheduled for Wednesday, August 3, 2011. ☀

Last Week's Floor Activities

Three measures impacting immigration-related policy were considered last week on the floor of the House or Senate:

- **House Consideration of Measure to Create Religious Freedom Envoy.** The full House of Representatives is scheduled to take up a measure directing the President to appoint a Religious Freedom Envoy for the Near East and South Central Asia.
- **House and Senate Action on Debt and Deficit Reduction Legislation.** The full House and full Senate this week could take up a yet-to-be-unveiled debt and deficit reduction measure.

The House action occurred in connection with the [House Amendments to S. 627](#), a bill that originally dealt with the Freedom of Information Act (FOIA). The House gutted the provisions that were contained in the Senate-passed bill, substituting the text of its debt relief/deficit reduction measure.

House Passes Bill to Create a Special Envoy on Religious Liberty: The House of Representatives last week passed a measure directing the President of the United States to appoint a Special Envoy to Promote Religious Freedom of Religious Minorities in the Near East and South Central Asia. Last week's House action occurred in connection with [H.R. 440](#), legislation introduced by Representative Frank Wolf (R-VA). The House took up the measure on Wednesday, July 27, 2011, and passed it on Friday, July 29, 2011, by a vote of 402-20.⁴³⁸

⁴³⁷ MRA Total for fiscal year 2011 includes \$1.690 BILLION which was appropriated in P.L. 112-10, the Full Year Fiscal Year 2011 Continuing Appropriations Bill, which was later reduced to \$1.6866 BILLION by a .2 percent across-the-board recession

⁴³⁸ [House Roll Call Number 673](#), July 29, 2011

Summary of Refugee-Related Provisions. As passed by the House, H.R. 440 would create a position of Special Envoy to Promote Religious Freedom of Religious Minorities in the Near East and South Central Asia. The Special Envoy would hold the rank of ambassador and could not hold another federal government position at the same time.

Under the measure, the duties of the Envoy would be to --

- (1) promote the right of religious freedom of religious minorities in the countries of the Near East and the countries of South Central Asia, denounce the violation of such right, and recommend appropriate responses by the United States Government when such right is violated;
- (2) monitor and combat acts of religious intolerance and incitement targeted against religious minorities in the countries of the Near East and the countries of South Central Asia;
- (3) work to ensure that the unique needs of religious minority communities in the countries of the Near East and the countries of South Central Asia are addressed, including the economic and security needs of such communities to the extent that such needs are directly tied to religious-based discrimination and persecution;
- (4) work with foreign governments of the countries of the Near East and the countries of South Central Asia to address laws that are inherently discriminatory toward religious minority communities in such countries;
- (5) coordinate and assist in the preparation of that portion of the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) relating to the nature and extent of religious freedom of religious minorities in the countries of the Near East and the countries of South Central Asia; and
- (6) coordinate and assist in the preparation of that portion of the report required by section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)) relating to the nature and extent of religious freedom of religious minorities in the countries of the Near East and the countries of South Central Asia.

The House-passed version of H.R. 440 would authorize the envoy to represent the United States in matters related to religious freedom in contact with foreign governments, intergovernmental organizations, specialized United Nations' Agencies and multilateral conferences, and meetings relevant to religious freedom. The measure also would direct the envoy to give priority to programs for Egypt, Iraq, Afghanistan and Pakistan. Finally, the measure would

authorize \$1 MILLION each year for the envoy and his staff and directs the secretary of State to offset the amount with equivalent staff reductions elsewhere in the department.

Next Steps. Now that the House has passed H.R. 440, the measure has been forwarded to the Senate for its consideration. At the time of this writing, no timetable for the Senate's consideration of the measure had been determined. ☀ ◆

Last Week's Executive Activity

There were no executive branch actions last week of significance for immigration- or refugee-related legislation. ◆

Recently Introduced Legislation

The following bills that would have a significant impact on immigration or refugee policy have been introduced in Congress in recent weeks:

House

Acculturation of Immigrants

- **Communities of Color Teenage Pregnancy Prevention Act of 2011:** Representative Lucille Roybal-Allard (D-CA) has introduced [H.R. 2678](#), a bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to carry out programs to provide youth in racial or ethnic minority or immigrant communities the information and skills needed to reduce teenage pregnancies.

