

Siskind's Immigration Bulletin  
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Siskind Susser serves immigration clients throughout the world from its offices in the US, Canada, Mexico, Argentina and the People's Republic of China. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>.

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1. Openers

Dear Readers:

It was inevitable. If you are like me, you get emails all day long promising you riches if you just provide some helpful assistance to the widow of a miscellaneous dictator or general. Or you get an email with countless other variations on this theme. Personally, I find them somewhat entertaining, though it is sobering to think that people must still be falling for the schemes or they would have just died out by now.

I received an email this week with a new twist, one that is much scarier because it could so easily be believed. Instead of offering a share in riches tucked away in a bank account abroad, the fraudsters have designed an email that informs the reader that they have won the US green card lottery. The mail comes from a spoofed US State Department address and has a lot of official looking details. You may ask yourself how do you make money on claiming someone won the lottery? Well, it is quite simple. "Winners" are requested to wire money to a bank account in order to begin processing of their case.

The problem is made worse by the fact that more than 10 million people around the world apply for the green card lottery every year. And beginning this past year, all entries were made online and email addresses are provided. Couple that with the fact that the US State Department only notifies winners by mail and refuses to confirm that a person has won or lost and you have a natural little gold mine for those would commit fraud.

The State Department could easily nip this in the bud and also solve other problems associated with the secretive way it deals with notifying winners. Now that cases are submitted online, why not issue an instant tracking number that entrants could then use to check online whether they have won the lottery or not. This would save the State Department from having to deal with the astronomical number of inquiries it receives each year from people wondering whether they won or not. Right now, applicants are told to watch their mailboxes and that's their only option. But if someone won and never received the package – they moved, the mail got lost or was stolen, etc. – they would have a way of learning of the problem. And the State Department could then provide a mechanism for providing duplicate application materials.

My guess is that the Department of State will be forced to do something like this when victims of scams like the one we report on this week begin to surface in the media. But a solution like the one I suggest would also result in long term savings and better customer service.

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We're in an election year and lofty proposals to deal with immigration are floating around as in years past. This week we report on John Kerry's proposal for a major immigration relief program that is as ambitious as the one proposed by President Bush earlier this year. Immigration is also, as always, a wedge issue that some politician use to stir up fear and garner votes accordingly. Political parties do not necessarily provide a reliable indicator of where a politician is likely to stand.

Pro-business Republicans like President Bush and John McCain have been out front promoting legalization programs designed to ensure that there is a legal way to connect employers facing legitimate worker shortages with willing foreign workers. They've got a number of allies in the Democratic Party.

On the other side, you have the xenophobic wing of the Republican Party represented by people like Tom Tancredo of Colorado and House Immigration Subcommittee Chair John Hostettler of Indiana. They garner support from folks on the left like Senator Chris Dodd of

Connecticut who have jumped on the anti-outsourcing bandwagon and are attacking H-1B and L-1 visa holders.

A lot depends on who is in the candidate's base of supporters and who provides the funding for the political war chest of a particular politician. A candidate representing "white flight" suburban voters who fear the immigrant hordes will likely take a hostile position. If a candidate represents a district comprised of a significant number of new Americans, don't bet on opposition to an amnesty. On the other hand, a lot of politicians form an opinion based on nothing more than their hunch of how voters will feel about a particular issue. These legislators are willing to keep an open mind and should they hear from constituents who can provide real world illustrations of the contributions of immigrants in their own districts, they often are willing to listen.

That has especially been demonstrated to me this year as I have spent considerable time working with clients to advocate for the physician immigration bill working its way through Congress. Many of the legislators who we have initially contacted were inclined to vote against the bill. But after we have been able to make the case that these physicians are needed to deal with a critical doctor shortage in this country – particularly in rural areas – then several have changed their minds and even co-sponsored the legislation.

The lesson for our US citizen readers is that you should not just assume that grassroots lobbying is meaningless. A visit to Washington is particularly helpful. I would guess that one visit by a constituent is worth a thousand letters. Of course, those letters as well as phone calls are also critical and anti-immigration groups know this all too well. So visit sites like [www.aila.org](http://www.aila.org), the home of the American Immigration Lawyers Association to learn more about where advocacy efforts are needed. And exercise your rights as Americans to let your legislators know where you stand and what you believe they should do as your representatives.

