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

Monday, February 23, 2009

(Revised on February 27, 2009)

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Legislative Highlights

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Congress returns this week from a week-long recess. It will remain in session through April 3, 2009, the start date for its two-week long spring recess. Budget issues will predominate during the next six weeks. The House is likely to take up a fiscal year 2009 omnibus appropriations measure on Wednesday and the President is set to submit his FY '10 budget outline on Thursday. The omnibus will contain appropriations for the immigration court system, refugee admissions, overseas refugee assistance, and refugee resettlement. In addition, Congress will have to make decisions by March 6, 2009, on whether to extend four expiring immigration programs.

This Week's Hearings

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

- House Homeland Security Committee: The House Committee on Homeland Security has scheduled a hearing for this week at which Secretary of Homeland Security Janet Napolitano is expected to testify.

House

Secretary Napolitano to Testify before House Panel: The House Committee on Homeland Security has scheduled an oversight hearing examining the operation and plans of the Department of Homeland Security. This week's hearing is scheduled to take place at 10:00am on Wednesday, February 25, 2009, in Room 311 of the Cannon House Office Building.

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This Week's Hearings (continued)

The title of this week's hearing is "DHS: The Path Forward".

Anticipated Witness List. The sole witness at this week's hearing will be Secretary of Homeland Security Janet Napolitano.



Background. This week's hearing will be the first time that Secretary Napolitano will testify before Congress since being confirmed as the nation's third Secretary of Homeland Security. Her appearance before the Committee comes at a timely moment. President Barack Obama is scheduled to release his fiscal year 2010 budget outline to Congress one day after the Secretary testifies. And Secretary Napolitano, presumably, has received from DHS officials two written reports about a wide range of immigration matters that she directed be prepared shortly after she was sworn into office.

Secretary Napolitano came to the Department with a great deal of experience with immigration and law enforcement matters, owing to her two terms as Governor of Arizona, her tenure as Arizona's Attorney General, and her service as a U.S. Attorney.

Secretary Napolitano came to office with the reputation of being a moderate-to-progressive on immigration matters, owing to her veto of ten anti-immigrant measures that were presented to her by the Arizona Legislature, her support for in-state tuition for undocumented alien children, her support for driver's licenses for illegal immigrants, and her support for comprehensive immigration reforms that lead to a path to permanent residency. However, despite that popular perception, as governor of Arizona, she signed the country's toughest employer sanctions law in July 2007 and supported the militarization of the U.S. border with Mexico by sending National Guard troops to patrol it.

Secretary-Designate Napolitano was born in New York City, raised in Albuquerque, New Mexico, and lived in Phoenix, Arizona, until moving to Washington, DC in January to become Secretary of Homeland Security. She graduated from the University of Virginia Law School in 1983. While in private practice, she represented a Tucson, Arizona church that was fighting an investigation into whether it smuggled illegal immigrants into the United States from Central America. She ultimately won that case after, a federal appeals court in 1990 ruled that the then-Immigration and Naturalization Service could not send undercover informants into the Southside Presbyterian Church services on mere fishing expeditions to try to gather intelligence. However, that was the last time she was to go into court on behalf of an immigrant cause.

Secretary Napolitano was appointed United States Attorney for the District of Arizona in 1993 by President Bill Clinton,

ten years after she graduated from the University of Virginia School of Law. She served as United States Attorney from 1993 until 1998. In 1998, Napolitano was elected Attorney General of Arizona, a position she held for four years. In 2002, Napolitano was elected Governor of Arizona. She was reelected to that office in 2006.

DHS Jurisdiction over Immigration. The [Department of Homeland Security](#) has jurisdiction over the bulk of the nation's immigration-related agencies, functions, and activities. Most of these functions are run by three agencies:

- **CBP.** The [U.S. Customs and Border Protection](#) (CBP) component is responsible for inspections of aliens at United States ports of entry and patrolling the United States border.
- **ICE.** [The U.S. Immigration and Customs Enforcement](#) (ICE) component is responsible for interior immigration enforcement, including detention, removals, and worksite enforcement.
- **USCIS.** [The United States Citizenship and Immigration Services](#) (USCIS) component is responsible for adjudicating requests for immigration benefits, including applications for naturalization, applications for refugee status, and affirmative applications asylum.

In addition, significant immigration-related functions are operated within the Department but not within any of the three above-mentioned DHS entities. The largest of these immigration-related functions is the [US-VISIT](#) entry/exit program.

House Homeland Security Committee Jurisdiction over Immigration. The House Committee on Homeland Security has jurisdiction over overall homeland security policy and over the organization and administration of the Department of Homeland Security. With regard to immigration, the Committee's jurisdiction is limited to jurisdiction over functions of the Homeland Security Department relating to border and port security (except immigration policy and non-border enforcement).

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This Week Hearings (continued)

Because of the Committee's broad jurisdiction over the Department, generally, and its relatively narrow jurisdiction over the Department's immigration functions, it would be logical to presume that Committee's examination of the Secretary on immigration-related matters will be limited to border issues.

Secretary Napolitano's Immigration-Related Action Directives. Two immigration-related reports were due to be delivered last week to Secretary Napolitano. The reports, which the Secretary ordered her staff to prepare, are scheduled to be issued pursuant to a northern border strategy "action directive" and a wide-ranging immigration "action directive" that the Secretary gave to her staff in the first week after being sworn in.

- Northern Border Strategy. Secretary Napolitano issued her northern border strategy "action directive" on January 23, 2009, instructing the Department to gather information, review existing strategies and programs, and to provide a written report to her by Tuesday, February 17, 2009, on the Department's northern border strategy. In issuing the Directive, Secretary Napolitano said, "[t]his continuing evaluation will unify our shared efforts and help me assess where improvements need to be made."²³⁰

The Secretary's January 23rd Directive posed a number of questions to DHS officials, including, "What are the current vulnerabilities, the overall strategy for reducing those vulnerabilities, the requirements, the programs, the budget, and the timeframe for improving security along this border and what level of risk will remain once the programs are completed?"

- Wide-Ranging Directive. Secretary Napolitano issued her wide-ranging immigration "action directive" on January 30, 2009, on a wide range of immigration matters, requiring various DHS offices and components to work together and with state and local partners to review and assess their plans and policies.²³¹

The January 30, 2009, directive addressed seven different areas:

1. criminal and fugitive aliens;
2. legal immigration benefit backlogs;
3. southbound gun smuggling;
4. cooperation with the National Guard;
5. widows and widowers of U.S. citizens;
6. immigration detention centers; and
7. electronic employee verification.

In her January 30, 2009, Directive, the Secretary posed 27 questions and directed various components and offices of the Department to provide a final report to her by February 20, 2009, about current programs, including metrics of success, gaps in service/resources, partnerships with state and local governments and other federal agencies as well as offer suggestions for reforms, restructuring, and consolidation where needed on the seven matters.