As introduced, H.R. 2678 would support teen pregnancy prevention demonstration projects with a focus on supporting community-based organizations that serve youth in ethnic and racial groups with the highest teen pregnancy rates; competitive grants for multimedia campaigns to provide public health education and increase awareness about teen pregnancy; and research examining factors that contribute to disproportionately high rates of teenage and unintended pregnancy in communities of color, and studying the role that violence and abuse play in the decisions young people make about relationships, sex, pregnancy, and childbearing.

It has been referred to the House Committee on Energy and Commerce.

Control of Illegal Immigration

- **Jobs for Americans Act of 2011:** Representative Morris J. Brooks (R-AL) has introduced [H.R. 2670](#), a bill to provide that States and local governments may pass laws that identify illegal aliens, deter illegal aliens from entering the United States, apprehend illegal aliens, or

encourage or otherwise cause illegal aliens to leave the United States, and for other purposes.

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

Senate

Acculturation of Immigrants

- **Communities of Color Teenage Pregnancy Prevention Act of 2011:** Senator Barbara Boxer (D-CA) has introduced [S. 1437](#), a bill to authorize the Secretary of Health and Human Services to carry out programs to provide youth in racial or ethnic minority or immigrant communities the information and skills needed to reduce teenage pregnancies.

As introduced, S. 1437 would support teen pregnancy prevention demonstration projects with a focus on supporting community-based organizations that serve youth in ethnic and racial groups with the highest teen pregnancy rates; competitive grants for multimedia campaigns to provide public health education and increase awareness about teen pregnancy; and research examining factors that contribute to disproportionately high rates of teenage and unintended pregnancy in communities of color, and studying the role that violence and abuse play in the decisions young people make about relationships, sex, pregnancy, and childbearing.

It has been referred to the Senate Committee on Health, Education, Labor, and Pensions.

Refugee Admissions

- **Foreign Relations Authorization Act, Fiscal Years 2012 and 2013:** Senator John Kerry (D-MA) has introduced [S. 1426](#), a bill to authorize certain authorities by the Department of State, and for other purposes.

As introduced, S. 1426 would authorize funding for foreign relations for fiscal years 2012 and 2013.

With respect to refugees, the measure would authorize funding for Migration and Refugee Assistance (MRA) account at the President's requested level of \$1.613 BILLION for fiscal year 2012, which is less than the \$1.690 BILLION in the House Foreign Affairs Committee-approved version of H.R. 2583, as well as less than the \$1.687 BILLION appropriated in FY '11 for the MRA account.

The measure would earmark \$25 MILLION of MRA funds for "the resettlement of humanitarian migrants to Israel", which is the same amount contained in the House Foreign Affairs Committee-approved version of

H.R. 2583, which termed the item. "resettlement of refugees in Israel." It is \$5 MILLION more than the amount requested for that purpose by President Obama in his FY '12 budget request.

With regard to the Emergency Refugee and Migration Assistance (ERMA) account, the measure would permanently amend the Migration and Refugee Assistance Act of 1962 to double the amount of funds that can be parked in the ERMA account from \$100 MILLION to \$200 MILLION and permit the Secretary of State to draw down the funds rather than requiring an act of the President to do so.

H.R. 1426 would authorize "such sums as may be necessary" for MRA, ERMA, and humanitarian migrants to Israel" in fiscal year 2013 (AGAIN, the authorization for ERMA MAY NOT be necessary, given the permanent state of ERMA's authorization).