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Finally, as always, we remind readers that we're lawyers who make our living representing immigration clients and employers seeking to comply with immigration laws. 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

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2. The ABC'S Of Immigration: H-3 Trainees

### **What is an H-3 nonimmigrant visa?**

The H-3 nonimmigrant visa category is designed to allow foreign nationals to come to the US to receive training in many different activities. Unlike the H-1B category, the H-3 is not a dual-intent visa, so the beneficiary cannot be pursuing avenues toward permanent residency.

### **What type of training must I have to be eligible for an H-3?**

The regulations allow for training in “any field of endeavor.” The regulations give examples of agriculture, commerce, communications, finance, government, transportation, the professions, as well as purely industrial areas. The only sort of training that is specifically excluded is graduate medical training. Nurses may, in some circumstances, receive training in the US in H-3 status, and foreign medical students on school vacation can participate in externships at US hospitals. While the category initially appears very appealing, it is subject to many detailed requirements and limitations that render it less useful. Indeed, about only 3000 H-3 visas are issued each year. The category underwent many substantive changes in 1990, when the following requirements were imposed on training programs:

- The training must not be available in the alien’s home country
- The alien must not be placed in a position which is part of the normal operation of business which would ordinarily be filled by a US worker
- The alien must not be productively employed unless such employment is “incidental and necessary” to the training
- The training must benefit the alien in pursuit of employment outside the US

There are also eight restrictions on training programs, which are essentially designed to ensure they meet the above listed requirements. Under these restrictions, a training program will not be approved if:

- It would go beyond training to productive employment with the alien acting as part of the petitioner’s regular staff
- It is not described in terms of a fixed schedule
- There are no stated objectives
- There is no method by which to evaluate the training
- It is incompatible with the petitioner’s other business
- The proposed training cannot be accomplished by the petitioner
- It will teach skills the alien already possesses or will not be able to use in employment outside the US
- It is being used to extend the training of a former student who has used their maximum period of optional practical training. (See <http://www.visalaw.com/03jan4/2jan403.html> for details on optional practical training)

### **What are the risks of being denied an H-3?**

There are numerous aspects of the H-3 application that must be carefully considered, or the petition risks denials. First among these is that there must be an existing and structured training program. The best way to show this is to show that training has previously been provided to aliens. In the alternative, this requirement can be satisfied by the submission of formal training materials, such as books, a syllabus and a planned curriculum.

The training cannot be provided as a prelude to eventual employment with the petitioner in the US. Rather, the purpose of the training must be to enable the alien to pursue a career outside of the US, a career that can be with the US based employer. Generally USCIS requires a detailed description of the position the alien intends to pursue. However, there are situations in which this need not be shown. For example, it is not uncommon for a company to provide training in order to create a potential ally in the overseas market. Such a purpose of training is acceptable, but must be explained to USCIS.

While the statute creating the H-3 category says only that the training shall not be “designed primarily to provide productive employment,” USCIS in effect considers any productive employment reason to deny the petition. USCIS will determine whether there is productive employment by looking at how much time the alien spends in on the job training. However, on the job training is acceptable, so long as the position held by the alien would not exist without the alien – that is, the alien is not filling a job that would otherwise be held by a US worker.

One of the requirements to obtain an H-3 visa is that the training the alien will receive in the US must not be available in their home country. USCIS uses this requirement in two ways to create grounds for denying an application. First, it broadly reads the type of training involved, making it difficult to provide training in US techniques in fields where training is available in other countries. Second, USCIS is of the opinion that the more a petitioner can show the employment is not available in the alien’s home country, the less likely it is that the alien will use the training to pursue employment there, which a ground for denying the application. This slippery logic places petitioners in a Catch-22 situation – face denial of the petition because the training is available in the alien’s home country, or face denial because the alien is receiving training they cannot use in their home country. This may be one of the primary reasons there are only 3000 H-3 visas issued annually.

