

Siskind's Immigration Bulletin
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1. Openers

Dear Readers:

This week I had one of the more interesting experiences of my immigration law
career. For several years we have assisted a large nearby university with green card

applications for faculty members and advised outgoing students on work visa options. We've also assisted J-1 visa holders at this university with home residency waivers. Recently, this university's international office director resigned and our firm was asked to provide temporary help in staffing the position. We happen to have an attorney who is of counsel to our firm who has several years experience in just this type of position. We have been sending him one to two days a week to this university for the past few months. But this week he was unable to go to the campus and I decided to fill in.

Most immigration lawyers have a basic understanding of F-1 and J-1 visas. But the specific rules surrounding things like curricular practical training and transferring between educational programs are usually left to others - namely, the thousands of foreign student advisors around the US. I have always had respect for foreign student advisors, but I have a new found admiration for the work they do. Schools around the US are undertaking the massive task of moving all the data for their existing students into the new SEVIS online system. They are absorbing an extensive set of new regulations governing F-1 and J-1 rules. They are dealing with special registration requirements, security clearances, and processing time delays. And they typically are understaffed to boot.

This week we report on a couple of interesting news items. H-1B usage statistics were released for the last fiscal year. About 79,000 visas counted against a cap of 195,000. The H-1B cap is set to return to its statutory limit of 65,000 in October and the battle to get the H-1B numbers up to a workable level in time for the economic recovery. The anti-H-1B forces are already lobbying hard to do nothing about the cap being lowered. Whether pro-H-1B forces will succeed in raising the cap again is hard to say. Refugee admission numbers are also way down. Only a fraction of the number of refugees authorized to be admitted to the US this year have arrived so far despite promises from the Bush Administration that it would address the problem.

This week we have many of our regular features including an ABCs article on non-immigrant visa options for athletes as well as a guest article from tax lawyer Stephen Weiser on tax issues for foreign nationals. Plus we have all of our regular features.

Finally, as always, we remind readers that we're lawyers who make our living representing immigration clients. We would love to discuss becoming your law firm. Just go to <http://www.visalaw.com/intake.html> to request an appointment or call us at 800-748-3819 or 901-682-6455.

Regards,

Greg Siskind

2. The ABC's Of Immigration – Visa Options For Athletes

The United States is home to many of the top sporting events and athletic teams in the world and has long been a magnet for the top competitors from around the globe. Many of these athletes are coming to the United States seeking employment, and like any other workers coming to the U.S. to earn a living, they must secure

work visas. The most common non-immigrant visa categories for athletes who will be employed in the United States are O, P, and H-2B.

O Visas

Individual athletes of "extraordinary ability" may qualify for an O-1 visa. To obtain an O-1 visa, athletes must demonstrate that they possess "a level of expertise indicating that the person is one of the small percentage who have risen to the top of the field of endeavor." There are two ways of demonstrating this expertise. One method is through receiving a major internationally recognized award such as winning an Olympic gold medal. The more common way is by providing documentation in three of the following categories:

- Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor
- Membership in associations in the field which require outstanding achievements of their members, as judged by recognized national or international experts in the field or discipline
- Published material in professional or major trade publications or major media about the athlete
- Evidence of participation on a panel, or individually as a judge of the work of others in the same or allied fields
- Evidence of employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation
- Evidence that the athlete has either commanded or will command a high salary or other remuneration of services, evidenced by contracts or other reliable evidence.

Besides documentation that falls within one of the mentioned categories, comparable evidence not within one of the categories listed above may be used.

The O visa does not have a numerical quota. For those granted a visa, the initial approval of an O is limited to three years. However, an individual can request an infinite number of one-year extensions.

O-1 applicants need to demonstrate that they are coming to work in their field. But based on a 1994 INS Field Memo, the athlete need not show that the athletic endeavor that serves as the basis of the application requires an athlete of extraordinary ability or achievement. Practically speaking, however, the higher caliber the endeavor in the US, the stronger the case will likely be.

O-1 applications may be submitted by agents in some cases if athletes in a particular field are traditionally self-employed or normally use agents to arrange for short-term employment on their behalf with numerous employers or where a foreign employer uses an agent to act on its behalf.

Note that O-1 visa applicants (as well as P-1 visa applicants discussed below) need to obtain an advisory opinion from a "peer group," labor organization, or management organization in the area of the alien's ability. This can be avoided if the petitioner is requesting expeditious handling of the O or P petition, an appropriate entity does not exist or a consultation has taken place within the two previous years.

P Visas

Athletes who cannot meet the high standard for an O visa may petition for a P visa. Unlike an O, both individuals and an entire athletic team may be classified under this category.

For an athletic team to petition for a foreign athlete, the team must have achieved international recognition in the sport. An athlete who will come to the U.S. to compete in individual events rather than with a team must show that he or she is internationally recognized. The event the athlete is coming to the U.S. to participate in must have a distinguished reputation and must require the participation of athletes and teams of international recognition.

In order to receive a P visa, athletes must submit a tendered contract in an individual sport "commensurate with international recognition in that sport, if such contracts are normally executed in the sport." Additionally, the athlete must provide evidence of at least two of the following:

- Proof of significant participation, by the athlete or the team, with a major U.S. sports league
- Proof of significant participation in an international competition with a national sports team
- Proof of significant participation in a prior season with a U.S. college or university in intercollegiate competition
- A written statement from an official of a major U.S. sports league or an official of the governing body of the sport which details how the alien or team is internationally recognized
- A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized
- Evidence that the individual or team is ranked if the sport has international rankings
- Evidence that the alien or team has received a significant honor or award in the sport

Note that players for Major League Baseball and the National Hockey League only need to show they have a contract with an MLB or NHL team. Also, P-1s who enter the US as a member of an internationally recognized athletic team may not perform work separate from that athletic team.

The one-year group membership requirement as well as the international recognition requirement do not apply to circus performers playing an integral role in the circus. The circus must in turn show that it has been recognized nationally as outstanding for a substantial period of time.

Like the O visa, P visas do not have a numerical quota. The initial approval of a P visa for an individual athlete is limited to five years. An individual athlete can request a five-year extension for a maximum period of ten years. Athletic teams receive an initial approval period for the time needed to complete the competition, not to exceed one year. An unlimited number of one-year extensions can be granted to athletic teams.

