



United States Conference of Catholic Bishops Government Relations

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

Monday, February 9, 2009

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This Week's Hearings

House

There are no hearings scheduled for this week in the House of Representatives at which significant immigration- or refugee-related matters are expected to be discussed.

Senate

There are no hearings scheduled for this week in the Senate at which significant immigration- or refugee-related matters are expected to be discussed.

This Week's Markups

At the time of this writing, at least four actions impacting immigration or refugee matters could take place this week in House or Senate committees.

This includes the following potential actions:

- Legislation: At the time of this writing, no measures containing significant immigration- or refugee-related provisions were scheduled to be marked up this week in House or Senate Committees.

- Committee Organizing Meetings. At the time of this writing, the following committee organizing meetings were possible this week:

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This Week's Markups (continued)

1. House Judiciary Committee Oversight Plan. The House Committee on the Judiciary is expected to meet next week to consider its oversight plan for the 111th Congress.
2. Senate Committee on Homeland Security. The Senate Committee on Homeland Security and Governmental Affairs could hold its 111th Congress organizing meeting as soon as this week.
3. Senate Committee on the Judiciary. The Senate Committee on the Judiciary could hold its 111th Congress organizing meeting as soon as this week.
4. Senate Committee on Appropriations. The Senate Committee on Appropriations could hold its 111th Congress organizing meeting as soon as this week.

House

House Judiciary Committee Could Adopt Oversight Plan for the 111th Congress: While no public notice had been made at the time of this writing, the House Committee on the Judiciary could meet this week to adopt its oversight plan for the 111th Congress. Should it occur, this week's meeting would likely take place at 10:00 am on Wednesday, February 11, 2009, in Room 2141 of the Rayburn House Office Building.

Senate

Senate Homeland Security Committee to Organize for the 111th Congress: After much delay and numerous postponements, the Senate Committee on Homeland Security and Governmental Affairs has yet again scheduled its 111th Congress organizing meeting for this week. This week's meeting is scheduled for 10:00 am on Wednesday, February 11, 2009, in Room 342 of the Dirksen Senate Office Building. ◇

This Week's Floor Activity

At the time of this writing, at least three actions impacting immigration or refugees could take place this week on the House or Senate floor.

- The Senate is expected to complete its consideration of the economic stimulus package, which includes a number of immigration-related provisions, including several that are controversial.
- The House is expected to agree to go to conference with the Senate on the differing provisions of their respective versions of the economic stimulus bill.

- The House and Senate could take up a conference agreement on the economic stimulus bill.

House

House Could Take Up Revised Economic Stimulus Bill: The full House of Representatives could take at least two actions this week relating to an economic stimulus bill that has become a vehicle for controversial immigration provisions. This week's House floor actions are expected to occur in connection with H.R. 1, the "Economic Recovery and Reinvestment Act of 2009", which the House of Representatives passed on Wednesday, January 28, 2009, by a vote of 244-188.

The timing of this week's House floor actions on the economic stimulus bill is dependent on the timing of action that is expected to occur this week in the Senate. The Senate is expected to pass its version of H.R. 1 on Tuesday, February 10, 2009. Should the Senate act by that date, the House would likely entertain a motion on that same day to go to conference, appoint conferees, and entertain a motion to instruct the conferees. The House could be called upon to act again later this week should House and Senate conferees reach agreement on the bill. In that eventuality, the full House would take up the conference report.

Both the House-passed version of H.R. 1 and the version that is under consideration in the Senate contain a number of immigration-related provisions:

- The House-passed bill contains supplemental appropriations for several accounts within the Department of Homeland Security. However, the most controversial of the immigration-related provisions in the House-passed bill would require that all entities receiving funds in the economic stimulus bill use the E-Verify system to verify the work eligibility for its employees.
- The bill that is under consideration in the Senate also contains supplemental appropriations for several accounts within the Department of Homeland Security.

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This Week's Floor (continued)

At the time of this writing, it did not contain provisions relating to the E-Verify system. But the bill was still being subjected to the amendment process at the time of this writing.

At the time of this writing, there was no way to predict whether and to what degree immigration will be a subject that is featured in the motion to instruct conferees that likely will be made by Republicans at the time the House moves to go to conference with the Senate on H.R. 1. It also was not possible at the time of this writing to predict how conferees will resolve any differences on immigration between the House- and Senate-passed versions of the bill.¹⁰⁹

Senate

Senate to Complete Action on the Economic Stimulus Bill: The Senate could take at least two actions this week relating to an economic stimulus bill that has been a target for controversial immigration provisions. This week's actions are expected to occur in connection with H.R. 1, the "Economic Recovery and Reinvestment Act of 2009".

A unanimous consent agreement providing for the continuation of the Senate's consideration of H.R. 1 precludes any amendments from being offered to the measure other than a substitute crafted by Senators Susan Collins (R-ME) and Ben Nelson (D-NE). This means that two amendments that had been closely watched by pro-immigrant and pro-refugee advocates will not be able to be offered to the bill on the Senate floor. The first of these amendments was an amendment that was authored by Senator Jeff Sessions (R-AL) and was vehemently opposed by the pro-immigrant advocacy community. The Sessions amendment would have required all entities receiving funds from the economic stimulus bill to use the E-Verify system to verify the work eligibility of their employees. The second of these was an amendment that was authored by Senator Edward M. Kennedy (D-MA) and strongly supported by the pro-refugee community. The Kennedy amendment would have added \$160 MILLION to the bill to assist refugees who have been resettled into the United States.

Should the Senate, as expected, pass its version of H.R. 1 early this week, a conference committee is expected to immediately be convened to resolve differences between the House- and Senate-passed versions of the measure. Should the conference committee produce an agreement before the end of the week, the Senate could be called upon to take up that conference agreement.

¹⁰⁹ See Pages 148-150 of the February 2, 2009, edition of the *Weekly Legislative Update* for a detailed summary of the immigration-related provisions in the House-passed version of H.R. 1

The Senate began consideration of H.R. 1 on Monday, February 2, 2009, and had it under consideration throughout the week. The Senate will resume consideration of the measure at 1:00 pm on Monday, February 9, 2009. The Senate Democratic Leadership hopes to complete its consideration of the measure on Tuesday, February 10, 2009.

The version of H.R. 1 that the Senate has under its consideration started out as an \$888 BILLION package that was based on proposals put together by President Barack Obama and Senate Democratic Leaders. It was an unusual measure, in that it combined discretionary spending provisions, entitlement spending provisions, revenue measures, and authorization provisions. In all, the measure contained \$365 BILLION in discretionary spending increases, \$180 BILLION in entitlement spending increases, and \$342 BILLION in tax cuts.¹¹⁰ The original Senate version of H.R. 1 was assembled after two Senate committees held markups to put their stamps on the measure.

Numerous floor amendments have altered the composition of the measure in the Senate. Moreover, an amendment that currently is pending would dramatically alter the measure, once more. That amendment is a complete substitute that encompasses all of the changes that were made to the bill on the Senate floor last week, along with a number of other changes that are embodied in a deal that was brokered late last week by Senators Susan Collins (R-ME) and Ben Nelson (D-NE). The Collins-Nelson deal would reportedly reduce the cost of the bill by \$140 BILLION.¹¹¹

Parliamentary Situation. The Senate has reached a unanimous consent governing the completion of its consideration of H.R. 1.

- The Senate will resume consideration of the measure at 1:00 pm on Monday, February 9, 2009. At that time, the pending business will be the substitute amendment embodying all of the amendments that the Senate has agreed to thus far, plus the Collins-Nelson cuts.
- The Senate will vote on invoking cloture on the new substitute amendment at 5:30 pm on Monday.
- If the Senate invokes cloture on the amendment, all post cloture time will expire at 12:00 Noon on Tuesday.