Potential Areas of Questioning. Despite the House Committee on Homeland Security's limited immigration-related jurisdiction, its members have traditionally asked questions about a wide range of immigration-related matters when previous secretaries of Homeland Security have appeared before it. For instance, during appearances that then-Secretary of Homeland Security Michael Chertoff made last February before the House Committee on Homeland Security and Senate Committee on Homeland Security and Governmental Affairs, committee members asked a number of immigration-related questions, including questions on:

- Fencing Along the Border
- Security Along Northern Border and at Sea Ports
- SBINet and P-28
- Border Infrastructure
- Use of Civil Air Patrol to Guard Border
- The 287(g) Program
- REAL-ID Act Implementation
- Deportations of U.S. Citizens
- Expansion of Detention Beds
- Help for Mexico's Border Control Efforts
- Detection of Fraudulent Documents
- The Visa Waiver Program
- Workplace Enforcement
- Western Hemisphere Travel Initiative ☀

Senate

At the time of this writing, no hearings had been scheduled for this week in the Senate at which significant immigration- or refugee-related issues were expected to be explored. ◇

This Week's Markups

At the time of this writing, only two committee actions were contemplated this week at which significant immigration- or refugee-related legislation or matters will be considered:

²³⁰ See Pages 120-121 of the January 26, 2009, edition of the Weekly Legislative Update for a more complete write-up of Secretary Napolitano's January 23, 2009, Action Directive on the Northern Border

²³¹ See Pages 151-153 of the February 2, 2009, edition of the Weekly Legislative Update for a more complete write-up of Secretary Napolitano's January 30, 2009, Action directive on seven different immigration-related matters

- Committee Markups.
 1. Omnibus Appropriations Bill. The House Committee on Rules has schedule a meeting for this week to consider the rule providing for consideration of the fiscal year 2009 omnibus appropriations bill.
- Committee Organizing Meetings.
 2. Senate Appropriations Committee. The Senate Committee on Appropriations could hold its 111th Congress organizing organize this week.

House

House Rules Committee to Markup Rule Providing for Consideration of FY '09 Omnibus Appropriations Bill: The House Committee on Rules has scheduled a meeting for this week, at which time it is expected to produce a rule providing for the consideration of the fiscal year 2009 omnibus appropriations bill. This week's markup is scheduled for 2:00 pm on Tuesday, February 24, 2009, in Room H-313 of the Capitol Building.

See Pages 226-232 of this week's edition of the Weekly Legislative Update for a detailed preview of the fiscal year 2009 omnibus appropriations bill.

Senate

Senate Appropriations Committee to Hold 111th Congress Organizing Meeting: While no official notice had been given at the time of this writing, Senate Appropriations Committee staff indicates that the Committee could hold its 111th Congress organizing meeting as early as this week.

See Pages 234-236 of this week's edition of the Weekly Legislative Update for a detailed preview of this week's Senate Appropriations Committee organizing meeting. ◇

This Week's Floor Activity

At the time of this writing, House or Senate floor action was anticipated on only one measure containing significant immigration- or refugee-related provisions:

- Fiscal Year 2009 Omnibus Appropriations. The full House is likely to take up a measure appropriating funds for the remaining fiscal year 2009 appropriations bills.

House

House to Take Up Omnibus Appropriations Bill: After numerous stops and starts over the past six weeks, the full House of Representatives this week is finally expected to take up an omnibus fiscal year 2009 appropriations bill

containing funding for the nation's immigration court system and its refugee admissions, overseas refugee assistance, and refugee resettlement programs. While no official notice had yet emerged at the time of this writing, the full House is expected to bypass the House Appropriations Committee and take up the measure on Wednesday, February 25, 2009. When the House does so, it will be taking up the already prepared but yet-to-be-released "Consolidated Appropriations Act for Fiscal Year 2009".

Parliamentary Situation. It was not clear at the time of this writing what the process will be for House consideration of the fiscal year 2009 omnibus appropriations bill. However, normally, when the House takes up an omnibus appropriations measure, it takes it up under procedures that preclude amendments from being offered on the House floor.

Background. 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 immigration court system and its refugee admissions, overseas refugee assistance, and refugee resettlement programs. Those programs are currently 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", which was considered in the House and Senate as [H.R. 2638](#).²³²

For some time now, it has been known that one of the first legislative orders of business for the 111th Congress would be completing the appropriations bills for fiscal year 2009. That process is set to begin officially this week.

Summary of Immigration- and Refugee-Related Provisions. The draft Consolidated Appropriations Act for Fiscal Year 2009 has not been publicly released. It is anticipated that it will be released to the public on Monday, February 23, 2009 or Tuesday, February 24, 2009. 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.

One thing that is certain is that 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

²³² [Click Here](#) to see the official explanatory documents relating to the Fiscal Year 2009 Homeland Security Appropriations Act, enacted into law as Division D of P.L. 110-329

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.

While the omnibus appropriations bill may contain supplemental fiscal year 2009 funding for immigration enforcement, the bulk of the funding for those functions were contained in the Fiscal Year 2009 Homeland Security Appropriations Bill, which was enacted into law as Division D of P.L. 110-329. Additional fiscal year 2009 appropriations for the Department of Homeland Security were contained in Division A, Title VI of [P.L. 111-5](#), the American Recovery and Reinvestment Act of 2009”, which Congress cleared on Friday, February 13, 2009, and President Obama signed into law on Tuesday, February 17, 2009.

As previously indicated, the text of the Consolidated Appropriations Act for Fiscal Year 2009 had had not yet been released at the time of this writing. However, committee sources have indicated that, with regard to the refugee- and immigration-related matters in the bill, it likely will appropriate the lesser of the amount provided for in either the prepared-but-never-considered House or Senate fiscal year 2009 appropriations bills.

Those amounts are summarized in the following chart:

Brief Overview of FY '09 Refugee and Immigration Funding in House and Senate Draft Appropriations Bills

ITEM	'08 ACT'L	'09 BUSH	'09 HOUSE	'09 SENATE	'09 FINAL
ORR	\$ 655.6	\$ 628.0	\$ 641.1	\$ 635.0	-----
PRM	\$ 822.9	\$ 765.0	\$ 824.0	\$1,100.0	-----
ERMA					-----
EOIR	\$ 230.3	\$ 261.5	\$ 266.4	\$ 266.4	-----

Millions of Dollars

Holdover Immigration- and Refugee-Related Provisions. It is widely believed that, in the area of appropriations for refugees and immigration, the “Consolidated Appropriations Act for Fiscal Year 2009” will closely follow the fiscal year

2009 appropriations bills that the House and Senate Committees on Appropriations produced last summer but that did not ultimately move through the 110th Congress.