With regard to refugees admitted to the United States, the measure would reform the current law relating to their adjustment of status so that they would no longer REQUIRED to adjust after a year. Instead, it would make them ELIGIBLE to adjust after a year and permit them to apply three months before their eligibility date.

The bill would authorize \$750,000 to carry out the Tibetan scholarship program established under Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (P.L. 104-319).

The bill would authorize \$40 MILLION for ERMA for fiscal year 2012 (a provision that MAY not be necessary, given that ERMA has a PERMANENT authorization of whatever it takes to replenish it to \$100 MILLION).

It has been referred to the Senate Committee on Foreign Relations. ◆

Bills in Development

The following is a listing of immigration- or refugee-related bills that currently are 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

Trafficking Victims Protection Reauthorization Act: House Foreign Affairs Subcommittee on Africa, Global Health, and Human Rights Chairman Christopher

Smith (R-NJ) is developing legislation to reauthorize funding for the Trafficking Victims Protection Act.

The AgJOBS Act: Representative Howard L. Berman (D-CA) reportedly is planning to reintroduce the AgJOBS bill during the 112th Congress. The Congressman introduced the measure during the 111th Congress as [H.R. 2414](#). There was no word at the time of this writing whether he is planning to introduce the same version during the 112th Congress or if he intends to make changes to the measure.

Comprehensive Immigration Reform Bill: Representative Luis Gutierrez (D-IL) reportedly is planning to introduce comprehensive immigration reform legislation in the 112th Congress. The Congressman drafted [H.R. 4321](#), the CIR ASAP Act of 2009, which was introduced by Representative Solomon Ortiz (D-TX), during the 111th Congress. There was no word at the time of this writing whether Gutierrez will simply reintroduce that measure during the 112th Congress or make substantial changes to it.

United Nations Reform Bill: House Foreign Affairs Committee Chairwoman Ileana Ros-Lehtinen (R-FL) reportedly is working on legislation that is based on [H.R. 557](#), the United Nations Transparency, Accountability, and Reform Act of 2009, which she introduced during the 111th Congress. Among the provisions that were in the 111th Congress version of the measure were provisions found in Section 309 that would have withheld annual U.S. contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) until certain conditions were certified, and then provided UNRWA with limited contributions.

Senate

Immigration Court System Reforms: Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security Ranking Republican John Cornyn (R-TX) is preparing legislation that would make reforms to the immigration court system. No details of the measure were available at the time of this writing. Senator Cornyn has said that the bill will be based, in part, on recommendations made by the American Bar Association. However, he also has hinted that the bill could include provisions that would “streamline” appellate review of immigration judge decisions. There was no word at the time of this writing of when the Senator plans to introduce the measure.

The AgJOBS Act: Senator Dianne Feinstein (D-CA) reportedly is working on reintroducing a version of the AgJOBS Act of 2009, which she introduced in the 111th Congress as [S. 1038](#). There was no word at the time of this writing whether she will make changes to the measure that she introduced during the 111th Congress or when she intends to introduce the measure. ◆

Over the Horizon ...

The following is a listing of anticipated immigration- or refugee-related legislative and “off-of-the-Hill” activity that is likely to occur over the next several weeks. 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

The following floor actions could occur in the U.S. House of Representatives in the coming weeks:

- ****Full House Could Take Up Fiscal Year 2012 Commerce, Justice, Science Appropriations**

Bill: The full House of Representatives is tentatively scheduled to take up its version of the Fiscal year 2012 Commerce, Justice, Science, and Related Agencies Appropriations Bill in early August. Each year, the Commerce, Justice, Science, and Related Agencies Appropriations Bill appropriates funding for the Department of Justice, including appropriations for the Executive Office for Immigration Review (EOIR), an agency within the Department. The House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies marked up its version of the measure on Tuesday, July 7, 2011. The full House Committee on Appropriations approved it on Monday, July 13, 2011.

The full House of Representatives is tentatively scheduled to take up the measure during the week of August 1, 2011.