¹¹⁰ [Click Here](#) to see the text of the original bill that the Senate took up on January 2, 2009

¹¹¹ [Click Here](#) to see the text of the new substitute amendment for H.R. 1, which includes both the Nelson/Collins/Specter amendment and all of the amendments that the Senate adopted last week

- If the Senate invokes cloture on the Substitute Amendment, it will vote on the Substitute Amendment (and on any attempts to waive the Budget Act's rules in relation to the Substitute Amendment) sometime after 12:00 Noon on Tuesday.

Under the unanimous consent agreement, no further amendments can be offered to the bill.

Legislative History. The Senate version of H.R. 1 is a companion to the [House-passed version of H.R. 1](#), the "Economic Recovery and Reinvestment Act of 2009", which the House of Representatives passed on January 28, 2009, by a vote of 244-188.¹¹² However, the Senate version of H.R. 1 differs in significant ways from the House-passed measure.

The original Senate version of H.R. 1 was the product of two committees' work: the Senate Committee on Appropriations and the Senate Committee on Finance. The Senate Finance Committee approved its part of the measure on January 27, 2009, by a vote of 14-9.¹¹³ The Senate Appropriations Committee also approved its part of the measure on January 27, 2009, ordering it reported to the Senate as [S. 336](#)¹¹⁴, by a vote of 21-9.

The bill was subjected to amendment throughout last week, with the Senate agreeing to a number of amendments.

Summary of Immigration- and Refugee-Related Provisions. The new Substitute that the Senate will consider this week contains the following immigration- or refugee-related provisions:

- Funding for U.S. Customs and Border Protection.
 - Border Stations. an appropriation of \$1.2 BILLION to the General Services Administration for border stations.

This is the same amount that was contained in the original Senate bill for this purpose.
 - CBP Salaries and Expenses. An appropriation of \$198 MILLION for U.S. Customs and Border Protection salaries and expenses, including \$100.8 MILLION for the procurement and deployment of non-intrusive inspection systems to improve port security and \$ 97.2 MILLION for procurement and

¹¹² [House Roll Call No. 46](#), January 28, 2009

¹¹³ [Click Here](#) to see the text of the legislation approved by the Senate Committee on Finance

¹¹⁴ [Click Here](#) to see the text of S. Rept. 111-3, the report accompanying the Senate Appropriations Committee-approved version of S. 336

deployment of tactical communications equipment and radios.

This is the same amount that was contained in the original Senate bill for this purpose.

- Border Fencing and Technology. an appropriation of \$200 MILLION for Border Security Fencing, Infrastructure, and Technology, to be used for expedited development and deployment of border security technology on the Southwest border.

This is the same amount that was contained in the original Senate bill for this purpose.

- Port of Entry Construction. an appropriation of \$800 MILLION for Construction, to be used to construct, alter, enhance, expand, repair, and/or improve CBP-owned land border ports of entry.

This is the same amount that was contained in the original Senate bill for this purpose.

- Funding for U.S. Immigration and Customs Enforcement.

- Automation Modernization. an appropriation of \$27.8 MILLION for automation modernization to be used for the procurement and deployment of tactical communications equipment and radios.

This is the same amount that was contained in the original Senate bill for this purpose.

- Tax Provisions.

1. Making Work Pay Tax Credits. The new Section 36A(d)(1)(A) of the Internal Revenue Code, added by Section 1001(a) of the Finance Committee approved bill, would make nonresident aliens ineligible for the Making Work Pay Tax Credits.

This provision is unchanged from original Senate bill.

- Restrictions on the Hiring of H-1B Workers. Section 1610 of the new Substitute Amendment would prohibit any bank or other financial institution that receives funding under the Troubled Asset Relief Act from hiring H-1B workers unless the bank or financial institution is in compliance with provisions of law applicable to an H-1B dependant employer.

This provision was added to the bill by an amendment offered by Senators Bernie Sanders (I-VT) and Charles Grassley (R-IA). The Senate agreed to the amendment on Thursday, February 6, 2009, by a voice vote.

Floor Consideration Thus Far. The Senate agreed to one immigration-related amendment during last week's consideration of H.R. 1, an amendment that was offered by Senator Bernard Sanders (I-VT) restricting the hiring of H-1B workers by recipients of funding under the Troubled Asset Relief Program. The Senate agreed to the amendment by a voice vote. It is in Section 1610 of the new Substitute Amendment that the Senate will take up later this week.

Several senators submitted other immigration- or refugee-related amendments during last week's consideration of the measure. However, none were voted on.

Among the other amendments were the following:

- KENNEDY REFUGEE AMENDMENT.—Senator Edward M. Kennedy (D-MA) submitted Senate Amendment No. 271, which would have appropriated a total of \$160 MILLION to assist communities resettling individuals who have been granted status pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163), or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), or who have been provided status as refugees under Federal law.
- SESSIONS E-VERIFY AMENDMENT.—Senator Jeff Sessions (R-AL) submitted Senate Amendment No. 239, which would have extended authorization for the E-Verify program through 2016 and mandated that all entities receiving stimulus money to use the E-Verify system to verify the work eligibility of their employees.

Outlook. The Senate is expected to approve its version of H.R. 1 by Tuesday, setting up what could be a contentious conference with the House over a number of issues, including over the mandatory E-Verify provisions in the House-passed version of the measure. ☼ ◇

This Week's Conference Activity

At the time of this writing, one measure containing significant immigration- or refugee-related provisions is expected to be the subject of a conference committee.

Conferees to Race the Recess Clock in Effort to Finish Work on Economic Stimulus Bill: A House/Senate conference committee is expected to convene this week to resolve differences between the House- and Senate-passed versions of H.R. 1, the "Economic Stimulus and Recovery Act of 2009". President Obama and the House and Senate Democratic Leadership have pledged to complete consideration of the bill before Congress leaves for its Presidents Day recess, which currently is scheduled to begin upon the close of business on Friday, February 12, 2009.

The House passed its version of H.R. 1 on January 28, 2009, by a vote of 244-188.¹¹⁵ The Senate is expected to pass its version of the measure on Tuesday, February 10, 2009.

Both versions contain a number of immigration-related provisions, the most controversial of which are—

- Extension of the E-Verify Program. Sections 7001 through 7004 of the House-passed version of H.R. 1 would extend the E-Verify Program through 2016 and implement a number of provisions aimed at protecting the Social Security Administration from excessive costs and providing for an evaluation of the program.

There is no comparable set of provisions in the bill that the Senate is expected to pass this week.

- Mandatory Use of E-Verify System. Section 1114 of the House-passed version of H.R. 1 would mandate that all entities receiving stimulus money to use the E-Verify system to verify the work eligibility of their employees.

There is no comparable provision in the bill that the Senate is expected to pass this week.

- Prohibition on Hiring H-1B Workers. Section 1610 of the version of the bill that the Senate is expected to pass would prohibit any bank or other financial institution that receives funding under the Troubled Asset Relief Program from hiring H-1B workers unless the bank or financial institution is in compliance with provisions of law applicable to an H-1B dependant employer.

There is no comparable provision in the House-passed version of the measure.

There are a number of other, less controversial immigration-related provisions in the bill that must be resolved by conferees. For instance—

- Bar Loan Guarantees if Small Businesses Owned, in Part, by Illegal Aliens. Section 6201(f) of the House-passed version of H.R. 1 would bar small business loan guarantees under the Act to concerns if an illegal immigrant has an ownership interest in the concern or if the Secretary of Homeland Security or Attorney General of the United States have determined that concern has engaged in a pattern and practice of hiring, recruiting, or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

There is no comparable provision in the Senate-passed version of the measure.

¹¹⁵ [House Roll Call No. 46, January 28, 2009](#)

- Bar Small Business Loans to Firms Hiring Illegal Aliens. Section 6204(g) of the House-passed version of H.R. 1 would bar small business concerns from receiving refinancing assistance under the Act if an illegal immigrant has an ownership interest in the concern or if the Secretary of Homeland Security or Attorney General of the United States have determined that concern has engaged in a pattern and practice of hiring, recruiting, or referring for a fee, for employment in the U.S. an alien knowing the person is unauthorized.