When training is sought in an area in which the alien already has ability, USCIS will closely scrutinize the application to ensure the visa is not being used to provide the alien with productive employment. This also creates difficulties for petitioners – the alien must be prepared for the training, as through an educational program, but cannot be too proficient – either under- or over-preparedness can result in a denial.

### **What type of exception is there for Special Education trainees?**

Since 1990, there has been an exception from the requirements of H-3 training programs for training in educating children with physical, mental or emotional disabilities. The only requirements are that the petition be filed by a facility with a professionally trained staff and “a structured program for providing education to children with disabilities, and for providing hands-on experience to participants in the special education exchange visitor program.” The beneficiary must already hold or be about to finish a degree in special education, or have experience in caring for disabled children. There is an annual limit of 50 such visas available annually.

### **How do I apply for an H-3 visa?**

Applying for an H-3 visa is much like applying for any other visa in the H category. The application is made on Form I-129, which is then submitted to the appropriate regional service center. The application must also include evidence that will allow USCIS to determine whether the training program meets the four requirements. Typically this is done in the form of a statement from the sponsor of the training program. This statement must include the following:

- A description of the training program, outlining the number of hours spent in classroom or on-the-job training
- The amount of time that will be spent in productive employment
- The employment abroad for which US training will prepare the alien, and why the alien must receive this training in the US

- The amount and source of the alien's compensation, and what, if any, benefit the petitioner will receive

If the petition is approved, the alien will receive an H-3 visa. This maximum period of admission in H-3 status is two years. If the visa is approved for a shorter period, it may be extended in increments of up to one year, but an alien is not permitted to remain in H-3 status for more than two years.

Qualifying family members (spouses and unmarried children under 21) accompanying the H-3 alien are given the H-4 classification.

If the training undergoes a substantial change from that authorized, a new petition must be filed. Otherwise, if the alien continues to participate in the training program, they are deemed to have violated their status and are deportable.

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### 3. Ask Visalaw.com

If you have a question on immigration matters, write [Ask-visalaw@visalaw.com](mailto: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 here with F-1 Visa and will have a H-1B visa possibly in few months. And I am planning to get marry to a lady from Mexico who has overstayed her F-1 visa. Actually, she has also lost her F-1 visa due to a theft so that she does not have a passport currently and no I-94. She doesn't have status in here at this time. My question is that if I marry her, is it possible that she can get an H-4 visa?

A - Possible, but this won't be easy. First, I'll give you the good news. Because she was on a student visa, it is very likely that the I-94 said "D/S" and did not have an expiration date. That means that she is likely not subject to the three or ten year reentry bar that many people violating their visa terms face. The bad news is that she will need to leave the country to get an H-4 because of the status violation and you will need to convince an immigration examiner that she is not going to violate her H-4 status later on. The natural question is why she did not seek to replace the lost documents? I also am assuming that your fiancée has not continued in school with a current I-20. That is a question that is also going to arise and a long status violation could very possibly sway a consular officer to deny the application. I would advise consulting an immigration lawyer before you make any moves as there are serious issues to address.

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Q - My brother was recently put on short term disability by his company because of health reasons. He has already received his EAD and has done his finger printing. His I-485 adjustment of status application was received by the government as of December 2003. Since his company chose to put him on disability, he wants to know if green card status is in jeopardy.

A - Short term disability should not be a problem. You might want to be prepared to document (via a physician) that the leave is just temporary and also get the company to

write a letter saying that your brother will resume work shortly and they intend to employ him on a permanent basis upon his return.

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Q - I am a friend of an Ecuadorian family who lives in Ecuador. I am looking to find schools for two girls who have just graduated high school and two boys wishing to enroll here in high school. Do you know how to find these schools? Also, do they need a lawyer?

A - They will need to come here with the F-1 visa. Only a limited number of government approved schools are eligible for issuing the necessary federal admission documents (named SEVIS Form I-20s) for obtaining the F-1 visas. The DHS keeps track of those schools and here is a link to see which schools are approved and which are in the pipeline. If a school is not on this list, it will not work.