P visas have a consultation requirement. See the discussion of this subject in the O-1 visa discussion above for more information.

H-2B Visas

The H-2B category allows athletes who cannot fulfill the more strict requirements for an O or P visa to be temporarily employed in the U.S. An example of an athlete who may have to utilize an H-2B visa is a minor league baseball player.

One of the most significant restrictions on the H-2B category is the requirement that the need for the foreign worker is temporary. The employer of the H-2B applicant must show that the services shall be a one-time occurrence, a seasonal need, a peakload need, or an intermittent need. It is this requirement that makes the H-2B visa so rarely used. Not only must the employer promise to employ the worker for a limited period of time, the employer must verify that its need for the worker is temporary.

In addition to the temporary need requirement, a labor certification by the Department of Labor (DOL) is required for an H-2B visa to be issued. The DOL must determine that there are no unemployed, qualified U.S. workers available for the position in the geographical location of the proposed employment, and that employment of the foreign national will not adversely affect the wages or working conditions of U.S. workers. To satisfy the DOL, the employer must conduct a recruitment campaign. Before beginning this campaign, the employer should contact the state employment office to discover what type of recruiting efforts will be required in that area. It is also important to note that a U.S. worker who is otherwise employed, but expresses willingness to take the position recruited for is not considered unemployed.

The number of H-2B visas that can be issued during a fiscal year is limited to 66,000. The length of the stay on an H-2B visa is limited by the duration of the employer's temporary need for additional workers. The maximum authorized period of stay is one year, and the visa may be extended for a total of three years. However, extension applications are closely scrutinized.

3. Ask Visalaw.com

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

Q - I am planning to apply for citizenship but I want to make sure that I am eligible before proceeding. I've been residing here in the US for the more than five years, however I've been visiting the Philippines almost every year for the past five years and at one occasion I stayed there for 6 and a half months due a family emergency. I'm not sure if this would affect my eligibility.

A - Remaining outside the US for six months to a year creates a presumption that you have broken your continuous residency in the US. This is a presumption that can be overcome with evidence of your maintaining ties during this time in the US. That may include things like filing taxes here, keeping a car in the US, keeping a residence in the US, keeping investment and bank accounts, etc.

Q - I obtained employment based permanent residency in July 2000. What is the earliest date I can apply for citizenship assuming I meet all other eligibility requirements (not losing PR status etc.)?

A - You can apply some time in April 2005 assuming all the normal requirements will be met. That's because you can apply up to 90 days ahead of the fifth anniversary of permanent residency (third anniversary if you are married to a US citizen).

Q - I would like to know what are the documents required to show to an immigration officer for a student visa

A - There are several items you will need to present. First and foremost is an unexpired passport. You will also need to have an I-20 form generated by the school you will be attending. You will want to have the non-immigrant visa application forms, the filing fee and the application photo. And, importantly, you'll need evidence to show non-immigrant intent. This would include documentation showing family ties to your home country, job prospects for when you return home, plenty of financial resources to pay for your education and expenses in the US as well as assets you own in your home country. Bottom line - you'll need to convince a consular officer with documentation that you are not going to overstay your student visa and you will not need to work illegally in the US to support yourself.

4. Border News

In testimony before the Subcommittee on Immigration Border Security and Claims, Homeland Security and Justice Director Richard Stana discussed the INS's Immigration Interior Enforcement Strategy, which was designed to deter illegal entry. The strategy is now the responsibility of the Bureau of Immigration and Customs Enforcement (BICE). Stana said the INS faced several challenges in implementing its interior enforcement strategy, which he said was historically funded at only one fifth the level which was devoted to border enforcement. Among the INS' shortcomings were a lack of reliable data, reliable information technology, clear guidelines, coordination within the INS and other agencies, and performance standards. Stana said the Department of Homeland Security has brought a new focus to the strategy, but it also came with additional challenges, including the need to coordinate between the new agencies involved with adjudication and enforcement, and the need for sufficient training. The interior enforcement strategy was designed to address the removal and detention of criminal aliens, dismantle and diminish smuggling operations, handle community complaints about illegal immigration, and to document fraud.

An article published in the Washington Times this week reported that a group of Al Qaeda terrorists is attempting to infiltrate the United States from Mexico, according to officials who wished to remain anonymous. The sources said at least 14 Al Qaeda members were in Mexico working with Mexican organized crime groups, such as drug-trafficking organizations. No specific details about the terrorist plan was disclosed, but other intelligence sources told the Times that the recently-captured Al Qaeda operations chief, Khalid Shaikh Mohammed, mentioned as a possible target the stretch of Washington's Metrorail between Capitol Hill and the White House.

The Mexican government denied the Washington Times report and said security is tight at the country's borders, airports and ports of entry.

"We have no knowledge whatsoever at this time that people with any tie to terrorist groups or attacks want to enter (the United States) through our territory," Interior Secretary Santiago Creel said.

Last week in Border News we wrote about terrorist plot, reported in the New York Daily News, dealing with Al Queda members attempting to get smuggled into the U.S. through Mexico, with the Bush ranch in Crawford, Texas, as a potential target. Link to last week's article: <http://www.visalaw.com/03apr1/4apr103.html>

Seventeen passengers aboard the hijacked commercial flight from Cuba that landed in Key West we reported on last week have returned home, and 10 others opted to stay in the United States. Two others remain in custody of federal officials as part of the hijacking investigation.

The five women, two men and three children who decided to stay in the U.S. were released Wednesday from a federal detention center in Southwest Miami-Dade.

Link to last week's article: <http://www.visalaw.com/03apr1/13apr103.html>

5. News From The Courts

United States of America v. Jose Bahena-Guifarro
United States Court of Appeals for the Seventh Circuit

Jose Bahena-Guifarrro appealed the district court's refusal to group, under Sentencing Guidelines § 3D1.2, two counts of illegal reentry after being removed from the United States for an aggravated felony. When counts involve the same victim and two or more acts or transactions connected by a common criminal objective or constituting part of a common scheme or plan, the counts should be grouped together. Whether two separate acts of illegal reentry into the United States should be grouped under the Sentencing Guidelines was an issue of first impression. The court held that the offenses should not be grouped together.