There is no comparable provision in the Senate-passed version of the measure.

- Bar Illegal Aliens from Receiving the Making Work Pay Tax Credit. Both bills would bar illegal aliens from receiving Making Work Pay Tax Credits and impose documentation requirements to ensure that recipients of the tax credits are not illegal immigrants. However, each bill would employ different methods to enforce the provisions.

Both versions of H.R. 1 also would appropriate supplemental funds for the Department of Homeland Security. The following briefly summaries those appropriations:

- Construction of a new DHS Headquarters. The version of the bill that the Senate is expected to pass would appropriate \$198 MILLION for the planning, design, and construction of a new Department of Homeland Security headquarters.

The House-passed bill contains no such appropriation.

- Border Facilities and Land Ports of Entry. The House-passed bill would appropriate \$1 BILLION for the construction, repair, and alteration of border facilities and land ports of entry.

The version of the bill that the Senate is expected to pass would appropriate \$1.2 BILLION for that purpose.

- CBP Salaries and Expenses. The version of the bill that the Senate is expected to pass would appropriate \$198 MILLION for U.S. Customs and Border Protection salaries and expenses, including \$100.8 MILLION for the procurement and deployment of non-intrusive inspection systems to improve port security and \$ 97.2 MILLION for procurement and deployment of tactical communications equipment and radios.

The House-passed bill contains no such appropriation.

- Border Fencing and Technology. The version of the bill that the Senate is expected to pass would appropriate \$200 MILLION for Border Security Fencing, Infrastructure, and Technology, to be used for expedited

development and deployment of border security technology on the Southwest border.

The House-passed bill contains no such appropriation.

- Port of Entry Construction. The version of the bill that the Senate is expected to pass would appropriate \$800 MILLION for Construction, to be used to construct, alter, enhance, expand, repair, and/or improve CBP-owned land border ports of entry.

The House-passed bill contains no such appropriation.

- Automation Modernization. The version of the bill that the Senate is expected to pass would appropriate \$27.8 MILLION for automation modernization to be used for the procurement and deployment of tactical communications equipment and radios.

The House-passed bill contains no such appropriation.

- Non-Intrusive Detection Technology. The House-passed version of H.R. 1 would appropriate \$100 MILLION for salaries and expenses for “non-intrusive detection technology to be deployed at sea ports of entry.

The version of the bill that the Senate is expected to pass contains no such appropriation.

Outlook. While the conference will have to settle a number of difficult issues, President Obama has placed enormous pressure on the House and Senate to complete consideration of the measure by the end of the week. ☼ ◇

This Week’s Executive Activity

At the time of this writing, there were no significant executive branch actions on immigration contemplated for this week. ◇

Organization of the 111th Congress

The Senate and House of Representatives will continue over the next several weeks in a transition of their own as they as they organize the 111th Congress. This section of the Weekly Legislative Update is devoted to chronicling the impact that the 111th Congress’ organizational efforts will have on immigration- and refugee-related legislation, as well as examining the impact that those actions and decisions will have on Congressional oversight of the executive branch’s immigration- and refugee-related functions.

This section will continue in this publication until all 111th Congress organizational actions have been completed.

House

House Homeland Security Committee Organizes for the 111th Congress: The House Committee on Homeland Security held its 111th Congress organizing meeting last week, finalizing its subcommittee structure and rosters, adopting its committee rules, and agreeing to the Committee's oversight plan for the 111th Congress. Last week's organizing meeting occurred on Wednesday, February 4, 2009.

Committee Jurisdiction. The House of Representatives will continue to split jurisdiction over immigration and refugee legislation and oversight during the 111th Congress. The bulk of legislative and oversight jurisdiction over immigration and refugee matters will continue to be split among three committees:

- **House Homeland Security Committee.** The House Committee on Homeland Security reportedly will have jurisdiction over functions of the Department of Homeland Security relating to border and port security (except immigration policy and non-border enforcement).
- **House Foreign Affairs Committee.** The re-named House Committee on Foreign Affairs reportedly will continue to have jurisdiction over aspects of visa issuance, the Department of State's Bureau of Population, Refugees, and Migration.
- **House Judiciary Committee.** The House Committee on the Judiciary reportedly will continue to have jurisdiction over immigration policy and non-border enforcement of the immigration laws, including over refugee policy.

Committee Chairman. Returning as Chairman of the House Committee on Homeland Security in the 111th Congress is Representative Bennie G. Thompson (D-MS), who also chaired the Committee during the 110th Congress.



Representative Thompson (D-MS) was first elected to the U.S. House of Representatives in 2003, taking over the seat vacated by Representative Mike Espy (D-MS), who resigned from the Congress in order to become Secretary of Agriculture. Representative Thompson's district is located in west central Mississippi, and includes portions of the Mississippi Delta and Jackson.

Representative Thompson has a long record of support for pro-immigrant and pro-refugee legislation, having supported the pro-immigrant and pro-refugee advocacy communities' positions on more than 97 percent of the key contested immigration- and refugee-related votes that he has cast during his time in the House. Indeed, she has only voted against the position of the pro-immigrant advocacy community on a key,

contested immigration vote once. During the 109th Congress, he voted in favor of House passage of H.R. 6094, a bill that would have permitted the indefinite detention of certain aliens pending their deportation, barred admission into the United States for gang members, and made alien members of certain gangs automatically eligible for deportation.

Despite his strong voting record, Chairman Thompson has not taken a proactive role in pushing the pro-immigrant advocacy community's agenda. He declined to add his name to the list of cosponsors of any of the marquee pro-immigrant bills in the 110th Congress: the DREAM Act, the STRIVE Act, and the AgJOBS bill.

Ranking Minority Member. The Ranking Republican on the House Committee on Homeland Security in the 111th Congress will once again be Representative Peter T. King (R-NY). He chaired the Committee in the 109th Congress and was its Ranking Minority Member during the 110th Congress.



A longtime Member of Congress, Representative King has a mixed record on immigration- and refugee-related matters. Prior to the September 11, 2001, terrorist attacks on the United States, Representative King had supported the pro-immigrant and pro-refugee advocacy communities' positions on nearly 70 percent of the key contested immigration- and refugee-related votes that he had cast. Had he maintained that position, he would have the third most supportive voting record of all sitting House Republicans. However, Representative King's record has been on a downward spiral since then. Since the September 11, 2001, terrorist attacks, Representative King has only supported the pro-immigrant and pro-refugee advocacy communities' positions on 30 percent of key contested votes. Moreover, during the 109th and 110th Congress, his record nosedived even further. There were 36 key contested immigration- or refugee-related votes in the House of Representatives during the 110th and 111th Congresses. Representative King supported the pro-immigrant and pro-refugee advocacy communities' positions on just four of those votes, constituting a support position of just 11.1 percent.

The evolution of Representative King on immigration that has taken place in recent years has gone beyond merely voting against the positions of the pro-immigrant and pro-refugee advocacy communities. He also has been an aggressive advocate of legislation that the communities oppose. For instance, Representative King was one of the principal cosponsors during the 109th Congress of H.R. 4437, the Sensenbrenner immigration enforcement legislation that was strongly opposed by the pro-immigrant advocacy community and strongly supported by immigration restrictionists. While he did not cosponsor H.R. 4088, the Shuler immigration enforcement bill that was popularly known as the SAVE Act, during the 110th Congress, he

signed the discharge petition that sought to force it to the House floor.

New Party Ratio. As the 110th Congress drew to a close, the ratio of Democrats-to-Republicans on the House Committee on Homeland Security was 19-Democrats-to-15-Republicans. The ratio has been adjusted for the 111th Congress to 21-Democrats-to-13-Republicans.

Departed Committee Members. There was significant turnover in the Committee roster in the 111th Congress. In all, 12 Members who served on the Committee during the 110th Congress did not return to the Committee in the 111th Congress. Seven of the 12 were Democrats and five were Republicans.