- ****Full House Could Take Up Fiscal Year 2012 Labor, Health and Human Services, Education Appropriations**

Bill: The full House of Representatives is tentatively scheduled to take up its version of the Fiscal year 2012 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill in late September. Each year, the Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill appropriates funding for the Department of Health and Human Services Office of Refugee Resettlement, which administers the federal government's refugee resettlement, unaccompanied alien children, trafficking victim assistance, and torture victim assistance functions. The House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies originally was scheduled to mark up its version of the measure on Tuesday, July 26, 2011, and the full House Committee on Appropriations markup originally was scheduled for Tuesday, August 2, 2011. However, the markups were postponed until after the White House, House, and Senate reach an agreement on legislation to

increase the federal debt limit. At the time of this writing, no new dates for the markups had yet been released.

The full House of Representatives is tentatively scheduled to take up the measure during the week of September 19, 2011.

- ****Full House Could Take Up Fiscal Year 2012 State, Foreign Operations Appropriations Bill:**

The full House of Representatives is tentatively scheduled to take up its version of the State, Foreign Operations, and Related Programs in late September. Each year, the State, Foreign Operations, and Related Programs Appropriations Bill appropriates funding for the Department of State's Migration and Refugee Assistance (MRA), Emergency Refugee Migration Assistance (ERMA), and International Disaster Assistance (IDA) accounts. The first two of these accounts are administered by the Department of State's Bureau of Population, Refugees, and Migration (PRM), and they fund the federal government's refugee admissions and overseas refugee assistance programs. The third account is administered by the U.S. Agency for International Development (USAID). The House Appropriations Subcommittee on State, Foreign Operations, and Related Programs marked up its version of the measure on Wednesday, July 27, 2011. The full House Committee on Appropriations markup is scheduled for Wednesday, August 3, 2011.

The full House of Representatives is tentatively scheduled to take up the measure during the week of September 19, 2011.

- ****Full House Could Take Up Bill to Eliminate the Diversity Visa Program:**

The full House of Representatives could at any time take up [H.R. 704](#), the "SAFE for America Act", legislation introduced by Representative Bob Goodlatte (R-VA) that would eliminate the diversity visa program. The House Committee on the Judiciary approved the measure on July 20, 2011.

While no floor action on H.R. 704 had yet been scheduled at the time of this writing, action on the measure could be scheduled at any time.

- ****Full House Could Take Up Bill to Make it Easier for Prosecutors to Convict Illegal Immigrants of Felony Identify Theft:**

The full House of Representatives could at any time schedule floor consideration of [H.R. 2552](#), the "Identify Theft Improvement Act of 2011", legislation introduced by Representative Bob Goodlatte (R-VA) providing that when a person is charged with identity theft under Section 1028(a)(7) or 1028A(a) of Title 18 of the U.S.

Code, prosecutors would not need to show that the person charged knew that the identity documents were those of another actual person in order to win a felony conviction. The House Committee on the Judiciary approved the measure on July 20, 2011.

While no floor action on H.R. 2552 had yet been scheduled at the time of this writing, action on the measure could be scheduled at any time.

- **Full House Could Take Up Bill Providing for the Indefinite Detention of "Dangerous" Aliens:**

The full House of Representatives could at any time schedule floor consideration of [H.R. 1932](#), the "Keep Our Communities Safe Act of 2001", a measure introduced by House Judiciary Committee Chairman Lamar Smith (R-TX) that would provide for the indefinite detention of "dangerous aliens". The House Committee on the Judiciary approved the measure on Thursday, July 13, 2011.

While no House floor action on H.R. 1932 had yet been scheduled at the time of this writing, action on the measure could be scheduled at any time.

- **Full House Could Take Up Visa Security Bill:**

The full House of Representatives could at any time schedule floor consideration of [H.R. 1741](#), the "Secure Visas Act", a measure introduced by House Judiciary Committee Chairman Lamar Smith (R-TX) that would make it easier for the Departments of State and Homeland Security to deny and revoke visas. The House Committee on the Judiciary approved the measure on Thursday, June 23, 2011. However, the Committee has not yet formally reported it to the full House of Representatives.