A summary of the immigration- and refugee-related provisions of those bills follows:

- Department of State’s Bureau of Population, Refugees, and Migration (PRM). The House and Senate Appropriations Committees each produced versions of the Fiscal Year 2009 State, Foreign Operations, and Related Agencies Appropriations bill last summer. In the case of the House, because of disputes with the administration of President George W. Bush and Committee Republicans, the bill language and committee report associated with the measure were never publicly revealed. The Senate Committee on Appropriations, on the other hand, actually released its version of the measure to the public, reporting it to the Senate as an original measure on July 17, 2008, as [S. 3288](#).²³³

The Senate Appropriations Committee-approved measure would have appropriated \$1.1 BILLION for the Department of State’s Migration and Refugee Assistance (MRA) account, the account that funds the bulk of Department’s refugee admissions and overseas refugee assistance programs. That would have represented an increase of \$336 MILLION over the Bush Administration’s fiscal year 2009 budget request. However, if that amount was combined with the \$350 MILLION supplemental fiscal year 2009 MRA appropriation that was enacted into law in December of 2007, and if supplemental fiscal year 2008 funding that was enacted into law is taken into account, it would represent an increase of only \$112 MILLION over the fiscal year 2008 appropriation for MRA.

The House Appropriations Subcommittee on State-Foreign Operations-approved measure would have appropriated \$824 MILLION for the Department of State’s MRA account. That would have represented an increase of \$59 MILLION over the Bush Administration’s fiscal year 2009 budget request. However, if that amount was combined with the \$350 MILLION supplemental fiscal year 2009 MRA appropriation that was enacted into law in December of 2007, and if supplemental fiscal year 2008 funding that was enacted into law was taken into account, it would represent a cut of \$164 MILLION when compared to the fiscal year 2008 appropriation for MRA.

The chart that follows compares the actual amount appropriated for fiscal year 2008 for the Department of State’s Migration and Refugee Assistance account with the amounts that were contained in the House and Senate

²³³ [S. Rept. 110-425](#), July 18, 2008

draft Fiscal Year 2009 State-Foreign Operations appropriations bills from last summer:

Detailed Fiscal Year 2009 Appropriations for Migration and Refugee Assistance

ITEM	'08 ACT'AL	'09 BUSH	'09 HOUSE	'09 SENATE
Refugee Admissions ²³⁴	\$ 549.0	\$ 498.0		
Overseas Refugee Assistance ²³⁴	\$ 212.0	\$ 213.0		
Refugees to Israel ²³⁴	\$ 40.0	\$ 30.0		
Administrative Expenses ²³⁴	\$ 22.0	\$ 23.1		
Reimbursable Programs ²³⁴	\$ 1.0	\$ 1.0		
Permanent Reductions ²³⁴	-\$ 7.0			
SUBTOTAL	\$ 822.9	\$ 765.0	\$ 824.0	\$ 1,100.0
Supplmntl #1 ²³⁵	\$ 200.0	-----	-----	-----
Supplmntl #2	\$ 315.0	-----	\$ 350.0	\$ 350.0
MRA TOTAL	\$ 1,337.9	\$ 765.0	\$ 1,174.0	\$ 1,450.0

Millions of Dollars

In addition to the appropriating language, the committee report accompanying S. 3288 contained report language on the following refugee matters:

1. Columbia. The committee report accompanying S. 3288 recommended an unspecified amount of additional assistance for internally displaced persons (IDPs) in Columbia, whose number, the report noted, are increasing.
2. Iraqi Refugees. The committee report accompanying S. 3288 noted that the Committee was “deeply concerned with the plight of Iraqi refugees and IDPs and recognizes the significant economic and social burdens assumed by host countries.” The Committee went on to note “with concern that the fiscal year 2009 budget request did not include any funding for Iraqi refugees”. It,

²³⁴ Regular Appropriation provided in [P.L. 110-161](#), December 26, 2007

²³⁵ [P.L. 110-161](#), December 26, 2007, appropriated \$200 MILLION in emergency MRA funds for fiscal year 2008, all of which was devoted to overseas refugee assistance

further, directed “OMB to include appropriate funding in the fiscal year 2010 budget request to address the growing needs of Iraqi refugees and IDPs.”

3. North Korea. The committee report accompanying S. 3288 recommended “that assistance be made available for North Korean refugees, as authorized by Public Law 108-333, the North Korean Human Rights Act of 2004.”
4. Tibetan Refugees. The committee report accompanying S. 3288 expressed the Committee’s support for “assistance for Tibetan refugees who have fled their homeland and are in transit in Nepal or resettled in India.” The Committee also expressed concern “that Tibetans have been imprisoned and mistreated in Nepal for peacefully protesting China’s recent crackdown in Tibet.”

- Department of Health and Human Services Office of Refugee Resettlement (ORR). The House and Senate Appropriations Committees each produced their versions of the Fiscal Year 2009 Labor, Health and Human Services, and Education Appropriations bill last summer. However, because of disputes with the administration of President George W. Bush and Committee Republicans, the bill language and committee reports associated with those measures were never publicly revealed.

The House Appropriations Subcommittee-approved bill would have appropriated \$641.144 MILLION for the Department of Health and Human Services Office of Refugee Resettlement for fiscal year 2009. That would have been an increase of \$13 MILLION over the Bush administration’s fiscal year 2009 budget request. However, it would have been a cut of \$14.5 MILLION when compared to the ORR appropriation for fiscal year 2008.

The Senate Appropriations Committee-approved version of the measure would have appropriated \$635.044 MILLION for ORR in fiscal year 2009. That would have been a \$7 MILLION increase over the Administration’s fiscal year 2009 request. However, it would have represented a cut of \$20.6 MILLION when compared to the ORR appropriation for fiscal year 2008.

With regard to appropriations for ORR’s refugee resettlement activities, both the House and Senate bills would have appropriated \$494.3 MILLION in fiscal year 2009, which is precisely what the Administration requested. That amount would have represented a cut of \$9.1 MILLION for those services when compared to the amount appropriated for them in fiscal year 2008.

With regard to appropriations for the care and placement of unaccompanied alien children, both the House and

Senate bills would have increased appropriations relative to the Administration’s request. But they would have appropriated substantially less than was appropriated in fiscal year 2008. More specifically, the House bill would have appropriated \$126.2 MILLION for fiscal year 2009 for ORR’s Division for Unaccompanied Alien Children Services (DUCS). That would have been an increase of 12.1 MILLION over the Administration’s fiscal year 2009 request, but a cut of \$6 MILLION compared to the amount appropriated for DUCS in fiscal year 2009. The Senate bill was not as generous. It would have appropriated \$120 MILLION for DUCS in fiscal year 2009. That would have been an increase of \$5.9 MILLION over the Administration’s fiscal year 2009 request but a cut of \$12.6 MILLION when compared to the actual fiscal year 2008 appropriations.