The following lists the twelve Members of the 110th Congress who departed the Committee in the 111th Congress:

- Ed Markey (D-MA)
- Norm Dicks (D-WA)
- Nita Lowey (D-NY)
- Donna M. Christian-Christensen (D-VI)
- Bob Etheridge (D-NC)
- Jim Langevin (D-RI)
- Ed Perlmutter (D-CO)

- Chris Shays (R-CT)
- Tom Davis (R-VA)
- David G. Reichert (R-WA)
- Ginny Brown-Waite (R-FL)
- Lincoln Davis (R-TN).

New Committee Members. 12 new Members have joined the Committee in the 111th Congress. Nine are Democrats and three are Republicans:

- Laura Richardson (D-CA)
- Ann Kirkpatrick (D-AZ)
- Ben R. Lujan (D-NM)
- Emanuel Cleaver (D-MO)
- Jim Himes (D-CT)
- Mary Jo Kilroy (D-OH)
- Eric Massa (D-NY)
- Dina Titus (NV)
- Vacant (D)

- Steve Austria (R-OH)
- Joseph Cao (R-LA)
- Pete Olson (R-TX)

Oversight Plan. Rule X, clause 2(d) of the Rules of the House of Representatives requires all standing committees to adopt an oversight plan by February 15 of the first session of a new Congress.

The House Committee on Homeland Security last week adopted its oversight plan for the 111th Congress. As approved by the Committee, the plan includes two entries relating to border activities. More specifically, the oversight plan indicates that the Committee intends to—

- review efforts to ensure the deployment and implementation of technology and training to assist border and consular officials in identifying, intercepting, and disrupting terrorists or others who would do us harm attempting to enter or travel within the United States;
- review the efforts of the Department to detect, detain, and remove aliens apprehended at or near U.S. borders and ports of entry who are subject to deportation, particularly those from countries of terrorist concern;
- examine the integration, security, and reliability of criminal, immigration, and terrorist databases used to screen persons seeking to enter this country;
- monitor the Department's progress in fully implementing the US-VISIT program and its supporting technologies and databases, the potential benefits and challenges of various biometric technologies; the impact of the program on cross-border travel at ports of entry, the ability of the Department to use overstay reports generated by the program for enforcement purposes and the integration of the US-VISIT program with other screening programs;
- closely monitor implementation of the Western Hemisphere Travel Initiative in a manner to achieve both enhanced border security and to expedite legitimate and qualified travelers, as recommended by the 9/11 Commission;
- assess DHS progress with respect to the integration and effectiveness of transportation and border security screening systems for passengers and cargo transported within the United States and across our borders;
- examine the existing state of infrastructure at our nation's ports of entry and assess improvements that may be required to enhance implementation of border security programs;
- continue to monitor the use of technology – particularly sensors, video and unmanned aerial vehicles (or remotely piloted aircraft) – to enhance border security; and
- monitor the Department's efforts to implement these programs in an effective and efficient manner.

Committee Roster. The chart that follows lists the membership of the House Committee on Homeland Security in the 111th Congress. Members who have left the

Committee in the 111th Congress are denoted with a ~~stricken-through line~~. New Members are marked with an asterisk (*):

House Committee on Homeland Security
111th Congress

Democrats (21)	Republicans (13)
Thompson (D-MS)	King (R-NY)
Sanchez, Loretta (D-CA)	Smith, L. (R-TX)
Markey (D-MA)	Shays (R-CT)
Dicks (D-WA)	Souder (R-IN)
Harman (D-CA)	Davis (R-VA)
DeFazio (D-OR)	Lungren (R-CA)
Lowey (D-NY)	Rogers (R-AL)
Norton (D-DC)	Reichert (R-WA)
Lofgren (D-CA)	McCaul (R-TX)
Jackson Lee (D-TX)	Dent (R-PA)
Christensen (D-VI)	Brown-Waite (R-FL)
Etheridge (D-NC)	Bilirakis (R-FL)
Langevin (D-RI)	Davis (R-TN)
Cuellar (D-TX)	Broun (R-GA)
Carney (D-PA)	Miller (R-MI)
Clarke (D-NY)	*Austria (R-OH)
*Richardson (D-CA)	*Cao (R-LA)
*Kirkpatrick (D-AZ)	*Olson (R-TX)
*Lujan (D-NM)	
Pascrell (D-NJ)	
*Cleaver (D-MO)	
Green, Al (D-TX)	
Perlmutter (D-CO)	
*Himes (D-CT)	
*Kilroy (D-OH)	
*Massa (D-NY)	
*Titus (D-NV)	
*Vacancy	

Border Security Subcommittee. During the 110th Congress, the Committee’s Subcommittee on Border, Maritime, and Global Counterterrorism (Border Security Subcommittee) had jurisdiction over border security matters. It is far too soon to determine what the membership of the Subcommittee will be in the 111th Congress. The full Homeland Security Committee will likely have an organizing meeting in mid- to late-January at which time those decisions will be unveiled.

The Border Security Subcommittee had 13 Members during the 110th Congress, with the subcommittee’s partisan ratio being 8-Democrats-to-5-Republicans. The Subcommittee ratio in the 111th Congress will be 9-Democrats-to-5-Republicans.

The Chairwoman of the Border Security Subcommittee during the 110th Congress was Representative Loretta Sanchez (D-CA). All indications are that she will return in the 111th Congress as the Subcommittee’s Chairwoman.



Representative Sanchez represents Orange County, California in the U.S. House of Representatives. She first won her seat in a disputed election in 1996, defeating Representative Bob Dornan (R-CA), who was one of the most legendary conservatives ever to sit in the U.S. House of Representatives. She has been reelected by increasing margins ever since, winning in 2008 with 68.8 percent of the vote.

Her district has undergone great ideological change since she was first elected. President George W. Bush defeated Vice President Al Gore in her district by 15 percentage points in 2000. President Bush defeated Senator John Kerry (D-MA) by a single percentage point in 2000 in her district. However, in 2008, President-Elect Barack Obama bested Senator John McCain in her district by 22 percentage points.

Representative Sanchez’s congressional district also has undergone significant demographic change since her first election. In 2007, the Census Bureau reported that more than 70 percent of the district was Hispanic, 14 percent of the district was Asian, more than 49 percent of the district was foreign born, and just over a third of the residents in the district were noncitizens.

Representative Sanchez’s voting record is that of a longtime supporter of the pro-immigrant advocacy agenda, having supported the community’s position on nearly every vote that she has cast during her House career. Indeed, she has only voted against the position of the pro-immigrant advocacy community on a key, contested immigration vote once. During the 109th Congress, she voted in favor of House passage of H.R. 6094, a bill that would have permitted the indefinite detention of certain aliens pending their deportation, barred admission into the United States for gang

members, and made alien members of certain gangs automatically eligible for deportation.

Despite her voting record, Representative Sanchez has not taken a proactive role in pushing the pro-immigrant advocacy community's agenda. She declined to add her name to the list of cosponsors of any of the marquee pro-immigrant bills in the 110th Congress: the DREAM Act, the STRIVE Act, and the AgJOBS bill. She is a member of the moderate-to-conservative Blue Dog Democrats Caucus. And she has at times proposed compromises to anti-immigrant legislation that the pro-immigrant advocacy community has opposed.

The Ranking Republican on the Border Security Subcommittee during the 110th Congress was Representative Mark Souder (R-IN). It was not known at the time of this writing whether he will return in the 111th Congress as the Subcommittee's Ranking Republican.



Representative Souder was first elected to the House in 1994. He represents northeastern Indiana, an area that includes the city of Fort Wayne. His is a solid Republican district, having voted for President George W. Bush in 2000 and 2004 by some of the largest margins of any House District in the country.

As the 110th Congress drew to a close, Representative Souder had supported the positions of the pro-immigrant and pro-refugee advocacy communities in 26 percent of the key contested immigration- or refugee-related votes he had cast during his House career. From an overall perspective, his record made him the 11th most supportive of the 155 House Republicans who are returning to the House in the 111th Congress. However, Representative Souder's overall voting record doesn't tell the whole story.