While no House floor action on H.R. 1741 had yet been scheduled at the time of this writing, action on the measure could be scheduled at any time.

The following markups could occur in House of Representatives in the coming weeks:

- ****House Judiciary Committee Continues to Delay Markup of Bill Mandating that All Employers in the U.S. Use an Electronic Employment Verification System:**

While no Committee action had yet been scheduled at the time of this writing, it is anticipated that the House Committee on the Judiciary is planning to mark up [H.R. 2164](#), the "Legal Workforce Act", which would require that all employers in the United States use an electronic employment verification system (EEVS) to verify the employment eligibility of their new hires.

At the time of this writing, the markup had not yet been scheduled. With the August recess imminent, the earliest that a markup could occur is in September of 2011. When it occurs, it likely will take place in Room 2141 of the Rayburn House Office Building.

- ****House Judiciary Committee Could Mark Up of Bill to Eliminate Per Country Limits on Employment-Based Visas:** The House Committee on the Judiciary could in the coming weeks mark up a yet-to-be-introduced bill that would eliminate the per-country limits on employment-based visas.

No date has been set for the markup, which originally was scheduled for mid-July.

- ****House Appropriations Subcommittee Delays Markup of Fiscal Year 2012 Labor, Health and Human Services, Education Appropriations Bill Until September:** The House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has decided to delay the markup of its version of the Fiscal year 2012 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill until September in order to permit a deficit/debt reduction deal to be reached. Each year, the Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill appropriates funding for the Department of Health and Human Services Office of Refugee Resettlement, which administers the federal government's refugee resettlement, unaccompanied alien children, trafficking victim assistance, and torture victim assistance functions.

No date has been set for the markup, which originally was scheduled for late July.

- ****House Appropriations Committee Delays Markup of Fiscal Year 2012 Labor, Health and Human Services, Education Appropriations Bill:** The full House Committee on Appropriations has decided to delay the markup of its version of the Fiscal year 2012 Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill until September in order to permit a deficit/debt reduction deal to be reached. Each year, the Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill appropriates funding for the Department of Health and Human Services Office of Refugee Resettlement, which administers the federal government's refugee resettlement, unaccompanied alien children, trafficking victim assistance, and torture victim assistance functions.

No date has been set for the markup, which originally was scheduled for early August. When it occurs, it likely

will take place in Room 2359 of the Rayburn House Office Building.

- ****House Natural Resources Subcommittee Likely to Mark Up Border Security Bill:** While no action had yet been scheduled at the time of this writing, it is anticipated that the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands is planning in the coming weeks to mark up [H.R. 1505](#), the "National Security and Federal Lands Protection Act". As introduced, H.R. 1505 would prohibit the Secretary of the Interior and the Secretary of Agriculture (USDA) from taking action on public lands which impede the border security activities of the Secretary of Homeland Security (DHS) (Secretary). The measure provides that the Secretary of Homeland Security shall have immediate access to any public land managed by the federal government in order to conduct activities that assist in securing the border (including access to maintain and construct roads, construct a fence, use patrol vehicles, and set up monitoring equipment).

In addition to provisions on access, H.R. 1505 also would extend the authority that the Secretary of Homeland Security currently has to waive all environmental and land management laws in order to complete construction of fencing along the U.S. border with Mexico so that the authority would be applicable to all sections of the international land and maritime borders of the United States within 100 miles of such.

At the time of this writing, the markup had not yet been scheduled.

- **House Science, Natural Resources Committee to Space and Technology Committee Likely to Mark Up Border Technology Research Bill:** While no Committee action had yet been scheduled at the time of this writing, it is anticipated that the House Committee on Science, Space and technology will move in the coming weeks to markup [H.R. 2463](#), the "Border Security Technology Innovation Act of 2011", which would direct the Department of Homeland Security to continue the development of a variety of border security technologies, including efforts to incorporate the use of unmanned aerial vehicles in border and maritime airspace.

