

Siskind's Immigration Bulletin
March 15, 2004

Published by Greg Siskind, partner at the Immigration Law Offices of Siskind Susser, Attorneys at Law; telephone: 800-748-3819, 901-737-3194 or 615-345-0225; facsimile: 800-684-1267, email: gsiskind@visalaw.com, WWW home page: <http://www.visalaw.com>.

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>.

Editor: Greg Siskind. Associate Editor: Esther Schachter. Contributors: Penny Egel, Paola Palazzolo, Maryam Tanhaee and Megan Turngren.

To receive a free e-mail subscription to Siskind's Immigration Bulletin, fill out the form at <http://www.visalaw.com/subscribe2.html>. To unsubscribe, send your request to visalaw-unsubscribe@topica.com.

To subscribe to the free Siskind's Immigration Professional Newsletter, go to <http://www.visalaw.com/sip-intro.html>.

Are you a jobseeker looking for an employer to sponsor your work visa?
Are you an employer or recruiter who can benefit from free online job postings?
Visit [Visajobs.com](http://www.visajobs.com), the online career network, and create your new account (<http://www.visajobs.com>).

1. Openers
2. The ABC'S Of Immigration: Understanding the H-2B Cap
3. Ask Visalaw.com
4. Border and Enforcement News
5. News From The Courts
6. Government Processing Times
7. News Bytes
8. International Roundup
9. Legislative Update
10. Campaign 2004
11. Administration Backs Down from Plan to Allow Some Mexicans to Avoid US-VISIT Delays
12. Education Officials Say H-1B Cap Negatively Affects American Schools
13. US Border Security Inconveniences American Travelers

-
1. Openers

Dear Readers:

This week's announcement of the reaching of the cap of 66,000 H-2B workers went largely unnoticed by the national media. That's for a variety of reasons. First, many journalists really don't understand the difference between the H-1B visa and the H-2B visa. Though the two sound alike, they are quite different. The H-1B is for educated professionals in jobs like

teaching, computer science, engineering, etc. The H-2B is for any kind of worker needed for a job that is temporary or seasonal in nature. Think resort workers, construction sites and other places where lots of workers are needed, but not on an indefinite basis.

Second, the media probably is not as concerned about the H-2B because it is not as “sexy” of an issue as the H-1B. H-2B employers need to go through an extensive process of documenting attempts to recruit American workers. There are no protests that H-2Bs are taking American jobs. These are the jobs President Bush had in mind when he proposed his guest worker plan earlier this year – the jobs that Americans simply don’t want to fill. Make no mistake – H-2B jobs are not the ones we WANT Americans doing. They are of a limited duration so they tend not to pay well and usually don’t have very many benefits such as health insurance or a pension plan. When politicians speak about creating GOOD jobs for Americans, they’re usually not speaking about the ones being filled by H-2B workers.

Third, the H-2B cap has never been reached before and even immigration lawyers were caught off guard when we learned a few weeks ago that we were running out of visa numbers. No one has been out there lobbying for or against the H-2B visa and journalists probably no very little about this problem. For the 200+ journalists who subscribe to this newsletter, we’re probably the first organization from which you are hearing about this. The organizations that will really be hurt by this – America’s construction and hospitality companies – are also largely unaware yet of this problem so they have not yet been able to get organized to advocate for change.

This week we include an ABCs article providing background on the H-2B visa and the cap. Now you can add this visa to the H-1B and L-1 visas as well as the physician J-1 visa as hot topics for Congress this year.

In firm news, Siskind Susser was listed as the twelfth largest immigration law practice in the United States in a Top 25 ranking published by IndUS Business Journal (www.indusbusinessjournal.com), the national business newspaper for Indian-Americans. The odds against having grown so successfully were formidable. Our firm has not even turned ten yet and we’re headquartered in Tennessee, hardly thought of as the center of American immigration. Of course, the news is not really that surprising. Our firm is probably the best-known immigration firm in America because of this publication and our successful web site Visalaw.com. We’re now getting three million hits every month and we’ll be celebrating the tenth anniversary of the site in June (it is the world’s third oldest law firm web site by the way).