<http://www.ice.gov/graphics/enforce/imm/sevis/ApprovedSchools.pdf>

<http://www.ice.gov/graphics/enforce/imm/sevis/PendingSchools.pdf>

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Q - I was browsing through looking for the answer to the following question - I am a US Citizen and I wish to sponsor my married sister and family. I understand that it may take more than 10 years (India). My question is that, if after I apply for her, will it effect her chances of coming on a work (H1) visa in case she gets a job here.

A - A citizenship application will have no bearing on the approval of an H-1B case. H-1Bs are dual intent visas and permanent residency intentions are not a problem.

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Q - My F-1 Optional Practical Training is expiring soon. What should I do if I want to get an H-1B when the new quota is available in October if my OPT is expiring in July.

A - Under the current rules, once your OPT expires you have 60 days to leave the country, begin new employment with the H-1B status, or change in to another immigration category. If you find a job that will qualify you for H-1B status, because the cap for 2004 is reached, you will likely not be able to start your employment until October 1, 2004 (I'm assuming the position is not with a university or other exempt employer). Therefore, even if H-1B is an option, you may still have to leave the country. The day your OPT ends, your employer will have to take you off the payroll and you will not be permitted to work until your H-1B is approved and becomes effective.

Last week we received good news - there is a proposed rule in the works that may enable people in your status to remain in the US until October 1, 2004 (even if their OPTs have expired and their grace periods have ended) if they have an H-1b approved for October 1, 2004. This is not a final rule and we have not read it yet. Therefore, we suggest you continue to check our newsletter for an updates. Also, this rule will not let you work. It will only let you remain legally in the US. Again, this is something that we believe will happen, but it has still not been announced.

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#### 4. Border and Enforcement News

The *Detroit Free Press* reported last week that a Federal Homeland Security employee has been accused of stealing over \$200,000 from immigration detainees while they were awaiting deportation in a local jail. Patrick Wynne allegedly committed the thefts over a four year period when he was in charge of cataloging and safeguarding immigrants' belongings. The charges arose after immigrants complained to lawyers, civil-rights' groups, and the United Nations when their goods were not returned after being detained. Wynne faces up to ten years in prison and \$400,000 in fines if convicted.

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William R. Yates, Associate Director for Operations of U.S. Citizenship and Immigration Services (CIS) issued a memorandum to Regional Directors declaring that Interagency Border Inspection System Records (IBIS) checks are now valid for up to 90 calendar days before the adjudication of an application or petition. The CIS increased the validity period from 35 days after a study revealed that the timeframe preserved the integrity of the checks while also maintaining public safety and national security. Immigration advocates see this as an important change that will significantly improve processing times and cut down on backlogs at USCIS.

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#### 5. News From The Courts

The *Legal Intelligencer* reported last week that the U.S. Court of Appeals for the Third Circuit departed from the reasoning of six other federal appeals courts and prohibited one retroactive effect of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Before IIRIRA took effect, deportable aliens who had lived in the U.S. for at least seven years could request discretionary relief from deportation. IIRIRA repealed this provision and replaced it with "cancellation of removal," which is unavailable to any alien convicted of an "aggravated felony."

In *Ponnappula v. Ashcroft*, the Third Circuit held that IIRIRA could not apply to any alien who relied on the possibility of the then available relief when foregoing a misdemeanor plea agreement in favor of standing trial. The Court justified its decision as a logical application of the U.S. Supreme Court's 2001 decision in *INS v. St. Cyr*, which held IIRIRA inapplicable to aliens who entered guilty pleas before the law's enactment. Other appellate courts have restricted the *St. Cyr* holding to plea agreements, but the Third Circuit criticized their interpretation that an alien had to show "actual reliance" on a repealed statute for it to produce "an impermissible retroactive effect." It cited the Supreme Court's 1994 decision in *Landgraf v. USI Film Products*, which held that a statute was impermissibly retroactive when its application "would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed."