In 1979, Bahena, a Mexican citizen, entered the United States as an infant and lived in Illinois most of his life. In 1989, he became a lawful permanent resident. In 1998,

an Immigration Judge ordered him removed to Mexico for his 1996 convictions of burglary, robbery and aggravated battery. He illegally reentered in 1999. Within a few months, he was convicted of burglary. In 2000, an IJ ordered him removed to Mexico. He again reentered illegally. In 2001, he was convicted of driving under the influence. After being transferred to the Immigration and Naturalization Service's custody he was charged with two counts of illegal reentry of a foreign national who has previously been removed from the United States subsequent to a conviction for an aggravated felony, in violation of 8 U.S.C. §§ 1326(a) and (b). Bahena plead guilty.

Bahena argued that although his illegal reentries were separate in time, both crimes involved identical harm to societal interests and a common criminal objective, which was to be close to his family in the United States. The probation officer recommended that the two counts be grouped because they met the requirements of U.S.S.G. § 3D1.2(b). The government objected to the grouping recommendation, arguing that two separate acts after two separate deportations should be counted as two units. The government reasoned that these same crimes were committed over a year apart with intervening government action. The district court rejected Bahena's argument that he had returned to the United States for the same purpose each time.

In holding that Bahena's two illegal reentries should not be grouped together for sentencing, this court likened the two crimes to two counts of escape from prison that may not be grouped. See United States v. Bradford, 277 F.3d 1311, 1316 (11th Cir. 2002), cert. denied, 123 S. Ct. 304 (2002). The court further noted that each time Bahena reentered the United States, he committed a crime in addition to the illegal reentry. In addition to the separate instances of harm incurred in the cost of processing and deporting Bahena each time, the community was subjected to separate instances of risk of harm from Bahena's continued criminal activities. The court stated that Bahena did not offer any evidence that his illegal entries had a common criminal objective and the burden was on him to do so.

Sahar Ouda v. Immigration and Naturalization Service
United States Court of Appeals for the Sixth Circuit

Sahar Ouda, a stateless Palestinian born in Kuwait, sought judicial review of a decision denying her application for asylum from Kuwait. She asserted that her life and liberty would be in danger if she went back to Kuwait. The court held that the Board of Immigration Appeals erred by ruling as a matter of law that Ouda cannot request asylum from Kuwait because she cannot be deported there.

After Kuwait was liberated, Ouda's father was not allowed to return to work because he was a Palestinian who was perceived as supporting Iraq when he continued teaching during the war. They were unable to earn a livelihood or travel safely in public. Because of this widespread violence against Palestinians, Ouda was not permitted to leave her home. Kuwaitis tortured her 15 year old brother when he tried to get a haircut. The Oudas were forced to sell their belongings to buy food and eventually were expelled from Kuwait with only a percentage of Mr. Ouda's pension. Ouda came to the United States by way of Bulgaria, where the Bulgarian mafia persecuted them because of Ouda's father being a storeowner.

The Immigration Judge issued a written opinion denying Ouda's application for asylum and withholding of deportation and ordered her deported to Bulgaria or any other country that will accept her. The IJ determined that Bulgaria was her country of last habitual residence and focused her asylum claim on Bulgaria. After finding her testimony credible, the IJ concluded that Ouda had not demonstrated either past persecution or a well-founded fear of future persecution in Bulgaria.

Ouda appealed the denial of her asylum application to the BIA, arguing that the IJ had erred in finding that Bulgaria was her country of last habitual residence, and contended that she had established eligibility for asylum in relation to Kuwait. The BIA ruled that a stateless foreigner, who has no nationality, may seek asylum in relation to the country where she last habitually resided if he or she may be deported there. 8 C.F.R. § 240.49(c)(2). The BIA reasoned that even if INS could get travel papers from Kuwait for Ouda, the BIA would find that she has not established past persecution in Kuwait. They further reasoned that the only negative thing that happened to her in Kuwait was that she was unable to continue her higher education. Accordingly, the BIA dismissed Ouda's appeal holding that she did not meet her burden of establishing an asylum claim in relation to Kuwait.

This court noted that they can not find support for the proposition that an asylum applicant is precluded from seeking asylum in the United States should it prove to be the case that the country from which she seeks asylum will not take her back if the INS tries to deport her. The court explained that asylum applicants have argued that a country's refusal to accept them is further evidence of persecution. See, e.g., Al Najjar v. Ashcroft, 257 F.3d 1262 (11th Cir. 2001). The court reasoned that 8 C.F.R. § 240.49(c) does not apply to Ouda, who sought asylum as a Kuwaiti refugee while lawfully within this country, well before her visa expired and the INS commenced deportation proceedings against her. The issue of Ouda's deportability is another matter apart from qualifying as a refugee and establishing an asylum claim.

The court further held that Ouda had established past persecution in Kuwait based on her testimony that was credited by the IJ. The case was remanded to the BIA in order to properly shift the burden to the INS of establishing by a preponderance of evidence that Ouda does not have a well-founded fear of persecution should she be returned to Kuwait.

6. Government Processing Times

These are not official INS times, nor are they endorsed by the Central Office.
Source: [American Immigration Lawyers Association](#)

California Service Center Processing Time Report 4/1/03		
Form		We are now processing cases with these receipt dates:

I-90	To replace lost, damaged or destroyed I-551	6/10/2002
I-90	To renew expiring I-551	6/10/2002
I-102	For replacement/initial nonimmigrant arrival/departure form	3/6/2003
I-129	For H-1B classification COS	10/15/2002
I-129	For H-1B classification EOS	10/10/2002
I-129	For H-2A classification	3/30/2003
I-129	For H-2B classification	2/20/2003
I-129	For H-3 classification	10/8/2002
I-129	For E classification	8/22/2002*
I-129	For L classification	3/5/2003
I-129	For Blanket L petition	3/30/2003
I-129	O classification	11/22/2002
I-129	P classification	11/22/2002
I-129	Q classification	11/22/2002
I-129	R classification	7/16/2002
I-129	TN classification	
I-129F	(Fiancée)	1/7/2003
I-130	For spouse, parent, or child (under 21) of a United States citizen	11/7/2002
I-130	For Unmarried son/daughter (over 21) of a United States citizen	4/5/2001
I-130	For Spouse/Child of a lawful permanent resident	4/6/1998
I-130	For Unmarried son/daughter (over 21) of a lawful permanent resident	4/6/1998
I-130	For Married Son/daughter of a United States citizen	4/5/2001
I-130	For Brother/Sister of United States citizen	4/6/1998
I-131	For Advance Parole	2/10/2003
I-131	For Advance Parole for HRIFA principal applicant	
I-131	For Reentry Permit	
I-131	For Refugee Travel Document	