And Tennessee is the perfect place to operate a global immigration law practice. Just ask our town’s major employer – Federal Express. We’re right in the middle of the country and our operating costs are less than half of firms in places like Los Angeles, San Francisco and New York. Most immigration filings are now made by mail or electronically and in the age of the Internet and cheap telecommunications, most of our clients are very happy to communicate with us from a distance.

Kudos also goes to Arda Beskardes, an attorney in our Memphis office. Arda was the keynote speaker Friday at a conference in Atlanta entitled “Turkey: Traversing Tradition and Modernity” sponsored by NAFSA: The Association for International Education. Arda is a Turkish native and knows this subject from a variety of perspectives – as a former Turkish student in the US, as a foreign student advisor for a large university with a number of Turkish students and now as an immigration lawyer.

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

2. ABC'S Of Immigration: Understanding the H-2B Cap

On March 10, 2004, USCIS announced that it had received enough H-2B applications to meet the congressionally mandated cap of 66,000 workers for 2004. The new allocation of visas will be available for work beginning on October 1, 2004.

We advise people subject to the cap looking for alternative strategies to consult early with their immigration lawyers. Also, we expect that without Congressional action, the cap will be reached again next year, possibly even earlier than March. So acting early to get a visa under the allotment for 2004-2005 is very important.

What is an H-2B Visa?

The H-2B nonimmigrant work visa provides a method for US employers and agents to obtain the services of foreign nationals to fill temporary needs for additional workers.

How long can a nonimmigrant remain in the US on an H-2B visa?

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.

One of the most significant restrictions on the H-2B category is the requirement that the need for the foreign worker is temporary. The Department of Labor recognizes four situations in which there is a temporary need for workers: recurring seasonal need, intermittent need, peak-load need, and need based on a one-time occurrence. Not only must the employer promise to employ the worker for a limited period of time, but the employer must verify that its need for the worker is temporary. There is no set rule for how long a season can be, but most Labor Department offices will consider seasons of more than nine or ten months a year to actually be continuous employment and not seasonal employment.

Who is eligible to apply for an H-2B visa?

Either skilled or unskilled workers may be employed on an H-2B visa. The only workers who are specifically excluded are 1) foreign medical graduates seeking to perform work in medical fields and 2) agricultural workers. The visa is also often used for entertainers and athletes who do not meet the requirements of the O and P visa categories.

US employers and agents are allowed to petition for temporary H-2B workers. US agents are allowed to file petitions for self-employed aliens, cases where there will be multiple

employers, and cases involving foreign employers. When the H-2B worker is self-employed, there must be a contract between the agent and the worker specifying the wages and terms of employment. The agent must also provide a complete itinerary of the planned employment. When numerous employers are involved, the agent must provide the dates of the proposed employment, the name and address of the employers, and the locations where the work will be performed. When a foreign employer is petitioning for the services of an H-2B worker, the agent must submit the employment contract between the worker and the employer, as well as evidence of the agent's authority to act on behalf of the employer. In this situation the agent is the person who is authorized to accept service of process should the foreign employer be subject to sanctions under US immigration law.

How does an employer apply for H-2B workers?

The employer must first obtain a labor certification by the Department of Labor (DOL) in order for USCIS to issue an H-2B visa. The DOL must determine that there are no unemployed, qualified and immediately available US workers 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 US 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 US worker who is otherwise employed, but expresses willingness to take the position recruited for is not considered unemployed.

Who is actually subject to the cap?

Not every H-2B applicant is subject to the cap. Visas will still be available for applicants who want to extend their stay, change the terms of their employment and to change or add employers.

Has the H-2B cap ever been hit?