The chart that follows compares the actual amount appropriated for fiscal year 2008 with the amount requested by the Bush Administration and the amounts that were contained in the House and Senate draft Fiscal Year 2009 Labor, HHS, Education Appropriations bills from last summer:

Detailed Fiscal Year 2009 Appropriations for the Office of Refugee Resettlement

ITEM	'08 ACT'AL	'09 BUSH	'09 HOUSE	'09 SENATE
Transitional & Medical	\$ 296.1	\$ 287.0	\$ 287.0	\$ 287.0
Social Services	\$ 154.0	\$ 154.0	\$ 154.0	\$ 154.0
Preventive Health	\$ 4.7	\$ 4.7	\$ 4.7	\$ 4.7
Targeted Assistance	\$ 48.6	\$ 48.6	\$ 48.6	\$ 48.6
SUBTOTAL	\$ 503.4	\$ 494.3	\$ 494.3	\$ 494.3
Trafficking Victims	\$ 9.8	\$ 9.8	\$ 9.8	\$ 9.8
Torture Victims	\$ 9.8	\$ 9.8	\$ 10.8	\$ 10.8
Unaccompanied Alien Children	\$ 132.6	\$ 114.1	\$ 126.2	\$ 120.0
ORR TOTAL	\$ 655.631	\$ 628.044	\$ 641.144	\$ 635.044

Millions of Dollars

In addition to the appropriating language, the draft Fiscal Year 2009 House and Senate Appropriations Committee bills from last summer contained extensive report language on the following matters:

1. Voluntary Agency Matching Grant Program. The draft House committee report from last summer addressed the Matching Grant Program, recognizing “the positive outcomes of the Voluntary Agency Matching Grant Program, which has experienced success in facilitating economic self-sufficiency for newly arriving refugees within a short period of time.” The Committee requested “that ORR include information in its fiscal year 2010 budget justification estimating funding allocations, and the corresponding number of refugees served, for the Voluntary Matching Agency Grant Program for fiscal years 2008, 2009, and 2010.”
2. Family Preservation for Unaccompanied Refugee Minors. The draft House committee report from last summer addressed family preservation for unaccompanied refugee minors. In the draft report, the Committee commended “the initial steps taken by ORR to address the problem of separated children and refugee family breakdown by piloting a family preservation specialist initiative in the URM Program.” The Committee went on to “urge ORR to consider expanding this initiative to each of the 18 URM programs in the country.” In addition, the Committee requested “that ORR provide adequate funding to URM programs for capacity development so that they have the necessary infrastructure to accommodate increasing numbers of unaccompanied and separated refugee children.” Finally, the Committee requested ORR “to provide estimates of the number of family preservation specialists funded, along with the corresponding estimates of the numbers of URM, for fiscal years 2008, 2009, and 2010 in the fiscal year 2010 budget justification.”
3. Victims of Trafficking. The draft House committee report from last summer addressed ORR efforts to assist victims of trafficking. The draft report expressed the Committee’s concern that “in fiscal year 2007, this program certified only 303 child trafficking victims.” The Committee recommended “that ORR significantly expand its efforts to identify, assist, and certify human trafficking victims.” The Committee went on to express its support for “efforts to ensure that child trafficking victims do not remain trapped in life-threatening situations out of fear of being interrogated by law enforcement authorities.” Finally, the Committee requested the Department “to expedite letters of eligibility so that minor victims may be connected to benefits without delay.”
4. Torture Victims. The draft Senate committee report from last summer noted that “a large proportion of the increasing numbers of Iraqi refugee arrivals have experienced trauma, torture, and severe violence.” It

expressed the Committee's recommendation for an increase of \$1 MILLION over the Administration's request "will help address the unique mental health needs of these refugees as they attempt to rebuild their lives in the United States."

5. Unaccompanied Alien Children. The draft House committee report addressed issues related to unaccompanied alien children. More specifically—

- A. Transportation of Unaccompanied Alien Children. Both the House and Senate Appropriations Committees addressed the issue of the cost of transporting children in their draft committee reports from last summer.

The draft House committee report expressed the Committee's understanding that "Immigration and Customs Enforcement agency (ICE) proposes to transfer to ORR in fiscal year 2008 its responsibility for the transportation of unaccompanied alien children from the point of Department of Homeland Security apprehension to the initial placement in an ORR facility." The House Committee indicated in its draft report from last summer that it "does not support this proposal." It explained that "ORR was not allocated a budget to carry out these transportation services and does not have the necessary infrastructure in place." The draft House committee report indicated that the Committee "believes that transferring this responsibility precipitously without proper planning could potentially create a chaotic situation that is not in the best interest of the children." The Committee, further expressed its belief in the draft committee report from last summer "that ORR shall accept this function only if it is able to assume this responsibility and the transfer is cost-effective, ICE reimburses ORR for the cost of this function as determined by an independent entity, and a joint transition plan for the orderly reassignment of this function is developed by ICE and ORR."

The draft Senate committee report from last summer also noted its awareness of an imminent transfer of the responsibility for transporting UACs from ICE to ORR. The draft Senate report indicated that this transfer was not anticipated in previous Administration budget requests, expressed concern, and directed "the Departments to present to the Committee a joint report with OBM and DHS no later than March 1, 2009, with a recommendation for which agency is the most appropriate to fund the transportation of UACs to ORR facilities."

- B. Prompt Transfers of Children. The draft Senate report stated that the Committee "is committed to ensuring that UACs are expeditiously transferred from the point of DHS apprehension to initial placement in ORR facilities where they can receive the care and services they need." The Committee "direct[ed] ORR to respond to DHS' initial call for placement by identifying the ORR placement facility to DHS within 6 hours, on average, of receiving the DHS call." The draft Senate committee report from last summer also "direct[ed] ORR to continue to work with DHS to expedite the transfer and placement of those children with special needs to the most appropriate ORR facility as quickly as possible."

- C. Pro Bono Pilot Program. Both the draft House committee report from last summer and the draft Senate committee report from last summer addressed the Pro Bono pilot program.

The draft House committee report from last summer commended ORR "for implementing a pro bono pilot program for UACs." The draft House report indicated that ORR's appropriation contained \$5.1 MILLION within the UAC program "to continue this initiative to ensure legal representation for all UACs." The Committee expressed its intent that the funds be used "to train attorneys, to detect abuse, mistreatment, labor exploitation, and trafficking of these children." In addition, the Committee indicated that it "expects a portion of these funds to be used to train attorneys in methods that will ensure the appearance of children at all immigration court hearings." Finally, the Committee report requested "a report be included in its fiscal year 2010 budget justification on the effectiveness of this initiative, including the number and proportion of UACs provided pro bono legal representation."

The draft Senate committee report from last summer indicated that ORR's appropriation contained \$5 MILLION for the program. The draft Senate committee report went on to state its expectation that ORR would "use part of the funding provided to assess the overall impact of the pro bono legal services initiative."

- D. Breakdown of Costs. The draft House committee report from last summer requested "that ORR include in its fiscal year 2010 budget justifications a detailed breakout of actual and estimated costs for shelter, medical, legal, transportation, administrative, and other

activities for the UAC program for fiscal years 2008, 2009, and 2010.”

- Department of Justice Executive Office for Immigration Review. The House and Senate Appropriations Committees each produced versions of the Fiscal Year 2009 Commerce, Justice, Science, and Related Agencies Appropriations bill last year.

In the case of the House, the Committee on Appropriations approved the measure on June 25, 2008, but it didn't actually report the bill to the full House of Representatives until December 10, 2008, reporting it as [H.R. 7322](#), an original measure.²³⁶

In the case of the Senate, the Committee on Appropriations approved the measure on June 19, 2009, reporting it to the full Senate on June 23, 2009. The measure was reported as [S. 3182](#), an original measure.²³⁷

Both the House and Senate bills would appropriate \$266.404 MILLION for EOIR in fiscal year 2009. This would be an increase of \$5 MILLION over the Administration's request and an increase of \$36.1 MILLION over the amount appropriate for EOIR in fiscal year 2008.