I-140A	(extraordinary ability)	9/20/2002
I-140B	(outstanding professor or researcher)	9/6/2002
I-140C	(multinational executive or manager)	10/29/2002
I-140D	(professional holding adv. degree/alien of exceptional ability)	11/5/2002
I-140E	Skilled worker or professional	10/25/2002
I-140I	(National Interest Waiver)	4/1/2003
I-140G	(other worker)	11/18/2002
1-212	Permission to reapply for admission after deportation/removal	1/29/2001
I-360	Petition for Amerasian, widow(er), or Special Immigrant	9/9/2002
I-485	Asylum-based	
I-485	Refugee-based	
I-485	Employment-based	11/16/2001
I-485	Haitian Refugee Immigration Fairness Act (HRIFA)-based	
I-539	For extension of stay for F or M non-immigrant	2/18/2003
I-539	For extension of stay for J non-immigrant	
I-539	For extension of stay for L or H non-immigrant	2/22/2003
I-539	For extension of stay for other non-immigrant	2/22/2003
I-539	To change nonimmigrant classification to F or M	2/18/2003
I-539	To change nonimmigrant classification to J	
I-539	To change nonimmigrant classification to L or H	2/22/2003
I-539	To change to other nonimmigrant classification	2/22/2003
I-612	Waiver of foreign residence requirement	1/29/2003
I-730	Refugee/Asylee Relative Petition	
I-751	Petition to Remove Conditions on Residence	7/29/2002
I-765	For initial asylee or asylum applicant authorization	Current
I-765	For employment authorization associated with Hurricane Mitch TPS	Current
I-765	For employment authorization associated with El Salvador TPS	Current
I-765	For employment authorization while I-	9/9/2002

	485 is pending	
I-765	For all other employment authorization	8/14/2002
I-817	Application for Family Unity Benefits	6/14/2002
I-821	For El Salvador	4/17/2002
I-821	For Hurricane Mitch countries	12/20/2002
I-824	Application for Action on an Approved Application or Petition	3/27/2002
I-829	Petition by Entrepreneur to Remove Conditions	10/23/2000
I-914	Application for T Non-immigrant	

* The Processing Date for I-129 E was report erroneously on the 3/15/02 Report

Vermont Service Center Processing Time Report 4/1/03		
Form		We are now processing cases with these receipt dates:
I-90	To replace lost, damaged or destroyed I-551	5/4/2002
I-102	For replacement/initial nonimmigrant arrival/departure form	Current
I-129	Petition for Nonimmigrant Worker H-1B Cap	1/21/2003
I-129	Petition for Nonimmigrant Worker H-1B Ext	1/17/2003
I-129	Petition for Nonimmigrant Worker H-2A	Current
I-129	Petition for Nonimmigrant Worker Other (H-2B, H3, O, P, Q, R)	2/13/2003
I-129	Nonimmigrant Worker L (not based on a blanket petition)	3/5/2003
I-129	Nonimmigrant Blanket L	3/5/2003
I-129F	(Fiancée)	3/13/2003
I-212, I-601, I-612	Waivers	Current
I-130	Immediate Relatives Classes	7/12/2002
I-130	Preference Classes	2/8/1999
I-131	Application for Travel Document	2/28/2003
I-140	Immigrant Petitioner for Alien	4/3/2002

	Worker E11	
I-140	Immigrant Petitioner for Alien Worker E12	4/3/2002
I-140	Immigrant Petitioner for Alien Worker E13	6/28/2002
I-140	Immigrant Petitioner for Alien Worker E21 (National Interest Waivers: 4/5/2002)	7/18/2002
I-140	Immigrant Petitioner for Alien Worker E31, E32, EW3 (Nurses: 3/03/2003)	7/27/2002
I-360	Petition Widowed/Special Immigration	9/25/2002
I-360	VAWA	8/21/2002
I-485	Application to Register Permanent Residence or to Adjust Status	11/15/2001
I-539	Application to Extend/Change Nonimmigrant Status	3/12/2003
I-687		N/A
I-751	Petition to Remove Conditions on Residence	12/1/2001
I-765	Employment Authorization (C) (8)	3/10/2003
I-765	Employment Authorization (C) (9)	3/4/2003
I-765	Employment Authorization Other	2/7/2003
I-817	Application for Family Unity Benefits	N/A
I-821	Application for Temporary Protected Status – El Sal	4/4/2001
I-821	Application for Temporary Protected Status – Nicaragua/Honduras	Current
I-824	Application for Action on an Approved Application or Petition	2/12/2002
I-914	Application for T Non-Immigrant Status	Current
N-470, N-565, N-643		10/2/2002
N-600		9/13/2002

The Bureau of Citizenship and Immigration Services (BCIS) has launched a pilot program in Atlanta and four other cities to devise a more uniform citizenship interview exam. Immigration officers can choose from a list of 100 questions to ask those applying for U.S. citizenship, but they are allowed to choose which questions to ask. The BCIS plans to ask sample questions of immigrants after citizenship interviews to help come up with a consistent and fair process, according to Gerri Ratliff, the bureau's project manager for the naturalization test redesign. The agency wants to be sure that all immigrants are tested the same no matter what city they live in. Applicants to become U.S. citizens must demonstrate an understanding of the English language, including ability to read, write and speak the language, and they must also answer questions about U.S. history and government. Officials hope to develop a list of several hundred civics and history questions that are about the same level of difficulty.