This year is the first time the 66,000 cap has been reached. Until recently, the limits and requirements of the category caused usage of the visa to be marginal. For example, in 1995, only 2,398 H-2B visas were issued. However, the visa has become very popular in recent years, particularly in the hospitality industry.

What will happen to petitions that were not filed in time?

USCIS will return all petitions for first-time employment subject to the annual cap received after the end of business on March 9, 2004. Returned petitions will be accompanied by the filing fee and premium processing fee, if applicable.

Those cases that were filed before the announcement was issued by USCIS will be processed.

Can an applicant re-submit an H-2B application?

Petitioners may re-submit their petitions or file new petitions when they have received labor certification approval for work to start on or after October 1, 2004.

What will happen to the petitions that do not count against the cap?

Petitions for current H-2B workers normally do not count towards the congressionally mandated H-2B cap. USCIS will continue to process petitions filed to:

- Extend the amount of time a current H-2B worker may remain in the United States
 - Change the terms of employment for current H-2B workers
 - Allow current H-2B workers to change or add employers
-

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 came to the US as a tourist with a tourist visa and they allowed me to stay for six month but I stayed for two extra months. Do you think I will have problems or they will punish me if I want to return to the US again? If yes, for how long?

A - Yes, you can expect problems if you overstayed and did not request an extension. Violating the terms of your admission to the US is treated very seriously by both consular officials and border officials. You have not triggered a bar on reentering the US (that would require an overstay of 180 days or more), but overstaying at all could convince immigration officials to deny your ability to enter. I usually recommend not seeking to enter too quickly after something like this happens in order to build the case that you are not likely to overstay your admission period in the US.

Q - I'm a green card holder and soon it will be four years and 9 months since I have gained permanent residence status. Will I be eligible for citizenship and how long does it take to get a citizenship?

A - If you meet the residence tests, you can apply for citizenship four years and nine months after you get permanent residency granted. As for how long it takes, that depends on where you file. You can see processing times in each local USCIS office at www.uscis.gov.

Q - I have graduated with MS in Computer Science and currently on Optional Practical Training (OPT). My OPT will end on 10th July 2004. I am working for a school district as a Programmer/Analyst. I have read that higher educational institutions and their related or affiliated nonprofit entities are exempt from the cap of 65,000 visas for the year 2004. My question is, are school districts (K-12) which is a nonprofit entity also exempt from the cap or not? If yes, then I would like to start the H-1 B processing. Please let me know about your fees for the same.

A - The school district that I work at is a non-profit organization so shouldn't it be exempt from the cap, as I read on the USCIS site that exempt from the cap are institutes of higher education and related entities or non-profit organizations?

K-12 schools are NOT exempt from the cap right now. Only non-profit and government RESEARCH institutions are covered. Getting school districts to be exempt from the cap is a priority for many pro-H-1B advocates, but for now, you are going to have to look at alternatives.

Q - I received my green card in 2002 and returned to Canada later that year for family health reasons. In 2003 I worked exclusively in Canada, with no income in the US. I plan to return to the US hopefully next year. Therefore I want to keep my green card. For 2003, do I file a US tax return?

A - Absolutely file a tax return in the US and make sure you file as a resident. You stand a significant risk of losing your green by residing primarily in Canada and you need to be careful about losing your green card status.

Q - I am here on a H-4 visa. My husband changed jobs and his transfer of h1b has been approved. What needs to be done for my H-4 status?

A - You do not need to change your H-4 every time an H-1B spouse changes jobs. The only time you need to act is when your spouse changes visa categories - e.g. from an F-1 to an H-1B. If your spouse's status gets extended, you can file an I-539 if you want to get your status extended. But you will not need to get a new visa stamp.

4. Border and Enforcement News

Juan Fernando Licea-Cedillo, a Mexican citizen living in South Texas, pled guilty in US District Court to charges of transporting and harboring illegal immigrants. He is one of four men charged with loading and locking illegal immigrants into an empty grain hopper in June 2002. The smugglers followed the hopper until an immigration checkpoint in Sarita, 100 miles north of the Mexico border. The hopper then traveled across several states before it was found in Denison, Iowa in October 2002. The badly decomposed bodies of 11 illegal immigrants were found in the car.