In addition to the appropriating language, the committee report accompanying the House and Senate committee reports accompanying their respective versions of the fiscal year 2009 Commerce, Justice, Science, and Related Agencies appropriations bill contained report language addressing a number of matters relating to EOIR. More specifically—

1. Hiring New Immigration Judges. The House committee report specified that \$5 MILLION of the amount it was providing for EOIR is to be made available “to hire new immigration judges and additional support personnel to address a growing immigration caseload.” The House committee report noted that the appropriation for hiring additional immigration judges was to be offset, in part, by the transfer of \$4 MILLION in fee account generated funds from the Department of Homeland Security.

While the Senate committee report did not explicitly call for the hiring of additional immigration judge, it expressed concern “about the growing immigration problem and the Executive Office of Immigration Review's [EOIR] ability to handle increasing caseloads.” The report indicated that the Senate bill

²³⁶ [H. Rept. 110-119](#), December 10, 2008

²³⁷ [S. Rept. 110-397](#), June 23, 2008

has “ provided additional funds to address rising backlogs.” The report said that “[t]he Committee urges the Department to work with EOIR in developing a strategic plan for expansion, which shall be submitted to the Committee on Appropriations within 90 days of enactment.”

2. Digital Audio Recording System. The House committee report specified that \$10 MILLION of EOIR's appropriation was to be used for EOIR's “implementation and maintenance of a digital audio recording system and the Immigration Review Information Exchange System to ensure accurate records of immigration proceedings.”
3. Legal Orientation Program (LOP). The House committee report specified that EOIR should use funds provided in the bill and in fiscal year 2008 to “continue to support the LOP in order to improve judicial efficiency and to assist all parties involved in detained removal proceedings.”

The Senate committee report addressed the legal orientation program more extensively. It stated that “the Committee provides \$4,000,000 for Legal Services Orientation Program [LOP]. The Committee is disappointed that the Department of Justice failed to request funding for this important program in their budget request. The EOIR created the Legal Orientation Program in March 2003 but have never requested direct funding to run this program and instead have relied on Department of Homeland Security to fund the program. Congress explicitly stated in 2007 that they expected the Department of Justice to fund this program and not the Department of Homeland Security. The Committee encourages the Department of Justice to include the LOP in any future budget requests submitted to Congress.”

The Senate committee report went on to state that “[t]he LOP program informs detained aliens in immigration removal proceedings about the immigration court process, how to obtain legal representation or represent themselves and how to determine if they are eligible for any immigration relief or expedite the removal process.” It cited a Vera Institute study, saying that, “[a] 2008 study conducted by the Vera Institute found that the LOP participants move an average of 13 days faster through immigration court, were more likely to appear for court hearings than those who do not participate in the program and that the LOP increases immigration court efficiency.”

4. Immigration Court Reforms. The House committee report directed the Department of Justice “to report to the House and Senate Committees on

Appropriations on the implementation status of the 22 reform measures to improve the efficiency of immigration court that were identified by the AG in August, 2006.”

The Senate committee report expressed that “[t]he Committee is concerned that the Executive Office for Immigration Review’s has delayed implementation of its 22 new Measures to Improve the Immigration Courts and the Board of Immigration Appeals unveiled in 2007, which were mandated by the former Attorney General on January 9, 2006.” The Senate committee report directed EOIR “to report within 30 days of enactment of all steps taken to fully, effectively and efficiently implement these measures including a timeline for implementation.”

5. Competency Evaluation Standards. The House committee report encouraged EOIR “to work with experts and interested parties in developing standards and materials for immigration judges to use in conducting competency evaluations of persons appearing before the courts.”

Non-Appropriations Immigration-Related Items. In addition to appropriating funds for refugee admissions, overseas refugee assistance, refugee resettlement, and the nation’s immigration court system, it is possible that The House and Senate Appropriations Committees will include several non-appropriations immigration-related provisions in the bill that the House takes up this week.

Among the candidates to be included are the following:

- Immigration Extenders. When Congress completed work last year on the fiscal year 2009 continuing appropriations resolution, it included within it a temporary extension of three expiring immigration programs. The programs are the Conrad 30 program for foreign-born doctors, the E-Verify employment verification program, and a program relating to the EB-5 Investor visa program. The continuing appropriations resolution extended these three programs through March 6, 2009, the length of the continuing appropriations. Congress subsequently extended through March 6, 2009, another expiring immigration program, the special immigrant non-minister religious worker visa program.

All four of these programs face either extinction or extension on March 6, 2009. House and Senate appropriators could include temporary extensions of any or all of them in the “Consolidated Appropriations Act for Fiscal Year 2009” that they are putting together for consideration this week.

- Undoing of Immigration-Related Regulations. In the waning hours of the Bush Administration, officials

issued controversial rules relating to the H-2A and H-2B nonimmigrant temporary worker programs. It is possible that appropriators could include provisions in the “Consolidated Appropriations Act for Fiscal Year 2009” that would stay or alter those regulations.

Outlook. It was unclear at the time of this writing what immigration or refugee-related appropriations provisions and legislative riders will be included in the measure that the House expects to take up this week. While House Republicans are expected to complain about what will likely be a restricted amendment process, the House is expected, nonetheless, to approve the fiscal year 2009 omnibus appropriations bill and send it to the Senate for its consideration. ☼

Senate

At the time of this writing, no floor action was scheduled in the Senate on measures containing significant immigration- or refugee-related provisions. However, the Senate could take up the fiscal year 2009 omnibus appropriations bill this week if the House passes it. ◇

This Week’s Conference Activity

At the time of this writing, no measures containing significant immigration- or refugee-related provisions are currently pending in conference committees. ◇

This Week’s Executive Activity

President to Submit Fiscal Year 2010 Budget Outline to Congress: President Barack Obama is expected this week to take his first steps toward producing his first federal budget. The Office of Management and Budget last week announced that the President is expected to submit a fiscal year 2010 budget outline to Congress on Thursday, February 26, 2009. The President is expected to submit a fully detailed budget to Congress in late March or April.

It was not known at the time of this writing what level of detail will be included in the outline that the President submits this week. ☼ ◇

Last Week’s Legislative Activity

Last Week’s Hearings

With Congress in recess, there were no hearings last week in either the House of Representatives or Senate at which significant immigration- or refugee-related matters were discussed.

Last Week's Markups

With Congress in recess, no committees conducted markups last week of legislation containing significant immigration or refugee provisions.

Last Week's Floor Activities

With Congress in recess, there were no activities on either the House floor or Senate floor on legislation containing significant immigration- or refugee-related provisions.