This week immigrant advocates testified in favor of a DC bill that would require translators in all city agencies and the appointment of a citywide coordinator. City officials said the service would be too costly in a weak economy that has forced the government to cut back on other programs and slash budgets.

Denise Gilman of the Washington Lawyers' Committee for Civil Rights and Urban Affairs said the city should "remove the burden from hardworking, tax-paying members of our community simply because they don't speak English well."

The bill was introduced in February by Jim Graham, a council member who chairs D.C.'s Subcommittee on Human Rights, Latino Affairs and Property Management. The proposed legislation includes hiring bilingual employees and translating official materials into Spanish and other languages.

A California hospital announced this week that it would offer \$20,000 scholarships to Hispanic nursing students who promise to sign a contract when they graduate. As the shortage of Spanish-speaking nurses in California becomes more acute, several hospitals have begun offering loans and scholarships to attract bilingual workers.

In 1999, California became the first U.S. state to pass legislation putting a quota on the number of nurses required in each region according to the density of its population. The California Strategic Planning Committee for Nursing said the state would need to recruit 110,000 nurses by 2010. The state plans to train nearly 5,000 more nurses by 2004, but not enough nursing schools exist to meet that goal, the committee found.

California's efforts have spurred increased recruiting of nurses from Latin American countries, particularly Mexico, since NAFTA has special provisions that make it easier for nurses to enter the U.S. from Mexico and Canada.

Panama, Malaysia Put Temporary Ban On Chinese Visitors Over SARS Fears

The governments of Panama and Malaysia have each temporarily suspended visas for Chinese nationals in order to stop the spread of severe acute respiratory syndrome (SARS), a deadly form of pneumonia. The disease has infected some 3,000 people worldwide and killed at least 112. Malaysia has also imposed a temporary ban on Hong Kong visitors and placed new restrictions on travelers from Canada, Taiwan and Vietnam - areas known to have been exposed to SARS. Missing from the list of countries affected by Malaysia's policy is Singapore, where the disease has infected 126 people and killed nine. Hong Kong officials said they were not consulted and called on Malaysia to reconsider, saying the decision was not justified, unnecessary, and ignores the realities of an increasingly globalized world. Hong Kong has reported 55 deaths related to SARS, second only to China.

Indonesia Revokes Visa-Free Tourism

Indonesia is ending its visa-free entry program for tourists from several nations, including Japan, Australia and European nations. Following the terrorist bombing in Bali, the government has adopted stricter immigration policies. The October attack on a Bali hotel killed 202 people, most of them foreign tourists. Tourism represents a major source of revenue for Indonesia, bringing in around \$5.4 billion in foreign currency last year. An immigration bureau spokesman said 11 countries would still be able to visit without a visa, countries that have the same program for Indonesian tourists, including neighboring countries such as Singapore.

Canadian Official: Immigration Department Lost Track Of 36,000 Cases

Canadian Auditor General Sheila Fraser said the immigration department had lost track of 36,000 cases over the last six years, in her latest report to Parliament. The gap developed between the number of removal orders issued and the number of departures actually confirmed. Fraser said enforcement activities should be given a higher priority because the backlog "undermines the system used to admit people to Canada."

Iraqi General Offered Refuge In Britain

Britain has offered amnesty to one of the top military commanders of Saddam Hussein's regime in Iraq, in exchange for secret information, according to senior officials quoted this week by The Times. The article said it is likely the imprisoned brigadier-general will be given a new identity and his whereabouts will be kept secret. Sources say part of the deal worked out with the general included a plan for British forces to first rescue his family, hiding from Baath Party extremists in Basra.

The Department of State has released the Bulletin for May 2003, which summarizes the current availability of immigrant numbers.

Family Numbers

	All Chargeability Areas Except Those Listed	MEXICO	PHILIPPINES
1st	01OCT99	01JAN94	01JUN90
2A*	15MAR98	01OCT95	15MAR98
2B	01OCT94	15NOV91	01OCT94
3rd	15MAR97	01JUL93	15JAN90
4th	01JUN91	01JUN91	15JAN82

Employment Numbers

	All Chargeability Areas Except Those Listed	MEXICO	PHILIPPINES
1st	C	C	C
2nd	C	C	C
3rd	C	C	C
Other Workers	C	C	C
4th	C	C	C
Certain Religious Workers	C	C	C
5th	C	C	C
Targeted Employment Areas/Regional Centers	C	C	C

Diversity Visa Numbers for May

Region	All Chargeability Areas Except Those Listed Separately
Africa	AF 19,880
Asia	AS 13,400
Europe	EU 29,550
North America (Bahamas)	NA 14
Oceania	OC 470
South America (Caribbean)	SA 1,340

Diversity Visa Numbers for June

Region	All Chargeability Areas Except Those Listed Separately
Africa	AF 26,100
Asia	AS 16,450
Europe	EU 33,000
North America (Bahamas)	NA 15
Oceania	OC 530
South America (Caribbean)	SA 1,600

10. Guest Article: United States Taxation of Resident and Nonresident Aliens – Part III: Taxation of Investments In U.S. Property, by Steven Weiser

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In the first article of this series we began our review of the U.S. income tax laws with an analysis of the various tests used to determine whether an individual is considered a resident alien or nonresident alien of the U.S. The distinction, we learned is important, as the latter are subject to U.S. income tax on their worldwide income, and the former are generally only subject to U.S. income taxes on income earned from U.S. sources.

Last month we examined the U.S. income taxation of non-resident aliens, a group that often includes temporary residents of the U.S. We learned that earnings from a U.S. trade or business are ordinarily subject to U.S. income taxes on a net basis, meaning that certain deductions are allowed in arriving at taxable income. We also reviewed the taxation of fixed or determinable, annual or periodical gains, profits, and income (otherwise known as "FDAP"). Certain types of income are included in the definition of FDAP, including dividends, interest (subject to several exceptions), rents, salaries and wages. Specifically excluded from the definition of FDAP are capital gains. Income taxes are ordinarily imposed upon gross FDAP at a flat 30 percent rate, and are ordinarily withheld from the payment of such income by the payor, who remits these funds to the Internal Revenue Service.

This month we continue with our focus on the taxation of nonresident aliens, and specifically the taxation of investments in real estate.