The Third Circuit found that IIRIRA impermissibly retroactively applied in Ponnappula's case because he relied on his lawyer's advice that, if convicted, he would most likely receive a sentence where he would still be eligible for immigration relief. Ponnappula, a native of

India, was charged with grand larceny in the first degree. He was offered a misdemeanor plea with a probationary sentence but opted for trial because of his small role in the offense and the scant evidence against him. A trial judge overturned Ponnepula's conviction because of his limited role in the crime, but an appellate court reinstated it. Because of his "aggravated felony" conviction and IIRIRA, Ponnepula could not apply for the expected relief for which he otherwise qualified. Indeed, he would have likely prevailed in showing the necessary hardship to obtain the relief. His wife, children, and other family members are naturalized U.S. citizens. Ponnepula was also in the process of becoming a U.S. citizen before his indictment for this offense. If deported, his family would be obliged to return to India. His children have no ties there and cannot speak their parents' native language.

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Zaidi v. Ashcroft  
Docket No. 03-60288  
(5th Cir. Filed June 21, 2004).

Raza Zaidi petitioned the U.S. Court of Appeals for the Fifth Circuit for review of a Final Administrative Removal Order, based on his conviction for sexual battery. The Court confronted the issue of whether such a conviction qualifies as an "aggravated felony," a basis for deportation that precludes judicial review.

Zaidi, a 27-year-old native and citizen of Pakistan, was admitted into the U.S. as a non-immigrant student in August of 2000. In June of 2002, he pled no contest to two counts of sexual battery in Oklahoma. The charges arose when an intoxicated Zaidi touched two women inappropriately through their clothes while the women were either unconscious or asleep in a college dorm room. He received a suspended sentence of two years for each count, to run concurrently.

The Court first dismissed Zaidi's assertion that he could not be removed to Pakistan because the federal government originally characterized his crime within an inapplicable "aggravated felony" category. The Court held that so long as an alien's crime actually constitutes an "aggravated felony," it lacks jurisdiction to review the deportation order. The government's improper citation did not matter because Zaidi could not show that it had prejudiced him.

Because Zaidi's deportation order did not specify which definition of "aggravated felony" applied, the Court determined whether Zaidi's conviction qualified. Federal law defines an "aggravated felony" as "a crime of violence" (not including a purely political offense) punishable by at least one year imprisonment. A "crime of violence" involves the use, attempt, or threat of physical force against another's person or property and also includes any felony that inherently poses a substantial risk of physical force. The Court concluded that even though Zaidi did not use violent force to commit his crime, the nonconsensual nature of sexual battery presents a substantial risk that physical force will be used. In light of its finding that Zaidi committed an "aggravated felony," the Court dismissed his petition for lack of jurisdiction.

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Gerardo Rafael Velezmoro v. Ashcroft  
U.S. Ninth Circuit Court of Appeals  
2004 U.S. App. LEXIS 6072

Gerardo Rafael Velezmoro ("Velezmoro"), a citizen of Peru, petitioned for a review of the Board of Immigration Appeals' ("BIA") decision denying his motion to reopen deportation proceedings. The BIA denied the motion because Velezmoro did not leave the U.S. within the 5-year voluntary departure period imposed by the Immigration Judge ("IJ"). The Ninth Circuit Court of Appeals granted the petition and remanded to the BIA.

In 1994, the Immigration and Naturalization Service ("INS") had initiated deportation proceedings against Velezmoro because he had entered the U.S. without inspection. Velezmoro subsequently applied for asylum and a stay of deportation. The IJ denied asylum, but granted voluntary departure. The BIA affirmed the decision and extended the voluntary departure until May 23, 1998. Velezmoro did not leave the U.S. by that date and moved to reopen his deportation proceedings and for adjustment of status after a recent marriage to a U.S. citizen. The BIA rejected this motion by finding that he was ineligible for relief because he did not depart as required by the BIA's grant of voluntary departure.

The BIA had denied the motion for adjustment of status because the former section 242B of the Immigration and Nationality Act provided that an individual is ineligible for adjustment of status if he or she remains in the U.S. after a grant of voluntary departure. The period of ineligibility lasts only for a period of 5 years after the scheduled departure date. The BIA's decision to deny the motion came within that five-year period, however, the case came before the Ninth Circuit after the 5 years had elapsed. Under these circumstances, the Ninth Circuit remanded to the BIA to decide whether Velezmoro continues to bar Velezmoro from applying for adjustment of status.