The three other smugglers were charged with assisting Licea-Cedillo, and they also pled guilty last week. Licea-Cedillo faces a maximum penalty of life in prison without parole, and the other three men face a maximum penalty of 20 years in prison.

Juan Manuel Umares-Rivas, a native of Mexico, was arraigned on Friday, March 5, 2004 on charges relating to the 1998 slaying of US Border Patrol Agent Alexander Kirpnick. He was arrested by Mexican authorities in Mexico and returned to the United States to face criminal charges last week.

A 42-year old Boston public school teacher faces deportation to the Ivory Coast in Africa after missing a crucial political asylum hearing before an immigration judge in 2001.

According to his lawyers, he misread the handwritten date. Obatin Attouoman was arrested on a warrant of deportation in November 2003.

Tyson Foods Inc. removed 28 workers following an internal audit from their Dakota City, Nebraska meatpacking plant on March 1, 2004 pending proof that they have authorization to work in the US. The company has already fired several workers who did not have valid employment documentation. Many other workers have voluntarily resigned.

The Center for Immigration Studies, a Washington think-tank advocating more restrictive immigration policies, told the media that there are at least 9 million illegal aliens in the United States, and a large majority of Nebraska's meatpacking workers are illegal immigrants.

A group of smugglers has recently begun trying to enter the US illegally through Andrade, California, which is only a few miles away from Interstate 8. The smugglers are using vehicles to improve their chances of success.

Joe Brigman, spokesman for the Yuma Sector of the Border Patrol, told the media that these smugglers travel very fast and pile excessively large and dangerous amounts of immigrants into the vehicles. This practice is not only dangerous to the immigrants, but it is also dangerous for Americans traveling on Interstate 8. As a result, Border Patrol agents have stepped up efforts to stop the vehicles before they pass into Andrade.

According to Department of Homeland Security Secretary Tom Ridge, up to 70 percent of border agents in the Customs and Border Protection bureau will soon gain access to two key FBI fingerprint databases, IDENT and IAFIS. The DHS, however, faces several challenges before this integration can occur, including obtaining the funding for the necessary technology.

5. News From The Courts

Ahmad v. INS
Ninth Circuit Court of Appeals
2004 U.S. App. LEXIS 2228

The Petitioner, a native and citizen of Pakistan and of Indian descent, appealed the BIA's denial of his motion to reopen in consideration of his Convention Against Torture (CAT) claim. In the decision, the BIA took notice of a regime change in Pakistan following the Petitioner's filing of a motion to reopen. This change affected the BIA's determination of the probability of future torture.

The Court ruled that before taking notice of a change of government and the possible effects of the change on the Petitioner's claim, the BIA must give the parties notice and opportunity to respond or show cause why administrative notice should not be taken.

The Court held that the BIA violated the Petitioner's Fifth Amendment Due Process rights by failing to give the Petitioner notice, before the decision was issued, of the BIA's reliance on the regime change. Without this knowledge, the Petitioner was unable to show that the regime change did not preclude the possibility of torture.

Zagaryan v. Ashcroft
Ninth Circuit Court of Appeals
2004 U.S. App. LEXIS 2595

Edmond Avanes Zagaryan, a citizen of Armenia, petitioned for review of the denial of his application for asylum, withholding of removal, and protection under Convention Against Torture (CAT).

The Ninth Circuit found that the evidence did not support the IJ's determination that the Appellant's account of his subjection to a pattern of beatings, death threats, and conscription, was not credible. The IJ erred in determining that that the Appellant failed to show that the government was unable or unwilling to protect him with the Appellant provided evidence that compels a finding that the beatings, threats, and arrangements for him to be conscripted were committed by government forces. The court also found that the omissions and inconsistencies cited by the IJ were minor and did not go to heart of alien's claim.