At the time of this writing, the markup had not yet been scheduled.

- **House Homeland Security Committee to Mark Up Bill Requiring Plan to Achieve Operational Control of the Border:** The House Committee on Homeland Security is expected in the coming weeks to mark up [H.R. 1299](#), the "Secure Border Act of 2011", introduced by House Homeland Security Subcommittee

on Border and Maritime Security Chairwoman Candice Miller (R-MI). As introduced, the measure would require the Administration to submit within 180 days a plan on how to achieve operational control of the U.S. border within five years.

When the Committee takes up the measure, it likely will take up an [Amendment in the Nature of a Substitute](#) approved by the House Homeland Security Subcommittee on Border and Maritime Security during its June 2, 2011, markup of the measure. The Substitute, offered by Chairwoman Miller, made substantial changes to the introduced version of the bill. Like the original version, the Miller Substitute would require the Department of Homeland Security to submit to the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs a comprehensive strategy for gaining operational control of the international borders of the United States within five years. Unlike the original version of the bill, the Substitute Amendment does not contain a definition of "operational control of the border." And the Miller Substitute would require the Secretary of Homeland Security to work with the New Mexico-based Sandia National Laboratory if the department opts to measure security between border ports of entry by a standard other than "operational control."

At the time of this writing, the full committee markup had not yet been scheduled.

- **House Homeland Security Committee to Mark Up Bill to Increase CBP Access to Federal Lands:**

The House Committee on Homeland Security is expected in the coming weeks to mark up [H.R. 1922](#), a bill to provide the Department of Homeland Security's Customs and Border Protection (CBP) with greater access to federal lands for the purposes of conducting border security operations. As introduced by freshman Representative Ben Quayle (R-AZ), H.R. 1922 would provide that, notwithstanding any other provision of law, CBP shall have access to Federal lands for security activities, including routine motorized patrols; and the deployment of temporary tactical infrastructure. The measure would provide that in carrying out routine motorized patrols and deploying temporary tactical infrastructure, CBP shall do so, "to the maximum extent practicable, in a manner that the Secretary of Homeland Security determines will best protect the natural and cultural resources on Federal lands." The House Homeland Security Subcommittee on Border and Maritime Security approved the measure on Thursday, June 2, 2011, by a voice vote.

At the time of this writing, the full committee markup had not yet been scheduled.

- **House Homeland Security Committee to Mark Up Bill Authorizing Establishment of Border**

Enforcement Task Force Teams: The House Committee on Homeland Security is expected in the coming weeks to mark up [H.R. 915](#), the "Jamie Zapata Border Enforcement Security Task Force Act", introduced by House Homeland Security Subcommittee on Border and Maritime Security Ranking Member Henry Cuellar (D-TX). As introduced, the measure would establish within the Department of Homeland Security's Immigration and Customs Enforcement (ICE) unit a Border Enforcement Security Task Force (BEST) program. The bill would establish a number of criteria for the Secretary of Homeland Security to take into consideration when establishing BEST programs, and it would direct the Secretary to report on the effectiveness of the program in enhancing border security and reducing the drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across U.S. borders.

When the Committee takes up the measure, it likely will take up an [Amendment in the Nature of a Substitute](#) that was approved by the House Homeland Security Subcommittee on Border and Maritime Enforcement on Thursday, June 2, 2011. The Substitute, offered by Ranking Member Cuellar, made two changes to the bill, including adding a provision authorizing \$10 MILLION for the bill.

At the time of this writing, the full committee markup had not yet been scheduled.

The following hearings could occur in the U.S. House of Representatives in the coming weeks:

- ****House Judiciary Panel Hearing on Secure Communities and ICE Prosecutorial Discretion:**

The House Judiciary Subcommittee on Immigration Policy and Enforcement has scheduled a hearing for mid-July on the Secure Communities Program and the Administration's use in prosecutorial discretion. At the time of this writing, the witness list for the hearing had not yet been announced.