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## 6. Government Processing Times

Processing times are available this week for the following service centers:

Texas (06/30/2004): <http://www.visalaw.com/texas.html>

Nebraska (07/01/2004): <http://www.visalaw.com/nebraska.html>

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## 7. News Bytes

AILA InfoNet posted last week a fax from USCIS in New York, announcing that it will not issue I-94s or work authorization cards evidencing asylee status for those granted asylum by immigration judges until USCIS completes its own security checks. When the applicant arrives at USCIS for an appointment, they will be given a form G-325 to complete, and this form is what will generate the necessary name checks. Additionally if the fingerprint check on the file is more than 15 months old, USCIS will have to reschedule them for a new fingerprint appointment. Once all required checks are complete, an appointment will be sent to the applicant for EAD and I-94 issuance.

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Adam Ereli, Deputy Spokesman for the Department of State, held a press briefing on June 29, 2004 and responded to questions about the new policy regarding travel restrictions to Cuba. The purpose of this plan is to reduce the hard flow of currency to the Castro regime.

Ereli explained the details of the extension, published on June 15 that allows travelers in Cuba on family visits to return by July 31<sup>st</sup> instead of the original deadline of June 30. The added time given to these travelers is to ensure a safe and orderly return of those already in Cuba, but not to allow "rush trips back and forth" due to the extra window of time. Ereli said that he was not in a position to say if quick trips would be illegal, just that these visits would not support the spirit of the regulations.

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A story posted recently on GovExec.com reports that Assistant Secretary Michael Garcia of the U.S. Immigration and Customs Enforcement (ICE) bureau announced the ICE would keep its current name.

The proposed name change to U.S. Investigations and Criminal Enforcement, which more suitably describes the assignments of this branch of the agency, stalled when it reached the Office of Management and Budget and other government agencies, including the FBI. According to anonymous sources, FBI Director Robert Mueller and Homeland Security Secretary Tom Ridge discussed the name change issue. The FBI did not want the ICE to use the word "investigations" in its title, and "the bottom line is the FBI won out."

During his statement Garcia emphasized that the ICE had not changed their name, and the mission and roles of security agents and officers within the Department remained the same.

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## 8. International Roundup

The European Court of Justice found Belgium guilty last week of discriminating against non-Belgian students. The court determined that it was unacceptable to require non-Belgian European Union nationals to take an entrance exam for higher education courses when the Belgian students did not. The French speaking community has changed its policy since the European Commission took the case against Belgium to court. The Commission continued with the suit, however, to establish Belgium's legal responsibility towards students who had been negatively affected by the policy.

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Mexico and Guatemala signed an agreement last week to repatriate undocumented Central American migrants to their home countries, rather than to Guatemala. Salvadoran migrants will now be taken by bus across Guatemala to their home country. It was unclear whether the agreement would be extended to include Hondurans.

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One of Britain's most successful people-smuggling rings came to an end last week when a high-speed air chase resulted in the arrest of a pilot who was ferrying Turkish asylum-seekers from Belgium and France. After a seven-month intelligence stakeout, police pursued the pilot across the Kent skies and seized the aircraft. The pilot had just dropped off what is thought to be his second shipment that day. Each passenger had paid the pilot €10,000 (£6,700) for transport. The passengers were also arrested.

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## 9. Legislative Update

[H.R.4778](#): -- Private Bill; For the relief of Denes and Gyorgyi Fulop.  
Sponsor: Rep Lantos, Tom [CA-12] (introduced 7/7/2004)  
Committees: House Judiciary  
Latest Major Action: 7/7/2004 Referred to House committee.  
Status: Referred to the House Committee on the Judiciary.