The Appellant's petition was granted and remanded for further proceedings.

6. Government Processing Times

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

California (03/04/2004): <http://www.visalaw.com/california.html>
Missouri (03/04/2004): <http://www.visalaw.com/missouri.html>
Vermont (03/04/2004): <http://www.visalaw.com/vermont.html>

7. News Bytes

Director of US Citizenship and Immigration Services Eduardo Aguirre has indicated that the Bush Administration does not intend to introduce legislation embodying the President's immigration reform proposal. Aguirre stated that the purpose behind the President's speech on January 7, 2004 was to outline broad parameters of the immigration reform debate and that it was up to Congress to form a detailed plan for immigration reforms. He added that as bills are introduced, the President will work with the sponsors. Many see Aguirre's remarks as signaling the President's intention to back away from his January proposal, which has drawn considerable criticism from members of his own political party.

Since 2003, the Center for Immigration Studies (CIS), an anti-immigration think-tank, has been a subcontractor on a project for the US Census Bureau evaluating the quality of

immigrant data collected in the American Community Survey. CIS has an 18-month contract with the Census Bureau for \$220,000.

An unnamed Amish man who went to visit his sick father in Ontario, Canada in December was not allowed to reenter the US because he had no photo identification with him. The Amish, who do not allow pictures to be taken because of the Bible's prohibition of graven images, have previously been granted photo waivers. However, these waivers have been discontinued due to security concerns.

Twenty-seven countries are expected to miss the deadline set by the US for countries to issue computer-coded passports, including Japan, Britain, Germany and Italy. Only Congress can extend the deadline for this congressionally mandated anti-terrorism measure.

Visitors from the countries who are issued passports without the facial-recognition technology by October 26, 2004 will be required to apply for visas to travel to the United States. This could result in the demand for tourist visas to increase to about 12 million in FY 2005 from about 7 million in 2003. This could create significant visa backlogs by flooding consular staff in American embassies with visa requests, potentially disrupting tourism and business travel from the affected countries.

A trend is affecting the nation's motor-vehicle agencies as many undocumented immigrants and others ineligible for driver's licenses are bribing employees to produce and issue fraudulent licenses. Last year, 45 states considered legislation that would tighten security at their motor-vehicle agencies, according to the National Conference of State Legislatures.

8. International Roundup

The International Association of Immigration Practitioners has filed court action in the Federal Court of Canada and the Ontario Superior Court in an attempt to prevent regulation of immigration consultants. The association charges that Ottawa has no authority to set up the Canadian Society of Immigration Consultants, which would regulate their members.

As a result of harsh immigration policies, fewer immigrants have sought asylum in the Netherlands. The Justice Ministry stated that the number of asylum seekers dropped by 28% in 2003. The ministry also said that the Netherlands had fallen from seventh to ninth place in Europe as a destination for asylum-seekers. France is first, followed by England and Germany.

Although the expected influx of thousands of students from the 10 EU accession countries will put a "great pressure" on the United Kingdom's education system, it will also be an

overall financial benefit to the UK, according to a report from the Higher Education Policy Institute.

A Canadian Security Intelligence Service (CSIS) report confirms a recent US Library of Congress study that said Canada's welfare system, immigration laws, infrequent prosecutions and light sentences had turned the country into "a favored destination for terrorists." The CSIS report also confirms fundraising for terrorism has not stopped in Canada, even though Canada's anti-terrorism bill aimed to stop the flow of money to groups such as al-Qaida, Hezbollah and Hamas.

Mounir el Motassadeq, a 29-year-old Moroccan who was the only person convicted for the September 11, 2002 attacks in the US, won a retrial after the Federal Criminal Court in Germany overturned his conviction. The court faulted Washington for refusing to allow testimony from a key al-Qaida captive. A month ago, el Motassadeq's friend, Abdelghani Mzoudi, was acquitted of identical charges of aiding the Hamburg, Germany cell of al-Qaida.