Prior to the September 11, 2001, terrorist attacks, Representative Souder supported the pro-immigrant advocacy community's position in more than 41 percent of the key contested immigration- or refugee-related votes that he had cast. However, his level of support dropped dramatically afterward. Since then, he has only supported the pro-immigrant position in 20 percent of the votes that he has cast.

An even greater indication of the decline of Representative Souder's level of support for the pro-immigration advocacy community is the voting record he has amassed since the beginning of the 109th Congress. He voted in support of the pro-immigrant or pro-refugee community's position in only four of the 38 key votes that took place during the 109th and 110th Congresses, a support level of less than 13 percent.

Despite having only voted for the pro-immigrant advocacy community four times since the beginning of the 109th Congress, Representative Souder has made those votes count. His four votes include a vote against H.R. 4437, the Sensenbrenner immigration enforcement legislation that was

strongly opposed by the pro-immigrant advocacy community, a vote against an amendment requiring the use of military forces along the U.S. border with Mexico, against an amendment that sought to bar extensions of Temporary Protected Status (TPS), and against funding grants to help states meet the requirements of the REAL ID Act.

In terms of legislation cosponsored, Representative Souder declined during the 110th Congress to cosponsor H.R. 4088, the Shuler immigration enforcement bill that was popularly known as the SAVE Act. However, he signed the discharge petition that sought to force it to the House floor. He also cosponsored a bill during the 110th Congress that would have denied birthright citizenship to children born in the U.S. if one of their parents is not legally present in the country.

Subcommittee Rosters. The chart that follows lists the House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism in the 111th Congress. Members who have left the Subcommittee are denoted with a ~~stricken through line~~. New Members are marked with an asterisk (*):

House Homeland Security Border Security Subcommittee 111th Congress

Democrats (9)	Republicans (5)
Sanchez, Loretta (D-CA)	Souder (R-IN)
Harman (D-CA)	Reichert (R-WA)
Markey (D-MA)	McCaul (R-TX)
Lofgren (D-CA)	Bilirakis (R-FL)
Jackson Lee (D-TX)	Rogers (R-AL)
Langevin (D-RI)	*Miller, Candice (R-MI)
Cuellar (D-TX)	
*Kirkpatrick (D-AZ)	
*Pascrell (D-NJ)	
Green, Al (D-TX)	
*Massa (D-NY)	



Senate

Senate Foreign Relations Committee Organizes for the 111th Congress: The Senate Committee on Foreign Relations held its 111th Congress organizing meeting last week, finalizing its subcommittee structure and rosters and adopting its rules. Last week's organizing meeting occurred on Thursday, February 5, 2009.

Committee Jurisdiction Over Immigration and Refugee Matters. With respect to immigration and refugee matters, the Senate Committee on Foreign Relations has legislative jurisdiction over foreign assistance programs, including the Migration and Refugee Assistance (MRA) and Emergency Refugee and Migration Assistance (ERMA) programs. The Committee also has oversight jurisdiction over the department generally, including over the Department's Bureau of Population, Refugees, and Migration (PRM), the bureau that oversees the United States' overseas refugee assistance and refugee admissions programs. Over the years, the Committee has exercised its responsibilities in the Foreign Relations Authorization bill (popularly known as the State Department Authorization bill).

The Senate Committee on Foreign Relations has legislative and oversight jurisdiction over the Department of State. The principal piece of legislation that it produces that has refugee consequences is the State Department Authorization Bill. That measure authorizes funding for the Department of State's Bureau of Population, Refugees, and Migration (PRM).

Committee Chairman. Senator John Kerry (D-MA) was first elected to the Senate in 1984. He has been reelected by wide margins ever since.

Senator Kerry has been a strong supporter of the pro-immigrant and pro-refugee advocacy communities during his Senate career, having supported their positions on more than 90 percent of the key, contested immigration- and refugee-related votes that he has cast since entering the Senate.



Senator Kerry ascended to the chairmanship of the Senate Committee on Foreign Relations at the beginning of the 111th Congress, taking over the chairmanship of the Senate Committee on Foreign Relations in the 111th Congress. He succeeds Senator Joseph Biden, who resigned from the Senate in order to become Vice President of the United States.

While Senator Kerry has not introduced many immigration bills, he cosponsored most of the marquee pro-immigrant bills that were introduced in the 110th Congress. For instance, he was a cosponsor during the 110th Congress of the DREAM Act, the Unaccompanied Alien Child Protection Act, and the AgJOBS bill.

Ranking Republican. Senator Richard Lugar (R-IN) was first elected to the Senate in 1976, and he has been reelected by wide margins ever since. During the 111th Congress, he has returned in the 111th Congress as the Committee's Ranking Republican.

Senator Lugar has been a strong supporter of refugees over the years. However, his support of the pro-immigrant

advocacy community's positions on immigration-related matters has been more unpredictable.

Senator Lugar has supported the pro-immigrant advocacy community's positions on nearly 44 percent of the key contested immigration-related votes that he has cast during his career. But that percentage doesn't tell the whole story. Senator Lugar's support has grown markedly in recent years. Prior to the 2001 terrorist attacks on the United States, Senator Lugar supported the pro-immigrant and pro-refugee advocacy communities' positions no fewer than 18 percent of the votes that he cast. However, he has supported those communities' positions on more than 63 percent of the votes he has cast since then. His support has included support for all three comprehensive immigration reform bills that the Senate considered in 2006 and 2007.



In addition, he was a cosponsor during the 110th Congress of the DREAM Act.

Committee Ratio. As the 110th Congress drew to a close, there were 11 Democrats and 10 Republicans on the Senate Committee on the Foreign Relations. The committee ratio in the 111th Congress is 11 Democrats to 8 Republicans.

Departed Committee Members. Nine senators who sat on the Committee during the 110th Congress departed the Committee in the 111th Congress. This includes three Democrats and six Republicans.

The following lists the nine senators from the 110th Congress who departed the Committee in the 111th Congress:

- Joseph Biden (D-DE)
- Ben Nelson (D-NE)
- Barack Obama (D-IL)

- Chuck Hagel (R-NE)
- Norm Coleman (R-MN)¹¹⁶
- John Sununu (R-NH)
- George Voinovich (R-OH)
- Lisa Murkowski (R-AK)
- David Vitter (R-LA).

New Committee Members. Seven new senators have been added to the Committee in the 111th Congress. Three of the

¹¹⁶ Former Senator Norm Coleman (R-MN) is contesting the results of the 2008 election, which the Minnesota Canvassing Board has tentatively awarded to his challenger, Al Franken. At the time of this writing, an election contest was underway. Should the contest be decided in favor of Coleman, he will regain his seat on the Senate Foreign Relations Committee.

new senators on the Committee are Democrats and four are Republicans:¹¹⁷

- Jeanne Shaheen (D-NH)
- Ted Kaufman (D-DE)
- Kirsten Gillibrand (D-NY)

- Johnny Isakson (R-GA)
- Jim Risch (R-ID)
- John Barrasso (R-WY)
- Roger Wicker (R-MS)

Committee Roster. The chart that follows lists the membership of the Senate Committee on Foreign Relations in the 111th Congress. Senators who have left the Committee in the 111th Congress are denoted with a ~~stricken through line~~. Senators who are new to the Committee in the 111th Congress are marked with an asterisk (*):

**Senate Committee on Foreign Relations
111th Congress**

Democrats (11)	Republicans (8)
Kerry (D-MA)	Lugar (R-IN)
Biden (D-DE)	Hagel (R-NE)
Dodd (D-CT)	Coleman (R-MN)
Feingold (D-WI)	Corker (R-TN)
Boxer (D-CA)	Sununu (R-NH)
Nelson (D-NE)	Voinovich (R-OH)
Obama (D-IL)	Murkowski (R-AK)
Menendez (D-NJ)	*Isakson (R-GA)
Cardin (D-MD)	*Risch (R-ID)
Casey (D-PA)	DeMint (R-SC)
Webb (D-VA)	Vitter (R-LA)
*Shaheen (D-NH)	*Barrasso (R-WY)
*Kaufman (D-DE)	*Wicker (R-MS)
*Gillibrand (D-NY)	*Vacant