Last Week's Conference Activity

With Congress in recess, there were no actions last week in any conference committees considering legislation containing significant immigration- or refugee-related provisions. ◇

Last Week's Executive Activity

President Signs Economic Stimulus Bill into Law:

President Barack Obama last week signed the economic stimulus bill into law. The measure contained a number of immigration-related legislative and appropriations provisions. However, from an immigration perspective, the measure may well be most notable for provisions that are not in the final version of the bill. The President signed the measure, [H.R. 1](#), the "Economic Recovery and Reinvestment Act of 2009",²³⁸ on Tuesday, February 17, 2009,²³⁹ at a signing ceremony in the Museum of Nature & Science in Denver, Colorado.

Not included in the final version of H.R. 1 are two controversial immigration-related provisions that were in the House-passed version of the measure. Sections 7001 through 7004 of the House-passed version of H.R. 1 would have extended the E-Verify Program through 2016 and implemented a number of provisions aimed at protecting the Social Security Administration from excessive costs and providing for an evaluation of the program. Section 1114 of the House-passed version of H.R. 1 would have required all entities receiving stimulus money to use the E-Verify system to verify the work eligibility of their employees. Both provisions were dropped from the final bill during House/Senate conference committee deliberations.

The President's signature on H.R. 1 makes it [P.L. 111-5](#). It is the second major bill that Congress has considered that contained significant immigration-related provisions in the six weeks that Congress has been in session. ☼

²³⁸ [H. Rept. 111-16](#), February 12, 2009

²³⁹ See Pages 179-185 of the February 16, 2009, edition of the *Weekly Legislative Update* for a detailed analysis of the immigration-related provisions in H.R. 1

Administration Yet to Respond to Congressional Request for Investigation of Sheriff Arpaio for Possible Civil Rights Violations:

Buried in all of the news over the past several weeks about the economic stimulus bill was the news that much of the Democratic leadership of the House Committee on the Judiciary has requested the Department of Justice and Department of Homeland Security to undertake an investigation of Maricopa County, Arizona Sheriff Joe Arpaio's implementation and operation of the county's 287(g) program. In a letter dated February 12, 2009, House Judiciary Committee Chairman John Conyers (D-MI) was joined by House Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties Chairman Bobby Scott (D-VA), House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Chairwoman Zoe Lofgren (D-CA), and House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security Chairman Jerald Nadler (D-NY), in asking for the investigation.²⁴⁰ ◇

Recently Introduced Legislation

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

House

Control of Illegal Immigration

- **Electronic Employment Eligibility Verification and Illegal Immigration Control Act:**

Representative Jim Marshall (D-GA) has introduced H.R. 1097, a bill to create an electronic employment eligibility verification system to ensure that all workers in the United States are legally able to work, and for other purposes.

As introduced, H.R. 1097 would amend the Immigration and Nationality Act to direct the Secretary of Homeland Security to establish a toll-free telephone- or electronic media-based employment eligibility verification system. It would require the system to: (1) provide verification or tentative non-verification of an individual's identity and employment eligibility within three days of an inquiry; and (2) provide, in the case of tentative non-verification, a secondary process for final verification or non-verification within 10 days. The measure, further would require 1) the Commissioner of Social Security to develop a process for comparing names and social security numbers against appropriate databases in response to employer inquiries; and (2) the Secretary of Homeland Security to develop a process

²⁴⁰ [Click Here](#) to see the letter sent by House Judiciary Committee Chairman Conyers and his Committee colleagues requesting an investigation of Sheriff Arpaio's activities

for comparing names and alien identification or authorization numbers and investigate uses of the same social security number that suggest fraud.

The measure would require all employers to use the system for new hires, permit them to voluntarily use the system for existing employees for the first two years after enactment, phase-in over six years a requirement that all previously hired employees of all employers to undergo checks using the system.

It has been referred to the House Committee on the Judiciary, House Committee on Ways and Means, and House Committee on Education and Labor.

Refugee Assistance

- **United States Foreign Assistance Partner Vetting Act of 2009:** Representative Ileana Ros-Lehtinen (R-FL) has introduced H.R. 1062, a bill to amend the Foreign Assistance Act of 1961 to provide for the establishment and implementation of a system to verify that persons who receive United States foreign assistance funds are not affiliated with or do not support foreign terrorist organizations or do not otherwise commit or support acts of international terrorism, and for other purposes.

As introduced, H.R. 1062 would prohibit the furnishing of United States foreign assistance to any individual, organization, or any private or governmental entity that engages in acts of terrorism or provides material support to terrorists. The measure, further, would require that all individuals, organizations, or private or governmental entities receiving United States foreign assistance undergo a formal vetting process to determine if they are ineligible for assistance under the measure.

- It has been referred to the House Committee on Foreign Affairs.

Senate

No new bills containing significant immigration- or refugee-related provisions have been introduced in the Senate since the last listing of such bills. ◇

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 or that have substantially changed since the previous edition of the Weekly Legislative Update was issued will be marked with a double asterisk (**).

Organization of the 111th Congress

The Senate and House of Representatives is nearing completion of its efforts to organize the 111th Congress. This section of the Weekly Legislative Update is devoted to chronicling the impact that those 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

No Items this week

Senate

Senate Appropriations Committee to Organize: The Senate Committee on Appropriations this week could organize for the 111th Congress.

Committee Ratio. As the 110th Congress drew to a close, there were 15 Democrats and 14 Republicans on the Senate Committee on Appropriations. The Committee ratio in the 110th Congress will be 17-Democrats-to-13-Republicans.

Departed Committee Members. No Democrats who served on the Committee during the 110th Congress are leaving it in the 111th Congress. However, four Republican 110th Congress Committee members have departed the Committee in the 111th Congress:

- Ted Stevens (R-AK)
- Pete Domenici (R-NM)
- Larry Craig (R-ID)
- Wayne Allard (R-CO)

New Committee Members. Five senators who were not on the Committee during the 110th Congress have joined it in the 111th Congress. Two of the new senators are Democrats and three are Republicans. The new senators are:

- Mark Pryor (D-AR)
- Jon Tester (D-MT)
- Susan Collins (R-ME)
- George Voinovich (R-OH)
- Lisa Murkowski (R-AK).

Full Committee Roster. The chart that follows lists what can be projected at the time of this writing about the membership of the Senate Committee on Appropriations in the 111th Congress. Senators who are known to be leaving the committee in the 111th Congress are denoted with a ~~stricken through line~~. New committee members are marked with an asterisk (*):

Senate Committee on Appropriations
111th Congress

Democrats (17)	Republicans (13)
Inouye (D-HI)	Cochran (R-MS)
Byrd (D-WV)	Stevens (R-AK)
Leahy (D-VT)	Specter (R-PA)
Harkin (D-IA)	Domenici (R-NM)
Mikulski (D-MD)	Bond (R-MO)
Kohl (D-WI)	McConnell (R-KY)
Murray (D-WA)	Shelby (R-AL)
Dorgan (D-ND)	Gregg (R-NH)
Feinstein (D-CA)	Bennett (R-UT)
Durbin (D-IL)	Craig (R-ID)
Johnson (D-SD)	Hutchison (R-TX)
Landrieu (D-LA)	Brownback (R-KS)
Reed (D-RI)	Allard (R-CO)
Lautenberg (D-NJ)	Alexander (R-TN)
Nelson (D-NE)	*Collins (R-ME)
*Pryor (D-AR)	*Voinovich (R-OH)
*Tester (D-MT)	*Murkowski (R-AK)

Membership on Immigration- and Refugee-Related Subcommittees. Each of the 12 subcommittees of the Senate Appropriations Committee has jurisdiction over a different combination of federal agencies and departments. Each subcommittee produces a bill that first is marked up in the subcommittee and then marked up by the full Committee.