Special rules apply to the taxation of real estate owned by nonresident aliens. To best understand these rules it is useful to briefly review how real estate investments would be taxed under the rules we learned last month. For example, if an investment in real estate constitutes a U.S. trade or business, rental income will be taxed on a net basis (deductions allowed) subject to ordinary graduated tax rates. If an investment in real estate does not constitute a U.S. trade or business any rental

income generated by such property would be U.S. source FDAP, subject to the 30 percent withholding tax without any allowance for deductions. [1] Most significantly, if the investment is not a U.S. trade or business, any capital gains from the disposition of the investment would be exempt from U.S. taxes (since capital gains are not included in FDAP). Similarly, the nonresident alien could form a U.S. corporation through which the investment could be held. The corporation would be subject to income taxes on a net basis and pay capital gains taxes much like any other U.S. corporation, the only differences coming when profits are distributed from the corporation to its nonresident alien shareholder. These examples illustrate exactly how, until 1980, real estate owned by nonresident aliens was taxed.

Congress was concerned that foreign investors, whether individuals or corporations, were often able to escape all U.S. taxes upon the disposition of U.S. real estate held for investment or personal use. Congress realized that foreign owners of foreign corporations holding U.S. real estate were also able to avoid U.S. taxes when they sold their stock (since such sales were foreign source income, not subject to U.S. income taxes). Congress viewed the disparity between the taxation of U.S. citizens and residents investing in U.S. real estate and nonresidents investing in real estate as violating tax policy principles. As a result, Congress passed the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA).

FIRPTA essentially forces nonresident alien taxpayers to pay U.S. income tax at ordinary graduated rates on net income (certain deductions allowed) derived from U.S. real estate, generally a benefit to nonresidents. However, FIRPTA also insures that gains from the disposition of U.S. real property are also subject to U.S. income taxes. Owning real property through corporations provides no escape from FIRPTA.

FIRPTA imposes U.S. tax on income and gains from the operation and disposition of "U.S. real property interests" (USRPIs) by nonresident aliens and foreign corporations. A USRPI generally refers to any interest in U.S. real property (including interests in mines, wells and other unsevered natural resources, improvements and some personal property associated with the use of real property) and any interest in certain U.S. corporations (U.S. real property holding companies). It should be noted that a USRPI also exists with respect to real property located in the Virgin Islands (but not other U.S. possessions).

The determination of whether a domestic corporation is a U.S. real property holding company (USRPHC) is made based on the percentage of assets owned by the corporation that constitute USRPIs during a defined time period. The defined period is the shorter of (i) the period during which the taxpayer held the interest in the corporation, or (ii) the five year period ending on the date of disposition of the corporation. In general, a domestic corporation is a USRPHC if the fair market value of its USRPIs is equal to or greater than 50 percent of the fair market value of the corporation's worldwide real property interests and all other assets used in a trade or business. The rules concerning USRPHCs are quite complex and several exceptions apply, including one exception applicable to corporations that previously sold all of their USRPIs, and another applicable to 5 percent-or-less owners of publicly traded USRPHCs.

It should also be noted that special rules apply concerning other types of business entities (e.g., partnerships). Generally, an interest in a partnership is not a USRPI. Instead, a "look-through" treatment is applied when the partner receives a payment

from the partnership. If the partner sells his interest in the partnership the amount of money or other property received by the partner to the extent attributable to USRPIs, is treated as an amount exchanged for a USRPI.

Like other aspects of the U.S. tax laws applicable to nonresidents, FIRPTA is enforced through a withholding tax. If a nonresident alien disposes of a USRPI, the buyer must withhold 10 percent to the total purchase price of the USRPI and remit that amount to the IRS within 20 days of the transaction. This creates a problem where the sales price exceeds the amount of cash in the transaction (for instance, where the nonresident seller carries back a note on the property). No withholding is required if the buyer can establish that the seller is not a foreign person, that the interest transferred is not a USRPI, that the seller is not subject to taxation on the transaction (for a variety of reasons), or that the seller qualifies for reduced withholding (e.g. under certain tax treaties) or has qualified for a withholding certificate.

To obtain a withholding certificate and an exemption from withholding taxes, the nonresident seller should complete IRS Form 8288-B. That form requires a description of the USRPI being sold, the sales price, a calculation of the maximum tax owed, and evidence that the seller has no unsatisfied FIRPTA withholding obligations with respect to the purchase of the USRPI. If the withholding certificate is obtained, the nonresident alien must file a U.S. tax return for the year of sale and pay the appropriate amount of tax due at that time.

An investment in U.S. real estate may also create significant complexities in the estate and inheritance tax context. The U.S. has entered into estate tax treaties with several countries that serve to eliminate double estate and inheritance taxation by different countries. These treaties generally operate by subjecting a deceased person's estate to taxation only in the country in which the person was domiciled (intended to permanently reside) immediately prior to death. However, exceptions exist, particularly with regard to real estate. For example, the estate of an individual domiciled in the Federal Republic of Germany owning real estate in the U.S., is primarily subject to German inheritance taxes. However, U.S. estate taxes will apply with respect to the U.S. real estate. As a result of the investment, the deceased person's estate must deal with the complexities of estate tax treaties, transfer taxes payable in two countries, estate or inheritance tax returns in multiple jurisdictions, U.S. probate, and a host of other issues. Often, these rather expensive complexities can be avoided with proper estate planning.

For example, the German domiciliary in the above example could have held his interest in the U.S. real property through a German corporation. Under the tax treaty between the two countries the stock in the German corporation would not have been subject to U.S. estate taxes, thus providing complete protection from U.S. estate taxes. Note that transfers of U.S. property to foreign corporations always involve complex tax issues and you should always seek assistance from a qualified tax professional when dealing with such transactions.

In summary, FIRPTA causes foreign (including some temporary residents) investment in U.S. real estate to be taxed in much the same way as U.S. citizen or resident alien investment in U.S. real estate. Generally, taxes are imposed on net incomes from foreign owned real estate at graduated tax rates. Taxes are also imposed upon the disposition of such real estate, with a portion of such taxes

withheld from the buyer's purchase price and remitted to the IRS. When considering an initial investment in real estate, extreme care should be given to the estate tax consequences, particularly if the investor intends to permanently reside outside the U.S.