9. Legislative Update

[H.R.3896](#): To establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

Sponsor: Rep DeMint, Jim [SC-4] (introduced 3/4/2004)

Committees: House International Relations; House Judiciary

Latest Major Action: 3/4/2004 Referred to House committee.

Status: Referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[H.R.3912](#): A private bill for the relief of Rafael Camacho, Rosa B. Camacho, and Rosa Camacho.

Sponsor: Rep Waters, Maxine [CA-35] (introduced 3/4/2004)

Committees: House Judiciary

Latest Major Action: 3/9/2004 Referred to House subcommittee.

Status: Referred to the Subcommittee on Immigration, Border Security, and Claims.

[H.R.3918](#): To amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, and for other purposes.

Sponsor: Rep Jackson-Lee, Sheila [TX-18] (introduced 3/9/2004)

Committees: House Judiciary

Latest Major Action: 3/9/2004 Referred to House committee.

Status: Referred to the House Committee on the Judiciary.

[H.R.3928](#): To amend title 10, United States Code, to allow nationals of the United States to attend military service academies and receive Reserve Officers' Training Corps (ROTC) scholarships on the condition that the individual naturalize before graduation.

Sponsor: Rep Faleomavaega, Eni F. H. [AS] (introduced 3/10/2004)
Committees: House Armed Services
Latest Major Action: 3/10/2004 Referred to House committee.
Status: Referred to the House Committee on Armed Services.

[H.R.3934](#): To halt the issuance of visas to citizens of Saudi Arabia until the President certifies that the Kingdom of Saudi Arabia does not discriminate in the issuance of visas on the basis of religious affiliation or heritage.

Sponsor: Rep Weiner, Anthony D. [NY-9] (introduced 3/10/2004)
Committees: House Judiciary
Latest Major Action: 3/10/2004 Referred to House committee.
Status: Referred to the House Committee on the Judiciary.

[S.RES.313](#): A resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

Sponsor: Sen Feingold, Russell D. [WI] (introduced 3/9/2004)
Committees: Senate Foreign Relations
Latest Major Action: 3/9/2004 Referred to Senate committee.
Status: Referred to the Committee on Foreign Relations.

[S.2185](#): A bill to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers, and for other purposes.

Sponsor: Sen Chambliss, Saxby [GA] (introduced 3/9/2004)
Committees: Senate Judiciary
Latest Major Action: 3/9/2004 Referred to Senate committee.
Status: Read twice and referred to the Committee on the Judiciary.

[S.2187](#): A bill to amend the Haitian Refugee Immigration Fairness Act of 1998.

Sponsor: Sen Graham, Bob [FL] (introduced 3/10/2004)
Committees: Senate Judiciary
Latest Major Action: 3/10/2004 Referred to Senate committee.
Status: Read twice and referred to the 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.

10. Campaign 2004

The Republican primary for the Second Congressional District in Texas is down to six candidates: Former state District Judge Ted Poe, Andrew Bolton, George Fastuca, Mark Henry, Clint Moore, and John Nickell. All support easing the nation's immigration policies.

Garden Grove, California Councilman Van Tran won Tuesday's Sixty-Eighth State Assembly District Republican primary. If he wins, he will become the highest-ranking elected Vietnamese American in the country and the first in state office. Tran came to the US with his parents in 1975 when he was 10 years old.

In an effort to attract Latino voters, both the Republican and Democratic parties have launched Spanish-language advertising campaigns. It is estimated that about 14 million Latinos could vote in the election this year.

The Democratic Party is seen as friends of the Latino community in the party's commercials. Another ad run by the Democrats attacks Bush's dedication to education, pointing out how the Bush administration has fallen short on its commitments outlined as part of the No Child Left Behind Act. The Bush campaign recreated its current English-speaking ad that depicts images of the September 11 attacks. The ad emphasizes that the president has helped improve the economy.