Subcommittee Structure. Two subcommittees of the Senate Foreign Relations Committee could conceivably have jurisdiction over refugee matters. The first is the Subcommittee on International Development and Foreign Assistance, Economic Affairs, and International

Environmental Protection. That subcommittee is chaired by Senator Bob Menendez (D-NJ) and its Ranking Republican is Senator Bob Corker (R-TN). The second subcommittee that could have jurisdiction is the Subcommittee on International Operations and Organizations, Human Rights, Democracy and Global Women’s Issues. That subcommittee is chaired by Senator Barbara Boxer (D-CA). Its Ranking Republican is Senator Roger Wicker (R-MS). ☼ ◇

Executive Branch Transition

Even though President Obama has named the cabinet secretaries already for all but one of the four departments that have jurisdiction over the federal government’s major immigration- and refugee-related functions, even those agencies that have heads in place will continue in a state of transition over the next several weeks and months as subcabinet officials and agency heads are named in those departments.

Beginning this week, this section of the Weekly Immigration and Refugee Legislative Update will be devoted to chronicling the impact that the actions and decisions of the incoming Obama Administration in organizing the executive branch will have on the course of immigration- and refugee-related legislation, as well as examining the impact that those actions and decisions may have on Congressional oversight of the executive branch’s immigration- and refugee-related functions.

This section will continue in this publication until President-Elect Obama has made all of his major immigration- and refugee-related appointments.

President Obama Withdraws Nomination of Tom Daschle to be Secretary of Health and Human Services: President Barack Obama last week withdrew the nomination of former Senate Majority Leader Tom Daschle (D-SD) to be Secretary of Health and Human Services. The President withdrew his nomination, at Secretary-Designate Daschle’s request, on Tuesday, February 3, 2009.

The withdrawal of Secretary-Designate Daschle’s nomination is a blow to refugee advocates for several reasons—

- First, Senator Daschle had a long record in support of the pro-immigration and pro-refugee advocacy community’s agenda. Indeed, he supported the positions of the pro-immigrant and pro-refugee advocacy communities on nearly 90 percent of the key contested immigration- and refugee-related votes that he cast during his Senate career. There is no guarantee that the person named to replace Secretary-Designate Daschle will have a similar record on, sensitivity to, or knowledge of immigration and refugee issues.

¹¹⁷ *If former Senator Norm Coleman loses his election contest, an eighth new senator will be added to the Committee on the Republican side of the aisle*

- Second, Senator Daschle had enormous influence on both ends of Pennsylvania Avenue. He had an excellent relationship with President Obama, as well as and with his former colleagues on Capitol Hill. Many believed that his existing relationships would have given him more clout than previous Secretaries of Health and Human Services have had in any fights over budget or turf issues involving refugees. It is difficult to imagine a replacement who would have more clout than did Senator Daschle.
- Third, the withdrawal of Secretary-Designate Daschle's nomination likely means a five-to-eight-week delay in getting a Secretary into the Department, which could mean that there may well be a commensurate delay in securing persons to head up the Department's Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), and General Counsel's offices.

Refugee advocates are fearful that such a long delay in filling key agency leadership positions could have devastating consequences as the Department struggles to fulfill the need to implement complicated new mandates relating to trafficking victims and unaccompanied alien children, secure funding for fiscal year 2009, and determine budget needs for fiscal year 2010.

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

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

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

Secretary Napolitano Appoints Dora Schriro as Special Advisor on ICE and Detention & Removal: As predicted in this space last week, Secretary of Homeland Security Janet Napolitano last week announced the appointment of Dora Schriro as her Special Advisor on Immigration and Customs Enforcement (ICE) and Detention & Removal. The Secretary announced the appointment on Wednesday, February 4, 2009. The position to which Ms. Schriro was appointed is a new one created by the Secretary "to focus exclusively on the significant growth in immigration detention over the last five years, and to focus on the arrest priorities at ICE."

In announcing the appointment, Secretary Napolitano said, "Dora is one of America's leading minds on modern, effective prison management," said Secretary Napolitano. "In Arizona, she visited every correctional facility in the state and conducted a top-to-bottom review of their operations, tackling and reducing both overcrowding and recidivism. Her proven leadership and skills will serve not only this department, but also the individuals we need to house as we enforce our nation's immigration laws."

The Department of Homeland Security describes Ms. Schriro as "one of the foremost experts on correctional policies in the country, receiving prestigious awards from both Harvard University and the National Governors Association for her immensely successful recidivism reduction policies as the Director of the Arizona Department of Corrections for the last six years."

Prior to serving as Director of the Arizona Department of Corrections, Ms. Schriro served as the Director of the Missouri Department of Corrections for eight years. ☀

Last Week's Legislative Activity

Last Week's Hearings

There were no hearings last week at which significant immigration- or refugee-related matters were discussed.

Last Week's Markups

No committees conducted markups last week of legislation containing significant immigration or refugee provisions. However, two committees with significant jurisdiction over immigration- and refugee-related functions conducted organizing meeting.

- Committee Organizing Meetings. The following committees with jurisdiction over immigration- or

refugee-related legislation and agencies held organizing meetings last week:

1. House Homeland Security Committee. The House Committee on Homeland Security held its 111th Congress organizing meeting last week.
2. Senate Committee on Foreign Relations. The Senate Committee on Foreign Relations held its 111th Congress organizing meeting last week.

House Homeland Security Committee Holds 111th Congress Committee Organizing Meeting: The House Committee on the Homeland Security held its 111th Congress organizing meeting last week. Last week's meeting took place on Wednesday, February 4, 2009.

See pages 163-166 of this week's Weekly Legislative Update for a report on the House Homeland Security Committee's organizing meeting. ☀

Senate Foreign Relations Committee Holds 111th Congress Organizing Meeting: The Senate Committee on Foreign Relations held its 111th Congress organizing meeting last week. Last week's meeting occurred on Thursday, February 5, 2009.

See pages 166-168 of this week's Weekly Legislative Update for a report on the House Homeland Security Committee's organizing meeting. ☀

Last Week's Floor Activity

Congress took three floor actions last week impacting immigration or refugees. This included the following actions:

- Legislation: The full House or full Senate last week acted on two measures containing significant immigration- or refugee-related provisions:
 1. Immigrant Children Eligibility for SCHIP. The full House of Representatives cleared for the President's consideration legislation to reauthorize the State Children's Health Insurance Program (SCHIP).
 2. Economic Stimulus Package. The full Senate began consideration of its version of the economic stimulus package, which includes a number of immigration-related provisions, including several controversial ones.
- Nominations: The Full Senate last week confirmed one of President Obama's nominees to head cabinet departments that have jurisdiction over significant immigration- or refugee-related functions:

3. Attorney General of the United States. The Senate last week confirmed the nomination of Eric H. Holder, Jr., to be Attorney General of the United States.

House Clears Measure Expanding Immigrant Eligibility for Federally Funded Health Benefits:

The full House of Representatives last week cleared for the President's consideration legislation expanding legal immigrants' eligibility for federally funded health benefits. Last week's floor action occurred on Wednesday, February 4, 2009, in connection with H.R. 2, the "Children's Health Insurance Program Reauthorization Act of 2009". The House passed the measure by a vote of 290-135.¹¹⁸ The President signed the measure hours after the House vote, making it P.L. 111-3.

As a technical matter, the House last week took up the Senate Amendments to a House-passed version of H.R. 2. The House passed the Senate-passed measure without change, thus, clearing the measure for the President's consideration.