It was not known at the time of this writing how the committee ratios on the various subcommittees will be adjusted for the 111th Congress.

During the 110th Congress, four of the Senate Appropriations Committee’s subcommittees had jurisdiction over the bulk of immigration- and refugee-related appropriations matters:

- Homeland Security Subcommittee. The Subcommittee on Homeland Security has jurisdiction over funding for the Department of Homeland Security, including its Directorate for Border and Transportation Security (BTS), which is the parent directorate for three immigration-related bureaus: the Bureaus of Citizenship and Immigration Services (CIS), Customs and Border Protection (CPB), and Immigration and Customs Enforcement (ICE).

The Homeland Security Subcommittee was chaired by Senator Robert F. Byrd (D-WV). He is returning as chairman in the 111th Congress. The Ranking Minority Member of the Subcommittee during the 110th Congress

was Senator Thad Cochran (D-MS). It is believed that he, too, will return to his position in the 111th Congress.

The ratio of Democrats-to-Republicans on the Subcommittee during the 110th Congress was 9-8. It is unknown at the time of this writing what the ratio will be during the 111th Congress.

- State-Foreign Operations Subcommittee. The Subcommittee on State, Foreign Operations, and Related Programs has jurisdiction over the Department of State’s refugee admissions and overseas refugee assistance programs, which are operated by the Bureau of Population, Refugees, and Migration (PRM) and administered through the Migration and Refugee Assistance (MRA) and Emergency Refugee and Migration Assistance (ERMA) accounts.

The State-Foreign Operations Subcommittee was chaired by Senator Patrick Leahy (D-VT) in the 111th Congress. The Ranking Minority Member of the Subcommittee during the 110th Congress was Senator Judd Gregg (R-NH). It is anticipated that both Senators Leahy and Gregg will return to their 110th Congress roles in the 111th Congress.

The ratio of Democrats-to-Republicans on the Subcommittee during the 110th Congress was 8-7. It is unknown at the time of this writing what the ratio will be during the 111th Congress.

- Labor-HHS Subcommittee. The Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has jurisdiction over funding for the Department of Health and Human Services’ refugee resettlement programs, operated by the Department’s Office of Refugee Resettlement (ORR).

The Labor-HHS Subcommittee was chaired by Senator Tom Harkin (D-IA) during the 110th Congress. He is returning as chairman in the 111th Congress. The Ranking Minority Member on the Subcommittee during the 110th Congress was Senator Arlen Specter (R-PA). He is expected to reprise that role in the 111th Congress.

The ratio of Democrats-to-Republicans on the Subcommittee during the 110th Congress was 8-7. It is unknown at the time of this writing what the ratio will be during the 111th Congress.

- Commerce-Justice-Science. The Subcommittee on Commerce, Justice, Science, and Related Agencies has jurisdiction over funding for the Department of Justice, including the Executive Office for Immigration Review (EOIR), Office of Special Counsel (OSC), Office of Immigration Litigation (OIL), and Bureau of Prisons (BOP).

The Commerce-Justice-Science Subcommittee was chaired by Senator Barbara Mikulski (D-MD) during the 110th Congress. She is expected to return as Chairwoman in the 111th Congress. The Ranking Minority Member on the Subcommittee during the 110th Congress was Senator Richard Shelby (R-AL). He is expected to return to that position during the 111th Congress.

The ratio of Democrats-to-Republicans on the Subcommittee during the 110th Congress was 9-8. It is unknown at the time of this writing what the ratio will be during the 111th Congress.

Subcommittee Rosters. The charts that follow detail what is known at this time about the membership of the four Senate Appropriations subcommittees with appropriating jurisdiction over the major federal immigration- and refugee-related agencies, functions, and activities. Senators known to be leaving a subcommittee are denoted with a ~~stricken through line~~. New Members are marked with an asterisk (*):

**Projected Senate Appropriations Subcommittee on
Homeland Security
111th Congress**

Democrats (?)	Republicans (?)
Byrd (D-WV)	Cochran (R-MS)
Inouye (D-HI)	Gregg (R-NH)
Leahy (D-VT)	Stevens (R-AK)
Mikulski (D-MD)	Specter (R-PA)
Kohl (D-WI)	Domenici (R-NM)
Murray (D-WA)	Shelby (R-AL)
Landrieu (D-LA)	Craig (R-ID)
Lautenberg (D-NJ)	Alexander (R-TN)
Nelson (D-NE)	

**Projected Senate Appropriations Subcommittee on
State, Foreign Operations, and Related Agencies
111th Congress**

Democrats (?)	Republicans (?)
Leahy (D-VT)	Gregg (R-NH)
Inouye (D-HI)	McConnell (R-KY)
Harkin (D-IA)	Specter (R-PA)
Mikulski (D-MD)	Bennett (R-UT)
Durbin (D-IL)	Bond (R-MO)
Johnson (D-SD)	Brownback (R-KS)
Landrieu (D-LA)	Alexander (R-TN)
Reed (D-RI)	

**Projected Senate Appropriations Subcommittee on
Labor, HHS, Education
111th Congress**

Democrats (?)	Republicans (?)
Harkin (D-IA)	Specter (R-PA)
Inouye (D-HI)	Cochran (R-MS)
Kohl (D-WI)	Gregg (R-NH)
Murray (D-WA)	Craig (R-ID)
Landrieu (D-LA)	Hutchison (R-TX)
Durbin (D-IL)	Stevens (R-AK)
Reed (D-RI)	Shelby (R-AL)
Lautenberg (D-NJ)	

**Projected Senate Appropriations Subcommittee on
Commerce, Justice, Science
111th Congress**

Democrats (?)	Republicans (?)
Mikulski (D-MD)	Shelby (R-AL)
Inouye (D-HI)	Gregg (R-NH)
Leahy (D-VT)	Stevens (R-AK)
Kohl (D-WI)	Domenici (R-NM)
Harkin (D-IA)	McConnell (R-KY)
Dorgan (D-ND)	Hutchison (R-TX)
Feinstein (D-CA)	Brownback (R-KS)
Reed (D-RI)	Alexander (R-TN)
Lautenberg (D-NJ)	

☼ ◇

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.

This section of the Weekly Immigration and Refugee Legislative Update will be devoted to chronicling the impact that the actions and decisions of the 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.

DHS Has Reportedly Decided on Nominees to Head ICE and USCIS: Reports indicate that the Administration has all but decided on nominees to head two of DHS' three immigration-related bureaus. The Department has reportedly settled on John T. Morton to be Assistant Secretary of Homeland Security for Immigration and Customs Enforcement (ICE) and Thomas E. Perez to head the U.S. Citizenship and Immigration Services (USCIS) bureau.