[1] It should be noted that taxpayers may elect to treat U.S. real property income (e.g. rents) as income effectively connected with a trade or business, even if the ownership of such real estate ordinarily does not constitute a trade or business. This election is often beneficial as the 30 percent withholding tax with no allowance for deductions often creates an unduly harsh tax result. This election has been largely superceded by FIRPTA (see below).

11. Federal Judge Sets Deadline For Testimony From Detained Intel Employee

Maher "Mike" Hawash is an Arab-American software engineer for Intel who was arrested on March 20 by the FBI's Joint Terrorism Task Force. Hawash, 38, a U.S. citizen, is being held in solitary confinement as a material witness, a designation which allows him to be held indefinitely without being charged with a crime.

The Department of Justice required a federal court to seal Hawash's case, and the government did not publicly acknowledge his status until this week. On Monday a federal judge set a deadline for prosecutors to take testimony from him. U.S. District Judge Robert Jones' order requires prosecutors to take a deposition from Hawash or present him to the grand jury to testify by April 25.

The 1984 material witness statute was designed to help reveal testimony from unwilling witnesses or those thought likely to flee the country, and it has been used since 9-11 to detain suspects indefinitely without charging them with any crime.

According to an investigation by The Washington Post, at least 44 people have been detained as material witnesses in 9-11 terrorist probes. None of the witnesses being held have been charged with any crime, and nearly half were not called to testify before a grand jury. At least seven were U.S. citizens.

The FBI and the U.S. attorney's office have repeatedly declined to comment on Hawash. The only explanation for his arrest is said to be a link between Hawash and a charitable organization called Global Relief Foundation, to which he made a contribution of more than \$10,000. Two years later, officials accused the charity of having possible financial links to terrorism and froze its assets. The charity has denied the accusations and is fighting a deportation order for one of its founders. A gag order prevents Hawash's attorneys from commenting.

Friends and former colleagues have launched a website, FreeMikeHawash.org, urging his release and have collected donations for his defense. According to an article by Wired.com, the website has been gaining a considerable amount of attention, as indicated by Internet traffic charts.

One person championing his cause is former Intel VP Steven McGeady, who hired Hawash as a programmer in 1992. McGeady was a high-profile witness in the Microsoft antitrust trial and is now acting as a family spokesman.

Hawash became a U.S. citizen in 1988. His wife and two of his children are American-born.

12. Key Immigration Numbers Down, Reflecting Political And Economic Changes

New data shows three key immigration numbers are down, reflecting serious changes in the current political and economic climate. Across the board, the government is approving far fewer visas than allowed or expected and giving asylum to refugees at an alarmingly slow rate. The political and economic factors at work since 9-11 have affected immigrants from all levels of society - skilled workers, students, and refugees.

Students

In 2002, the U.S. government gave 253,841 visas to foreign scholars, researchers and teachers, according to a spokesman for the US State Department's Consular Affairs Bureau, about 8,000 less than was granted the year before. Visas granted to undergraduate and graduate students last year totaled 234,322, down by nearly 60,000 from 2001. Officials said the reductions reflected more of a drop in visa applications than a rise in rejections. However, there have been numerous reports of students who were unable to reenter the country or were considerably delayed while the government processed background checks. Many students who were already in the middle of a degree program in the U.S. were prevented from continuing their studies. Some students were still waiting as late as February to be approved for visas to attend schools that expected them last September.

Highlighting the increased scrutiny of the student visa process, some lawmakers have begun introducing legislation to refuse school loans to foreign students. In one bill, students from countries included on the list of those that sponsor terrorism would be denied government education loans altogether. Universities are also now in the process of learning the government's new electronic student-tracking system, SEVIS, which is part of a renewed push to keep a close watch of those who enter the country to attend school. And the government recently released a set of regulations imposing new restrictions on students.

University officials say the laws punish people who are just trying to do their research. Last fall, the University of Minnesota had a 21% drop in its international student population.

"In the long run, the progression of our research is at stake," said Debbie Fountain, a spokesman for the National Cancer Institute's Office of Management, as quoted in a recent issue of *The Scientist*.

Refugees

The US has admitted only 8,860 refugees during the first half of fiscal year 2003. If the government accepts refugees at this same level during the next six months,

fewer than 18,000 refugees will be accepted out of the presidential target figure of 70,000. It would be the lowest number of admissions in decades.

Based on estimates of the costs of refugee resettlement, as compiled by the Hebrew Immigrant Aid Society (HIAS), the President's FY 2004 budget proposal would only provide funding for the resettlement of 45,000 refugees, an indication that the government is planning for a continued reduction in admissions.

Following 9-11, the government imposed a moratorium on the refugee admissions program. Refugees did not begin arriving again until December 2001. In fiscal year 2002, the United States admitted only 27,000 out of the targeted 70,000.

According to HIAS, the average number of refugees admitted annually since 1980 is 98,000, with a declining trend over the past ten years.

Skilled Workers

The H-1B visa came to be thought of as a "high-tech" visa during the 90's boom, with many computer technologists and software engineers coming in under that category. In 2000, the annual quota was raised in response to a growing demand by companies that depended on a foreign influx to fill then-pervasive job vacancies.

This week the Bureau of Citizenship and Immigration Services (BCIS) announced the statistics for the number of H-1B petitions filed and approved during fiscal year 2002. The BCIS received 215,190 H-1B petitions in FY 2002, including both initial and continuing employment. Of that number, the INS approved 197,000 - 103,584 were for initial employment. A Congressionally-mandated cap of 195,000 on certain individuals applied to 79,100 petitions for FY 2002. The rules for counting individuals against the cap were revised by the American Competitiveness in the 21st Century Act, under which most foreign nationals approved for extensions are not subject to the annual cap.

The cap on H-1B visas will drop to an annual rate of 65,000 in October and the issue of whether to keep the quota at a higher level is already being debated by members of Congress.