No date has been set for the hearing, which originally was scheduled for late July.

- ****House Judiciary Committee Panel to Hold Hearing on J Visas:**

The House Judiciary Subcommittee on Immigration Policy and Enforcement has scheduled a hearing for next week titled "Does the J Visa Program Abuse Foreign Students and American Workers?" At the time of this writing, the witness list for the hearing had not yet been announced.

No date has been set for the hearing, which originally was scheduled for late June.

- ****House Judiciary Committee Panel Likely to Hold Hearing on DUI and Illegal Immigrants:** While no Subcommittee action had yet been scheduled at the time of this writing, it is anticipated that the House Judiciary Subcommittee on Immigration Policy and Enforcement will move in the coming weeks to hold a hearing on illegal immigrants who drive while intoxicated.

No date has been set for the hearing.

Senate

The following floor actions could occur in U.S. Senate in the coming weeks:

- ****Full Senate Could Take Up FY '12 Homeland Security Appropriations Bill:** The full Senate could move as soon as early-to-mid-September to take up its version of the fiscal year 2012 Homeland Security Appropriations Bill. Each year, the Homeland Security Appropriations Bill includes appropriations for the Department of Homeland Security, including its three immigration-related bureaus: U.S. Citizenship and Immigration Services (USCIS), Customs and Border Protection (CPB), and Immigration and Customs Enforcement (ICE). The measure traditionally has been a magnet for numerous immigration- and border security-related floor amendments.

At the time of this writing, no date for full Senate consideration of the bill had yet been set.

- ****Full Senate Could Take Up Haitian Progress Act:** The full Senate could at any time take up [H.R. 1016](#), the "Assessing Haitian Progress Act", which would make a number of findings with regard to the situation in Haiti and direct the President to report to Congress regarding the status of post-earthquake humanitarian, reconstruction, and development efforts in Haiti, including efforts to prevent the spread of cholera and treat persons infected with the disease, and an assessment of the ability of Haiti to absorb deportees from the United States.

The House of Representatives passed H.R. 1016 on May 10, 2011, by a voice vote. It has been referred to the Senate Committee on Foreign Relations, which has not indicated whether it plans to take up the measure.

The following markups could occur in U.S. Senate in the coming weeks:

- **Senate Judiciary Committee Likely to Mark Up Trafficking Victims Protection Reauthorization Act:** The Senate Committee on the Judiciary is likely to markup [S. 1301](#), the Trafficking

Victims Protection Reauthorization Act of 2011, sometime in September, 2011.

At the time of this writing, no date for a markup had been set.

- ****Senate Appropriations Subcommittee and full Committee Could Markup FY '12 Homeland Security Appropriations Bill:** The Senate Appropriations Subcommittee on Homeland Security and the full Senate Committee on Appropriations could move as soon as early-to-mid-September to markup the Senate version of the FY '12 Homeland Security Appropriations Bill. Each year, that measure includes appropriations for the Department of Homeland Security, including its three immigration-related bureaus: U.S. Citizenship and Immigration Services (USCIS), Customs and Border Protection (CPB), and Immigration and Customs Enforcement (ICE).

At the time of this writing, no dates for the markups had yet been set.

The following hearings could occur in U.S. Senate in the coming weeks:

- **Senate Judiciary Committee Planning to Hold Hearing on Trafficking Victims Protection Reauthorization Act:** The Senate Committee on the Judiciary is likely to hold a hearing sometime over the next several weeks on [S. 1301](#), the Trafficking Victims Protection Reauthorization Act of 2011, a bipartisan measure that has been introduced in the Senate by Committee Chairman Patrick J. Leahy (D-VT).

At the time of this writing, neither the date of nor the witness list for the hearing had not yet been released.