Not much is known about John T. Morton other than that he is a career employee of the U.S. Department of Justice who currently serves as chief of the criminal division's domestic security section.

Morton has overseen several complex and high profile immigration and terrorism cases during his career at the Department of Justice.

Thomas E. Perez currently is the State of Maryland's Secretary of Labor, Licensing, and Regulation. He was appointed to that position by Governor Martin O'Malley (D) in January of 2007.



According to the official bio posted on the Maryland Department of labor website, Perez "is a nationally recognized consumer advocate and civil rights lawyer."

His bio goes on to say that "Secretary Perez has spent his entire career in public service. From 2001 until 2007, he was a professor at the University of Maryland School of Law, where he taught in the school's nationally recognized clinical law and law and health program. Secretary Perez is currently a part-time member of the faculty at the George Washington School of Public Health. From 2002 until 2006, Secretary Perez was a member of the Montgomery County Council. In this capacity, he represented 175,000 residents in Silver Spring, Kensington, Takoma Park and Wheaton. Secretary Perez was the first Latino ever elected to the Council, and served as Council President in 2005."

Secretary Perez's official bio goes on to say that he "spent 12 years in federal public service. He spent the bulk of his federal public service at the United States Department of Justice. He was a federal prosecutor for the Civil Rights Division of the Department of Justice. In so doing, he prosecuted and supervised the prosecution of some of the Department's most high profile civil rights cases, including a

hate crime case in Texas involving a gang of white supremacists who went on a deadly, racially motivated crime spree directed at African Americans. He later served as Deputy Assistant Attorney General for Civil Rights under Attorney General Janet Reno. Among other responsibilities, Secretary Perez chaired the interagency Worker Exploitation Task Force, which oversaw a variety of initiatives designed to protect vulnerable workers."

Secretary Perez's official bio goes on to say that "Perez served as Special Counsel to Senator Edward Kennedy, and was Senator Kennedy's principal adviser on civil rights, criminal justice and constitutional issues. For the final two years of the Clinton administration, Secretary Perez served as the Director of the Office for Civil Rights at the United States Department of Health and Human Services."

Perez received an A.B. in International Relations and Political Science from Brown University in 1983, a J.D. cum laude in 1987 from Harvard Law School and a Master's degree in Public Policy from the John F. Kennedy School of Government also in 1987.

The appointment of both the Assistant Secretary of Homeland Security of Immigration and Customs Enforcement and the Department of Homeland Security Director of U.S. Citizenship and Immigration Services are subject to Senate confirmation. Traditionally, the Senate Committee on Homeland Security and Governmental Affairs has shared jurisdiction over the ICE nomination with the Senate Committee on the Judiciary. The Senate Committee on the Judiciary has traditionally had sole jurisdiction over the nominee to head USCIS. ✨ ◇

Over the Horizon ...

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

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

Bicameral

****Authorizing Committees to Begin Producing Views & Estimates Reports:** Now that President Obama is about to deliver his fiscal year 2010 budget outline to Congress, the six authorizing committees of the House and Senate that have principal jurisdiction over the federal government will begin to produce their "Views and Estimates" letters outlining their ideas on the budget for programs and agencies under their jurisdiction. By law, the

committees must produce their “Views & Estimates” reports by no later than six weeks after the President submits his budget. Some committees conduct formal markups at which the draft reports are subjected to amendment. Other Committees produce the reports in a less formal manner.

The following chart lists the House and Senate authorizing committees that have jurisdiction over significant immigration- and refugee-related agencies, functions, programs, and activities and the functions and agencies over which those committees exercise their jurisdiction:

Major Federal Immigration- and Refugee-Related Functions and the Congressional Authorizing Committees that Have Jurisdiction over Them

Agencies/Programs	House Committee	Senate Committee
The Department of Justice’s Board of Immigration Appeals (BIA), Executive Office for Immigration Review (EOIR), Office of Special Counsel (OSC), and Office of Immigration Litigation (OIL)	House Judiciary	Senate Judiciary
The Department of Health and Human Services’ refugee resettlement and unaccompanied alien child programs, administered by the Office of Refugee Resettlement (ORR).	House Judiciary	Senate Judiciary
The Department of Health and Human Services’ trafficking victims assistance programs, administered by the Office of Refugee Resettlement (ORR)	House Foreign Affairs	Senate Foreign Relations
The Department of Health and Human Services’ torture victims assistance programs, administered by the Office of Refugee Resettlement (ORR)	House Foreign Affairs House Energy & Commerce	Senate Foreign Relations
The Department of State’s administration of the nation’s refugee admissions and overseas refugee assistance programs, administered by the Department’s Bureau of Population, Refugees, and Migration (PRM)	House Foreign Affairs	Senate Foreign Relations
The Department of Homeland Security’s immigration benefits adjudication services, administered by the Department’s U.S. Citizenship and Immigration Services Bureau (USCIS)	House Judiciary	Senate Judiciary
The Department of Homeland Security’s detention and interior immigration enforcement functions, administered by the Department’s Immigration and Customs Enforcement (ICE) Bureau	House Judiciary	Senate Judiciary
The Department of Homeland Security’s border and port-of-entry enforcement functions, administered by the Department’s U.S. Customs and Border Protection Bureau (CBP)	House Homeland Security	Senate Judiciary

At the time of this writing, none of the six committees that have jurisdiction over significant immigration- and refugee-related agencies, functions, and activities of the federal government had yet announced their schedules for considering their Views & Estimates reports. ☼

****Immigration Likely to Be Issue on Administration’s Housing Foreclosure Prevention Plan:**

President Barack Obama last week released his Homeowner Affordability and Stability Plan, which is intended to address the home mortgage crisis and prevent seven to nine million Americans from losing their homes. While he made no explicit mention of immigrants in his plan, immigration-related issues are likely to surface once Congress begins the task of translating the President’s concepts and principles into legislative language. ◇

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 immigration and refugee legislative agenda that Congress will face during the 111th Congress.
- [Refugee- and Immigration-Related Provisions in the Fiscal Year 2009 Omnibus Appropriations Bill](#). Next week’s Weekly Legislative Update will report on the refugee- and immigration-related provisions that are contained in the fiscal year 2009 omnibus appropriations bill, which the House is expected to take up this week.
- [Fiscal Year 2010 Budget Submission](#). Next week’s Weekly Legislative Update will report on the refugee- and immigration-related items that are contained in the Fiscal Year 2010 Budget Outline that President Barack Obama is expected to submit to Congress this week, provided that the budget outline contains a sufficient level of detail to assess how immigration- and refugee-related spending would be impacted by his submission.
- [Department of Homeland Security Immigration-Related Directives](#). Next week’s Weekly Legislative Update will report on any reports that the Department of Homeland Security releases pursuant to several “Action Directives” issued by Secretary of Homeland Security Janet Napolitano.
- [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

No items this week.

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