H-1B Petitions Filed and Approved by Type of Petition: FYs 2000-02

Petitions Filed

	Total	Initial Employment	Continuing Employment
2000	299,046	164,814	134,232
2001	342,035	201,543	140,492
2002	215,190	109,576	105,614

Petitions Approved

	Total	Initial Employment	Continuing Employment
2000	257,640	136,787	120,853
2001	331,206	201,079	130,127
2002	197,537	103,584	93,953

13. AAO Rules For Doctor In J-1 Case

One of the most difficult challenges facing the American health care system today is a growing shortage of physicians across a wide spectrum of medical specialties. The problem is particularly acute in rural areas, though urban areas throughout the country are facing serious shortages as well.

One of the solutions Congress has crafted to deal with the problem is to allow international medical graduates seeking medical training in the US on J-1 visas to remain in the US and work in medically underserved communities. In exchange for the opportunity to practice medicine in the US, physicians agree to work for three years or more in the particular community that sponsors them for a waiver of their J-1 home residency requirement.

But sometimes all does not work out for a physician in a particular community and the physician requests a transfer to another community. Failure to get approved for a change can be particularly serious since a physician can become subject again to a home residency requirement.

The question of when a physician can legally switch employers when they have received a waiver of a J-1 home residency requirement under Section 214(l) of the Immigration and Nationality Act is one that has rarely been addressed by the INS/BCIS or the courts. Recently, however, the INS/BCIS issued a decision addressing when a physician's changing employers meets the "extenuating circumstances" test. And in this case, the physician was successful.

DC immigration lawyer Montserrat Miller appealed an INS denial of an H-1B transfer case for a physician seeking to work for Southeastern Pediatric and Adolescent Medicine, a clinic in Milwaukee, Wisconsin. It petitioned for a physician to work at the clinic on an H-1B visa, but the change of status application was denied because the petitioner, according to the INS/BCIS, had failed to establish that extenuating circumstances prevented the beneficiary from completing his obligatory three year service period with his previous employer.

The three year requirement is based a requirement that a physician agree to serve three years in an underserved area before seeking permanent residency or a change of non-immigrant status. Under Section 214(l)(1)(B) of the Immigration and Nationality Act, however, the INS/BCIS may exercise discretion and excuse an early termination of the three year employment period if there are extenuating circumstances. Extenuating circumstances may include, according to the INS/BCIS, closure of the facility or hardship to the alien. Other bases for excusing the three year requirement may also be submitted.

In its decision, the AAO noted that the INS/BCIS shall base its decision on documentary evidence proving the extenuating circumstances and also evidence that the hardship was caused by unforeseen circumstances beyond the physician's control.

In this case, the physician claimed that the first employer was not paying the physician the salary promised in the contract. The salary promised was \$80,000 per year. But the employer was paying just \$34,888 per year. The physician's attorney argued that the failure to pay the promised salary caused the physician an extreme hardship and constituted extenuating circumstances that prevented the doctor from completing his three year employment period.

The physician presented several items to the INS/BCIS including a copy of the contract with the initial employer, the Labor Condition Application, payroll documentation and a copy of a lawsuit filed against the employer for failing to pay the salary promised.

The AAO ruled in favor of the physician stating that the failure to pay the physician less than half of the promised salary was enough to show extenuating circumstances prevented the physician from completing the contracted three-year period of employment.

While the decision in this case is limited to the specific facts presented, it does reveal that an employer's material breach of an employment agreement can be constitute "extenuating circumstances" that would justify a change in status.

14. Legislative Update

The following bills were recently introduced in the Congress:

- H.J. Res. 42, sponsored by Rep Paul, Ron [TX-14] (introduced 3/20/2003), proposing an amendment to the Constitution of the United States to deny United States citizenship to individuals born in the United States to parents who are neither United States citizens nor persons who owe permanent allegiance to the United States. Latest Major Action: 3/20/2003 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:hj42ih.txt.pdf

- HR 1261, sponsored by Rep McKeon, Howard P. (Buck) [CA-25] (introduced 3/13/2003), to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1261ih.txt.pdf

- HR 1606, sponsored by Rep Goode, Virgil H., Jr. [VA-5] (introduced 4/3/2003), to amend the Immigration and Nationality Act to impose a

limitation on the wage that the Secretary of Labor may require an employer to pay an alien who is an H-2A nonimmigrant agricultural worker.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1606ih.txt.pdf

- HR 1631, sponsored by Rep Rohrabacher, Dana [CA-46] (introduced 4/3/2003), to amend title II of the Social Security Act to exclude from creditable wages and self-employment income wages earned for services by aliens illegally performed in the United States and self-employment income derived from a trade or business illegally conducted in the United States.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1631ih.txt.pdf

- HR 1684, sponsored by Rep Cannon, Chris [UT-3] (introduced 4/9/2003), to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

<http://thomas.loc.gov/cgi-bin/bdquery/D?d108:64:./temp/~bd6zQt:./bss/d108query.html>

- HR 1685, sponsored by Rep Issa, Darrell E. [CA-49] (introduced 4/9/2003), to amend the Immigration and Nationality Act relating to posthumous citizenship through death while on active-duty service during periods of military hostilities to eliminate the prohibition on immigration benefits for surviving family members and to provide such benefits for spouses and children.

<http://thomas.loc.gov/cgi-bin/query/z?c108:H.R.1685>:

- HR 1691, sponsored by Rep Isakson, Johnny [GA-6] (introduced 4/9/2003), to expedite the granting of posthumous citizenship to members of the United States Armed Forces.

<http://thomas.loc.gov/cgi-bin/query/z?c108:H.R.1691>:

- S. 783, sponsored by Sen Miller, Zell [GA] (introduced 4/3/2003), to expedite the granting of posthumous citizenship to members of the United States Armed Forces.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s783is.txt.pdf

- S. 789, sponsored by Sen Nelson, Bill [FL] (introduced 4/3/2003), to change the requirements for naturalization through service in the Armed Forces of the United States.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s789is.txt.pdf

- S. 845, sponsored by Senator Bob Graham [FL], would amend Titles XIX and XXI of the Social Security Act to provide states with the option to cover certain legal immigrants under the Medicaid program and State Children's Health Insurance Program (SCHIP).

To see what other immigration-related legislation is pending in Congress, visit our legislative chart at www.visalaw.com/advocacy.html.