As cleared for the President's consideration and eventually enacted into law, H.R. 2 reauthorizes the State Children's Health Insurance Program (SCHIP) for four-and-a-half years, increases its benefits, and expands eligibility for the program. The measure is paid for, in part, by increasing the federal tax on cigarettes by 61 cents.

Legislative History. The 111th Congress took up H.R. 2 as one of its first orders of business. During the 110th Congress, the House and Senate sent two similar bills to President George W. Bush, who vetoed both of them.

One of the major differences between the 111th Congress version of H.R. 2 and the two SCHIP bills that President Bush vetoed during the 110th Congress is that H.R. 2 contains provisions expanding immigrants' access to SCHIP and Medicaid benefits.

The House first took up H.R. 2 on January 14, 2009, bypassing the House Committee on Energy and Commerce. It passed the bill on January 14 by a vote of 289-139.^{119 120}

The Senate Committee on Finance marked up S. 275, its version of the measure, on January 16, 2009, reporting it to the Senate as an original measure. The Senate Committee on Finance action occurred after a bruising debate on immigration. The Committee added two immigration-related

¹¹⁸ [House Roll Call No. 50](#), February 4, 2009

¹¹⁹ [House Roll Call No. 16](#), January 14, 2009

¹²⁰ See Pages 81-83 of the January 19, 2009, edition of the *Weekly Legislative Update*, for a report on and analysis of House consideration of H.R. 2.

provisions to the measure and rejected numerous other immigration-related amendments during its consideration of the measure. Among the amendments added to the bill during the Senate Finance Committee's consideration was a provision that would give states the option of providing SCHIP and Medicaid benefits to legal immigrant children and pregnant women without having to wait until the immigrants have been in the United States for five years.¹²¹

The full Senate took up the House-passed version of H.R. 2 beginning on Monday, January 26, 2009, replacing it with the text of S. 275, and subjecting that measure to amendment on the Senate floor throughout the week.

The Senate passed the Senate Amendments to H.R. 2 on Thursday, January 29, 2009, by a vote of 66-32.^{122 123}

The House acted on Wednesday, February 4.

Summary of the New Law's Immigration- and Refugee-Related Provisions. As cleared for the President's consideration and eventually signed into law, H.R. 2 contains the following immigration- or refugee-related provisions:

- State Option to Provide SCHIP and Medicaid Benefits. Sections 214(a) and (b) of the measure—
 1. Gives states the option of providing SCHIP and Medicaid benefits to legal immigrant children and pregnant women without waiting until the immigrant has been in the United States for five years or more;
 2. Waives the requirement under current law that the income and resources of an immigrant's sponsor be deemed to be that of the immigrant for the purposes of determining the immigrant's eligibility for SCHIP and Medicaid; and
 3. Relieves sponsors of affidavit of support obligations with regard to Medicaid and SCHIP benefits.

The Congressional Budget Office estimated that this provision will result in \$3.9 BILLION of additional spending from fiscal year 2009 through fiscal year 2019.

- Eased Citizenship Verification for States. Section 211(a)

¹²¹ See Pages 78-81 and 87-91 of the January 19, 2009, edition of the *Weekly Legislative Update for a report and analysis of the debate in the Senate Committee on Finance of the immigration-related provisions in S. 275 and the amendments offered in Committee to the measure.*

¹²² [Senate Roll Call No. 31](#), January 29, 2009

¹²³ See Pages 137-140 of this week's *Weekly Legislative Update for a detailed summary and analysis of last week's Senate consideration of H.R. 2*

provides an alternative citizenship verification process for states when determining Medicaid eligibility. Instead of presenting satisfactory documentary evidence as required under the Deficit Reduction Act of 2005, states could submit the name and Social Security number of the individual to the Commissioner of Social Security. The Commissioner will then determine whether the name and Social Security number provided by the state is consistent with information in the records maintained by the Commissioner. If the information is not consistent, the state will be required to make a reasonable effort to address the causes of the inconsistency. If the inconsistency cannot be resolved, the individual will be disenrolled from the program. The bill also applies this verification process to the Children's Health Insurance Program;

- Strengthened Citizenship Verification for SCHIP. Section 211(b) extends to the SCHIP program a 2005 Medicaid citizenship documentation requirement that some health advocates have found problematic because it has resulted in many eligible persons being barred from the program;
- Bar on Provision of Benefits to Illegal Immigrants. Section 605 explicitly provides that nothing in the Act allows Federal payments for individuals who are not lawfully residing in the United States; and
- Annual Immigration Status Checks. The new Section 1903(v)(4)(C) of the Social Security Act, as added by Section 214(a)(2) of the new law, requires states to acquire documented evidence of immigrants' lawful immigration status for immigrants receiving benefits pursuant to a state's decision to exercise its option to waive the five-year waiting period for immigrant eligibility for Medicaid and SCHIP benefits. Under the provision, states are required to acquire this documentation when they conduct their annual redetermination of eligibility.

Next Steps. President Obama signed the measure into law hours after Congress cleared it, making it P.L. 111-3. ☀

Senate Takes Up Economic Stimulus Package: The Senate last week took up, but did not complete consideration of, its version of economic stimulus legislation.

See Pages 159-161 of this week's *Weekly Legislative Update* for a detailed report on last week's Senate consideration of the economic stimulus bill. ☀

Senate Confirms Nomination of Eric Holder to be Attorney General of the United States: The Senate last week confirmed the nomination of Eric H. Holder, Jr., to be Attorney General of the United States. Senate floor action

on the nomination occurred on Monday, February 2, 2009. The Senate confirmed the nomination by a vote of 75-21.

The full Senate acted after the Senate Committee on the Judiciary had approved the nomination one week earlier, approving the nomination on Wednesday, January 28, 2009, by a vote of 17-2.

Attorney General Holder takes over a department that has jurisdiction over significant immigration functions, including the Executive Office for Immigration Review (EOIR), the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), the Office of Immigration Litigation (OIL), and the Office of Special Investigations (OSI).

In addition to having formal jurisdiction over EOIR, OIL, OSC, and OSI, the Department of Justice performs a number of other, less formal roles that impact immigration policy. The Federal Bureau of Investigation (FBI), for instance, conducts security clearance investigations of aliens seeking admission to the United States; the Bureau of Prisons (BOP) houses many aliens who are in detention; and the Attorney General plays a key role in the development of legislation that can have both direct and tangential impacts on immigrants.

Prior to the beginning of his confirmation process, there was little in the public record about Attorney General-Designate Holder's views or actions on immigration- or refugee-related matters. His views on immigration were filled out a bit during the confirmation process, however, as he answered a number of immigration-related questions either during the course of his public hearing or, later, for the hearing record.

The Attorney General-Designate revealed during questioning his unqualified disagreement with former Attorney General Michael Mukasey on the question of whether aliens are entitled to effective assistance of counsel during removal proceedings, his support for collecting DNA from immigration detainees, and his pledge to review the BIA streamlining regulations issued by the Administration of President George W. Bush. At the same time, Attorney General-Designate was more equivocal on such questions as the efficacy of 287(g) programs and the value of Operation Streamline, pledging to assess both programs. ☀ ◇

Last Week's Executive Activity

President Signs Bill Expanding Immigrant Eligibility for Federally-Financed Health Benefits:

President Barack Obama last week signed into law legislation expanding immigrant eligibility for the SCHIP and Medicaid programs.

President Obama signed H.R. 2, the "Children's Health Insurance Program Reauthorization Act of 2009", into law on

Wednesday, February 4, 2009, just hours after the House cleared the measure for his consideration. The President's signature on the measure made it P.L. 111-3.¹²⁴ ☀ ◇

Recently Introduced Legislation

The following bills containing significant immigration- or refugee-related provisions were introduced last week in either the House or Senate:

House

Family-Based Immigration System

- **Nuclear Family Priority Act:** Representative Phil Gingrey (R-GA) has introduced H.R. 878, a bill to amend the Immigration and Nationality Act to make changes related to family-sponsored immigrants and to reduce the number of such immigrants

As introduced, H.R. 878 would eliminate all family preference categories except for a single preference category for spouses and children of permanent resident aliens and citizens and reduce the number of family based immigrants who can be admitted to the United States.