[H.R.4789](#): -- Private Bill; For the relief of Veronica Mitina Haskins.  
Sponsor: Rep Frank, Barney [MA-4] (introduced 7/8/2004)  
Committees: House Judiciary  
Latest Major Action: 7/8/2004 Referred to House committee.  
Status: Referred to the House Committee on the Judiciary.

[H.R.4811](#): -- Private Bill; For the relief of Saikou A. Diallo.  
Sponsor: Rep Crowley, Joseph [NY-7] (introduced 7/9/2004)  
Committees: House Judiciary  
Latest Major Action: 7/9/2004 Referred to House committee.  
Status: Referred to the House Committee on the Judiciary.

For a review of all the immigration bills that have been recently introduced, visit our legislative chart at [www.visalaw.com/advocacy.html](http://www.visalaw.com/advocacy.html).

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## 10. Campaign 2004

During a White House press briefing last week, White House Spokesman Scott McClellan responded to a question posed to him regarding whether the President would present a formal legislation for his plan to reform immigration law in the U.S. before the elections. McClellan responded, saying that it is ultimately up to Congress to introduce the legislation. He contended that the plan the President outlined is still a priority, and the White House has had discussions with members of Congress to move forward on those efforts.

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The *Daily Times* (Maryland) reported last week that the state's governor has created a special task force to make a recommendation regarding the state's policy towards granting drivers' licenses to undocumented immigrants. Immigration lawyers, the business community and law enforcement officials provided testimony and differing opinions on the issue. The issue has become more urgent as the state's immigrant population has surged over the past decade.

While some claim that the roads will become safer because the immigrants will have to take the proper driving courses, others are simply opposed to the notion of granting legitimacy to those who are not legally inside the country. Businesses leaders claim that granting the licenses is necessary because they rely upon foreign workers to fill positions that local residents refuse to take. Many of those positions are in areas not served by public transportation.

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## 11. Email DV-Lottery Scam Blasts Across Internet

A bogus e-mail notification has been circulating in an attempt to fool people into thinking they were chosen for the 2004-5 DV-visa lottery program. The letter, fraudulently stating that is from the Department of State, congratulates the recipients and then instructs them to send personal information along with a payment of \$350 to its office. The recipients of the e-mail are told that once payment is received, confirmation will be sent.

According to the e-mail, "providing the above requirements (including a picture and payment) will assure you your visa lottery security code which we shall send to your e-mail address." Additionally, the e-mail states that if there is no response received from the applicant after 21 days, the recipient's "winner status shall reveal no interest and we would in response refer [the recipient's] lottery code and acknowledgement card back to the USA government/immigration service center."

The only form of notification from the Department of State to lottery winners is the actual mailing of a package of documents. THERE IS NO E-MAIL NOTIFICATION. Anyone who receives this or any similar notifications via e-mail should disregard them and absolutely not send any money if an e-mail instructs them to do so.

The "From" field on the e-mail is the e-mail address [[dvlottery2004-2005@caramail.com](mailto:dvlottery2004-2005@caramail.com)]. The subject line is [DVLOTTERY2004-2005(CONGRATULATIONS)].

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## 12. DHS Terminates Temporary Protected Status (TPS) for Nationals of Montserrat

The Department of Homeland Security (DHS) has announced the conclusion of Temporary Protected Status for nationals of Montserrat and an extension of Employment Authorization Documents (EADs) until February 27, 2005. This decision will affect about 292 nationals who currently receive benefits under this designation.

Tom Ridge, Secretary of DHS reviewed conditions in Montserrat, consulted with the proper Government agencies, and has determined that conditions in this country no longer support the TPS description.

After February 27, 2005, former TPS recipients return to the same immigration status they had before registering for TPS, or to any other status they may have acquired during TPS registration. If an individual did not have lawful status before receiving TPS benefits, he or she will go back to unlawful status and will be expected to depart the United States on or before February 27, 2005. Those failing to comply with this condition will be subject to deportation. All TPS-related work permits expire on February 27, 2005 and will not be renewed.

Other pending forms of applications for immigration relief or protection might not be affected by the conclusion of the TPS designation for nationals of Montserrat. Individuals who have not been granted any other immigration status or protection and do not have any applications pending will accrue time of unlawful presence in the United States and may be banned from admittance to the U.S. for a specified length of time.