11. Administration Backs Down from Plan to Allow Some Mexicans to Avoid US-VISIT Delays

The Department of Homeland Security (DHS) planned to announce two weeks ago that some Mexicans would not be required to be fingerprinted or photographed to enter the country. But as concerns arose within the administration, the announcement was stopped just hours after the speech was released to the media.

While the initiative was in the text of the testimony that DHS Undersecretary Asa Hutchinson planned to deliver to the House Government Reform Committee, he did not mention the topic to the panel. Hutchinson instead said that the matter was under consideration and he would prefer to decrease security checks for some Mexican nationals.

According to reports, administration officials determined that security issues were not resolved regarding the change, thus causing Hutchinson to hold off on the announcement. Following the hearing, Hutchinson did reiterate the same idea that the DHS has been claiming for some time: that the exemption is a proposal that would probably be necessary.

The possible plan would allow Mexicans with laser visas to come to US without being fingerprinted or photographed, as long as they stay no longer than three days and remain within 25 miles of the border.

The issue comes in response to concern from Mexican President Vicente Fox, who was not happy that Mexicans are required to be photographed and fingerprinted under US-VISIT while Canadians are not be required to do so. President Fox arrived at President Bush's Texas ranch for a scheduled visit the day after the announcement should have been made.

Officials on both sides of the border expressed concern over how US-VISIT requirements would affect local economies, with long lines and delays preventing visitors from making the trip. The new measure hopes to prevent a decline in flow of visitors.

12. Education Officials Say H-1B Cap Negatively Affects American Schools

The limit on H-1B visas is negatively affecting primary and secondary schools' ability to recruit and hire teachers. The closing of this year's H-1B program is forcing many schools to cancel international recruiting trips and turn away foreign applicants, despite worries that they will be short-staffed when the new school year begins.

When these schools began facing teacher-shortages years ago, school officials started looking overseas for potential employees. It is estimated that at least several thousand foreign nationals are teaching in the United States on H-1B visas. These teachers tend to be concentrated in large urban areas as well as in rural areas.

Many immigration advocate groups have pushed Congress to raise the limit and permit some foreign workers, including primary and secondary school teachers, to be exempt from the limit, just as college professors and visiting scholars are. However, Congress is not expected to raise the limit this year, as the issue is probably too controversial to address in an election year.

Although critics of the H-1B program have argued that these visas allow companies to bring in foreign labor for jobs that Americans can fill, educators argue that this does not apply in the classroom. Estimates show that schools will have to fill 200,000 teaching jobs each year until the end of the decade.

13. US Border Security Inconveniences American Travelers

Recent measures undertaken to tighten US border security are not only affecting foreign visitors, but American travelers as well. Other countries have adopted policies affecting American travelers in response to the US measures, which include increased fees for travel visas and increased scrutiny of visa applications.

After the US raised the application fee for a tourist visa to \$100, other countries responded by raising their tourist visas fees for American applicants. Brazil, Russia and Turkey have raised their fees for American travelers to \$100 and Chile has imposed a \$100 visa fee. Liberia and Pakistan have also raised their fees. A few countries such as China and India have also raised their fees, but have not matched the \$100 increase.

In addition to fee increases, some other countries have initiated stricter procedures for the processing of American travelers. Russia and Brazil are more carefully scrutinizing the reason given for a trip. Other countries have changed their rules for American tourists. China no longer accepts visa applications by mail and now requires travelers to appear at an embassy or consulate in person.

The US measures have also directly affected American travelers by increasing wait times at US ports or entry, such as the Canadian and Mexican borders. There are also longer lines at customs and immigration at airports, especially when the threat level is raised. US border officials are now looking into each car and talking to every passenger at Canadian and Mexican border checkpoints. A raise in the alert code means that searches and security checks are more intensive. Airport and border officials suggest that travelers factor wait times into their schedules and factor possible secondary inspections into their calculations.