H.R. 878 has been referred to the House Committee on the Judiciary.

¹²⁴ See Pages 78-81 and 87-91 of the January 19, 2009, edition of the *Weekly Legislative Update* for a report and analysis of the debate in the Senate Committee on Finance of the immigration-related provisions in the bill that eventually was considered by the full Senate as H.R. 2, and the immigration-related amendments to the measure that were offered in the Committee.

See Pages 81-83 of the January 19, 2009, edition of the *Weekly Legislative Update*, for a report on and analysis of full House of Representative's consideration of H.R. 2.

See Pages 137-140 of the February 2, 2009, edition of the *Weekly Legislative Update* for a detailed summary and analysis of the full Senate's consideration of H.R. 2.

See Pages 168-170 of the February 9, 2009, edition of the *Weekly Legislative update* for a summary of the final House consideration of H.R. 2, as well as a summary of the immigration provisions of the new law.

Senate

Employment-Based Immigration System

- **Save Our Small and Seasonal Businesses Act of 2009:** Senator Barbara A. Mikulski (D-MD) has introduced S. 388, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers

As introduced, S. 388 would extend the termination date for the exemption from the numerical limits of returning H-2B workers.

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

Bills in Development

Next week's and future Weekly Immigration and refugee Legislative Updates will include a brief listing of several immigration- or refugee-related bills that are currently under development and that could soon be introduced in the Senate or House of Representatives. In each week's listing, items that were added since the previous edition of the Weekly Legislative Update or items which have substantially changed since the previous Weekly Immigration and Refugee Legislative Update was issued will be marked with a double asterisk (**).

Over the Horizon ...

Bicameral

****Congress Puts Off Work on FY '09 Omnibus Until After Recess:** When the 110th Congress adjourned in December, 2008, it left most of its fiscal year 2009 appropriations work undone, including leaving undone the appropriations bills that fund the operation of the nation's refugee admissions, overseas refugee assistance, and refugee resettlement programs. Those programs are being funded through March 6, 2009, pursuant to Division A of P.L. 110-329, the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009".

It is widely believed that the fiscal year 2009 omnibus appropriations bill has already been written. Indeed, just over a week ago, the House Democratic Leadership announced that it intended to take up the measure last week. However, under pressure from Senate appropriators, the House Democratic Leadership agreed to put off House consideration of the measure until after the Presidents Day recess.

If the fiscal year 2009 omnibus appropriations bill has, indeed, been written, it has not yet been publicly released.

Accordingly, at the time of this writing, virtually nothing was publicly known about its provisions. Indeed, virtually no one on Capitol Hill who is not associated with the Leadership or the Appropriations Committee knew much about the bill's contents at the time of this writing.

The bill will contain fiscal year 2009 appropriations for the following departments that administer significant immigration- and refugee-related functions:

- Department of State. The Department of State, which administers the nation's refugee admissions and overseas refugee assistance programs through its Bureau of Population, Refugees, and Migration (PRM);
- Department of Health and Human Services. The Department of Health and Human Services, which administers the nation's refugee resettlement, unaccompanied alien child, trafficking victims assistance, and torture victims assistance programs through its Office of Refugee Resettlement (ORR); and
- Department of Justice. The Department of Justice, which administers the Board of Immigration Appeals (BIA), Executive Office for Immigration Review (EOIR), and the nation's immigration court system.

In addition to containing provisions appropriating funds for the three departments above, the measure may also be used as a vehicle for extending four immigration programs that are set to expire on March 6, 2009. Those programs are the Conrad 30 program for foreign-born doctors, the E-Verify employment verification program, a program relating to the EB-5 Investor visa program; and the special immigrant non-minister religious worker visa program.

All four of these programs will face either extinction or extension in the 111th Congress, and advocates for them are hoping extensions of the programs will be contained in the omnibus appropriations bill.

There is no reliable word on when the House will take up the fiscal year omnibus appropriations bill or what provisions will be included in it. But Congress must either enact the measure or send another continuing appropriations measure to the President by March 6, 2009. ☼ ◇

Next Week's Edition ...

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

- Preview of the Likely Immigration and Refugee Legislative Agenda for the 111th Congress. Next week's Weekly Legislative Update will preview the likely

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immigration and refugee legislative agenda that Congress will face during the 111th Congress.

- Immigration Provisions in the Economic Stimulus Bill. Next week's Weekly Legislative Update will report on actions taken on the Senate floor and in conference committee relating to the immigration-related provisions in the economic stimulus bill.
- Refugee- and Immigration-Related Provisions in the Fiscal Year 2009 Omnibus Appropriations Bill. Next week's Weekly Legislative Update will preview the refugee- and immigration-related provisions expected to be contained in the fiscal year 2009 omnibus appropriations bill, depending on whether the House releases details about the measure this week.
- Organization of the 111th Congress. Next week's Weekly Legislative Update will continue coverage of efforts that are underway to organize the House of Representatives and Senate for the 111th Congress and analyzing how those efforts, decisions, and actions might impact the course of immigration- and refugee-related legislation. ◇

Appendix

Excerpt from House Homeland Security Committee's 111th Congress Oversight Plan¹²⁵ February 4, 2009

BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

PORT AND MARITIME SECURITY

In the 111th Congress, the Committee will examine various aspects of port security, including the security of port facilities; the screening of vessels, passengers, cargo, and crew for potential terrorists or instrumentalities of terrorism; the development of international security standards for shipping and containers, and the development of secure identification cards for maritime employees. The Committee plans to review the efficiency and effectiveness of the Department's supply chain security programs and the status and implementation of the Maritime and Transportation Security Act of 2002 and the Security and Accountability for Every (SAFE) Port Act of 2006, and the relevant provisions of the Intelligence Reform and Terrorism Prevention Act of 2004.

In the 111th Congress, the Committee plans to monitor the Coast Guard's efforts to enhance maritime domain awareness through an examination of existing and alternative programs that contribute to this goal. As part of this effort, the Committee will review the progress and efficacy of the Coast Guard's Deepwater Program.

BORDER SCREENING

In the 111th Congress, the Committee intends to review efforts to ensure the deployment and implementation of technology and training to assist border and consular officials in identifying, intercepting, and disrupting terrorists or others who would do us harm attempting to enter or travel within the United States. As a part of this effort, the Committee will review the efforts of the Department to detect, detain, and remove aliens apprehended at or near U.S. borders and ports of entry who are subject to deportation, particularly those from countries of terrorist concern. The Committee will examine the integration, security, and reliability of criminal, immigration, and terrorist databases used to screen persons seeking to enter this country. The Committee will monitor the Department's progress in fully implementing the US-VISIT program and its supporting technologies and databases, the potential benefits and challenges of various biometric technologies; the impact of the program on cross-border travel at ports of entry, the ability of the Department to use overstay reports generated by the program for enforcement purposes and the integration of the US-VISIT program with other screening programs. The Committee will also closely monitor implementation of the Western Hemisphere Travel Initiative in a manner to achieve both enhanced border security and to expedite legitimate and qualified travelers, as recommended by the 9/11 Commission. The Committee also will assess DHS progress with respect to the integration and effectiveness of transportation and border security screening systems for passengers and cargo transported within the United States and across our borders. The Committee also will examine the existing state of infrastructure at our nation's ports of entry and assess improvements that may be required to enhance implementation of border security programs.

BORDER SECURITY TECHNOLOGY

The Committee will continue to monitor the use of technology – particularly sensors, video and unmanned aerial vehicles (or remotely piloted aircraft) – to enhance border security. In the 111th Congress, the Committee will monitor the Department's efforts to implement these programs in an effective and efficient manner. ☼

¹²⁵ Excerpt has been reformatted to fit into this document,

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