Off of the Hill

The following actions are scheduled to occur in the coming weeks outside of hearing rooms and off of the U.S. Senate and the U.S. House of Representatives:

- ****Panel Discussion on the Famine in Somalia:** The Brookings Institution has scheduled a discussion for next week on "Famine in Somalia: An Expected Turn for the Worse." Participants in the discussion will include Semhar Araia, Horn of Africa Regional Policy Adviser for Oxfam America; Mark Bartolini, Director of the Office of U.S. Foreign Disaster Assistance; Vincent Cochetel, Representative to the United States and the Caribbean Office of the UN High Commissioner for Refugees; Allen Jury, Director of the U.S. Relations Office at the World Food Program; and Reuben Brigety,

Deputy Assistant Secretary of State for Population, Refugees and Migration.

The panel discussion is scheduled for 10:00 am EDT on Monday, August 1, 2011, in the Washington, DC offices of the Brookings Institution.

- ****Address by USCIS Director Mayorkas:** U.S. Citizenship and Immigration Services Director Alejandro Mayorkas next week is scheduled to deliver remarks to the United Nations High Commissioner for Refugee's (UNHCR) First Annual Refugee Congress, which will mark the 60th anniversary of the United Nations Refugee Convention.

Director Mayorkas's remarks are scheduled for 9:00 am EDT on Wednesday, August 3, 2011, on the campus of the Georgetown University Law Center.

- ****Panel Discussion on U.S.-Mexico border Security:** The Center for American Progress (CAP) next week is holding a discussion titled, "The State of U.S./Mexico Border Security: Assessing the Past, Present, and Future From the Early Build Up Today and Beyond." Participants in the discussion will include Alan Bersin, Commissioner of Customs and Border Protection; Doris Meissner, Senior Fellow and Director of the Immigration Policy Program; and Marshall Fitz, Director of immigration policy at CAP.

The discussion is scheduled for 12:00 Noon EDT on Thursday, August 4, 2011, in the Washington, DC offices of the Center for American Progress.

- ****Issue Forum on Immigration Enforcement and Criminalization:** Jobs with Justice next week has scheduled a forum on immigration enforcement and criminalization during its 2011 Jobs with Justice National Conference. The title of the forum is, "Immigration Enforcement and Criminalization, an organized attack to divide workers - & the grassroots fight back".

The forum is scheduled for 10:30 am EDT on Friday, August 5, 2011, at the Omni Forum Hotel in Washington, DC. ◆

Next Week's Edition ...

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

- **Full House Appropriations Committee Markup of FY '12 Spending Bill that Funds Refugee Admissions and Overseas Refugee Assistance.** Next week's Weekly Legislative Update will report on any refugee- or immigration-related provisions that are acted on during this week's scheduled House Appropriations Committee mark up its FY '12 State, Foreign Operations, and Related Agencies Appropriations Bill.
- **House Consideration of Bill Relating to Conditional Residency for Deployed Active Duty Military Personnel and Their Spouses.** Next week's Weekly Legislative Update will report on this week's expected full House of Representatives consideration of H.R. 398, a measure relating to conditional residency for deployed active duty military personnel and their spouses.
- **House Consideration of Bill to Admit Nonimmigrant Nurses in Underserved Communities.** Next week's Weekly Legislative Update will report on this week's expected full House of Representatives consideration of H.R. 1933, legislation that would make it easier to deny and revoke the visas of aliens.
- **Senate Foreign Relations Panel to Hold Hearing on Drought and Famine in the Horn of Africa.** Next week's Weekly Legislative Update will report on this week's Senate Foreign Relations Subcommittee on African Affairs hearing on drought and famine in the Horn of Africa.
- **House and Senate Action on Debt and Deficit Reduction Legislation.** Next week's Weekly Legislative Update will report on the likely impact on immigration- and refugee-related policy of anticipated action in the House and Senate on legislation to increase the ceiling on the federal debt limit. ◆

Appendix

No Items This Week. ◆