For additional information, please call the USCIS National Customer Service Center at 1-800-375-5283, or visit the USCIS web site at <http://www.uscis.gov>.

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### 13. Transportation Security Administration's Registered Traveler Program Will Undergo Trial-Run This Summer

The Transportation Security Administration (TSA) announced that they are implementing the Registered Traveler Pilot Program at Minneapolis-St. Paul International Airport (MSP). The program will run for 90 days and is in conjunction with Northwest Airlines.

Designated checkpoint lanes will enable approved registered travelers to confirm their identity using biometric information. These travelers will undergo a primary screening, but will bypass the extensive secondary screening. The program aims to provide a high-level of security while expediting the screening process for frequent travelers.

While the program has begun at MSP, it will be extended to select United passengers in Los Angeles, Continental passengers in Houston, and American passengers in Boston and Washington, D.C. Northwest Airlines has invited its Platinum Elite frequent fliers to participate in the program. The candidates are required to provide the TSA with personal data along with biometrics identifiers. The TSA then will conduct various background checks before admitting the candidates into the program.

While the program is in effect, the selected travelers can only use the biometric checkpoints in their home airports. After the pilot program concludes, the TSA will analyze the results and determine whether to implement the program on a larger scale.

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### 14. Kerry Promises Plan for Amnesty of Most Illegal Immigrants

June 30<sup>th</sup> reports by The Arizona Daily Star and The Washington Times give details of Democratic presidential hopeful John Kerry's speech before thousands of cheering attendees at a convention of the National Council of La Raza.

If elected, Sen. Kerry promised that within his first 100 days of taking office, he would propose a four-part plan to change the immigration system. His plan would provide a route to citizenship for most illegal immigrants who have been in the U.S. for at least five years, have paid taxes, and have passed a security screening.

In this same speech, Kerry criticized President Bush for failing to promote the AgJobs bill - a bill that intends to legalize farm laborers so that agriculture employers can easily hire them. In addition to signing the AgJobs bill, Sen. Kerry would support the DREAM Act - which gives children of undocumented immigrant parents the right to qualify as state residents for in-state college tuition.

Texas Republican Sen. John Cornyn also has a pending immigration plan in Congress that would create a temporary-worker program but requires participants to return home at the end of their employment time. Cornyn said he is glad Kerry joined the debate, but says Kerry's plan encourages illegal immigration and doesn't deal with the fundamental economic issues.

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### 15. Immigrant Tax Remittance Plan Triggers Opposition from Colorado's First Data Corp. The *Denver Post* is reporting that a conflict has developed between Rep. Tom Tancredo, R-CO. and First Data Corp. over the public policy issue of immigration in Colorado. Tancredo

represents the 6<sup>th</sup> Congressional District of Littleton where First Data's corporate offices are located.

The dispute arose after Tancredo proposed taxing immigrant funds sent to family and friends outside the U.S. - sums that add up to billions of dollars each year. First Data, which earns billions of dollars a year from its International Western Union money transfer business, viewed this action as an attempt to damage this portion of their business. Tancredo countered this by saying his intent was not to purposely hurt First Data's bottom line. In place of the taxation proposal, he recommended the offset of U.S. foreign aid by the money sent overseas.

According to Charlie Fote, chief executive of First Data, the company has stepped into the forum of shaping public policy because the voices of a large portion of their client base (immigrants) were not being heard. Other steps the company has taken are:

- Forming a political action committee that is funding pro-immigration candidates.
- First Data Empowerment Fund - \$10 million available to help immigrant communities as well as to promote "enlightened" immigration discussions.
- Fote personally hosting a series of immigration reform meetings across the country.
- Assisting Latino entrepreneurs and teaching families abroad how to leverage funds received from family members in the U.S.

The efforts by First Data have been applauded by immigrant groups who point out that this corporation is the only Fortune 500 company willing to take a public stand on the topic of immigration reform. But the shareholders, as well as people who agree with Rep. Tancredo's viewpoint, could reject the company's support of this issue.

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